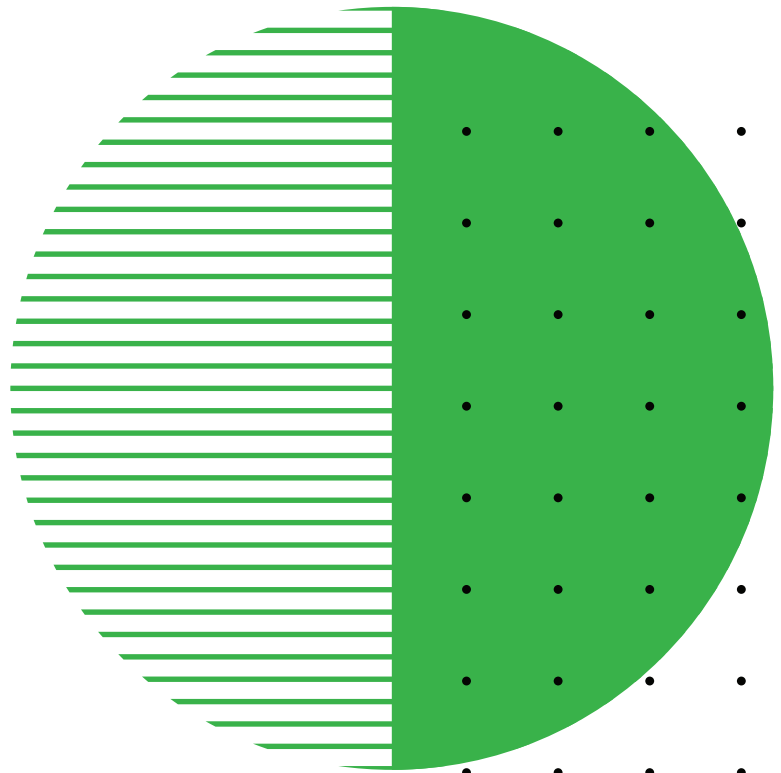




Annual Report 2021



EXECUTIVE DIRECTOR'S LETTER

Ten years ago, I cofounded the Oregon Justice Resource Center with Erin McKee. We launched with no funding and I worked out of my apartment for a year with no pay. We began with a vision to frustrate and end mass incarceration in Oregon and we are making progress toward that goal. Our aim is to ensure every Oregonian enjoys a happier, healthier, and safer future by addressing the many injustices of our state's criminal legal and punishment systems.

In 2021, we provided legal services across six programs to about 700 people. We've defended the rights of Black Lives Matter protestors harmed by police; won a landmark legal victory when a court ordered the state to immediately offer the COVID vaccine to incarcerated Oregonians; and helped women in prison better prepare for their return to the community. We've been part of the team that overturned our client's wrongful conviction and death sentence after 17 years; we've assisted public defenders to ensure their non-citizen clients' right to equal treatment is protected; and helped incarcerated Oregonians convicted as children benefit from opportunities for clemency in light of their rehabilitation and growth.

This year, we've launched a new program, The FA:IR Law Project, which you can read about on page seven of this report. We're taking everything we've learned about injustices in our legal system to tackle excessive sentencing, discrimination, and unjust convictions head-on.

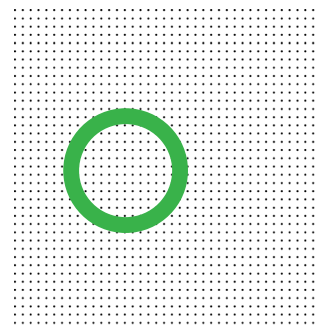
We've also expanded our operations to include OJRC Legal Support Services which offers investigation, paralegal, and document management services to attorneys around Oregon. I'm proud to report that OJRC LSS is a second chance employer and many of the staff have lived experience of the criminal legal and punishment systems.

We've helped thousands of Oregonians over the past decade and provided public education, information, and resources to many, many more.

Thank you for supporting the Oregon Justice Resource Center to make this work possible.



BOBBIN SINGH
Executive Director



BOARD OF DIRECTORS

William Penn, President/Treasurer/Secretary, Assistant Director, OLF/LSP, Oregon State Bar
Sho Dozono, Retired Business Owner and Civic Leader
Vivek Kothari, Associate, Markowitz Herbold, PC
Kim Malek, C.E.O. and Founder, Salt & Straw
Kasia Rutledge, Attorney, Kasia Rutledge Law

STAFF & VOLUNTEERS

Administration

Bobbin Singh, Executive Director
Amie Wexler, Associate Director
Alice Lundell, Director of Communication
Zach Winston, Policy Director
Nash Casey, Office Administrator and Intake Coordinator
Beatrix Li, Communications & Policy Associate
Adam Gregg, Paralegal/Legal Assistant
Anthony Pickens, Paralegal/Legal Assistant
Gerson Rodriguez, Intake Assistant

Special Projects

Walter Fonseca, Special Projects Counsel

Civil Rights Project

Juan Chavez, Project Director and Attorney
Ben Haile, Senior Counsel
Franz Bruggemeier, Associate Director
Alex Meggitt, Staff Attorney
Johnny Gersten, Legal Assistant/Staff Attorney

The FA:IR Law Project

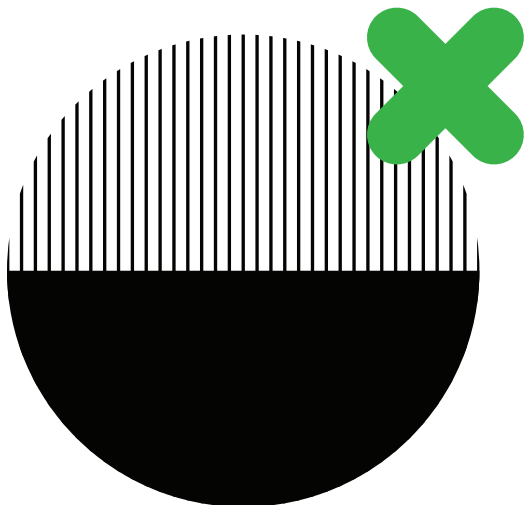
Brittney Plessner, Co-Director
Steve Wax, Co-Director
Karen Newirth, Special Counsel
Claire Powers, Staff Attorney

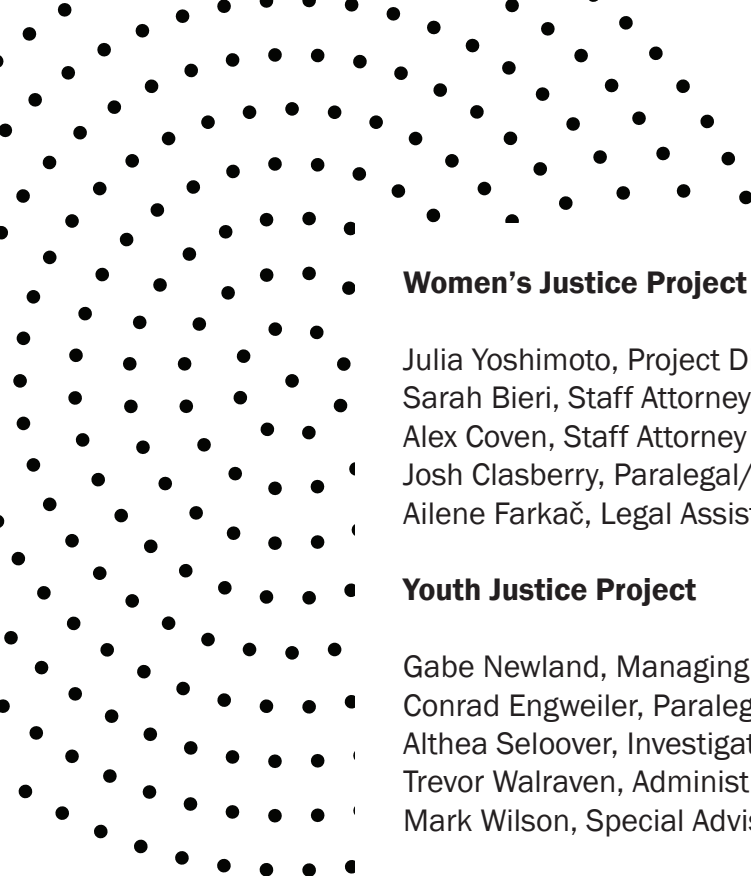
Immigrant Rights Project

Erin McKee, Co-Director and Attorney
Joseph Justin Rollin, Co-Director and Attorney

Oregon Innocence Project

Steve Wax, Legal Director
Brittney Plessner, Senior Staff Attorney
Alex Meggitt, Staff Attorney
Claire Powers, Staff Attorney
Lisa Christon, Attorney (Pro Bono)
Elora Cospers, Investigator (Pro Bono)
Phil Lewis, Attorney (Pro Bono)





Women’s Justice Project

Julia Yoshimoto, Project Director and Attorney
Sarah Bieri, Staff Attorney
Alex Coven, Staff Attorney
Josh Clasberry, Paralegal/Legal Assistant
Ailene Farkač, Legal Assistant/Social Worker

Youth Justice Project

Gabe Newland, Managing Attorney and Director
Conrad Engweiler, Paralegal
Althea Selover, Investigation and Prisoner Support
Trevor Walraven, Administrative Coordinator and Outreach
Mark Wilson, Special Advisor, Litigation and Experiential Support (Pro Bono)

OJRC Legal Support Services

Allyx Pershing, Manager, Investigation/Mitigation Specialist
Josh Cain, Data Management Specialist
Phillip Carrasco, Data Management Specialist/Spanish Language Translator
Claudia Chinn, Investigator
Elora Cospes, Investigator/Mitigation Specialist
Carla Gonzalez Pineda, Investigative Assistant
Ariel Howland, Data Management Specialist
Elyse Kupfer, Manager of Team and Investigator/Mitigation Specialist
Chris Mack, Data Management Specialist/Paralegal
Loraine McLeod, Document Management Specialist and Correspondence Coordinator
Neila McLeod, Data Management Specialist
Mike Oyarzun, Data Management Specialist
Kevin Roper, Data Management Specialist
Amy Selover, Data Management Specialist
Sara Thompson, Investigator in training
Tierra Valentine, Investigator/Mitigation Specialist
Trevor Walraven, Manager of Team and Document Management



CIVIL RIGHTS PROJECT

OREGON PRISONS COVID RESPONSE LAWSUIT

Maney, et al. v. Brown, et al.

In February, our Civil Rights Project and the Sugerman Law Office secured an injunction against the State of Oregon to allow people incarcerated in state prisons access to the COVID-19 vaccine. In the rollout of vaccination, the State had put incarcerated people at a lower priority behind groups that were not as vulnerable to infection. At the time, it appeared Oregonians in prison would have to wait until April to receive the vaccine, despite

having experienced the terrible toll of the virus including very high infection and death rates. Federal Magistrate Judge Stacie Beckerman ordered the State of Oregon to reprioritize people in prison to be in the same category as people living in congregate care facilities. Within a few weeks of the injunction, incarcerated Oregonians reached a 70% vaccination rate. As of November 2021, that rate is at about 80%.

“ **Our constitutional rights are not suspended during a crisis. On the contrary, during difficult times we must remain the most vigilant to protect the constitutional rights of the powerless. Even when faced with limited resources, the state must fulfill its duty of protecting those in its custody.**

Hon. Stacie F. Beckerman, US Magistrate Judge
Opinion and Order, *Maney v. Brown*, February 2021



80%

of people in Oregon Department of Corrections custody have been vaccinated against COVID-19.

PROTESTOR RIGHTS CASES

In February 2021, our Civil Rights Project negotiated a \$61,000 settlement against the City of Portland on behalf of an independent photojournalist and activist, **Teri Jacobs**.

Ms. Jacobs was assaulted by Officer Corey Budworth at a protest in Portland in August 2020. Budworth chased Jacobs and bashed her behind the head with his baton, knocking her to the ground. He stood over her, waited until she raised her head to look up at him, and bashed her again in the face with his baton. The ordeal was caught on camera and outraged the public. Officer Budworth is presently being prosecuted for the assault.

In March 2021, we and the law offices of Albies & Stark, LLC and Levi Merrithew Horst PC successfully argued that the City of Portland should be sanctioned for violating a federal court order regarding Portland Police's protest tactics. Federal Judge Marco Hernandez ordered the City to cease using crowd control munitions until they could demonstrate that they were capable of following the Court's order from June 2020. The June 2020 order had found that the Portland Police Bureau had used excessive force against peaceful or

passively resistant protestors, contrary to the U.S. Constitution. Judge Hernandez had found the City in contempt of his order in December 2020.

In September 2021, CRP successfully negotiated a \$125,000 settlement on behalf of **Aaron Cantu** against the City of Portland. The Portland Police Bureau shot a riot control munition into a crowd of people at a 2018 counter protest. The munition pierced Mr. Cantu's helmet and cracked his skull. Firing into a crowd in this manner violated bureau policy and the Constitution. The Bureau did not discipline these officers.

In April 2021, CRP initiated a lawsuit on behalf of **Hannah Ahern** against the notorious Portland Police Detective Erik Kammerer. Ms. Ahern was targeted for arrest by Kammerer because she expressed her disgust against watching the heavily militarized Portland Police Bureau violently arrest a Black protester while ignoring the Proud Boys. Ms. Ahern alleges that Det. Kammerer fabricated evidence to ensure her arrest. Her case remains ongoing.



Pictured: CRP client Aaron Cantu's bike helmet after he was hit by a riot control munition shot by a Portland Police officer into a crowd of people counter-protesting far right groups.

OTHER CASES

TERRELL JOHNSON

Johnson v. City of Portland, et al.

In May 2021, CRP negotiated a \$600,000 settlement against the City of Portland on behalf of Alicia Johnson, the mother of **Terrell Johnson**, a 24-year-old man who was killed by a Portland Police Officer in May 2017. The officer who killed Terrell broke police bureau policy and chased Terrell down a MAX bridge. The officer shot Terrell three times.

Successfully litigated wrongful death and excessive force cases against the City of Portland are rare. Presently, and based on available data, the *Johnson* settlement represents the seventh highest settlement against the Portland Police Bureau.

In memory of Terrell Johnson, we have reserved part of our attorney's fees to fund a \$5,000 annual scholarship for a student working on social justice issues in Portland.



Usher, et. al. v. City of Portland

Also in May 2021, we and the Underdog Law Office filed a class action suit on behalf of four houseless Portlanders living in camps that had been swept by workers on behalf of the City of Portland. Some of the plaintiffs had experienced multiple sweeps of the camps they were living in prior to the filing of the lawsuit. The houseless people's property was taken and destroyed. State law requires the City to sort and store property that is not garbage or unsanitary and make it available for campers to pick up within 30 days.

USA v. City of Portland

In the months of August through November 2021, we represented the **Mental Health Alliance**, an amicus curiae in the U.S. Department of Justice lawsuit against the Portland Police Bureau, in Court and in federal mediation. The City had violated its settlement agreement with the United States government owing to their excessive volume of force used during the 2020 uprising for Black lives and their failure to hold officers accountable for force used unlawfully.

THE FA:IR LAW PROJECT

Our newest program, The FA:IR Law Project, will address and prevent wrongful or unjust convictions and excessive sentences. FLP seeks to right past wrongs using legal approaches, data analysis, policy reform, and community education. The name of the program represents our goal of more fairness in a system that is often unfair. The project's name is a nod to its tagline: For All: In defense of our Rights.

FLP is led by two existing staff as co-directors. Oregon Innocence Project Legal Director Steve Wax will continue in that role while also helping shape FLP. OIP Senior Staff Attorney Brittney Plesser will remain on open OIP cases but will otherwise relinquish her position. OIP Staff

reimagining the criminal legal system. Her interests include wrongful convictions; police-generated evidence including eyewitness identification and confessions; and creating new ways to shrink the carceral system and remedy the harms of the criminal legal system.

We are recruiting to fill three positions at present and expect to be hiring for more in 2022. Over the coming months, staff will build out the program and make further announcements about the issues we will work on and how people can access our services.

FLP has begun work with the Wasco County District Attorney's Office as independent

“ As OJRC enters its second decade, it was time to build on everything we have learned about problems within the legal and incarceration systems. The FA:IR Law Project is the natural next step for our work to end mass incarceration in Oregon.

Bobbin Singh, Executive Director

Attorney Claire Powers will continue to manage our Wrongful Conviction Review Program alongside her new role as staff attorney for FLP.

OIP's work to prevent and address wrongful convictions will continue. Helping innocent people clear their names is essential, life-changing work but we need to do more to tackle problems that go beyond innocence and are commonplace for justice-involved people.

Joining FLP as Special Counsel is Karen Newirth, who was a founding member of the Innocence Project's strategic litigation department. Karen has dedicated herself to advocating on behalf of the accused and

reviewers of cases affected by former Officer Jeffrey Kienlen. After three decades on the force, Kienlen was dismissed from the City of the Dalles Police Department earlier this year after newly elected District Attorney Matthew Ellis discovered a ten-year-old demotion letter based on Kienlen's lies to people in his office, including his chief. That letter was never disclosed to defense attorneys. The number of cases on which Kienlen worked is around 750. Ellis and chief deputy Kara Davis submitted an Oregon State Bar complaint against former District Attorney Eric Nisley and his chief deputy Leslie Wolf for their failure to turn over the letter.

IMMIGRANT RIGHTS PROJECT

AMICUS BRIEFS

IRP submitted an amicus brief to the Board of Immigration Appeals (BIA) arguing that a recent Supreme Court opinion, *Pereida v. Wilkinson*, 141 S. Ct. 754 (2021), does not expand the types of documents an immigration judge may rely on to determine whether a particular conviction is a removable offense. Rather, long-standing caselaw continues to limit the scope of the “record of conviction” that an immigration judge may review to determine the nature of a particular conviction.

We also submitted an amicus brief to the BIA arguing that the BIA misapplies the Supreme Court’s ‘realistic probability test’ used to determine whether a state conviction triggers removability. The BIA’s failure to apply the test correctly deviates from the intent of the Supreme Court and has resulted in the unjust deportations of noncitizens whose criminal convictions would not trigger removal under the correct test.

LEGISLATION

We consulted on the immigration consequences of a state bill regarding implementation of Measure 110 which decriminalizes simple possession of controlled substances.

PRESENTATIONS

IRP staff presented a “Crimmigration 101” CLE to AILA Oregon.

We also presented to Multnomah Defenders Incorporated (MDI) on Padilla and Basics of Crimmigration Analysis.

CROSS-PROJECT WORK

IRP provided immigration analyses for clients of other OJRC projects, including the Oregon Innocence Project’s Wrongful Conviction Review Program, the Women’s Justice Project’s Re*Membering program, and our Oregon Clemency Project.

COALITION WORK

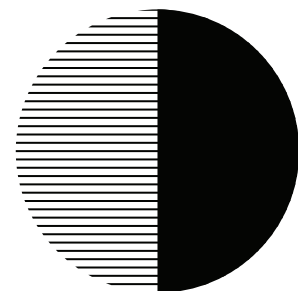
IRP continues to work with other immigrant rights organizations on issues impacting Oregonians, including local ICE enforcement actions.

FUTURE PLANS

In 2022, IRP will work with Oregon counties to draft DA office policies on prosecuting cases involving noncitizen defendants.

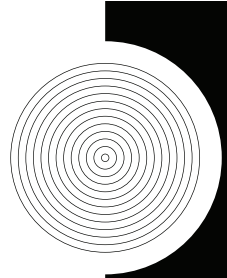
IRP will advocate for new rules that better apprise people who are not U.S. citizens of the immigration risks of using marijuana or working in the cannabis industry in Oregon, even though it is legal under state law.

IRP will continue legislative and local advocacy to strengthen Oregon’s position as a state that values inclusion and refuses to be complicit in the inhumane and fundamentally flawed enforcement of federal immigration law.



IRP 2021 IN NUMBERS

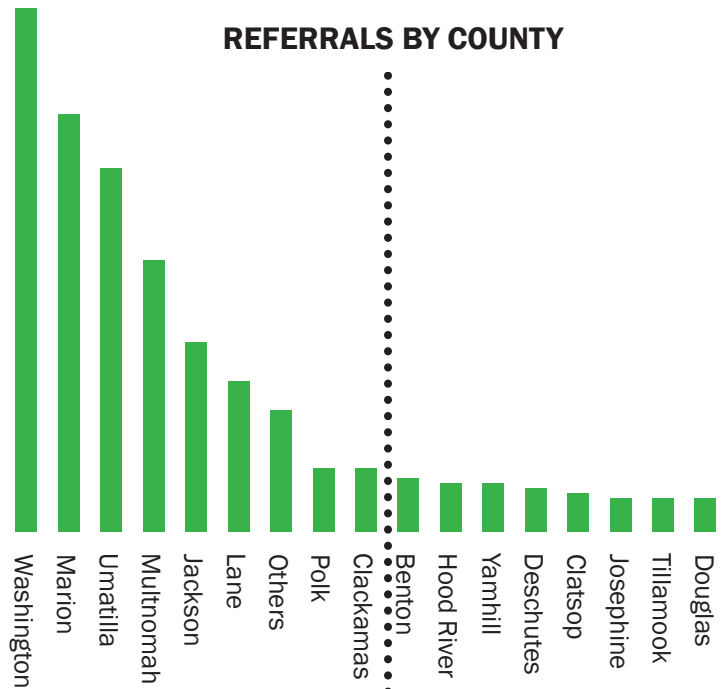
Data correct as of 12/16/21



430

TOTAL INTAKES IN 2021

REFERRALS BY COUNTY



REFERRALS BY COUNTRY OF ORIGIN

IRP assisted people from 36 countries of origin. The top three were:



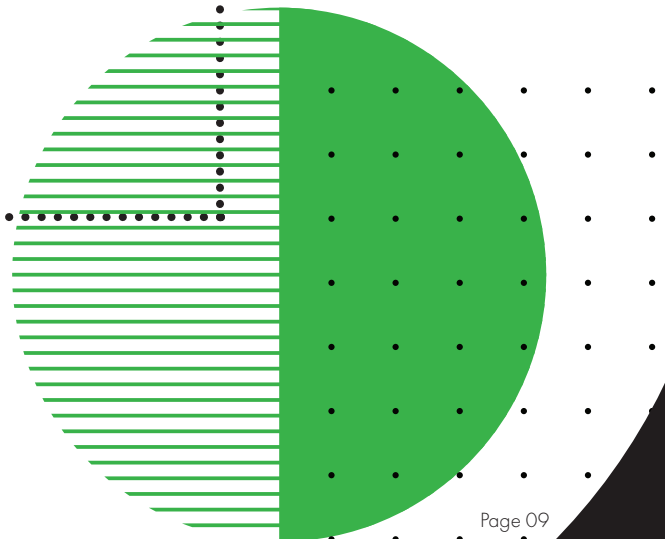
Mexico (267)



Guatemala (72)



Micronesia (13)



OREGON INNOCENCE PROJECT

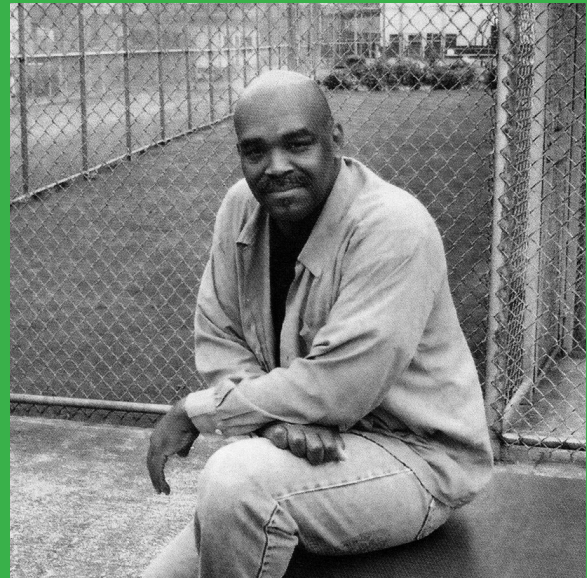
JESSE JOHNSON

Johnson v. Premo

The Oregon Court of Appeals reversed the aggravated murder conviction and death sentence of OIP client Jesse Johnson in October 2021. Mr. Johnson, who is Black, was convicted of the murder of a Black woman in Salem in 1998. He has maintained his innocence. Mr. Johnson's was one of the first two cases that OIP took on when we began work in 2014.

The Court found that Mr. Johnson's attorneys during his 2004 trial were constitutionally ineffective when they failed to investigate evidence that could have tended to change the outcome of the trial by uncovering evidence of his innocence. Jesse Johnson was represented by Ryan O'Connor and Jed Peterson of O'Connor Weber. He is represented in a related appeal seeking DNA testing that could prove his innocence by OIP Legal Director Steve Wax and Senior Staff Attorney Brittney

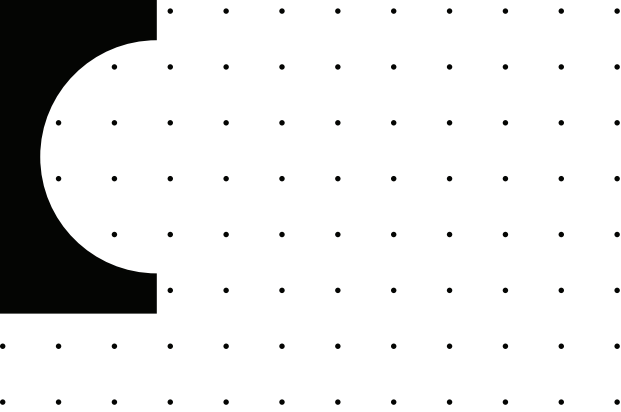
Plesser. That appeal is still pending. The Oregon Department of Justice declined to seek review of the Court of Appeals' decision. The case is now pending in the Marion County Circuit Court until a new judgment is entered in accordance with the appellate court decision.



OTHER CASEWORK

OIP continues to work on ongoing client cases. This includes post-conviction relief litigation on behalf of two clients. One was convicted of aggravated murder in 2015 for a crime committed in 1982. DNA testing will soon begin on untested and previously tested items. The second was convicted of a non-fatal 1994 shooting. He served his sentence and was later imprisoned for another crime and sentenced as a "dangerous offender." The dangerous offender determination was based, in part, on the client's claim of innocence in the 1994 case.

OIP continues to review applications from people claiming innocence. Staff Attorney Alex Meggitt is in charge of intake and is helping to lighten our intake backlog. As was the case last year, this year we were fortunate to see a slow-down in OIP applications. We believe this to be due, in part, to COVID-19 and the impact on trial court dockets. In our first seven years, we received 816 requests for assistance for an average of 116 per year. This year so far, we have received only 41 applications. We have closed 565 of the requests for assistance after



screening. Sometimes the screening process takes only a few hours. In other instances, it has taken years of investigation. Even with the slower intake this year, we still have have 183 requests waiting for review.

WRONGFUL CONVICTION REVIEW PROGRAM

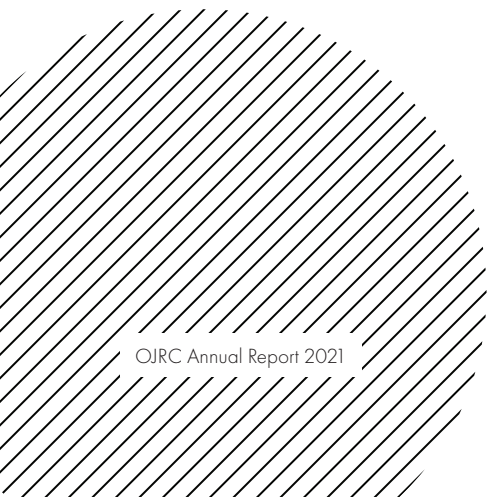
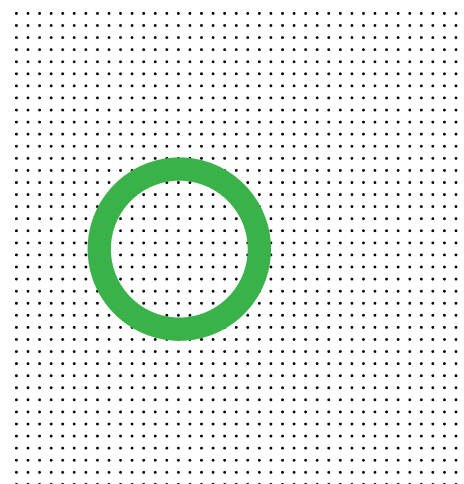
Claire Powers, Wrongful Conviction Review Program staff attorney, and Legal Director Steve Wax continue to review and litigate cases stemming from a defense provider’s failure to review discovery in hundreds of cases in Jefferson and Crook counties. WCRP has spent the last year notifying clients affected by the attorney’s failures, interviewing clients, and conducting case assessments and investigations. When WCRP determines a case should have received a different outcome had the attorney reviewed discovery and acted appropriately based on that review, WCRP attempts to negotiate alternative resolutions with district attorney offices. WCRP has filed two motions to set aside convictions/discharge from probation and two petitions for post-conviction relief.


In addition to case review, WCRP has also assisted clients and the Oregon State Bar with the Bar’s investigation into the defense provider’s misconduct.

LEGISLATION

Oregon is one of only 13 states that do not have laws compensating exonerees. Wrongful conviction inflicts multiple hardships on innocent people and their families. The loss of freedom and the struggles of prison life are compounded by separation from family and friends, financial difficulties, loss of reputation, and longing for ‘what might have been.’ Even when a wrongfully convicted person is released from prison, their nightmare does not end. Their return to the community brings with it the responsibility to re-establish personal relationships and find a job, housing, transportation, and healthcare, all while bearing the burden of a criminal record that is rarely cleared despite innocence.

Compensation laws provide a relatively straightforward mechanism for exonerees to apply for financial redress for the many losses they have suffered. They also offer a measure of certainty to the state and taxpayers since they establish fixed amounts of compensation available based on number of years





incarcerated and number of years on post-prison supervision, parole, and/or the sex-offender registry.

In partnership with a coalition of state and national groups, including the Innocence Project, OIP staff worked hard to pass a compensation law during the 2021 session of the Oregon legislature. Unfortunately, our efforts were not successful this year.

We and our allies will return to the legislature during the short session in early 2022 for another attempt to pass the compensation bill. The bill will once again be sponsored by Senator Kim Thatcher (R-Keizer.)

An estimated fifteen Oregonians may become eligible for compensation once the compensation law is passed under a provision that gives past exonerees an opportunity to apply. In the future, it is predicted there will only be around one successful claim for compensation every eighteen months.

STAFF AND VOLUNTEER UPDATES

We would like to give a special thanks to our law student interns and volunteers. We have a terrific group of law student interns from Lewis & Clark Law School: Michael Cebert, Matt Constantino, Ariadne Araujo Alves, and Stephanie Grayce. We are fortunate to have dedicated attorney and investigator volunteers: Elora Cospers, Phil Lewis, and Lisa Christon, who have been assisting in case screenings. We would like to thank Caren Rovics, who after six years as an OIP volunteer, has shifted focus to another OJRC program.

Brittney Plessner, Senior Staff Attorney, will be moving on from OIP to co-direct our new FA:IR Law Project (see page seven) with Steve Wax, although she will continue working on existing client cases. OIP is looking to hire a Managing Attorney to fill her role. Steve Wax will continue as Legal Director of OIP while co-directing the FA:IR Law Project.



WOMEN'S JUSTICE PROJECT

RE*MEMBERING

Our Re*Membering program provides civil legal services to women incarcerated at Coffee Creek Correctional Facility in Wilsonville. The goal is to address legal issues that may become challenges to successful reentry while women are still incarcerated rather than leaving them until after release, when women typically face many other challenges such as finding housing, jobs, and reconnecting with their communities. Through Re*Membering, women at Coffee Creek are able to seek our assistance with a wide variety of needs such as parenting time/child custody, evictions, debt, student loans, obtaining IDs and birth certificates, property and wills, and many more.

Eighteen attorneys volunteer as part of our Re*Membering Attorney Advisory Committee. We are grateful to them for offering their expertise in matters including family law, real property, estate planning, landlord-tenant, and general business.

For the period November 2019 to August 2021, we were able to help 76 clients with 257 legal matters (an average of 3.3 per client) despite the challenges posed by redesigning our operations to adjust to the pandemic. The largest number of legal matters we assisted with for one client was eight. Some of the work we undertook includes:

- Helping a client understand no-contact orders and develop a safety plan against potential harassment by an abusive ex-partner after her release.
- Helping a client make an agreement with the adoptive parents for twice weekly phone contact with her child after the client's parental rights were terminated.

- Helping a client address notices from the county about an alleged property code violation at her home which protected her property from further legal action.
- Advising a client on her child support obligations in another state and how to apply for partial debt forgiveness upon release, lessening the financial burden and helping avoid consequences of nonpayment.
- Helping a client obtain funds to buy eyeglasses and shoes while incarcerated and distribute funds to her son who was in need.
- Expunging two eviction cases to reduce barriers to housing after release.
- Helping a client address outstanding warrants in another state.
- Assisting a client in getting holds on her driver's license lifted by six courts and navigating the DMV process for reinstatement and tests. She got her license back in September this year having not held a license since 1998.



ALTERNATIVE INCARCERATION PROGRAMS

WJP staff worked on four bills introduced during the 2021 session of the Oregon Legislature. When prisons closed to visitors in March 2020 early in the pandemic, the Department of Corrections ‘administratively removed’ participants in Alternative Incarceration Programs (AIPs) due to providers not being able to enter the prisons to offer services. Incarcerated people benefit from AIPs in two main ways: they receive treatment and therapies to help them address root causes of their offending and overcome trauma; and, on successful completion of their program, they become eligible for early release. We received many letters and calls from people who had been removed from their AIPs due to the shutdown, and had therefore seen their release dates pushed back by months, or even lost their early release altogether. The

loss of the therapeutic benefit of the AIPs was another concern for those affected who felt they had been making much progress and were distressed and destabilized by having their programs suddenly taken away. We tracked and monitored the situation and advocated for affected people to ODOC Director Colette Peters.

In 2021, we developed and led the passage of **Senate Bill 836** which requires the Department of Corrections to consider all alternatives before suspending or terminating an AIP. The Department must also report to the legislative judiciary committees within 14 days of suspending or terminating a program to explain their actions. ODOC must inform people in custody about their decisions concerning AIPs and the impact on release dates.

“**For a trauma-based program where many of us have opened up and exposed our vulnerabilities in order to heal, we have been exposed to further trauma. We haven’t completed the very program that was designed to help us heal through a trauma such as this, leaving us raw, hurt, devastated, and reluctant to even trust again.**

Toni Baker, participant in an Alternative Incarceration Program, on how she was affected by its sudden termination during the pandemic.

SURVIVOR-DEFENDANTS

Numerous studies in the US and in Oregon, dating as far back as the 1980s, observed high rates of victimization that link domestic violence in women’s lives to their entry into the criminal justice system as defendants. Oregon’s sentencing laws do not adequately consider defendants’ histories of victimization

and the role that domestic violence played in the commission of their crimes. This results in severe and unjust accountability for survivor-defendants, criminal defendants who are survivors of domestic violence and for whom that abuse was a contributing factor in the commission of the crime.

During the 2021 session, we led **House Bill**

2825, which would have given courts discretion to impose a lesser, more just sentence when the presumptive or mandatory minimum sentence is too harsh in light of the defendant being a survivor of domestic violence and the abuse having contributed to the crime. HB 2825 would also have allowed individuals who have been convicted to petition for resentencing if they did not previously present evidence of domestic violence at sentencing.

While HB 2825 did not pass, we are committed to pursuing legislative reform to help survivor-defendants and are working toward reintroducing the bill in the 2023 session. Next year, we will be building community and legislator support for the concept.

RE*MEMBERING FUNDING

Funding for our **Re*Membering** program was renewed by legislators for two more years to enable us to continue providing legal services to women incarcerated at Coffee Creek.

COMPASSIONATE RELEASE

Oregon's compassionate release laws recognize that it is in the best interest of our communities for incarcerated Oregonians to be released when, due to medical conditions, their continued incarceration is inhumane and no longer furthers the purposes of imprisonment. Our current compassionate release process is ineffective and inconsistent with its purpose. Eligibility criteria are too narrow and not available to most people in need of compassionate release. The application process is unclear and inaccessible. The review of requests is done by non-health experts and can take a long time to complete.

We led **House Bill 3298/Senate Bill 835** which would have established an independent Medical Release Advisory Committee (MRAC) hosted within the Board of Parole, but operationally independent. It would consist

of licensed medical professionals who would review applications and make release recommendations solely and objectively from a medical and public health perspective.

If the MRAC recommended release, the applicant would have been appointed counsel to help them through the process of the Board's review or to explore other options for release through the sentencing courts.

While HB 3298/SB 835 did not pass in 2021, a workgroup on compassionate release was established by the legislature to further consider the issue. WJP staff participated in the workgroup and the bill will be reintroduced by Senator Michael Dembrow (D) in the upcoming 2022 session.

OTHER MATTERS

WJP added one staff member in 2021. **Ailene Farkač** joined us as a Legal Assistant and Social Worker. Ailene believes strongly in the power of education through a combination of lived experiences, institutions of many kinds, and exposure to diverse people, places, and cultures. She earned two bachelor's degrees, in Black Studies and Social Science and then completed a Master of Social Work. Ailene now works to abolish police and dismantle the carceral system in whatever capacity possible.

WJP wrote a comment in opposition to a proposed rule change by the Department of Corrections which would codify an existing policy to charge people in custody for copies of their medical records. We argued that ODOC's plan to make permanent its practice of charging for copies of records imposed an unreasonable financial burden on people in custody and was inconsistent with state and federal laws that protect patients' rights to access their health information. Oregon law requires that no one be denied their medical records because of inability to pay.

YOUTH JUSTICE PROJECT

NEW STAFF

Gabe Newland joined YJP this year as its first Managing Attorney and Director. Previously, Gabe was a public defender, a union organizer, and a public school teacher. Most recently, he worked for the Office of the Appellate Defender in New York City, where he represented people with homicide and other felony convictions on direct appeal and in post-conviction litigation.

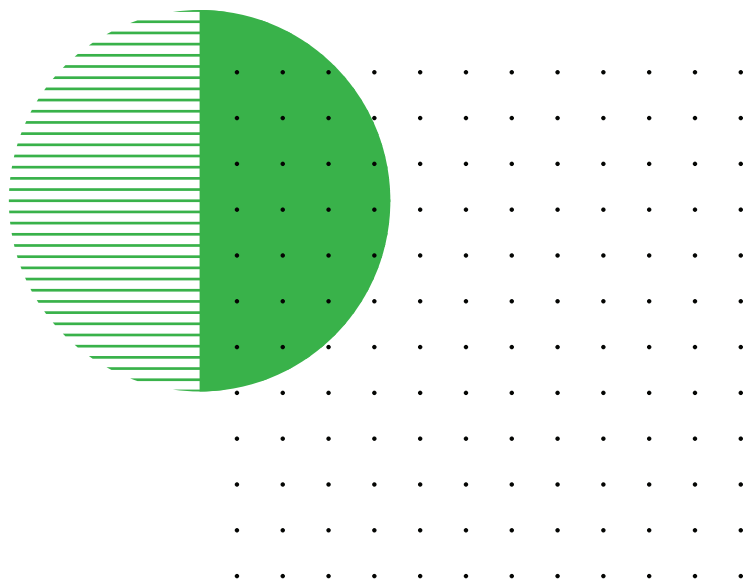
Adding Gabe to our staff helps build our infrastructure and capacity so we can provide direct legal representation to clients. This is preferred to a model that relies entirely on staff collaborating with outside attorneys.

SENATE BILL 1008

The implementation of youth sentencing reforms passed by legislators in 2019 continues to be a major focus. Senate Bill 1008 ended life without parole sentences for people convicted when under 18 by providing a meaningful opportunity for release after 15 years' imprisonment; ended automatic waiver into adult court of 15-17-year olds charged with Measure 11 crimes; allows judges to decide whether young people "aging out" of Oregon Youth Authority custody at 25 who will complete their sentence by their 27th birthday should serve the rest under community supervision rather than in adult prison; and gives all youth convicted in adult court a "second look" hearing halfway through their sentence to determine whether they've been rehabilitated and should serve the rest of their sentence under community supervision.

EXECUTIVE CLEMENCY

The SB 1008 reforms, although hugely significant, did not address the situation faced



by people still incarcerated in our state who were convicted as youth and sentenced prior to the effective date of the law. YJP has been advocating for state leaders to take action, so we were pleased to see Governor Brown announce that she would offer clemency and/or an opportunity to seek clemency to impacted folks. Around 200 people have benefited or may benefit from her action. Unfortunately, Governor Brown did place some limits on which cases she would consider, thereby excluding a small number of youth from consideration for clemency. YJP continues to advocate for opportunities for relief for this group.

The announcement naturally resulted in a surge in communication with impacted youth and their attorneys about the opportunities and risks of seeking clemency. YJP staff has fielded hundreds of letters, calls, and emails from people in prison and their families. Our staff has also consulted with dozens of attorneys. YJP staff is directly representing four people with their clemency applications.

To help young people in Oregon Youth Authority custody prepare their applications, YJP staff created a series of video presentations going through the application questions in detail. These videos will assist applicants in understanding what the governor's office needs to know about them in order to make a fair and appropriate determination in their cases.

YJP Director Gabe Newland has been interviewed by local media about the governor's clemency action. He took part in a televised debate with Marion County District Attorney Paige Clarkson hosted by Laural Porter on the *Straight Talk* show on KGW. Gabe wrote an opinion piece in support of clemency which was published by *The Oregonian*.

OTHER WORK

Public education and outreach continue to be an important part of the work on YJP. Co-founder Trevor Walraven has maintained a busy schedule of speaking engagements. Our staff produces and distributes a newsletter mailed to around 250 youth to keep them informed about legal developments, provide tips on preparing for parole, and offer encouragement in the form of first-person accounts of life after incarceration.

STATE V. REASONER

YJP staff has been consulting with outside attorneys on waiver hearings, re-sentencing hearings, and other litigation. YJP joined as amicus in support of a petition for review before the Oregon Supreme Court. Other amici are the National Juvenile Defender Center and the Juvenile Law Center. The petitioner, Youth Rights & Justice, is challenging the constitutionality of the application of a statute allowing juvenile court judges to enter blanket waiver orders (allowing prosecution in adult criminal court) in cases involving alleged crimes related to the use or operation of a motor vehicle (ORS 419C.370).

FUTURE PLANS

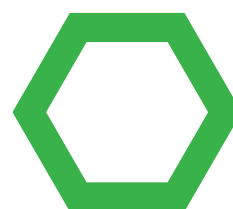
In 2022, YJP will seek to expand our appellate practice with a focus on appeals of waiver orders, excessive sentences, and other issues related to the criminalization of youth. We will also aim to grow our capacity to assist with waiver hearings, sentencing hearings, and pre-trial litigation related to the criminalization of youth. We will continue to work on individual cases.

Efforts to assist those who have been given an opportunity for clemency by Governor Brown will continue. We will represent individual clients in the clemency process. We will use litigation and advocacy to ensure parole hearings are fair and will also represent clients in those hearings or consult with their attorneys. For those youth excluded from consideration on this occasion, we will assist with litigation.

We will finalize a major project: our county-specific re-entry resource guide. We will help people incarcerated at OSCI build a peer support program for youth aging into the adult prison system. We will also develop and present training materials such as legal outlines and motion templates.

We will work on building support for our legislative priorities, which include establishing a minimum age of 14 for juvenile prosecution and ensuring anyone under the age of 25 at the time of their offense has an opportunity to have their sentence reviewed by a judge part-way through.

Ultimately, YJP is working to end the criminal prosecution of children.



SPECIAL PROJECTS

Over the years, individuals have sought out our assistance for help on issues that did not easily fall under the scope of our existing legal programs. To ensure that we could always try to find a way to help that category of individuals, we created the position of Special Projects Counsel (SPC) and hired Walter Fonseca to fill the role. Walter is tasked to both work with and support other OJRC projects on cases that arise that fall just outside the primary work of that legal program. As SPC, Walter has primarily focused his work on supporting early release opportunities for those in custody.

EARLY RELEASE

Working with Adam Gregg, OJRC Paralegal/Legal Assistant and formerly incarcerated firefighter, we launched **The Phoenix Project**, working on clemency applications for imprisoned firefighters who were deployed during the historic and destructive 2020 fire season.

In 2020, the OJRC (led at the time by our Women's Justice Project Director Julia Yoshimoto) with Markowitz Herbold, launched the **Oregon Clemency Project**, which trained and matched about two dozen pro bono attorneys with numerous clemency clients. Additionally, we directly supported many clemency applicants, from direct representation to assisting several *pro se* clemency applicants with various forms of support and advocacy before and after they submitted their clemency applications.

In addition to the clemency work done by SPC, the Women's Justice Project helped people in custody at Coffee Creek Correctional Facility on clemency, which included a number of early releases. The WJP also assisted with and collaborated on The Phoenix Project.

SPC represented a youth client through the "Murder Review" hearing process, which was set over due to Governor Brown's clemency to individuals who were convicted as minors but were not able to benefit from the changes to youth sentencing under Senate Bill 1008. The hearing is now scheduled to occur in the spring of 2022, allowing SPC to consider the impact of the governor's decision.

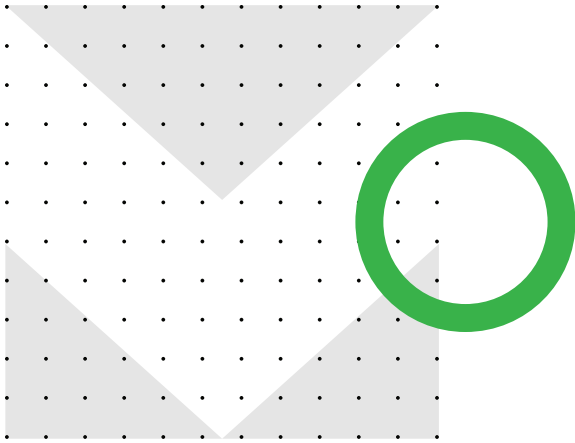
In 2022, SPC will continue to carry a heavy clemency caseload, which will also include assisting our Youth Justice Project in providing support to individuals who were left behind by SB 1008.

OTHER CASES

Rights of houseless people: SPC is working with our Civil Rights Project on *Usher et. al. v City of Portland*, (see page six.) Additionally, SPC is assisting on *Johnson, et al. v City of Grants Pass*, a class action on appeal to the Ninth Circuit, in which the District Court found that Grants Pass's policy and practice of punishing homelessness by making it unlawful to sit, lie, or camp in public at all times and in all places within the City violated the Cruel and Unusual Punishment and Excessive Fines Clauses of the Eighth Amendment. The City appealed and oral arguments in the Ninth Circuit Court of Appeals occurred in early December.

In 2022, SPC will continue to work with CRP to explore other homeless rights litigation opportunities across the state.

OJRC LEGAL SUPPORT SERVICES



OJRC Legal Support Services is new to the organization this year but has a history of providing services to attorneys around Oregon since 2015. We provide services to attorneys under contract through the state Office of Public Defense Services. OJRC LSS was previously known as Criminal Defense Support Services and joined our family of programs in June 2021. The staff are licensed investigators, paralegals, and document management professionals, many of whom have lived experience of the criminal legal and punishment systems.

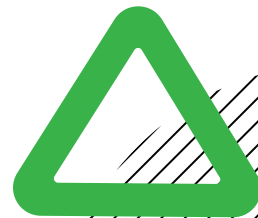
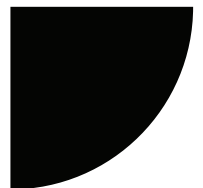
Our staff is currently working on more than 50 cases for a variety of private and public defense attorneys. We are providing document management, mitigation, and investigation on several trial level murder cases. The cases generally include thousands of pages of discovery, as well as audio video files that need to be indexed and processed. Our staff provides a comprehensive organization system so that the defense team can focus on representing the client rather than organizing and finding the information they need.

Our staff also assists in preparation for juvenile waiver hearings. Similar to trial preparation, this includes processing and indexing thousands of

pages of discovery, even converting proprietary audio video files for easy access and review by the defense team. With the increased use of cell phone data in criminal cases, our staff also processes and indexes this data for use by the defense team.

Our investigation and mitigation team is working with several OJRC projects. We are assisting the Youth Justice Project on clemency petitions, the Civil Rights Project, the Oregon Innocence Project, and the Women's Justice Project.

Our goal is to continue to streamline data management and set a standard for the representation of defendants in Oregon. Our investigation staff focuses on providing meaningful representation of our clients by treating them as a human being first, and a defendant second. We aim to continue providing a high level of effective representation, and expanding our client base in the coming year.



POLICY

When the legislative session began in January, we had an ambitious slate of bills that we were working to pass, plus many others that we were supporting. Our key takeaway from this session is that legislators were primarily focused on getting relief to Oregonians impacted by the pandemic and by 2020's wildfires. That's understandable, but it had the unfortunate consequence of largely sidelining some valuable efforts for criminal justice reform.

That's not to say there were no successes. Around 20 policing bills of varying degrees of effectiveness passed, along with expungement and juvenile justice bills. We were involved with passing five bills this session:

- HB 3145 (requires discipline including an economic sanction on a police officer to be reported and included in a publicly available online database containing information on law enforcement misconduct and discipline)
- SB 418 (bans coercion, deceit by law enforcement officers when questioning minors)
- SB 817 (eliminates court costs, fines, and fees for juveniles)
- SB 836 (lessens ability of the Department of Corrections to remove, suspend certain treatment programs without looking for alternatives to shutting them down)
- SJR 10 (asks voters to abolish the provision in the Oregon Constitution that allows slavery and involuntary servitude as a punishment for a crime.)

Working with Oregon Physicians for Social Responsibility, we successfully developed, introduced, and advanced out of committee a bill (HB 3298) proposing an overhaul of the compassionate release process. Though the bill did not pass this session, it will be reintroduced in the 2022 by Senator Michael Dembrow (D).

Through our partnership with Next Up, Oregon has the chance to be the first state to restore voting rights to currently incarcerated individuals in the Oregon Department of Corrections custody. Again, the bill (HB 2366/SB 571) advanced out of its policy committee before being held up in the budget committee. The bill will be reintroduced in the 2022 by Representative Lisa Reynolds (D).

We worked with Representative Anna Williams (D) to introduce HB 2825, which would have allowed survivors of domestic violence charged with a crime to introduce mitigation evidence of the abuse if it was a contributing factor in their crime of conviction. While we generated great testimony and outreach in support, Measures 10 and 11 required the bill to receive a two-thirds majority vote in the House and Senate. For political reasons, we were told that a two-thirds vote in both chambers would not be possible. It was deeply disappointing not to be able to pass the bill, but we plan to reintroduce it in the 2023 long session and do more ground work in the intervening time to ensure it passes.

Even bipartisan criminal justice reform bills struggled this session. SB 499 would have compensated Oregon's exonerees for the time they were wrongfully incarcerated and/or on supervision. Senator Kim Thatcher (R), introduced the bill and we quickly gained bipartisan support, including Senator Chris Gorsek (D) signing on as a chief sponsor. We ultimately lost the fight to keep the bill out of the budget committee, where it was again held up. Refusing to give up, we continued pushing on SB 499 until the session closed and appear to have positioned it well for 2022. Senator Thatcher will reintroduce the bill in the upcoming session.