



2022 Annual Report

**We seek to frustrate and
mass incarceration.**



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A Note from Our Executive Director

SPEAKING HONESTLY ABOUT our history and telling truth to power often comes at a cost, but we see no other way forward in the fight for civil rights and racial justice.

We must be honest about the original sin of the United States and Oregon: white supremacy. This country was founded on racial inequality; Oregon came into existence as a state codifying racial hierarchy and subordination in its laws. From the inceptions of these two sovereigns, a narrative of racial difference justified the genocide of Native Americans, the theft of their lands, and the implementation of structures for social control. From slavery to lynching to Jim Crow and segregation to mass incarceration (mass criminalization/mass conviction/mass punishment), the line that connects them is clear, straight, and without question. Public intellectuals like Michelle Alexander have published scholarship on the matter. Recently, the civil rights attorney and founder of the Equal Justice Initiative, Bryan Stevenson, built The National Memorial for Peace and Justice Memorial and Legacy Museum: From Enslavement to Mass Incarceration; both physical spaces in Montgomery, Alabama expose this connection and ensure that we openly and honestly confront this history. Without candidly admitting that this line exists, we will be unable to “see the way that line claims lives unfairly.”

In these times, we will remain relentlessly committed to our values: dignity, compassion, racial justice, and an expansive understanding of our rights. We will not back down from protecting the dignity and rights of those harmed by our legal system or state actors. Importantly, in all of our work, moving forward, we will advocate in a manner to ensure that we always show how the history and the legacy of white supremacy connects to present practices and policies. We will hold public officials

and politicians accountable for actions or inaction that sustain these structures of white supremacy.

“I think it is important that we understand all the brutal, all the ugly details, because those are the things that actually give rise to what might allow us to one day claim something really beautiful.”

Understanding the moment: in the history of the U.S. we have not experienced the current confluence of ideologies, systems, and politics. The U.S. has developed and nurtured the most comprehensive network of detention and incarceration the world has ever known, and the related resources to sustain it. The scale and quality of our carceral system are unlike what we have ever understood; we have nearly 6,000 prisons and jails and a law enforcement presence that outsizes the military forces of almost every country. Additionally, our local democratic institutions are being taken over by individuals who either actively forward a white nationalist value system or are complicit in its mainstreaming through inaction. As we are in the midst of a rapid roll back by the Supreme Court of our rights and liberties, and on a trajectory of a devolving, bigoted, and narrow interpretation of the U.S. Constitution, we will no longer be able to rely on federal protections to check local actors. As the white nationalist value system metastasizes through our local democratic institutions, local actors will seek to enforce this value system through our existing carceral system. Whether it's local law enforcement and adjacent law enforcement actors (militia, alt-right groups, vigilantes, etc.) using intimidation and threats with illegal arrests and temporary detention; or district attorneys attempting to prosecute

people for crimes under a perverse interpretation of our laws; in the upcoming years, actors will aggressively attempt to expand the reach of our carceral system, relying on its core function to dominate and control segments of our population.

With full recognition and awareness of the times we are in, we are enhancing our mission and in 2023 hope to expand our footprint to become a regional resource center in order to protect the rights and liberties of those who are in the cross-hairs of the criminal legal system and mass incarceration. Our objectives: to dismantle and disrupt the carceral systems in the region.

In 2023, I will share with you more about how this will look and what it will mean for our work and organization. But today, I want to ask you to show up in a big way for incarcerated Oregonians and those who have been harmed by the government. In just over a decade since I co-founded the Oregon Justice Resource Center with Erin McKee, we've done great things together. Whether it was helping to overturn the wrongful conviction and death sentence of our client, Jesse Johnson, who spent 17 years on Oregon's death row, or securing access to COVID vaccines for all incarcerated Oregonians, your support has made a huge difference. When I look back over the years, I see so many stories that inspire me where your belief has enabled a light to shine in some of the darkest corners of our state's criminal legal system.

We are committed to staying true to our values of courage, creativity, tenacity, and compassion. We now operate six distinct legal programs that provide support and services to over 700 Oregonians, with a staff of over 60 (nearly one in five of whom are formerly incarcerated people). We know you share our vision and these values, and hope they'll inspire you to support our organization; all the proceeds from which will fund the free legal services we offer to incarcerated Oregonians or those harmed by government actors.

As our work spans across our various programs and as our organization grows, I am continually invigorated by each of our staff's commitment, zeal, and radical

vision to frustrate and dismantle mass incarceration in Oregon. I hope you will be inspired by the summary of work by our staff in 2022.

We would not be here without you; your support has allowed us to build a strong foundation for us to work towards fully realizing our potential as a civil rights organization.



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

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Julia Yoshimoto Senior Counsel

Nash Casey Office Manager and Intake Coordinator

Conrad Engweiler Paralegal, Impact Litigation

Adam Gregg Paralegal

Wayne Houff Paralegal/Legal Assistant

Troy Ramsey Office Assistant

Gerson Rodriguez Intake Assistant

Mark Wilson Special Advisor, Litigation and
Experiential Support *pro bono*

Communications

Alice Lundell Director of Communication

Todd Davilla Communications Associate

Policy & Outreach

Zach Winston Director

Trevor Walraven Associate Director

Kyle Black Policy Associate

Philip A. Carrasco Policy Associate

Kyle Hedquist Policy & Outreach Associate

Anthony Pickens Policy Associate

Loraine McLeod Policy & Outreach Assistant

Civil Rights Project

Juan Chavez Director and Attorney

Franz Bruggemeier Associate Director

Jonny Gersten Staff Attorney

Ben Haile Senior Counsel

Alex Meggitt Staff Attorney

Carleene Houk Paralegal

Natasha Pickens Paralegal and Investigator

Immigrant Rights Project

Erin McKee Co-Director and Attorney

Joseph Justin Rollin Co-Director and Attorney

Cicely Thrasher Intake Co-ordinator and Legal Assistant

Legal Support Services

Allyx Pershing, Manager

Elyse Kupfer, Investigation Team Manager

Trevor Walraven, Document Team Manager

Ariel Howland, Document Management Specialist

Alejandra Montes Contreras, Document Management Specialist

Josh Cain, Team Supervisor, Document Management

Claudia Chinn, Investigator

Sam Cloughton, Document Management Specialist

Christopher Mack, Team Supervisor, Document Management

Neila McLeod, Data Management Specialist

Mike Oyarzun, Document Management Specialist

Kevin Roper, Document Management Specialist

Amy Selover, Document Management Specialist

Tierra Valentine, Investigator

Oregon Innocence Project

Steve Wax Legal Director

Kenneth Kreuzer Managing Attorney

Kassidy Hetland Staff Attorney

Wayne Houff Paralegal/Legal Assistant

Lisa Christon *Pro Bono* Attorney

Eryn Karpinski *Pro Bono* Attorney

Phil Lewis *Pro Bono* Attorney

Carolyn Bys *Pro Bono* Attorney

Michele Longo Eder *Pro Bono* Attorney

Kindra Long *Pro Bono* Attorney

Elora Cospers Volunteer Investigator/Paralegal

Ariadne Alves, Michele Cebert, Matt Constantino
2021-22 Law Student Externs/Interns

Pamela Domingo, Evelyn Mailander, Dana Meyers
2022-23 Law Student Externs/Interns

The FA:IR Law Project

Brittney Plessner Co-Director

Steve Wax Co-Director

Karen Newirth Special Counsel

Olivia Buscho Staff Attorney

Malori Maloney Staff Attorney

Claire Powers Staff Attorney

Melissa Bennett Paralegal

Steve Riley Intern

Public Accountability

Athul K. Acharya Executive Director

Special Projects

Walter Fonseca Special Projects Counsel

Amanda Lamb Law Enforcement Resource Counsel

Justin Low Investigative Research Associate

Transparency and Accountability

Brian Decker Director and Attorney

Women's Justice Project

Julia Yoshimoto Director and Attorney

Sarah Bieri Staff Attorney

Alex Coven Staff Attorney

Josh Clasberry Paralegal/Legal Assistant

Youth Justice Project

Walter Fonseca Director

Conrad Engweiler Associate Director

Maya Ramakrishnan Staff Attorney

Althea Selover Investigator and Mitigation Specialist

Civil Rights Project

OVER THE LAST TWELVE MONTHS, our Civil Rights Project has filed more than a dozen new cases related to issues in prisons, with policing, and many more. Much of our work has been a continuation of cases which we filed early in the pandemic and resulting from the uprising for Black Lives following the murder of George Floyd in Minneapolis in 2020.

Class Certification Granted in Lawsuit over the Handling of COVID-19 in Prison

In a huge victory for the thousands of Oregonians impacted by the pandemic while incarcerated in state prisons, Judge Stacie Beckerman granted certification of two classes in our clients' lawsuit against the governor and the Department of Corrections. Judge Beckerman agreed to certify two classes: one related to people who contracted COVID-19 while in ODOC custody and one for the families of the people who died of COVID in state prisons.

We filed this lawsuit in April 2020 on behalf of our plaintiffs in response to the already evident failure of the Department of Corrections and the governor to fulfill their responsibility to protect Oregonians in prison from COVID-19. The fears we had at that time about how incarcerated people would be affected by the pandemic have sadly come to pass. The impact of this disease and its mishandling by those in charge have been devastating to people in prison. Fifty-two families of incarcerated people have lost loved ones and more than 6,000 people have contracted COVID while in prison, some of whom are still experiencing significant health impacts from this disease.

The lawsuit was filed by us with the firm of Sugerman Dahab.

Public Defense Lawsuit

Four clients filed a class action lawsuit in May against the State of Oregon over its failure to provide them with a defense attorney to represent them in their criminal cases. Each of the four was a defendant with state criminal charges against them who could not afford to hire an attorney and had not been assigned a public defender within a reasonable period of time.

The lawsuit was dismissed on a technicality but the issues it sought to address have not been resolved. Therefore, we filed a new lawsuit in October on behalf of four new clients, each of whom was also without representation due to the state's failure to provide them with a public defender. They want the court to either order the defendants to provide them and all others similarly situated with a public defender within a reasonable time, or dismiss their cases.

The crisis within Oregon's public defense system has provoked much discussion of its failures and drawn critical national media attention. Several reports by outside organizations have identified challenges that urgently need to be addressed. People working within the system have also spoken out about the crisis and the failure to address the underlying problems with public defense and pivot away from over-reliance on prosecution. These solutions require coordination among all three branches of government because the legislature, executive, and judiciary have been neglecting the weakness of the public defense system for decades. This lawsuit brings pressure on lawmakers to work on holistic solutions.



The plaintiffs are represented by our Senior Counsel Ben Haile and Staff Attorney Alex Meggitt as well as Jesse Merrithew of the firm of Levi Merrithew Horst and Jason D. Williamson, Executive Director of the Center on Race, Inequality, and the Law at NYU Law School.

Solitary Confinement Challenge

In December last year, too late for inclusion in our 2021 Annual Report, we filed a challenge to the use of disciplinary solitary confinement (DSC) in Oregon prisons. At that time, people could be sent to DSC for up to 180 days. The Oregon Department of Corrections has changed its DSC practices to reduce the maximum sanction to 90 days and shorten the presumptive sanction for every rule violation. This is still much longer than is sanctioned by national and international standards or the punishments used by all neighboring states. Therefore, the lawsuit continues.

Life in disciplinary segregation in Oregon prisons is harsh. People are confined to a small cell for over

23 hours a day. They are allowed 40 minutes, five days per week for exercise outside the cell. If they want to shower or shave, they can only do so within their exercise time. Other than these exercise periods, the only times a person will leave their cell are for medical care, very limited visits, meetings with their attorney, or a court hearing. Contact with other people is severely curtailed and there is little activity or stimulation.

We filed our case in the Oregon Court of Appeals, asking the Court to find that the Oregon Department of Corrections' use of solitary violates the Oregon Constitution's ban on "unnecessary rigor" meaning excessively harsh punishment. We unsuccessfully sought a temporary restraining order which would have compelled ODOC to immediately cease using DSC for more than 15 days pending the outcome of the case. We are currently waiting for ODOC to file a response on the merits of the rule challenge.



Two Rivers Correctional Institution Mask Mandate

In March, having been appointed by the federal courts as pro bono counsel, we helped secure a mask mandate at Two Rivers Correctional Institution in Umatilla on behalf of our client Aaron Hanna. Mr. Hanna brought the case himself and CRP Director Juan Chavez argued the case. Tierra Valentine and Elyse Kupfer from our investigation team also worked on this case. Aaron Hanna actually caught COVID in January while waiting for the outcome of his lawsuit. In issuing a temporary restraining order and preliminary injunction, Judge Beckerman found that some staff at Two Rivers had not been following the rules put in place during the pandemic to require masking. She declined to extend her order to cover all Oregon prisons. Following the injunction, Mr. Hanna faced retaliation from prison officials, which required the Court to file a

supplemental order further restraining the facility from targeting Mr. Hanna and anyone else who challenges their mishandling of the COVID-19 pandemic.

Don't Shoot Portland v. City of Portland

The plaintiffs in the then ongoing *Don't Shoot Portland v. City of Portland* case filed a Motion for Class Certification in January. The lawsuit concerns the use of chemical weapons against protesters. The plaintiffs' motion included evidence of widespread abuses and inadequate oversight of the Portland Police Bureau. One of the more shocking revelations was a Portland Police Bureau slide deck that ended with an alt-right meme, "The Prayer of the Alt-Knight," which glorifies violence against protesters. While the Court did not grant our clients' motion, it did highlight the shocking and egregious state of policing in Portland. In November, the City

settled the case with the plaintiffs for \$250,001 plus attorney's fees. The City also agreed to a 14-month injunction preventing many of the abuses seen in 2020. The restrictions include the City destroying its store of rubber ball distraction devices, commonly known as flash-bang grenades.

2016 Protest Case

In December, we took to trial a case brought by our client Linda Senn concerning events at a protest in 2016. She asked a federal jury to find a county sheriff liable for excessive use of force and the jury heard her. After deliberating for two-and-a-half hours, jurors returned a verdict in her favor. This result came after the case wound its way through the courts for more than four years, including a trip to the Ninth Circuit Court of Appeals. At the Ninth Circuit, Public Accountability (which is fiscally sponsored by the OJRC) and attorney Athul Acharya succeeded in having the county's appeal denied. Ms. Senn is grateful to finally have closure on this matter.

Cell Extraction Cases

Between June and November, we tried four pro bono civil rights cases to juries in Pendleton. Each case involved incarcerated or formerly incarcerated clients who had originally filed pro se (self-represented) complaints about a common issue: use of chemical agents by prison staff in Oregon Department of Corrections facilities. In a technique known as a "cell extraction," prison staff will fill the cell of an incarcerated person they deem disobedient with "Freeze Plus," a chemical combination of OC (pepper) spray and tear gas. The goal is to incapacitate the person and then enter the cell and subdue and restrain them. Our clients were not the targets of these cell extractions but they were harmed by the clouds of chemical agents released. They were in nearby cells when the extractions took place and the chemicals entered their cells. Our clients suffered prolonged pain, burning, difficulty breathing, and other symptoms. Despite this, prison staff refused to provide these bystanders with showers, new clothing, or any means of decontamination. Our clients had similar experiences on different dates at different prisons. They asserted that the failure to allow them to decontaminate themselves violated their Eight Amendment right to be free from cruel and unusual punishment. Despite lengthy deliberations in each case, we were unable to win over the juries. However, U.S. District Court Judge Marco Hernández described our representation

in one case as "outstanding." Our clients expressed their gratitude for representing them in what they knew would be an uphill battle.

Portland "Sweeps" Case

A lawsuit brought by a group of Portlanders who are unhoused forced the City of Portland to adopt clear rules for how it will conduct encampment removals, commonly called "sweeps." The plaintiffs wanted the City to follow the law by storing personal property removed from camps and by making that property available to its owners to collect. At the time of filing last year, there were few written policies on how sweeps should be conducted. That lack of clarity often led to violations of individuals' constitutional rights and state law when it came to destruction and disposal of personal property of people who are unhoused.

New policies agreed as part of a settlement with the City in May this year provide better notice to people living in camps about when a sweep will take place and what residents of the camp can expect to happen. There are also improvements to policies around retrieving personal belongings that unhoused Portlanders are unable to take with them during a sweep. The City must now confirm with people living in a camp the day before a sweep, be specific about the extent of the area subject to removal, let residents know what to expect, and tell them what property must be stored and how they can get their property back. These changes address some of the complaints that unhoused Portlanders have had about sweeps which have tended to create unneeded stress and anxiety.

The plaintiffs were represented by us along with Michael Fuller and the Underdog Law Office.

FINALLY, THIS YEAR we welcomed **Carleene Houk** to our team as a **paralegal**. Their college experience participating in an Inside Out program which brings incarcerated and non-incarcerated students together was formative. That experience, in addition to witnessing police response to the protests following the election of Donald Trump, led them to pursue a career in the criminal legal system.

The FA:IR Law Project

WITH A LITTLE OVER A YEAR gone by since we started our newest program, The FA:IR Law Project, we are proud of what we have accomplished so far. The FA:IR Law Project was created to address systemic failures in the criminal legal system and create a more fair, just, and humane system. FLP seeks to reverse, vacate, and prevent wrongful and unjust convictions and sentences and mitigate and prevent excessive sentences. Our focus this year has been on mass case reviews, data and policy work, community education and resources, and individual client representation. What follows is a summary of the highlights of our work this year.

Mass Case Reviews

Ineffective Assistance of Counsel

The Office of Public Defense Services (OPDS) contracted with us to review cases in Jefferson and Crook Counties following the discovery of irregularities in the work of a defense attorney. The attorney has been an independent contractor with the 22nd Circuit Defenders Consortium, practicing in both counties. A Deputy District Attorney for Jefferson County filed a bar complaint against the defense attorney in June 2020 alleging, in part, that he failed to download discovery in more than 100 cases. OPDS filed a second bar complaint the following month further alleging that the defense attorney only reviewed discovery in his cases if his clients wanted to go to trial.

Our task was to review all of the defense attorney's cases to see whether we could identify any specific act or failure to act—beyond the failure to download discovery—that negatively impacted the outcomes of any of his clients' cases. We were also tasked with attempting to identify any reasonable way to redress the harm done. This meant comprehensive review of the underlying records, extensive legal research, and new investigation.

We have contacted or attempted to contact everyone on the DA lists as well as every incarcerated person the defense attorney represented. We have completed 97 initial case reviews, closed review on 65 cases, and have 52 cases in active review. In one notable case, after months of negotiation (and only after filing a post-conviction relief petition), we were able to reach an agreement with the Attorney General's office to use Senate Bill 819 to resentence a client from a Class A Felony to a Class A Misdemeanor, eliminating a pending 72-month prison term.

Withheld *Brady* Material in Wasco County

In February 2011, the former City of The Dalles Police Department Chief wrote a "Notice of Discipline" letter to Jeffrey Kienlen demoting him from Sergeant to Police Officer for violating the city police policy regarding truthfulness. The letter indicated that Kienlen was untruthful about his decision to use a city car and gas card during a training in Eugene to spend two nights in Salem.

This letter was clearly *Brady* material, as it called into question the credibility of Officer Kienlen as a witness. Further, the letter implied that there was a close personal relationship between Kienlen and former

Chief DDA for Wasco County Leslie Wolf. While former DA Nisley possessed the letter, it was not disclosed to defense attorneys or the court until more than a decade later, when Matthew Ellis took office as Wasco County District Attorney in January 2021.

Soon after DA Ellis discovered the letter, he put Kienlen on a “do not call” list and asked us to review all the cases on which Kienlen worked in the ten years during non-disclosure of the letter. We developed a rubric for these reviews—If the *Brady* material regarding Kienlen’s dishonesty had been appropriately considered by the prosecution and/or disclosed to defense, could it have reasonably affected the outcome of the case? This project is nearly at its end. To date, we have reviewed 250 felony and misdemeanor cases; recommended dismissal in 110 cases and partial dismissal in six cases; and recommended expungement in 54 previously dismissed cases.

The Wasco County DA’s office has agreed to dismiss 101 cases to date. The mechanism for dismissal has been a simple motion to dismiss and vacate.

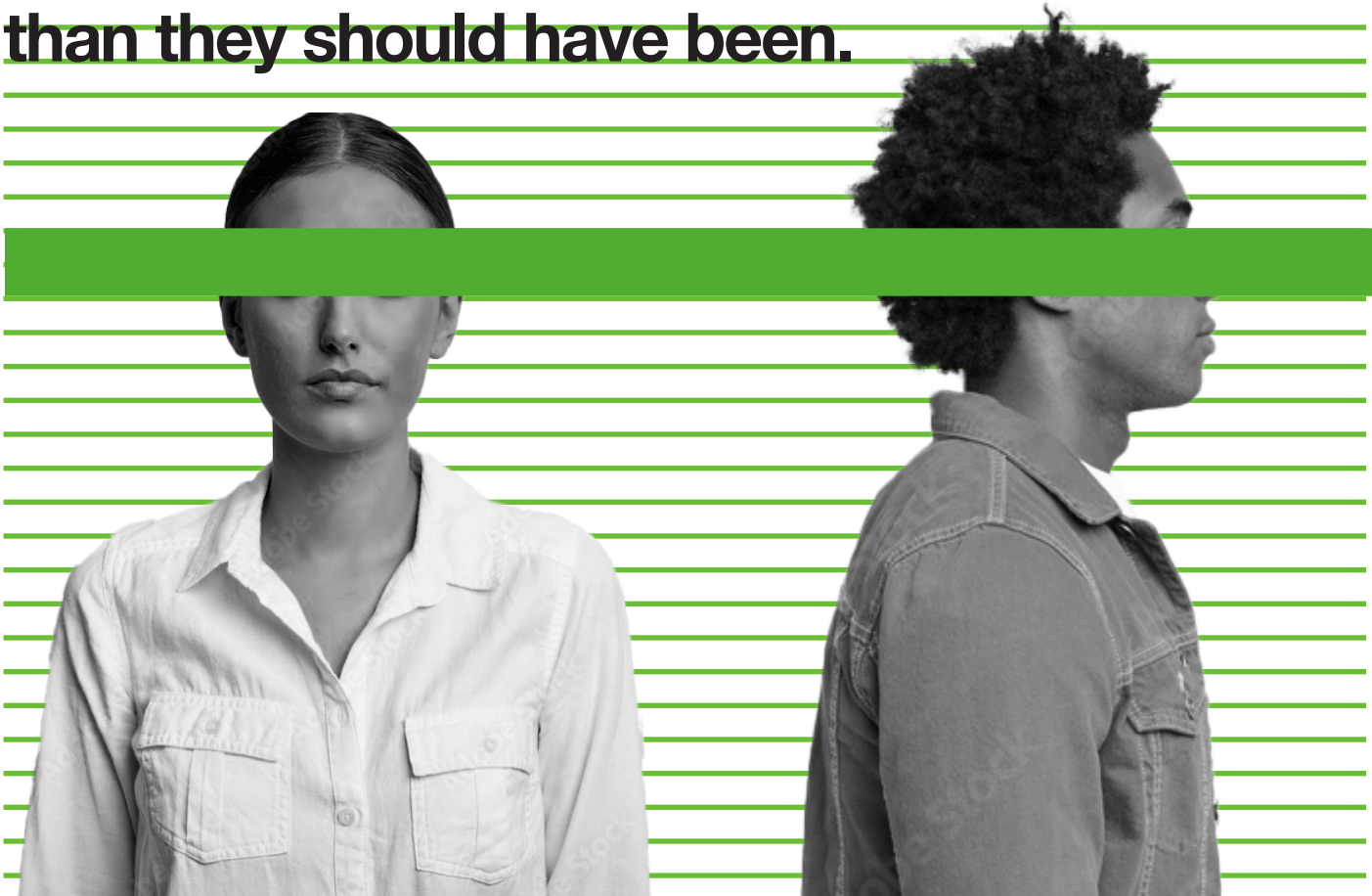
Additionally, we supported the bar prosecution of former DA Nisley and DDA Leslie Wolf, arguing that the disciplinary letter was *Brady* material, and failure to disclose the letter violated the constitution, the Oregon Rules of Professional Conduct, and ORS 135.815. That prosecution is ongoing.

Deschutes County SB 819 Case Reviews

Senate Bill 819 is a new law which allows for resentencing of a person who was sentenced to any felony other than aggravated murder when the district attorney for the county where the person was sentenced agrees, and the sentencing court finds, that the sentence no longer advances the interests of justice. We have signed a memorandum of understanding with the Deschutes County District Attorney’s Office to review cases for potential relief. Some of these cases are ones on which a former Bend Police Officer worked. The officer was fired from the Bend Police Department after an internal investigation for submitting inaccurate and misleading information and being untruthful while on administrative leave.

**We recommended
dismissal in 110
cases and partial
dismissal in six
cases involving
Brady violations in
Wasco County.
The DA’s office
has agreed to
dismiss 101 cases.**

As a result of *Boyd*, more than 24,000 Oregonians were convicted of more serious crimes than they should have been.



Data and Policy

Continuing the fight against the War on Drugs

In September 2021, the Oregon Court of Appeals issued an opinion in the case of *State v. Hubbell* that overturned 33 years of caselaw stemming from *State v. Boyd*, 92 Or App 51 (1988). *Boyd* allowed a person to be convicted under Oregon's delivery of a controlled substance statute with facts supporting only attempted delivery, possession with intent to deliver, or even simple possession. Law enforcement actors immediately worked (unsuccessfully) to codify *Boyd*, and the Department of Justice sought review at the Oregon Supreme Court. To combat these efforts, we, together with research scientist Ann Leymon, reviewed a representative sample of 346 delivery convictions between 1990 and 2021.

Our review revealed a number of troubling trends. Significantly, the data suggests that between 45 and

55% of people convicted of delivery during that period were convicted under the *Boyd* theory, and were, therefore, wrongly convicted (impacting between 24,093 and 29,710 convictions). The evidence in those cases at best supported convictions for attempted delivery or possession, far less serious offenses. We also found disproportionate conviction of Black and Hispanic people under *Boyd*. Sample sizes of Asian and Native American people prosecuted for delivery offenses were too small to draw meaningful conclusions about disparities in the rate of convictions.

We submitted an amicus brief to the Oregon Supreme Court this fall outlining our findings and providing historical context to the *Boyd* decision. We have encouraged the court to create a holistic remedy for the tens of thousands of people wrongfully convicted under *Boyd*.

What crimes are expungeable under OR 137.225?

- Class B or C Felony or a Class A, B, or C Misdemeanor, and non-traffic violations
- You have “fully complied with and performed the sentence of the court for the offense.” This means you have
 - Completed any sentence of incarceration;
 - Completed any term of probation (or supervision was revoked at least three years have passed since date of revocation); and
 - Paid all related fines, fees, and costs.
- You do not have any currently pending criminal cases in any court, state or federal, in the United States.
- The relevant waiting period has passed since your most recent conviction in any court, state or federal, in the United States, or from the date of your release from prison if you were incarcerated. If you are trying to expunge:
 - a Class B Felony: 7 years from the date of your most recent conviction or release from prison
 - a Class C Felony: 5 years from the date of your most recent conviction or release from prison
 - a Class A Misdemeanor: 3 years from the date of your most recent conviction or release from prison
 - a Class B or C Misdemeanor or Violation: 1 year from the date of your most recent conviction or release from prison



Senate Bill 819

We created resources for community members wanting to learn more about SB 819 and how it might help them. These efforts include a webpage with answers to frequently asked questions, a county-by-county SB 819 policy resource, and a chart to determine both SB 819 and expungement eligibility. We also hosted a two-part webinar with the community advocacy organization Don't Shoot Portland, sent information packets to incarcerated Oregonians, wrote to district attorneys' offices about the law, and are training pro bono attorneys on the law.

Other matters

The *Dobbs* decision has given a new edge to concerns about the criminalization of pregnant people. Thus, we worked with the Women's Justice Project to collect stories from public defenders and review jail and prison

policies related to pre- and perinatal health. (See page 21 for more.)

We are creating a groundbreaking national survey of remedies instituted in response to mass or group harms in criminal cases. Our goal is to identify creative vehicles and remedies for future litigation, negotiation, and policy work; demonstrate that courts and system actors frequently recognize the need for, and engage with, creative retroactive remedies; and identify shortcomings in the process—specifically, where and why remedies have been limited or unsuccessful.

We worked on three individual client release efforts this year, two of which were in collaboration with the Women's Justice Project and the Youth Justice Project. The cases included a clemency application for a client serving life without parole, a clemency application for a client sentenced to 90 years in prison aged 17 for a non-homicide offense, and a clemency application for a client who was released via SB 819 this fall.

Immigrant Rights Project

OUR IMMIGRANT RIGHTS PROJECT provides tailored immigration legal advice to noncitizen clients of Oregon public defense providers throughout the state. Since we began work in 2018, the number of referrals we have received has increased by more than 66%, intakes are up by 71% and completed tickets by 73%. We receive an average of more than 50 requests for assistance each month. With the increase in workload, we are glad to have welcomed **Cicely Thrasher** this year as a part-time **Intake Coordinator and Legal Assistant**.

We worked with the Multnomah County District Attorney's Office to create a policy requiring their staff to consider the immigration consequences of pending criminal charges in plea negotiations. The policy, which came into effect in November, provides specific strategies to reach immigration-safer outcomes for noncitizen defendants without compromising community wellbeing. This policy will have an important impact for all noncitizen defendants in Multnomah County, including green card holders or lawful permanent residents, refugees, international students, employees with work visas, etc. A policy that requires the prosecution to consider immigration consequences will help prevent disproportionately severe consequences for noncitizens, such as family separation. We have also assisted in training deputy district attorneys in Multnomah County on the policy.

This fall, we published a practice advisory on using no-plea conditional discharge as an alternative to conviction for criminal and immigration purposes. Successful use of no-plea conditional discharge will help noncitizens avoid convictions, including for minor drug-related offenses, that might otherwise trigger permanent deportability and inadmissibility.

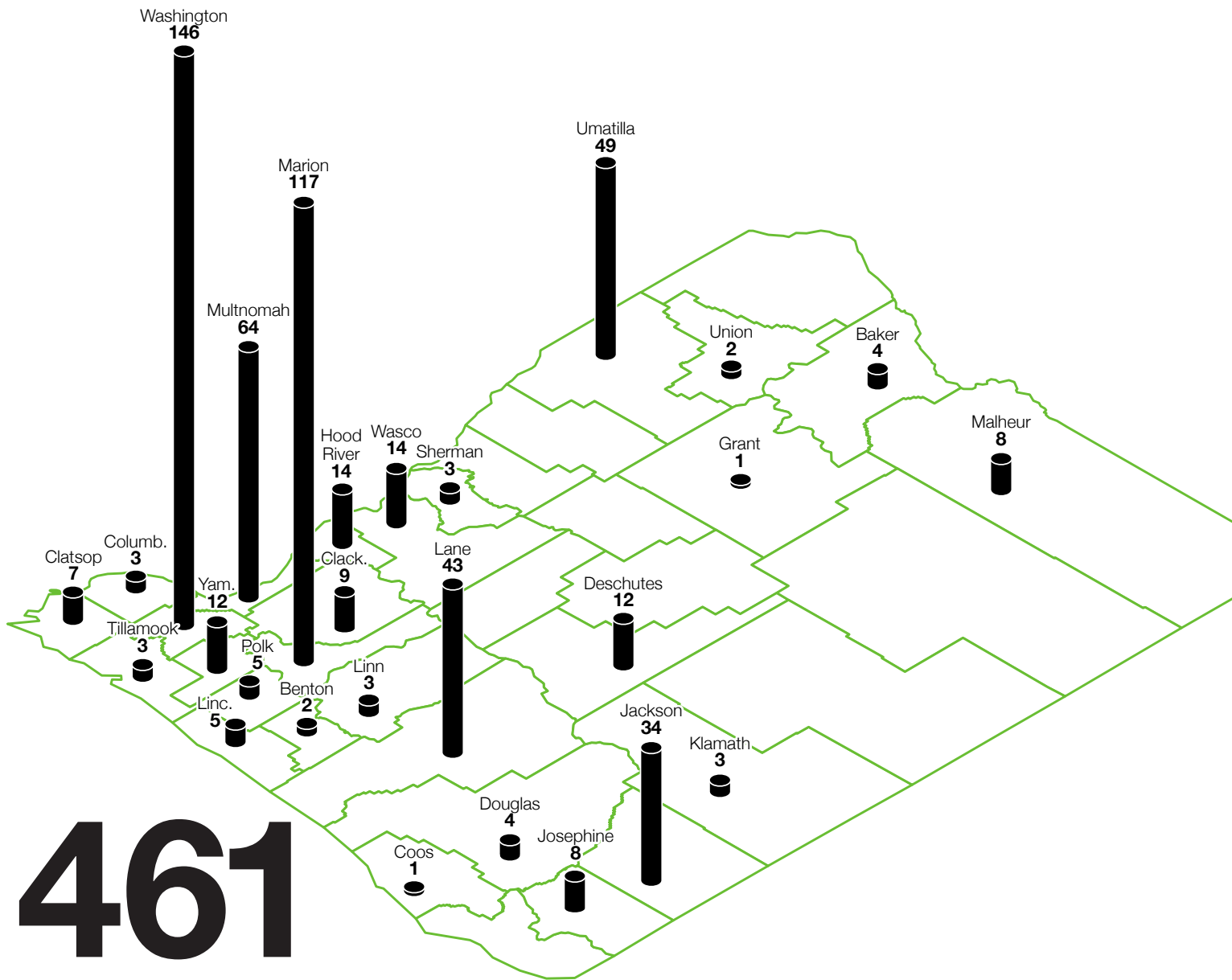
We joined immigrant rights groups across the country as amicus in the following cases:

- *Arias Jovel v. Garland*, Docket Nos. 16-71196 and 21-631, Ninth Circuit. Arguing that a conviction

vacated under California statute 1473.7 should be recognized as effective for immigration purposes.

- Multiple cases in the Ninth, Second, Third, and Fourth Circuits arguing that the federal crime of illegal reentry under 8 USC 1326 is unconstitutional under the Fifth Amendment because it was motivated by racial animus in violation of equal protection. The specific brief we signed was a stories brief highlighting the human cost of illegal reentry prosecutions:
 - *U.S. v. Carrillo-Lopez* and *U.S. v. Rodrigues-Barios* 21-50145 (9th Cir.)
 - *U.S. v. Suquilanda*, 22-1197 (2nd Cir.)
 - *U.S. v. Wence*, 22-2618 (3rd Cir.)
 - *U.S. v. Sanchez-Garcia*, 22-4072 (4th Cir.), and *U.S. v. Alvarez-Rodriguez* (4th Cir.).

We presented at the annual NW AILA conference offering beginning and advanced crimmigration classes to immigration attorneys from Oregon and Washington. We also provided to AILA Oregon attorneys a class and summary of Oregon legislative updates from 2017-22 affecting noncitizens generally as well as those in the criminal legal system. We taught a Washington County Bar Association class on working with the Immigrant Rights Project and on basic immigration and crimmigration concepts. We made two virtual presentations to public defense providers going into detail on how to work with us to provide accurate advice on



461

Total Intake Cases in 2022, across 27 Oregon counties

46

Total countries of origin for our intake cases in 2022
The top five were:

↑ 71%
Intake growth since 2018

50+
Average requests received per month

- | | | | |
|---|--------------------------------|---|---------------------------------|
|  | 1. Mexico, 278 cases |  | 4. El Salvador, 12 cases |
|  | 2. Guatemala, 72 cases |  | 5. China, 7 cases |
|  | 3. Micronesia, 19 cases | | |

immigration consequences of pending charges faced by their clients.

We have continued to collaborate with other immigrant rights organizations on issues affecting noncitizen Oregonians including ICE enforcement action. We have provided immigration analyses and related advice to other OJRC projects, including The FA:IR Law Project.

Our goals for 2023 include expanding on the success of our work with the Multnomah County District Attor-

ney's Office to work with DAs' offices in other counties to create policies that require prosecutors to consider the immigration consequences of pending criminal charges for noncitizen defendants. We will also advocate for policies that require the public to be informed of immigration consequences of using legalized marijuana and working in the legalized marijuana industry.

Oregon Innocence Project

IN 2022, OREGON JOINED 37 other states, Washington DC, and the federal government in enacting a wrongful conviction compensation statute. The Oregon Justice for Exonerees Act (Senate Bill 1584) provides for state-paid financial compensation for exonerees. Wrongful conviction inflicts many 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 more. The State of Oregon has a responsibility to try to restore the lives of people who have been wrongfully convicted to the best of its ability.

The new law was passed through our efforts in collaboration with the Innocence Project and the Forensic Justice Project. It did not receive a single “no” vote throughout the legislative process. Senator Kim Thatcher (R-Keizer) reintroduced the bill which quickly gained bipartisan support, including Senator Chris Gorsek (D-Troutdale) signing on as co-Chief Sponsor. An OIP exoneree, Earl Bain, who was pardoned by Governor Kate Brown in 2020 on the grounds of innocence, was heavily involved in the passage of the law. He shared his story with legislators and advocated for the bill to pass. The Justice for Exonerees Act provides for \$65,000 compensation per year of wrongful incarceration and not less than \$25,000 per year of wrongful subjection to parole, post-prison supervision and/or inclusion in the sex offender registry.

Casework

Since we began work in 2014, we have received a total of 855 inquiries of which we have closed 583. This is an average request rate of 106 cases coming in per year. We have had 53 new case inquiries since last year’s annual report and have closed 32 cases since then. The screening process to determine whether there may be a legal route to proving innocence can take a few hours to a few years to complete

We are continuing to thoroughly litigate open cases presenting innocence claims, including completing forensic DNA testing, presenting sworn testimony of recantations from state’s witnesses, and challenging prior convictions based on what is now understood as junk science. We have three clients in open or pending post-conviction relief litigation. These cases include an individual who was convicted of aggravated murder in 2015 for a crime committed in 1982. DNA testing is ongoing for untested and previously tested items. Another 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 conviction in the 1994 case. We believe the client has a strong claim of innocence in the 1994 case.

This year, we have worked to clear a backlog of cases that built up over the course of the pandemic. We have accepted two or three new cases to litigate which present what are, in our opinion, strong cases for exoneration.

Claire Powers, Wrongful Conviction Review Program and The FA:IR Law Project 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. (See page 12 for more information on this work.)

This spring, we worked with the Portland Opera to bring our work to a new audience of opera fans. Portland Opera staged four performances of an opera based on the story of the Exonerated Five, formerly known as the Central Park Five, in March 2022. The Five were a group of Black and Latinx teenagers who were wrongfully convicted of charges related to the rape and aggravated assault of a New York woman in 1989.

Our attorneys Steve Wax and Kenneth Kreuzer had the opportunity to speak to audience members after two of the performances to share more about our innocence work in Oregon. The story of former OIP client Jesse Johnson whose conviction and death sentence were overturned last year was featured in the Portland Opera magazine, *Toi Toi Toi*.

Our staff has expanded this year with the hiring of Kenneth A. Kreuzer as Managing Attorney and Cassidy Hetland as a full-time Staff Attorney. Wayne Houff has also joined us as a paralegal. We would like to give a special thanks to our law student interns and volunteers. In early 2022, we had a terrific group of law student interns from Lewis & Clark Law School: Michael Cebert, Matt Constantino, and Ariandne Araujo Alves. In the second half of 2022, our law student interns have been Dana Meyers and Pamela Domingo (University of Oregon Law School) and Evelyn Mailander (Lewis & Clark Law School). We are fortunate to have dedicated attorney and investigator volunteers: Elora Cospers, Phil Lewis, Lisa Christon, Eryn Karpinski, and new volunteers Carolyn Bys, Michel Longo Eder and Kindra Long, who have been assisting in case screenings. Alex Meggitt and Brittney Plesser continue to litigate on some of our cases while they fill other attorney positions within OJRC. Steve Wax continues as Legal Director while co-directing The FA:IR Law Project.

Women’s Justice Project

JULIA YOSHIMOTO TAKES ON an expanded role as Senior Advisor for the whole of OJRC; she will continue as the Director of the Women’s Justice Project in addition. In many ways, this change in title is simply an acknowledgement of the role she has played within OJRC, often behind the scenes. Julia will now be included more formally in conversations regarding our strategic development and impact litigation work. After Oregon Innocence Project Legal Director Steve Wax, Julia is the longest tenured attorney at the OJRC. Professionally, she has been here almost since the very beginning of the organization and has seen its growth; she fully understands our hopes and dreams and appreciates the unrealized potential of the organization.

The Women’s Justice Project began life as a fellowship which Julia took on after graduating from law school in 2013. The concept behind the program emerged from her many years of experience in social services before she went to law school. Julia’s understanding that many of her clients—primarily women on the margins—struggled with accessing legal services and that those legal issues were barriers to stability, caused her to develop the idea of integrating legal services into holistic social services to assist individuals in a complete way.

Over the past eight years, Julia has developed a program that not only fully embraces the integrative advocacy model, but she has pioneered several unique (locally and nationally) efforts. She has conceptualized, developed, and grown the WJP from the idea that women in the criminal system need to have a voice and be treated with dignity. To our knowledge, there are no other programs in the country that are like the WJP. We are in the process of focusing and expanding the work of WJP to ensure that women impacted by the criminal system are not forgotten or an afterthought, in our state and in the civil rights movement.

Re*Membering

Our Re*Membering program provides civil legal services to people incarcerated at Coffee Creek Correctional Facility, Oregon’s only women’s prison, with funding partially provided by the legislature. The range of legal issues presented by our clients is diverse and complex. On average, each client presented four legal matters for assistance, with the highest per client being nine. Nearly half of our clients served this year were women of color. We provided services to people returning to 15 different Oregon counties.

Some examples of the work we did this year include:

- Helping a client respond to court action filed by her abusive ex-husband that made false and disparaging claims about our client and sought to greatly reduce and restrict our client’s parenting time with her child. At trial, the court denied the father’s requested changes regarding our client. Since the trial, our client and her daughter have had monthly in-person visits which the father was previously preventing which has helped to restore the mother-child bond.
- Helping clients get back property that was seized by law enforcement that was rightfully returnable to them.

- Helping several clients in filing Motions for Remission of Court-Ordered Financial Obligations, resulting in courts waiving thousands of dollars of burdensome court fines.
- Helping a client at a contested hearing on a Family Abuse Prevention Act (FAPA) restraining order, which resulted in being able to successfully prevent a restraining order from being finalized that would have hindered her ability to visit with her children.

Comments from Re*Membering Clients:

- “[Re*Membering legal services] helped me tremendously. I feel like walking out of [prison] I will be on a fresh path and it will help me with my re-entry.”
- “Before the Re*Membering program, I was in a bad place mentally due to no contact with my kids... The Re*Membering program are the only ones who helped me and I am forever grateful for their efforts.”
- “[Help from Re*Membering] gave me peace of mind. I was able to understand how to get my finances in check and how to get back on my feet...I got a job; I called all the people I owed money to. My credit score is going up now.”

Casework

We represented seven women incarcerated at Coffee Creek Correctional Facility in Wilsonville in their applications to Governor Brown for clemency. Our focus in particular was on assisting women who are survivor-defendants. Survivor-defendants are criminal defendants who are survivors of domestic violence and for whom that abuse was a contributing factor in the commission of the crime.

We filed a petition for an alternative writ of mandamus to the Oregon Supreme Court for a client sentenced for aggravated murder. We argued that the Oregon Department of Corrections (ODOC) incorrectly calculated our client’s term of incarceration and that she was being wrongfully incarcerated beyond the term of her lawful sentence. We argued that this overincarceration was a result of ODOC misapplying the sentencing laws and therefore over-incarcerating not only our client, but also other individuals similarly sentenced on aggravated murder convictions. The mandamus case presents an issue of great significance and urgency for individuals impacted by this over-incarceration. Unfortunately, the Oregon Supreme Court denied the petition but not before requesting a memorandum in opposition from the State, demonstrating interest in the issue because this request is not always made.

We assisted a client with a Senate Bill 819 petition that resulted in her immediate release from Coffee Creek Correctional Facility. We are continuing to represent this client at the Oregon Court of Appeals to challenge the denial of earned time credit being applied to her prison term.

In total, the Women’s Justice Project represented 65 clients in 2022, including those assisted through the Re*Membering program.

“[Re*Membering legal services] helped me tremendously. I feel like walking out of [prison] I will be on a fresh path and it will help me with my re-entry.”

Criminalization of Pregnancy

In response to the seismic impact of the *Dobbs* decision by the US Supreme Court earlier this year, we published a position paper on the criminalization of pregnancy called “Stand Against *Dobbs* and White Supremacy by Ending Collusion with the Carceral System.”

We wrote to all 36 of Oregon’s district attorneys asking them for a public commitment to not investigate or prosecute people for actions or incidents related to their pregnancy status or pregnancy outcomes. We received responses from two of the district attorneys which were generally supportive. We also sent a letter to Attorney General Ellen Rosenblum asking for a public commitment to not defend on appeal prosecutions, convictions, and punishments of people for actions or incidents related to their pregnancy status or pregnancy outcomes.

With The FA:IR Law Project, we created an online form to collect stories from criminal defense attorneys about the experiences of their pregnant clients in the criminal legal system.

Also with FLP, we reviewed jail policies related to abortion access and pregnancy and are working on a

“I’ve been busy—each of the 9 grandchildren have a blanket & teddy bear I made for them—oh & lots of crocheted ‘animal’ toys... Thank you for helping.”

—Robyn, incarcerated at Coffee Creek Correctional Facility

report with the results of this review. Our analysis thus far has found that Oregon’s jail and prison policies related to reproductive health are inconsistent, incomplete, and often harmful.

We submitted comment with FLP to the Oregon Criminal Justice Commission’s Jail Health Care Standards Advisory Council Report. We recommended mandatory, statewide reproductive healthcare standards for people in jail.

Coffee Creek Correctional Facility Craft Program Restoration

The Coffee Creek Correctional Facility in-cell craft program started when the prison opened in 2002. Through CCCF’s Life Skills Department, about 290 people participate in crafts including knitting, crocheting, beading, tapestry, and other art projects. Participants order and pay for craft supplies, store them in a box in their cells or near their bunks, and work on projects in their free time. Program participants generally find it therapeutic and enjoy the opportunities it provides to socialize and bond with others. Family connections are maintained through the creation and gifting of handmade items for loved ones outside prison. Participants make hundreds of items such as blankets, mittens, and scarves for donation to charities serving veterans, unhoused people, and low-income single mothers. Skills learned through the program can be useful as a source of income or job skills after release. Participants have invested vast amounts of time and energy, not to mention money, in this coveted program.

In August 2022, without prior notice, CCCF seized all craft boxes from participants. All participants were

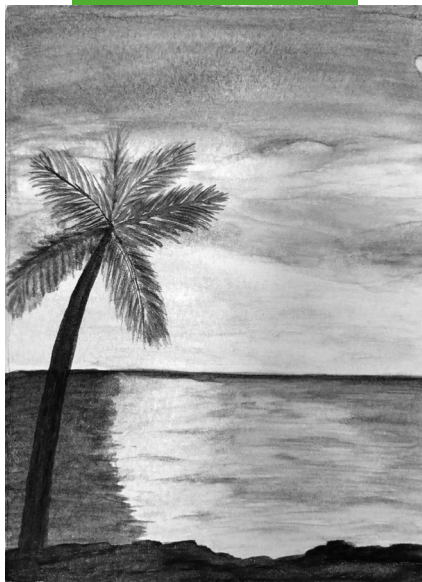
ordered to turn in their materials without any understanding of what was going on. Much was unclear and there was great concern about the loss of completed or partially completed projects, supplies, and materials. Many felt forced to throw out their supplies. One participant reported:

“I watched people totally break down. People would break down sobbing as they handed over their craft boxes because it was the last thing they had. During COVID, little by little, things were taken away...Craft boxes was the final straw.”

A brief blurb was published in that day’s *Coffee Talk*, CCCF’s in-house newsletter, promising inventory of the boxes and items and new rules and procedures for the program. Most participants did not see the update until after their boxes had been seized.

Participants who filed grievances over the seizures were denied and many felt they were without recourse. Morale was low and people had low confidence in whether they would receive back all of their items correctly and in the same condition. The callous handling of the suspension of the program was felt to be as harmful as the loss of the craft program itself.

With assistance from Civil Rights Project Senior Counsel Ben Haile, we successfully advocated for the restoration of the craft program and the return of the remaining craft box supplies. We wrote to CCCF to inform officials that we intended to help participants recover their craft material and were prepared to take legal action if necessary to protect the property rights and civil rights which ODOC had violated. Following our letter, we were able to engage in dialog with the Oregon Department of Justice to resolve the issue. The craft



boxes were, for the most part, returned without much incident and without significant loss or destruction of the participants' personal property. The craft program and the accompanying craft boxes may not seem like a big deal to people who are not facing the challenges of incarceration. But for the people in the craft program, the abrupt seizure of the craft materials was a significant loss, especially at a time when many at CCCF are facing constant lockdown, cancelled visiting, and the continuing lack of normal levels of programs and volunteer activities.

Other issues

We submitted public comment on the Oregon State Bar's proposal to allow the Bar to license paralegals to provide limited legal services in family law and landlord-tenant cases. We generally supported the proposal to help narrow the access-to-justice gap among Oregonians who cannot afford traditional legal services. However, our comment to the Bar highlighted our concern that incarcerated Oregonians continue to be overlooked, and that the Bar's proposal was unlikely to meaningfully increase access to legal services for Oregonians in prison and could also further disadvantage incarcerated persons in family law cases. As such, we made recommendations for how the proposal could be modified to better serve those incarcerated. In July 2022, the Oregon Supreme Court approved the Bar's licensed paralegal proposal, but unfortunately did not include our recommendations. We will continue to highlight and advocate for improved access to the courts for incarcerated Oregonians.

2023 goals

In 2023, we will continue our advocacy for better conditions and treatment for women in the criminal legal system, including women in prison. We will again make the case for more just and humane treatment of survivor-defendants in the criminal legal system. We will also address the use of the criminal legal system to unjustly and harmfully regulate families. To support these goals, we will continue to document and track women's experiences in the criminal legal system, develop creative litigation opportunities, advocate for policy change, provide public education and raise public awareness through campaigns. We will also continue to provide legal services to those incarcerated at Coffee Creek Correctional Facility through the Re*Membering program and advocate for increased access to the courts for people incarcerated in Oregon.

Youth Justice Project

THE YOUTH JUSTICE PROJECT fights for a future in which caging children is unthinkable. We are a team of client-centered lawyers and advocates. Together, we work to empower young people and keep them out of Oregon's criminal system.

Conrad Engweiler is now the **Associate Director of the Youth Justice Project and Paralegal for Impact Litigation**. Conrad will work with Acting Director Walter Fonseca to help shape the direction and work of the YJP and ensure that the vision of the program is realized.

Conrad's commitment to advocating for the civil rights of youth in Oregon's criminal system is unquestioned. He is one of the brightest minds in Oregon on legal issues related to the treatment of youth in our criminal and carceral systems. He has developed a strong reputation among attorneys as a go-to resource. As one of the founders of the Youth Justice Project, Conrad has helped shaped the vision and mandates of the program and in this new role will help to ensure that is pursued without compromise.

Conrad will also support OJRC's impact litigation work on conditions of confinement and sentencing. He is working with Civil Rights Project Special Counsel Ben Haile on our challenge to solitary confinement, with attorneys at the Women's Justice Project on challenges to unconstitutional and extreme sentences, and with our policy team on changes to Oregon's parole process and developing laws to hold the Department of Corrections accountable for its use of solitary.

We hired a new **Staff Attorney**, **Maya Ramakrishnan**. Maya joins us from Seattle, where she recently completed a two-year clerkship on the Washington Court of Appeals, interned for several public defender officers. Maya is a graduate of the University of Washington Law School.

Legal extern Diane McMillan has been working with us part-time during the Fall 2022 semester. She is a 2L at Lewis & Clark Law School.

With end of Governor Kate Brown's term of office drawing near, we filed a number of clemency applications this year on behalf of individuals serving sentences for crimes committed when they were minors. These include a client serving a 15-year prison sentence, another serving 6.5 years, another serving a de facto life sentence, and another serving a life sentence for homicide. We also filed a clemency application on behalf of a client who is subject to lifetime sex offender registration for adolescent crimes.

We represented a client at his resentencing hearing for an adolescent homicide offense for which he was facing a life sentence. We were able to secure his immediate release from prison and to help him find employment and housing. This case was co-counseled with Boise Matthews LLP.

We represented another client in successful appellate litigation before the Oregon Court of Appeals (*Marteeny v. Brown*). Two district attorneys and a group of crime victims challenged Governor Brown's power to grant clemency to 73 people convicted of crimes committed when they were children. The trial court rejected most of the plaintiffs' arguments but ordered the Parole Board to halt release hearings. The governor appealed this decision. First, we filed a successful motion to intervene in the ongoing appeal. After the Court of Appeals granted our intervention, we filed briefs and presented oral argument on an expedited timeline. The Court of Appeals ruled in favor of our client, ordering the reinstatement of his parole hearing as well as parole hearings for the 72 other people.

We and OJRC Special Counsel Walter Fonseca represented a client in appellate litigation before the Oregon Supreme Court, filing an original jurisdiction

mandamus petition to try to secure reinstatement of a parole hearing canceled by the trial court order in *Marteeny v. Brown*.

We filed an amicus brief in the Oregon Supreme Court on behalf of a man who received a 75-year prison sentence for non-homicide crimes that he committed in his late teens and early twenties. Our brief advocated for the extension of *Graham v. Florida*; a US Supreme

of minors to life without parole is unconstitutional. The gathering was organized by the Campaign for Fair Sentencing of Youth.

We distributed dozens of free copies to community members of *See You Soon*, a children's book about jail and family separation by abolitionist organizer Mariame Kaba.

In 2023, we will continue to represent clients who do

“...thank you for all the hard work and long hours that you and OJRC have dedicated to all of us juveniles incarcerated.”

— Juvenile lifer

Court case that found minors cannot be sentenced to life in prison without parole for a non-homicide crime. The brief also explained recent developments in the understanding of adolescent neuroscience.

With the Juvenile Law Center, we co-authored two amicus briefs at the Oregon Supreme Court. One of the cases involves extending proportionality considerations under the Oregon Constitution to consecutive sentences. The other involves challenges to youth sex offender registration.

Youth Justice Project Associate Director Conrad Engweiler traveled to Washington DC to attend a celebration of the tenth anniversary of *Miller v. Alabama*. The case, regarded as a landmark in youth sentencing, saw the Supreme Court find that mandatory sentencing

not receive a grant of clemency from Governor Brown. This support will include representation at upcoming parole hearings and in post-conviction litigation. We will pursue our appellate practice with a focus on appeals of waiver orders, excessive prison sentences, and other issues related to the criminalization of youth. We will be developing a legal outline and litigation guide for challenges to extreme sentencing brought under the Oregon constitution as well as another legal outline and litigation guide for waiver hearings. A goal for next year is creating a pro se (self-representation) legal handbook for incarcerated youth.

Death Penalty

WE OPPOSE THE death penalty for numerous reasons. No state or federal capital punishment system has ever been completely free of error. That means every jurisdiction that permits executions is risking the killing of an innocent person for a crime they did not commit. Across the country, there are now at least 190 people who have been sentenced to death and have later been exonerated. The same problems that plague the death penalty elsewhere exist in Oregon. Our Oregon Innocence Project client Jesse Johnson's conviction and death sentence were overturned last year after 17 years. The Oregon Court of Appeals found Mr. Johnson's trial attorneys failed to investigate evidence that could have tended to change the outcome of his trial by uncovering evidence of his innocence. There is no certain way to prevent any innocent person ever ending up on death row.

We work to reduce, limit, and discourage new death sentences in Oregon, to prevent the resumption of executions, and ultimately to end the death penalty. We do this through political advocacy, communications, public education initiatives, and collaboration with like-minded organizations locally and nationally. In the past few years, we have funded a comprehensive cost study

that examines how much Oregonians are paying for the death penalty, hosted speakers and spoken at events to educate Oregonians about capital punishment and supported legislation (Senate Bill 1013) to drastically limit the use of the death penalty in Oregon. We are continuing to work toward the goal of repeal.

Throughout Governor Kate Brown's term of office, we have advocated to the governor and her staff for the commutation of all Oregon death sentences. This came to pass in December 2022, when Governor Brown granted clemency to 17 individuals who were under a sentence of death. These commutations remove the possibility that this group will be executed. This is a critically important step on the way to abolition of capital punishment in Oregon and may serve as encouragement to governors elsewhere to take similar steps. In showing bold leadership with this decision, the governor has sent a clear signal that the death penalty has no place in a modern society that values dignity, compassion, and justice. We are glad to see the many efforts we have made over the years bear fruit and look forward to Oregon continuing on the path toward abolition.

**“The facts point
toward one
conclusion:
it’s past time
for Oregon
to end the
use of capital
punishment.”**

**– Bobbin Singh,
Executive Director**



Policy

Legislative work

With the Oregon Innocence Project, we passed the Oregon Justice for Exonerees Act, Senate Bill 1584, in coalition with the Innocence Project and the Forensic Justice Project. This law will compensate people wrongfully convicted in Oregon for the time they were wrongfully incarcerated and/or on supervision. (Read more about our work on this bill on page 18.)

We also secured further funding for the Women’s Justice Project’s Re*Membering program which provides civil legal services to women incarcerated in Oregon to help them prepare for release. (Read more about this program on page 21.)

We refined, reintroduced, and advanced out of committee Senate Bill 1568, a bill which proposed a complete overhaul of the process for compassionate release of severely or terminally ill people in prison. Unfortunately, this bill was falsely described as “soft on crime.” The bill did not advance out of the budget committee in 2022 but we do plan to reintroduce it in the forthcoming legislative session.

In partnership with Next Up, we again provided Oregon with the opportunity to become the first state to guarantee voting rights for currently incarcerated people in Department of Corrections custody. We worked tirelessly to iron out the details of the fiscal impact of the bill, House Bill 4147, but were unsuccessful in advancing it through the legislative process.

In partnership with allies, we successfully opposed bills that would have expanded the reach of the criminal legal system or inflicted harsher punishments.

We unsuccessfully opposed the passage of House Bill 4008/4131. Despite vigorous public opposition, the legislature approved this law which loosens restrictions on police use of tear gas. Working with the ACLU of Oregon, we strongly opposed the bill and offered alternatives in the form of amendments that would have moved our state in the direction of banning tear gas.

Ballot Measure 112 was approved by voters in November 2022. The measure removes Oregon’s “slavery exception,” which permits slavery and indentured servitude as a punishment for a crime. We were part of the coalition that worked to pass the legislative referral of this ballot measure last year.

Other policy work

Outside the legislature, we worked in partnership with OJRC programs on a variety of policy matters, including submitting comment on the Jail Health Care Standards Advisory Council Report, opposing a rule change charging people in prison for copies of their medical records, and advocating for the temporary suspension of Oregon Department of Corrections’ (ODOC) plan to implement a new requirement to validate phone numbers in order to call people in its custody.



In 2023, we will work with other OJRC programs to assist Oregon exonerees in petitioning the courts for compensation under the new Justice for Exonerees Act. We will work with other OJRC programs on non-legislative policy issues but the bulk of our work will be in the state legislature. We have a full slate of bills lined up to support, including:

- LC 831 which guarantees the right to vote to people in ODOC custody
- LC 1019/1023 which reforms compassionate release for people in prison
- LC 964 which provides for expedited judicial review for people in prison facing disciplinary action
- LC 1150/LC 3167 which will provide free phone calls, video calls, and messaging for people in jail and prison
- LC 2121 which will set a minimum age for prosecution of children in Oregon
- A bill to create a database of law enforcement disciplinary records
- A bill to restrict the use of solitary confinement/ restrictive housing in Oregon prisons
- A bill to protect survivor-defendants in the legal process
- A bill to reform Oregon's parole system.

We will also oppose bills that seek to roll back the progress our state has made toward reform of the criminal legal system.

Staffing updates

Our policy and outreach team, led by Director Zach Winston, grew this year, with the addition of Policy Associates **Kyle Black** and **Kyle Hedquist** who are playing a valuable role in our preparations for the legislative session. They join Anthony Pickens and Philip Carrasco on the policy team. In addition, **Trevor Walraven** has been promoted to **Associate Director of Policy and Outreach**. Trevor co-founded our Youth Justice Project and manages the document management team for OJRC's Legal Support Services. Trevor has for a long time been known as a talented public speaker, presenting at many dozen events, panels, and classes each year. He has regularly engaged with public officials from all parts of Oregon across the political spectrum about the criminal system and its impacts on youth. Additionally, Trevor helps us stay connected with several hundred incarcerated Oregonians through our prison newsletters and other correspondence. His new role will include helping to manage and direct our policy team, which consists almost entirely of formerly incarcerated individuals, and to continue to bolster our outreach and networking efforts. Finally, Loraine McLeod works with Trevor as Outreach and Policy Assistant, keeping our correspondence with people in prison on track.

Special Projects

Clemency

Special Projects, with assistance from other OJRC programs and paralegals, submitted 73 clemency applications in early 2022, completing work that began last year. These applicants served on fire crew while in the custody of the Oregon Department of Corrections during the historically destructive wildfire season in 2020. They were not included in the governor's grant of clemency to other firefighters who served during that same season.

Special Projects has submitted an additional 14 individual clemency applications and has assisted private attorneys in submitting another six clemency applications through the Oregon Clemency Project. Most of these incarcerated people are serving lengthy sentences, including life without the possibility of parole. These sentences do not account for the innate human capacity to grow and change or the particular ways in which these individuals have made efforts to grow and change.

We have also supported a further seven pro se (self-represented) applicants by advocating for them and submitting supplemental materials on their behalf. One of the seven was released earlier this year. We have provided information on the clemency process and feedback to countless people throughout the year, including to incarcerated Oregonians and to attorneys working on clemency for their clients.

As Governor Brown's term of office draws to a close, we expect to hear soon whether the governor will grant relief to our clients.

Board of Parole

In the first half of 2022, we worked with a client who was eligible for parole after spending 25 years in prison. We successfully represented them through the hearing and release process. We are still in contact with them to support them as they adjust to their new life outside prison.

Other casework

We have continued to work with the Oregon Law Center on *Johnson, et al v Grants Pass*, a class-action suit regarding the punishment of houseless campers who use tents on public property to stay warm and dry. The Ninth Circuit issued an opinion in September 2022 finding that the City of Grants Pass punished involuntarily houseless people for camping outside when they had no available alternative. This opinion in large part reaffirmed the Court's earlier decision in *Martin v Boise*:

"Martin held the Cruel and Unusual Punishment clause "prohibits the imposition of criminal penalties for sitting, sleeping, or lying outside on public property for homeless individuals who cannot obtain shelter." 920 F.3d at 616. A local government cannot avoid this ruling by issuing civil citations that, later, become criminal offenses."

Even with this great decision, the fight continues on this case. The city is seeking a rehearing.

Working with the Civil Rights Project and the firm of Stoel Rives, we are representing St. Timothy's Episcopal Church in Brookings, Oregon, and the Episcopal Diocese of Oregon in a lawsuit against the City of Brookings. The suit, filed in January this year, concerns the city's attempts to limit the service of meals to low-income people. The church is challenging the constitutionality of an ordinance adopted by the Brookings City Council that restricts the church's longstanding practice of serving free meals to people in need from church property. The restrictions imposed by the city target and interfere with the congregation's free expression of their Christian faith which calls them to serve others.

“The City’s actions infringe our clients’ constitutional right to the free exercise of their religion as well as violating the Religious Land Use and Institutionalized Persons Act. The City of Brookings is attempting without justification to restrict Father Bernie and the congregants of St. Timothy’s right to worship as their conscience dictates.”

—Walter Fonseca
Special Projects Counsel, OJRC



OJRC Legal Support Services

WE HAVE CONTINUED our work this year of providing support in document processing, investigation, and mitigation. We are working with most of the projects including the Oregon Innocence Project, the Civil Rights Project, and the Women’s Justice Project.

We are currently working on 50 cases with more than 30 attorneys around Oregon. In addition to the usual discovery that needs to be processed on a trial-level case, we have seen an increase in cell phone data needing to be processed. This can be incredibly time consuming as we are often provided data from multiple cell phones. There are often thousands of files from social media stored that need to be reviewed. Providing this data in a cohesive form rather than as the raw cell phone data is invaluable to defense teams.

Our document processing staff have continued to assist on cases where juveniles face waiver to adult court. Our staff has intimate knowledge of the juvenile system and can not only assist defense teams through the waiver process but can meet with the juvenile and walk them through what to expect at every step of the process.

Our investigation staff have continued to expand their client base. They have continued to work with several OJRC projects and have taken on more criminal cases with attorneys outside of our organization. Their caseload ranges from investigation of misdemeanors to mitigation on federal cases.

Our goal continues to be to streamline data management and set a standard for the representation of defendants in Oregon. Our investigation staff will continue to provide meaningful representation to our clients by treating them as a human being first, and a defendant second. We aim to continue to grow our client base in the coming year and assist as many people as we can.

Transparency and Accountability

THE NEW POSITION of Director of Transparency and Accountability held by Brian Decker and its accompanying project is a significant development for the OJRC. This project aims to shine a light on the inner workings of the criminal legal system. Through public records requests, working with community partners, and collaborating with other OJRC lawyers we are trying to find out what’s happening “under the hood.” This requires gathering information from district attorneys’ offices and law enforcement agencies. Our goal is to analyze what is happening and share that information to better inform the public as well as promote better policies.

At OJRC, we often hear that Oregonians don’t know enough about what is going on within the legal system, prisons, and jails. That may be because access to information is denied or hard to come by. Fees for public records requests can be prohibitively high. For Oregon to make the needed changes to the legal and punishment systems will require good public understanding of our present situation.

Issues that we have begun work on already are examining prosecution policies to address racism in jury selection; looking at district attorneys’ office practices needed to ensure biased or dishonest police officers do not taint trials; investigating legislative advocacy and lobbying from elected DAs and their civil servant employees; and prison fire drills and other practices to ensure safety in emergencies.

We play a key role in supporting the work of other OJRC projects, such as The FA:IR Law Project and the Civil Rights Project, when they require public records from law enforcement. When necessary, we use litigation and other legal tactics to ensure the government agencies we contact are complying with public records law.

Thus far, our individual public records requests number in the hundreds and we have received thousands of files. Next year, we hope to launch an online portal to make these records accessible and searchable by the public.

In addition to Brian's work, we have created a new position at the OJRC to further transparency and accountability: **Law Enforcement Resource Counsel**.

We are excited to have **Amanda Lamb** as OJRC's Law Enforcement Resource Counsel. We created this position with the intent of having a single person in Oregon and within OJRC who can dedicate their full-time work to tracking and monitoring law enforcement in our state. Law enforcement agencies hold great power over the life and liberty of our community's most vulnerable people. When that power is abused and people are hurt, there should be a public process to hold that officer or that agency accountable. That process should result in systemic changes that prevent abuses from happening in the future.

Amanda's aim will be to move the conversation about police misconduct beyond simplistic "bad apple" narratives to explore and address the root causes of

what creates or enables individual bad actors. Firstly, she aims to highlight the political and legal systems that enable abuse. By synthesizing the research, data, and law around policing, she will identify the areas that contribute to police misconduct and system failures in Oregon. Secondly, her work will make transparent the transgressions of current law enforcement actors by synthesizing publicly available information in one accessible location. Finally, she looks forward to representing and advocating for individual clients who have been wronged by unlawful or unconstitutional police action. The benefit of having this position at OJRC is that the understanding Amanda gains through representing clients and documenting misconduct can more sharply focus policy and advocacy work in areas most likely to reduce future abuses. The goal is to use both law and policy to push Oregon's policing agencies to be more transparent, accountable, and responsive to community expectations.



Outreach to people in prison

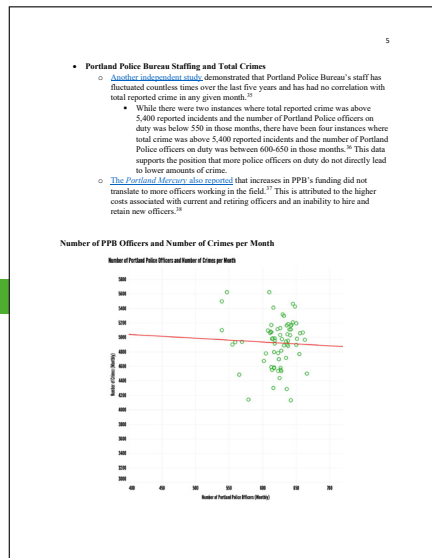
WE HAVE BEEN expanding our efforts to build community with incarcerated Oregonians these past few years. As our organizational reach has grown, we hear from more and more people in prison through letters and phone calls. Whether it be seeking legal assistance, asking for clarification about laws and policies, informing us about what is happening inside the Department of Corrections, or simply wanting to connect with us as people they know are advocating for their welfare, the volume of correspondence is significant. We do our best to respond to every inquiry we receive. We have

strengthened our staffing in response to the demand for intakes and general assistance and are proactively seeking to deepen our connections to people inside prison. One way that we are sharing our work and providing public education is through a quarterly newsletter that we began publishing this year. Currently on its third issue, our newsletter provides timely and relevant information and analysis on matters that directly affect incarcerated Oregonians. We also use the newsletter as a vehicle to solicit input from people in prison on policy issues that we are working on.

Reports

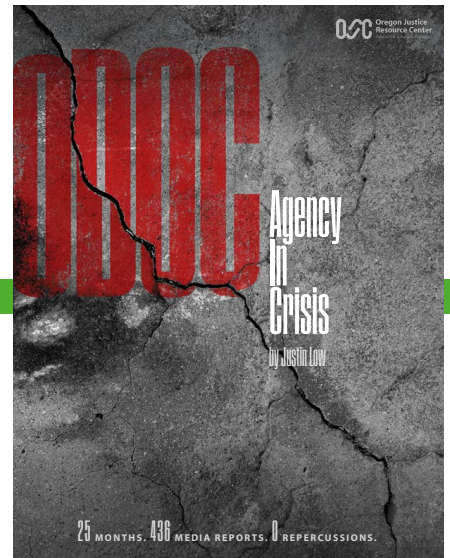
WE ARE EXCITED to have **Justin Low** as OJRC’s Investigative Research Associate. In the past, we have too often learned from our clients about problems within the criminal legal system, but our attorneys have not had the capacity to further investigate or research those issues. Because of this, we created this new position and hired Justin to work with our staff to identify, investigate, and research issues and produce reports on his findings. Since he started at the OJRC, he has produced a number of reports:

2022



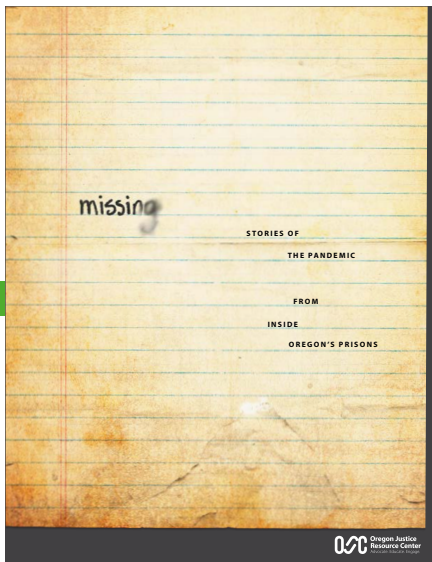
Crime and Safety in Oregon in 2022: Myths, Facts, and Solutions

A media and political narrative has taken hold that crime is up and safety is down. We challenge conventional wisdom with a primer on crime statistics by simply stating the facts, dispelling some myths and proposing solutions that promote community wellbeing. For example, you might be surprised based on what you see in the press that crime actually declined slightly in Oregon according to FBI statistics from 2019-2021.



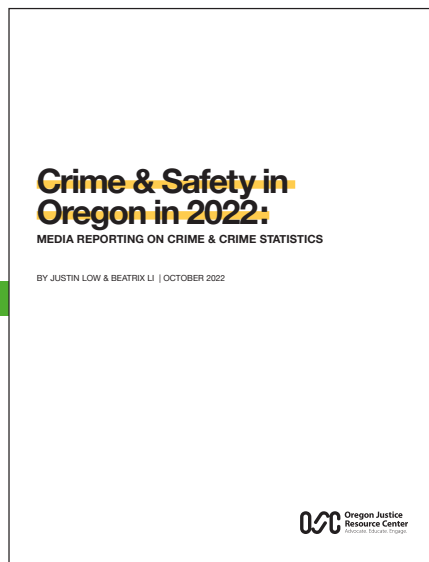
DOC: Agency in Crisis

By analyzing hundreds of media reports, we have put together an analysis of the major reported problems within Oregon DOC, some of which seem to be recurring issues for the agency. Our report encompasses budgeting, access to programming, lack of concern for AICs’ health and rehabilitation, failure to adequately prepare for natural disasters such as the 2020 wildfires, and more. We propose concrete steps each branch of Oregon’s government can take to address these concerns.



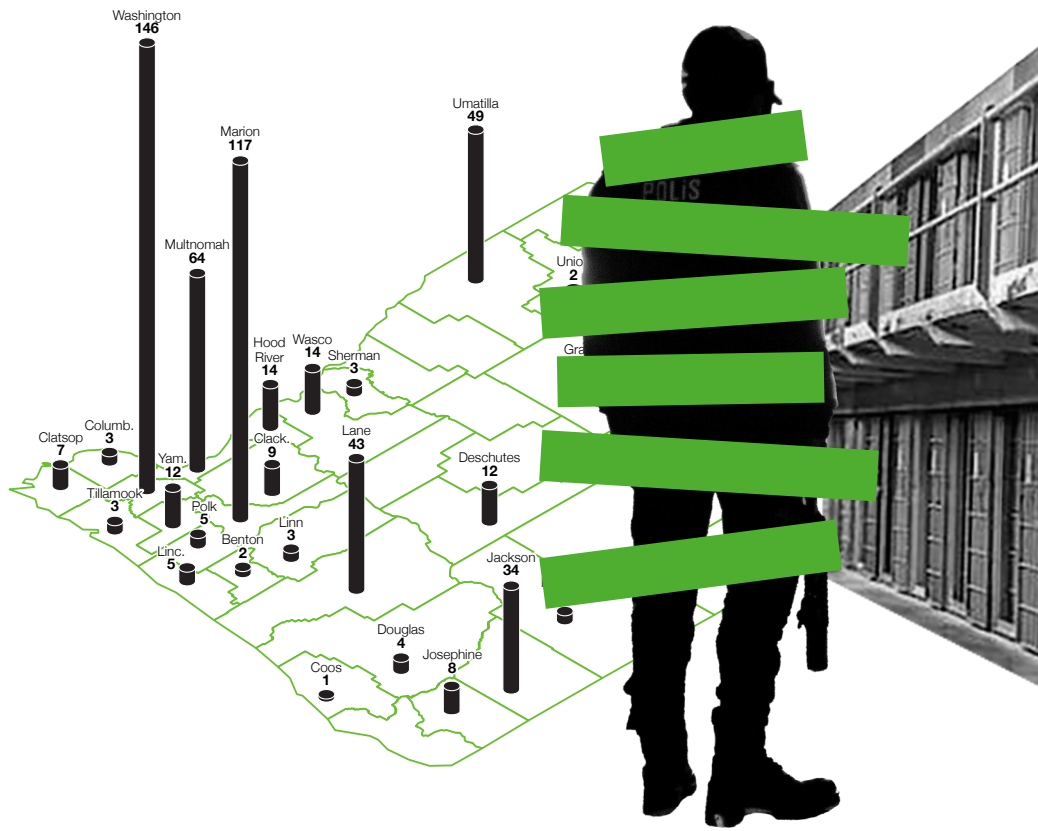
Missing: Stories of the pandemic from inside Oregon's prisons

Our story collection *Missing* gathers reports shared with us by people incarcerated in Oregon DOC custody during the COVID-19 pandemic. Incarcerated Oregonians were kept apart from family, missed out on programs and treatment, and dealt with the fear that comes from living at close quarters with hundreds of others during an outbreak of disease. This report was written by Alice Lundell based on information gathered by Trevor Walraven and Loraine McLeod.



Crime and Safety in Oregon in 2022 II

Updating our Crime and Safety in Oregon primer from earlier in the year, we added new statistics and further analysis of crime rates in our state. We also considered in more depth how media narratives shape public perception of crime and safety and how reporters and editors can provide value to their audience without contributing to outsized fear. These public perceptions tend to influence politicians' and other officials' response to those pushing a so-called "tough on crime" agenda.



Credits

Writing **Alice Lundell**

Design **Todd Davilla**