



## **DEFENDANTS SUE STATE OF OREGON OVER FAILURES OF PUBLIC DEFENSE PROVISION**

The group of four individuals remains unrepresented at present.

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PORTLAND, Ore. – Four Oregonians have filed a class action lawsuit 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 is a defendant with state criminal charges against them who cannot afford to hire an attorney and has not been assigned a public defender within a reasonable period of time. One is being held in jail while the rest are not currently incarcerated. The lawsuit names the State of Oregon as well as Governor Kate Brown and Stephen Singer, Executive Director of the Office of Public Defense Services, as defendants.

Oregon's public defense system has been criticized in a series of reports as well as by people working within the legal system for numerous failures. In particular, the American Bar Association report published in January this year concluded that Oregon has only 31% of the needed number of contract attorneys to provide adequate representation to all defendants. That shortfall means the state would need to find 1296 more attorneys at current caseload levels. Public defender offices have complained of great difficulty in hiring attorneys due to potential recruits being discouraged by heavy workloads.

“We are all promised equal justice under the law,” said Ben Haile, Senior Counsel, Oregon Justice Resource Center, who is among the attorneys representing the plaintiffs. “The State’s failure in this regard requires urgent action. But the problem cannot be solved with more attorneys. For one thing, the firms that contract with the state to provide court appointed attorneys are having trouble hiring attorneys as fast as they are quitting because attorneys do not want to work in this overloaded system. More importantly, even if the number of public defenders could be tripled, this would only allow the overgrown system of prosecution and mass incarceration to grow and squander more public resources. There are effective alternatives to prosecution of many of the people caught up in the criminal justice system that would make the public far safer at lower cost and with less collateral damage to the families of people facing prosecution. The State must take responsibility for how its decision to criminalize Oregonians en masse has strained its resources. District attorneys must also acknowledge their role in repeatedly opposing sensible reforms to our legal system.”

“There is a public defense crisis raging across this country,” said Jason D. Williamson, Executive Director of the Center on Race, Inequality, and the Law at NYU School of Law. “But Oregon is among only a handful of states that is now *entirely* depriving people of their constitutional right to counsel on a daily basis, leaving countless indigent defendants without access to an attorney for months at a time. And while there may be many explanations for the current crisis in Oregon, placing defendants on a “waiting list” for counsel is not the solution. Both the federal and state constitutions require far more.”

To make matters worse, the State’s failure to provide representation in a timely manner disproportionately harms Black and Brown Oregonians. The RED Report on Multnomah County’s criminal legal system<sup>1</sup> shows that Black people are more heavily impacted by the criminal justice system than white people at every stage, including arrest; referral for prosecution; rates of prosecution, diversion, and conviction; length of sentences; and monetary penalties. Black defendants lack the financial resources to hire private counsel at a higher rate than white defendants. Therefore, Black defendants depend more heavily on court-appointed counsel than white defendants do to protect their constitutional rights, and as such, the public defense crisis has been particularly damaging to communities of color.

The plaintiffs are represented by Ben Haile and Alex Meggitt, Oregon Justice Resource Center; Jesse Merrithew, Attorney, Levi Merrithew Horst; and Jason D. Williamson, Executive Director, Center on Race, Inequality, and the Law at NYU Law School.

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**Notes to Editors:** Jason D. Williamson is the Executive Director of the Center on Race, Inequality, and the Law at NYU Law School. Prior to joining the Center in June 2021, he served as the deputy director of the ACLU’s Criminal Law Reform Project, where he began working as a staff attorney in January 2011. At the ACLU, he focused primarily on Fourth Amendment, police practices, and public defense reform litigation. Prior to joining the ACLU, Jason worked as a litigation associate at the law firm of Paul, Weiss, Rifkind, Wharton & Garrison LLP in New York, and served as a law clerk for Judge Sterling Johnson, Jr. in the Eastern District of New York from 2007-2008. He began his legal career in New Orleans in the months following Hurricane Katrina, first as a staff attorney for the Juvenile Justice Project of Louisiana, and later as a staff attorney and founding member of Juvenile Regional Services (now called the Louisiana Center for Children’s Rights), which provides legal representation for indigent youth in Orleans Parish Juvenile Court. Jason also serves as an adjunct clinical professor at New York University School of Law. He received his bachelor’s degree from Harvard University in 1998, and his JD from NYU Law in 2006.

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<sup>1</sup> [https://multco-web7-psh-files-usw2.s3-us-west-2.amazonaws.com/s3fs-public/Multnomah\\_R.E.D.%20Analysis%202019\\_Final%20November%2019%202019\\_0.pdf](https://multco-web7-psh-files-usw2.s3-us-west-2.amazonaws.com/s3fs-public/Multnomah_R.E.D.%20Analysis%202019_Final%20November%2019%202019_0.pdf)