



## ADVOCATES WARN AGAINST RETURNING TO WAR ON DRUGS ERA LAWS ALLOWING UNFAIR CONVICTIONS

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PORTLAND, Ore. – Advocates say Oregon lawmakers risk subjecting people to unjust convictions as part of plans to treat some drug possession cases as equivalent to dealing. House Bill 4002 would restore the *Boyd* standard that was overturned by the Oregon Supreme Court last fall. In 1988, the Court of Appeals ruled in *Boyd* that people could be convicted of delivery of a controlled substance even when they had not provided drugs to anyone but where the circumstances were deemed to be incriminating, such as having drugs already divided into smaller baggies.

The Oregon Justice Resource Center (OJRC) and research scientist Ann Leymon analyzed the impact of *Boyd* convictions by examining a representative sample of delivery of a controlled substance convictions in Oregon between 1990 and 2021. They found that *Boyd* had resulted in thousands of people being convicted of delivery of a controlled substance where the evidence only supported – at most – convictions for possession or attempted delivery of a controlled substance. The data shows that between 45 and 55% of people convicted during that period were convicted using the *Boyd* rule.

OJRC also found that Black and Latinx people were disproportionately impacted by *Boyd*. This is even though people of all races have been shown to use and sell drugs at comparable rates. Black people accounted for 6.9% of *Boyd* delivery convictions reviewed but are only 1.8% of Oregon's population. For Latinx people: 18.97% of convictions compared to 11.7% of the population. The data suggests that Black people are almost five times more likely to be convicted of *Boyd* deliveries than white people and Latinx people are twice as likely to be convicted. Black and Latinx people are also more likely to serve longer sentences when convicted.

“Legislators would be making a grievous mistake if they believe resurrecting the discredited War on Drugs is the way to solve health and social crises like overdoses and public drug use,” said Malori Maloney, Staff Attorney with The FA:IR Law Project at the Oregon Justice Resource Center. “Treating people in the grip of addiction who may be selling small amounts of drugs like big-time dealers risks expanding our prison and jail populations yet further.”

“We shouldn’t allow prosecutors’ burden of proof to be watered down or lower the standards we expect of law enforcement investigations,” said Brittney Plesser, Co-Director with The FA:IR Law Project at the Oregon Justice Resource Center. “Our review suggested DAs and police may have become increasingly dependent on *Boyd* to win convictions since *Boyd* deliveries grew as a share of delivery cases over time. Delivery convictions typically result in harsher direct and indirect consequences making it more difficult for people to get good jobs and housing and find a way out of their involvement with drugs.”

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Notes to Editors: The FA:IR Law Project is a program of the Oregon Justice Resource Center that works to address systemic failures and create a more fair, just, and humane criminal legal system. Specifically, the FA:IR Law Project seeks to: reverse, vacate, and prevent wrongful and unjust convictions and sentences and mitigate and prevent excessive sentences.