



2023 Annual Report



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A Note from Our Executive Director

“IN THE CHILL CLIMATE in which we live, we must go against the prevailing wind. **We must dissent** from the indifference. **We must dissent** from the apathy. **We must dissent** from the fear, the hatred and the mistrust. **We must dissent** from a nation that has buried its head in the sand, waiting in vain for the needs of its poor, its elderly, and its sick to disappear and just blow away. **We must dissent** from a government that has left its young without jobs, education, or hope. **We must dissent** from the poverty of vision and the absence of moral leadership. **We must dissent** because America can do better, because America has no choice but to do better.”

— Justice Thurgood Marshall, July 4, 1992

As 2023 comes to an end and we enter 2024, I cannot help but meditate on this quote from a speech given by Thurgood Marshall. By all accounts, it seems whatever progress or opening that was created by the racial justice uprising and protests in 2020 has been lost. Specifically, we are regressing and devolving in the advancement of racial justice and civil rights. The politics of fear and anger are once again the driving force behind the narrative regarding public safety, community well-being, and our rights. With a contentious national election in 2024, next year will likely be another year in which our democratic institutions and values will once again be stress tested, and our work will seemingly be shaped by fighting to mitigate harms created by public officials, those seeking elected office, and those who are determined to protect the status quo power structures. **We must dissent.**

Locally, here in Portland and Oregon, we are amid intense conversations about “public safety” that are being driven by particular entrenched interests that are motivated by hysteria and anxieties, bigotry and ignorance, and power and greed. From drug policy to prison conditions, clemency to compassionate release, prison oversight to law enforcement accountability, deaths in our jails to sexual assault/violence in our prisons, the voices that are framing and dominating the conversation are amongst least knowledgeable and most powerful. The unwillingness to engage with the truth, our history of racial injustice, and the violence of our criminal system and the connec-

tion between them are resulting in us advancing our worst instincts and values. Importantly, these forces are intentionally obfuscating the problems that we are confronting as Oregonians, sustaining the asymmetric and brutal power structures of white supremacy. **We must dissent.**

We can only move forward by being truthful as to where we are as we enter 2024: 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 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 rollback 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, individuals 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.

While the magnitude of the moment and fight in front of us feels daunting and overwhelming, we must remember that we are part of an ongoing battle for the soul of our country. We stand on the shoulders of all those who have come before us, fully appreciating that we are still pursuing a dream of a society that has yet to be realized. We are humbled and inspired to be connected to all those, known and unknown, who have advocated and aspired to a vision of our society that represents the best of ourselves; a society that prioritizes dignity, compassion, and connection.

As Marshall states, we must dissent against these nefarious and insidious forces that are persistent in their efforts to prevent progress, eradicate our civil rights, and use our carceral system to dominate those on the margins or disfavored communities. With full recognition and awareness of the times we are in, we remain even more committed to deepen our work to protect the rights and liberties of those who are in the crosshairs of the criminal legal system and mass incarceration. Our objectives remain the same: to dismantle and disrupt the carceral systems in the region and to push back against all those who peddle in the politics of fear and anger.

2024 will be a busy year for the OJRC. We have numerous cases that are scheduled for a trial or hearing, several big policy changes we will be advancing, dozens of public education opportunities that will be made available to you, and as always, we remain available to provide vital pro bono legal services to Oregonians.

In 2024, OJRC will be guided by **connection, compassion, and love**. We will strive to deepen our connection with each other, internally as a

team and externally with the community, fostering more cohesion and collaboration. Additionally, we will advance our work with an unapologetic love for our community and compassion all those who reside in it.

As we close the year, I am asking you to support incarcerated Oregonians and those who have been harmed by the government. I co-founded the OJRC with Erin McKee and it has grown from no staff, working out of an apartment, and with no funding to now a staff of over 60 (25% formerly incarcerated) working out of a nearly 9,500 sq. ft. office space in downtown Portland. Whether it was helping to overturn wrongful convictions or conducting mass case reviews or advocating for the rights of incarcerated individuals in our prisons or operating a civil legal clinic in our women's prison to ensuring every youth in our criminal system are treated as youth, 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 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.

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.

"Take a chance, won't you? Knock down the fences that divide. Tear apart the walls that imprison. Reach out, freedom lies just on the other side. We should have liberty for all".

We must dissent.



Bobbin Singh,
Founding Executive Director

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Nash Casey Office and I.T. Manager, Intake Coordinator

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Troy Ramsey Office Assistant

Gerson Rodriguez Office Intake Coordinator and Investigator

Althea Seloover Mitigation and Parole Support Specialist

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

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Alice Lundell Director of Communication

Todd Davilla Communications Associate

Cicely Thrasher Communications Associate

Policy & Outreach

Zach Winston Director

Justin Low Associate Director

Trevor Walraven Associate Director

Kyle Black Policy Associate

Kyle Hedquist Policy Associate

Law Enforcement

Amanda Lamb Law Enforcement Resource Counsel

Civil Rights Project

Juan Chavez Director and Attorney

Franz Bruggemeier Associate Director

Ben Haile Senior Counsel

Jonny Gersten Staff Attorney

Stephanie Bauer Paralegal

Carleene Houk Paralegal

The FA:IR Law Project

Brittney Plessner Co-Director

Steve Wax Co-Director

Olivia Buscho Staff Attorney

Malori Maloney Staff Attorney

Claire Powers Staff Attorney

Melissa Bennett Paralegal

Immigrant Rights Project

Erin McKee Co-Director and Attorney

Joseph Justin Rollin Co-Director and Attorney

Stacy Taeuber Staff Attorney

Gerson Rodriguez Intake Coordinator

Youth Justice Project

Thad Betz Co-Director

Walter Fonseca Co-Director

Conrad Engweiler Associate Director and Paralegal, Impact Litigation

Matt Sexton Paralegal/Legal Assistant

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Trevor Walraven Document Management Team Manager

James Anderson Data Management Specialist

Josh Cain Team Manager, Document Management Specialist

Philip A. Carrasco Document Management Specialist

Claudia Chinn Investigator

Angela Kim Document Management Specialist

Seth Koch Document Management Specialist

Elyse Kupfer Investigator

Chris Mack Team Supervisor, Document Management Specialist

Loraine McLeod Document Management Specialist

Neila McLeod Document Management Specialist

Jonny Miller Document Management Specialist

Mike Oyarzun Document Management Specialist

Gerson Rodriguez Investigator

Kevin Roper Document Management Specialist

Amy Seloover Document Management Specialist

Matt Sexton Document Management Specialist

Tierra Valentine Investigator

Emmanuel Zrust Document Management Specialist

Women's Justice Project

Julia Yoshimoto Director and Attorney

Sarah Bieri Staff Attorney

Alex Coven Staff Attorney

Josh Clasberry Paralegal/Legal Assistant

Oregon Innocence Project

Steve Wax Legal Director

Kenneth A. Kreuzer Managing Attorney

Kassidy Hetland Staff Attorney

Jonny Gersten Staff Attorney

Wayne Houff Paralegal/Legal Assistant

Lisa Christon *Pro Bono* Attorney

Katie Hardiman *Pro Bono* Attorney

Eryn Karpinski *Pro Bono* Attorney

Phil Lewis *Pro Bono* Attorney

Kendra Long *Pro Bono* Attorney

Eric Rogers *Volunteer Investigator*

Michael Whitney *Volunteer Investigator*

Elora Cospes *Volunteer Investigator/Paralegal*

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

**Hannah Bland, Mackenzie Carmen, Chris Henegan,
Serene Mistkawi, Rylin Smith, Kelly Tedeschi-Bowman**
2023-24 Law Student Externs/Interns

Transparency and Accountability

Brian Decker Director and Attorney

Josh Clasberry Paralegal

Public Accountability (fiscally sponsored by OJRC)

Athul K. Acharya Executive Director

Civil Rights Project

THE CIVIL RIGHTS PROJECT takes hard cases, intent on showing the true terrible costs of mass incarceration and over-policing. In the last year, we've continued that mission by filing or beginning work on several new cases. We have also had some successes.

Death of Robert Delgado

In April, CRP filed a lawsuit against the City of Portland and a Portland police officer for shooting and killing Robert Delgado in Lents Park. The officer arrived at the park and immediately upon exiting his vehicle retrieved his high-powered AR-15 rifle. Mr. Delgado was showing clear signs of mental distress. Instead of de-escalating tensions, the police officer pointed his rifle at Mr. Delgado while yelling obscenities and threatening to kill him. This is no way to treat a person in crisis, and it directly led to the officer shooting and killing Mr. Delgado. The City's

investigation cleared the officer of wrongdoing just as it has in the past even under more than questionable circumstances. Skyler Delgado, Robert's son, filed suit to get answers and to get justice for his father. The case remains pending.

Maney v. Brown

In June, we and our colleagues at the Sugerman Dahab law office successfully argued to permit the deposition of the former governor of Oregon in our ongoing COVID-19 class action lawsuit. This case was filed in April 2020 to protect the lives and rights of incarcerated Oregonians from

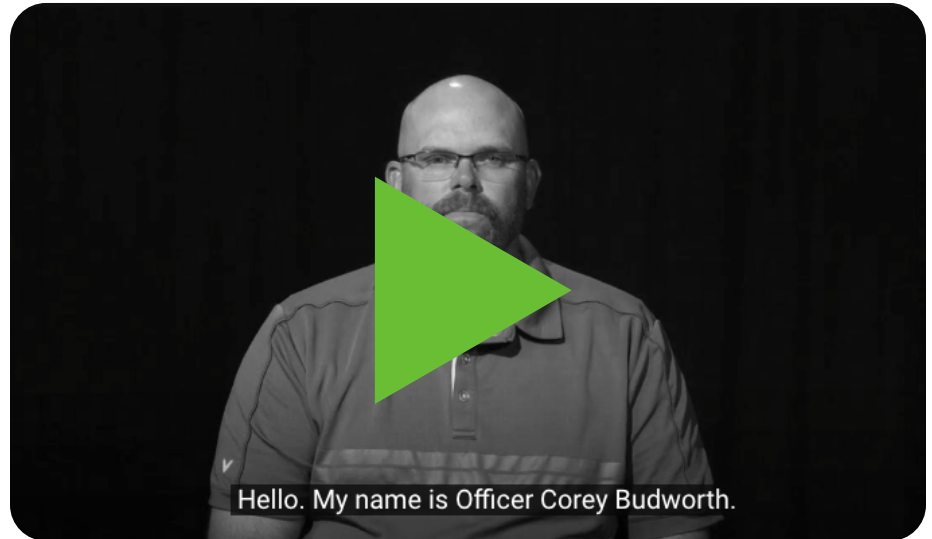
the pandemic. People in prison are uniquely vulnerable to highly communicable diseases, especially given the inability to be socially distant from one another. Nadia Dahab of Sugerman Dahab successfully argued before Magistrate Judge Beckerman that the plaintiffs and the class are entitled to get answers from former Governor Kate Brown about the handling of the pandemic. Judge Beckerman agreed. The matter of the Governor's deposition now remains pending in the Ninth Circuit Court of Appeals. The first of many trials in this case is set to begin in federal court on July 22, 2024.



Protest cases

In July, an old CRP case came to a surprising conclusion. Our client Teri Jacobs filed suit in September 2020 after being violently knocked to the ground and hit in the face by a Portland police officer. The City settled the suit not long after—before Ms. Jacobs could even learn the name of the officer. The community learned his name, Ofc. Corey Budworth, when a Grand Jury indicted him for Assault in the Fourth Degree. Instead of following the regular prosecution path, Ms. Jacobs opted to engage Ofc. Budworth in a restorative justice process. This allowed Ms. Jacobs to demand

Instead of following the regular prosecution path, our client opted to engage Officer Budworth in a restorative justice process. This allowed Ms. Jacobs to demand that he apologize to her for what he did, and to all Portlanders. After many difficult mediated sessions, Officer Budworth agreed and recorded a video apology.



that Ofc. Budworth apologize to her for what he did, and apologize to all Portlanders. After many difficult mediated sessions, Ofc. Budworth agreed and recorded a video apology.

In September, CRP client Dexter Pearce settled his case against the City of Portland for \$25,000. Mr. Pearce’s case was hard fought and faced several legal challenges from the City. Mr. Pearce prevailed on those challenges, and helped enforce precedents that could aid others harmed by excessive force at protests.

Also in September, CRP and our colleagues at Albies, Stark & Guerriero and Levi Merrithew Horst were awarded attorneys’ fees following the successful conclusion of the *Don’t Shoot PDX* lawsuit. The case was set-

tled with the City of Portland in November last year for \$250,001 plus fees. The City also agreed to a 14-month injunction preventing many of the abuses seen in 2020. The restrictions included the City destroying its store of rubber ball distraction devices, commonly known as flash-bang grenades. Judge Hernandez saw the value of the attorneys’ hard work and awarded fees in excess of \$700,000 for more than two years of labor on an important case.

Lastly, in October, CRP announced that we intend to file a lawsuit against the City of Portland and a Portland Police officer for shooting and killing an innocent, unarmed Black man named Immanuel Clark-Johnson. In November 2022, an unrelated armed robbery occurred in SE Portland. About twenty

blocks away, a Portland police officer saw a car that did not match the vehicle involved in the robbery and decided to tail it. Mr. Clark-Johnson was driving the vehicle with three other friends. After Mr. Clark-Johnson and his friends parked the car in a church parking lot, PPB decided to do a high risk stop of the vehicle. They surprised Mr. Clark-Johnson and the other passengers and shot Mr. Clark-Johnson in the back with a high-powered AR-15 rifle. Police later acknowledged that Mr. Clark-Johnson did not match the description of the alleged robbers, and the vehicle was different as well. To date, the officer has not been not charged or disciplined. Mr. Clark-Johnson's family intends to file suit.

Solitary confinement

Life in disciplinary segregation in Oregon prisons is harsh. People are confined to a cell for typically at least 23 hours a day. They are allowed 40 minutes, five days per week for exercise outside their cell. If they want to shower or shave, they can only do so within their exercise time. Other than the exercise periods, the only times a person will leave their cell are for medical care, extremely

limited visits, meetings with their attorney, or a court hearing. Contact with other people is severely curtailed and there is little activity or stimulation.

Extensive research over several decades has clearly and consistently shown that solitary confinement is profoundly harmful. The effects can include many mental, emotional, and behavioral changes or worsening of existing symptoms such as anger, paranoia, anxiety, depression, hallucinations, loss of impulse control, PTSD, self-harm, and suicide. The changes in brain function and activity that have been observed in people in solitary can be permanent and can make it more difficult for people to successfully transition back into the general prison population or into the community outside prison.

In *OJRC v. ODOC* we argue that rules of the Oregon Department of Corrections (ODOC) on the use of prolonged disciplinary solitary confinement violate the Oregon Constitution's prohibition against treating people in prison with "unnecessary rigor," which means excessively harsh punishment. The rules also breach constitutional provisions that require ODOC to promote reformation, responsibility, and

protection of society because prolonged solitary confinement makes people more dangerous and unstable, and less able to work or maintain relationships.

In September, our Civil Rights Project Senior Counsel Benjamin Haile presented the case to the Court of Appeals in an oral argument that emphasized Oregon's deviation from national and international standards that limit the use of disciplinary solitary confinement, and the unnecessary harm inflicted upon prisoners. He also stressed the harm that ripples outward from solitary confinement units to endanger other people in custody, ODOC employees, and the public. We are waiting for a decision from the Court of Appeals.

While this legal challenge is limited to disciplinary segregation specifically, we believe ODOC should cease using solitary confinement altogether. More humane and effective alternatives are available instead of the highly damaging practice of putting people in solitary.

The FA:IR Law Project

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. This year, we have been continuing to conduct mass case reviews, advocate for statewide remedies for groups harmed by court error and agency mistakes, participate in a parole board hearing and amicus brief on behalf of people who were excessively sentenced, and reported on abortion access in Oregon’s 31 county jails. In addition, FLP attorneys worked with our other programs to assist in litigating innocence cases and cases for compensation for people who were wrongfully convicted.

Mass Case Reviews Kienlen

In 2023, we continued obtaining case and fines and fees dismissals based on our review of former City of the Dalles police officer Jeffrey Kienlen’s cases. Kienlen was demoted from Sergeant to Police Officer in 2011 for violating the city police policy regarding truthfulness but this *Brady* material was not disclosed to defense attorneys or the court for more

than a decade. When Wasco County District Attorney Matt Ellis took office at the beginning of 2021, he discovered a letter to the former DA concerning the demotion. He put Kienlen on a list of officers not to be called as witnesses in court cases, and hired FLP to review all the cases on which Kienlen worked in the ten years in which the letter was not disclosed.





At the beginning of the year, we released a report based on our review: *Withheld: how an Oregon community was affected by secrets held by police and prosecutors*. In addition to identifying more than 100 cases to be dismissed, we discovered that dishonesty wasn't Kienlen's only documented issue; the documents we examined showed a clear pattern of aggressive behavior, unreliable investigative work, and poor recordkeeping. Often, other officers were present to see Kienlen behaving badly. Our report details our findings and makes recommendations to reduce the harms caused by unchecked policing and unfair prosecutions.

Shortly after we released our report, the Oregon State Professional Responsibility Board (SPRB) determined that it would not move forward with complaints lodged against former District Attorney Eric Nisley and Chief Deputy District Attorney Leslie Wolf for their failure to disclose information regarding Kienlen's misconduct. In 2021, several attorneys had filed Bar complaints alleging that Nisley failed to disclose to the court and defense counsel the "Notice of Discipline" letter to former City of The Dalles Sergeant Jeffrey Kienlen.

In August, we formally requested that the SPRB reconsider dismissed grievances against Eric Nisley. In the request for reconsideration, FLP provided several pieces of evidence that had not been disclosed by the

original complainants. The new evidence, obtained by public records request, undermined the SPRB's conclusions that Nisley lacked knowledge or bad faith. Moreover, it suggested several additional violations of the Oregon Rules of Professional Conduct. Prosecutorial immunity and judicial hesitancy to meaningfully address misconduct each profoundly limit available remedies, making the disciplinary process essential in providing some measure of accountability when prosecutors act unethically. The SPRB considered this new information and affirmed its decision.

Jefferson and Crook Counties Case Review

We continued our Office of Public Defenses Services contracted project reviewing cases in Jefferson and Crook Counties that were impacted by a defense attorney's failure to download discovery. Our task was to review these cases to determine whether the attorney's actions or inactions negatively affected the outcome or resulted in any wrongful convictions. This included a comprehensive review of the underlying records, extensive legal research, and new investigation. While litigation and final reviews are ongoing, we have completed the majority of our work in the cases.

We also participated as witnesses in the Oregon State Bar prosecution of the attorney whose work we reviewed. The Bar found that the attorney violated the Rules of Professional



Conduct and suspended him for 24 months. The attorney has appealed that decision, and the appeal is still pending.

A report, which will detail our review process, observations, and recommendations will be released in the new year.

Wrongful Convictions Hubbell

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). The Oregon Department of Justice sought review at the Oregon Supreme Court.

Boyd allowed a person to be convicted under Oregon’s delivery of a controlled substance statute with facts supporting only attempted delivery or possession with intent to deliver. *Boyd* was decided at the height of War on

Drugs and has led to thousands of Oregonians being convicted of more serious crimes than they should have been, serving jail and prison sentences and probationary terms that were longer than they should have been, and paying more fines, fees, and costs than they should have paid. They have also suffered years of collateral consequences—including the denial of work, housing, and access to basic services—that they never should have experienced.

In 2022, to combat these efforts, we worked with research scientist Ann Leymon to review a representative sample of 346 delivery convictions between 1990 and 2021. Our review revealed troubling trends. Significantly, the data suggests that between 45 and 55% of people convicted of delivery during that period were convicted wrongfully under the *Boyd* theory (impacting between 24,093 and 29,710

cases). We also found disproportionate rates of conviction of Black and Hispanic people under *Boyd*. We submitted an amicus brief to the Oregon Supreme Court outlining our findings and providing historical context to the *Boyd* decision.

This fall, the Oregon Supreme Court agreed that *Boyd* should be overturned. Before the Court made its decision, the Oregon District Attorneys Association began advocating for a statutory “fix” to bring back *Boyd* convictions. FLP continues to support efforts to combat such a regressive policy.

After the Oregon Supreme Court’s decision, we wrote letters to each of the thirty-six county district attorneys urging them to review delivery convictions from 1988-2021 and identify cases that were prosecuted under a *Boyd* theory. Once identified, we recommended that, at a minimum:

- People convicted of *Boyd* deliveries not alleged to have involved substantial quantities or commercial drug offenses should be afforded the opportunity to have their convictions vacated. They should be permitted instead to enter pleas to either attempted delivery or to possession as a violation, depending on the particular facts of their cases.
- People convicted of *Boyd* deliveries involving substantial quantities should be afforded the opportunity to have their convictions vacated. They should be permitted to enter

pleas to either attempted delivery or possession of substantial quantities, depending on the particular facts of their cases.

- People convicted of *Boyd* deliveries that are commercial drug offenses should be afforded the opportunity to have their convictions vacated. They should be permitted to instead enter pleas to either attempted delivery or possession as a commercial drug offense, depending on the particular facts of their cases.

Alternatively, we recommended that affected individuals who are eligible for expungement should be invited to apply with an indication that the DA will not oppose any such application, and those who are ineligible for expungement should be invited to join the DA in filing a joint petition for relief under SB 819 so as to allow them to obtain convictions that may be expunged.

As part of our work to ensure all Oregonians harmed by this incorrect interpretation of the Delivery statute, we applied for relief under Senate Bill 819 on behalf of a client who was convicted of a *Boyd* delivery more than three decades ago. Since the 1990s, our client has achieved sobriety and maintained a clear criminal record; her conviction, however, continues to pose immense personal consequences and hardships to her employment opportunities. The district attorney’s office has yet to reply to our request.

DMV

In early 2023, *The Oregonian* reported that the Department of Motor Vehicles’ database that tracks license suspension and revocation periods beginning after release from incarceration had not been kept updated. It reported that people have been wrongfully convicted of driving while suspended as a result. We quickly advocated for statewide solutions and began collecting data to determine the scope and gravity of the harm. Our investigation is ongoing.

Excessive Sentencing Parole Board representation

We represented a client before the Oregon Board of Parole and Post-Prison Supervision for his first Juvenile Release Hearing. Our client, a Black man, was prosecuted in 1988 as an adult in Multnomah County Circuit Court when he was 17 years old. He was sentenced to a maximum of 90 years in prison for a non-homicide offense as a “Dangerous Offender.” He is one of the two longest-serving juveniles in Oregon prisons.

Iversen Amicus

FLP filed a brief in the Ninth Circuit in support of Terry Iversen’s appeal from a federal habeas denial. Mr. Iversen was convicted of public indecency and has been sentenced to a presumptive term of life in prison without the possibility of parole (LWOP). He is one of five people in Oregon serving

We argued that a life-without-parole sentence imposed upon someone with treatable mental illnesses, who committed a misdemeanor act, violates the Eighth Amendment’s prohibition against cruel and unusual punishment.

LWOP sentences for public indecency, which is ordinarily a misdemeanor. The offense may be elevated to a felony based on prior convictions, as it was in Mr. Iversen’s case. We wrote to the court arguing that an LWOP sentence, particularly one imposed upon someone with treatable mental illnesses, and who committed a misdemeanor act, violates the Eighth Amendment’s prohibition against cruel and unusual punishment. The appeal is currently pending.

819 data

Last year, we focused on creating resources for the then newly enacted SB 819, which is a post-conviction mechanism that enables district attorneys and people with criminal convictions to file joint motions for resentencing when the sentence no longer advances interests of justice. This year, we requested

information from each of the 36 elected district attorneys to determine whether and how they have utilized the law. We are still awaiting information from some counties, but initial findings tell us that the law is being used sparingly, disparately, and with little transparency.

Excessive Punishment

Working with our Women’s Justice Project and our Policy team, we released a report: *Access for all, in Oregon? A Review of Abortion Access in Oregon’s County Jails*.

We requested policies related to reproductive health including abortion from each of the 31 jails in Oregon. Some counties have no such policy while many others are exceedingly vague. None is a model policy.

Since the 1990s, Oregon has led the nation in access to abortion and standards of care. Yet,

for people in county jails barriers to care are often ignored. Even though HB 2002 enshrined the right to abortion as fundamental, people in custody may struggle or fail to access abortion due to competing ordinances, policies, and practices.

On any given day, 6,400 people are in jail in Oregon, including 990 on women’s units. Two-thirds of people held in jail have not been convicted of an offense.

While Oregon state statutes lay out general standards for county jails, each is run by the local, elected sheriff and policies and practices vary greatly from one facility to the next. The Oregon State Sheriff’s Association (OSSA) has created a voluntary set of jail standards, or “best practices,” directed towards the operation of jails in Oregon. The standards note only that while “inmates do not

have a right to obtain elective health care procedures,” “female [incarcerated people] do have a right to obtain an abortion” (at the incarcerated person’s expense). While some Oregon sheriffs have created their own policies and procedures, these policies are largely inconsistent from county to county.

Based on the plain language of the policies, we found that:

- Two counties—Yamhill and Coos—severely restrict access to abortions.
- Clatsop, Columbia, Klamath, Morrow, Multnomah, and Umatilla county either have no reproductive health policy or their policy does not cover abortion access.
- All counties that have a reproductive health policy categorize abortion as an elective procedure.
- Seven counties include a right to an abortion with no

explicit language limiting financial access.

- 18 counties limit access based on ability to pay. Most people will lose health coverage and therefore access when they are jailed.
- In two counties where there is a right to an abortion, the policies explicitly state that people must arrange for their own abortions while in custody.
- Five counties allow access to abortion so long as there is a state or federal right to an abortion.
- At least 10 policies address abortions as only for “women” or “females” which could be used to restrict access for trans and gender nonconforming people.
- Three counties—Harney, Josephine, and Malheur—did not provide policies.

Our report concludes with recommendations for changes that should be implemented including establishing by statute mandatory statewide standards for abortion policies, access, and implementation. County sheriffs should also work to ensure their employees follow current state laws, they should support clearer standards and laws at the state level, allow audits, and create policies that center the pregnant person’s choice and prioritize access to that choice.

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 almost 92% and intakes and completed tickets have more than doubled in number. Even when we consider just the last year, our intakes are up by 25% compared to 10% growth from 2021-2022. We receive an average of nearly 60 requests for help each month.

With this growth in mind, we have been glad to welcome Stacy Taeuber to our team as a part-time staff attorney. Stacy brings with her more than 20 years' experience as an advocate for immigrant rights and as a public defender. She founded and directed the Immigrant Justice Clinic at the University of Wisconsin Law School and was a visiting professor at the University of Minnesota Law School's immigration clinics. As well as working with us, Stacy

also assists Washington defense attorneys through the Washington Defender Association's Immigration Project.

IRP joined immigrant rights groups across the country as amicus in *U.S. v. Hansen*, 599 U.S. 762 (2023). The case addresses whether the federal criminal prohibition against encouraging or inducing unlawful immigration for commercial advantage or private financial gain in 8 USC 1324 is facially overbroad on First Amendment grounds. We

and other amici argued the plain text of the statute criminalizes vast quantities of immigration-related legal advice and is therefore facially overbroad. The U.S. Supreme Court disagreed in a 7-2 opinion.

We presented to members of the American Immigration Lawyers Association (AILA) on basics of crimmigration, and also gave updates at the AILA NW conference on developments in the Ninth Circuit and on Post-Conviction Relief

“I practice in a community with a high immigrant population and have used [IRP’s] services countless times. The project has helped my clients achieve better results in their cases and helped me provide greater clarity to them when discussing their concerns about how the judicial process would impact their lives and livelihoods.

The IRP’s work is invaluable.”

Public defense provider Joshua Gumms

for noncitizens. We presented to the Oregon State Bar’s Universal Representation Program on crimmigration basics.

Other work this year includes endorsing the federal New Way Forward Act, a bill introduced to Congress in the current session by Representatives Jesús “Chuy” García, Ayanna Pressley, and Greg Casar. The bill seeks to roll back harmful immigration laws that, for decades, have led to racial profiling and disproportionately resulted in the incarceration, deportation, and destruction of families of color and immigrant communities.

We have also provided immigration analyses and advice to clients of other OJRC projects,

including our Women’s Justice Project and the Oregon Innocence Project.

In 2024, we will continue to advocate for policies requiring the public to be informed of the immigration consequences of using legalized marijuana and/or working in the legalized marijuana industry. We aim to work with district attorneys’ offices to create policies requiring prosecutors to consider the immigration consequences of pending criminal charges for noncitizen defendants. This is something that we have already worked with the Multnomah County DA’s office to implement and the new policy came into force last year. We intend

to publish a practice advisory regarding the scope of *Padilla* in Oregon. *Padilla* established that, in order to render effective assistance to their clients, public defense providers are obliged to advise noncitizen clients about the immigration consequences of criminal charges against them.

IRP By the Numbers

561

Intakes

31 (2022) + 530

568

Completed

48 (2022) + 520

655

Referrals

29

Counties

(from which we received 2023 referrals)

220

Public Defense Providers

(per 2023 referrals)

Referrals by County

| County | Count |
|--------------------|------------|
| Washington | 160 |
| Marion | 122 |
| Multnomah | 93 |
| Lane | 47 |
| Umatilla | 43 |
| Jackson | 35 |
| Clackamas | 23 |
| Deschutes | 18 |
| Wasco | 17 |
| Hood River | 16 |
| Coos | 10 |
| Josephine | 8 |
| Benton | 7 |
| Clatsop | 7 |
| Yamhill | 7 |
| Polk | 6 |
| Tillamook | 6 |
| Linn | 5 |
| Columbia | 4 |
| Douglas | 4 |
| Baker | 3 |
| Jefferson | 3 |
| Malheur | 3 |
| Klamath | 2 |
| Lake | 2 |
| Grant | 1 |
| Lincoln | 1 |
| Sherman | 1 |
| Union | 1 |
| Grand Total | 655 |

53

Countries of Origin (per intakes)

(54 if counting USSR as distinct from Russia)





Oregon Innocence Project

THE OREGON INNOCENCE PROJECT welcomed home two exonerees in 2023: Jesse Johnson and Danyale Gill.

Jesse Johnson became the very first OIP client in 2014 when we began work. For years, he had been protesting his innocence, but on so many occasions the State had chosen not to listen. Mr. Johnson was convicted and sentenced to death in 2004 for the murder of Sunny Thompson who was stabbed to death at her home in Salem one night in March 1998. We conducted an extensive investigation into the case to examine what really happened. It was very disappointing to meet such strong resistance from the Marion County district attorney and the Attorney General to further DNA testing of evidence from the crime scene that might have shed light on what really

happened to Ms. Thompson. In addition to the already slim evidence that connected Jesse to Ms. Thompson, there were clear and unambiguous statements of racism by a detective involved in the case. We uncovered the identity of a new witness in the case through testing of Ms. Thompson's vaginal swabs, an individual police could have found years earlier. We—alongside many others—played a key role in digging into the facts of what happened and helping to bring to light the numerous flaws in the State's case.

Two years ago, the Oregon Court of Appeals vacated Jesse Johnson's conviction and death sentence. He was transferred to the Marion County Jail





to await a retrial on the charges and a new trial team was appointed to represent him. We supported the transition to the trial team and continued to provide input when requested.

On September 5, 2023, the Marion County District Attorney's office finally dismissed the case. In their filing, prosecutors wrote, "Based on the amount of time that has passed and the unavailability of critical evidence in the case, the state no longer believes that it can prove the defendant's guilt to twelve jurors beyond a reasonable doubt." Mr. Johnson walked out of jail that afternoon. Including the six years he spent in jail awaiting trial, he had been incarcerated for more than 25 years, with 17 spent on death row. As he told *The Oregonian*, "I was failed by the system. The detectives built a circumstantial case in a capital murder, with no forensic evidence to tie me to the crime. It was all lies." Jesse Johnson is the first known Oregon exoneree to have been sentenced to death, a significant milestone given that the risk of executing an innocent person is one of the chief flaws of the death penalty.

A few short weeks after Jesse Johnson's release came another exoneration. This time, it was the turn of **Danyale Gill**, a Portlander who had spent 25 years in prison serving an excessively long sentence due to a sentencing enhancement from an earlier wrongful conviction. We filed a post-conviction relief case for Mr. Gill last year, alleging a variety of problems with a



trial in 1994, including a claim of actual innocence. In 1994, 18-year-old Danyale Gill was tried and wrongly convicted for an attempted-murder shooting that he did not commit. OIP's petition for post-conviction relief included cited affidavits or statements from the person shot, from eye witnesses, and from the actual shooter that all swore Mr. Gill was not present and responsible for the shooting in 1994. Danyale Gill was wrongly convicted largely on the basis of a misidentification by the then-Chief of Portland Police who happened to be driving by at the time of the shooting. A nonunanimous jury convicted Mr. Gill.

Following the post-conviction court vacating the judgment, OIP and Mr. Gill's public defender on remand negotiated with the Multnomah County District Attorney's Justice Integrity unit to dismiss the charges from the 1994 case.

Mr. Gill had another set of convictions from 1998 that OIP was also assisting him with on post-conviction relief. The sentence in the 1998 case had been increased by over a decade due to the wrongful conviction in the 1994 case. Danyale Gill's life had been knocked off course by his 1994 wrongful conviction and incarceration. He was barely an adult when he was separated from his family and community

and sent away to prison. The second sentence he received in 1998 caused further harm by sending him to prison for decades longer than would have been the case without the 1994 wrongful conviction. Negotiations resulted in Mr. Gill agreeing to a sentence of time served on the 1998 case. He was released and fully exonerated on the 1994 attempted-murder case.

With Danyale Gill's exoneration, five people have now been exonerated with the help of OIP. Collectively, they have served nearly seven decades in prison.

Casework

Since we began work in 2014, we have received a total of 855 inquiries of which we have closed 704. This is an average request rate of 106 cases coming in per year. We have had 44 new case inquiries since last year's annual report was published and we have closed 83 cases since then. Our screening and investigative process to determine whether there may be a legal route to proving innocence can take anything from a few hours to a few years.

We continue to thoroughly litigate open cases presenting innocence claims. These activities include completing forensic DNA testing, presenting sworn testimony of recantations from state's witnesses, and challenging prior convictions based on what is now recognized as junk science. Two clients are 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 drug delivery solely on the basis of possession, a now unlawful theory for drug delivery cases in Oregon. He is innocent of the drug delivery charge. We have a half dozen other cases in the process of being re-investigated and three cases where we are seeking a joint petition from the prosecutor to exonerate our client. This year, we have continued to work to clear

a backlog of cases that built up over the course of the pandemic.

Compensation Cases

In March 2022, with the support of the OJRC Policy team and others, the Oregon Legislature passed, and the Governor signed, Senate Bill 1584, Oregon's first statute providing compensation to people who served time in prison for a crime they did not commit. Oregon is catching up with 36 other states that already have similar laws. Before these laws, an exonerated person's only hope for compensation was to sue for false imprisonment under an ancient tort from British common law, a difficult process with limited likelihood of success. Sadly, even though the new law is on the books, the State is still refusing to compensate people who have been wrongfully imprisoned, and it appears that many will have to take their cases to court. We will be at the forefront of this litigation and are working to set good precedents on many uncertain issues under this new statute.

In March this year, we filed petitions for compensation for two clients with longstanding connections to OIP and its staff. Earl Bain was exonerated in 2020 after relentless work by the Oregon Innocence Project. Lisa Roberts was exonerated due to the work of the Federal Public Defender's Office in 2014 which was led by Steve Wax who is now our Legal Director. Our efforts to negotiate for Mr.

Bain and Ms. Roberts to receive compensation without going to court were rebuffed by lawyers for the State of Oregon. Our clients are experienced in the long fight to prove their innocence, but disappointed to face another battle to receive the compensation they deserve.

Earl Bain is an army veteran who served in Afghanistan. He was wrongfully convicted of sex abuse in 2009 in Malheur County. There were no witnesses or physical evidence in his case. Mr. Bain spent six years in prison. The complaining witness recanted her story in 2015 and has since steadfastly maintained that the crime never took place. This recantation was repeated to the Malheur County District Attorney, Dave Goldthorpe, who supported the granting of a pardon to Earl Bain.

Mr. Bain received an extraordinary pardon from Governor Kate Brown 2020 in which she took the extra step of declaring that he is innocent. Sponsors of the compensation bill spoke glowingly about him during legislative committee hearings to discuss the bill. Despite Earl Bain being effectively the face of Oregon's compensation statute, the Department of Justice has not conceded that he should be compensated. In June this year, we filed a motion arguing that the governor's finding of his innocence should conclude the matter. Lawyers for the State should not be able to contradict the conclusions of the former governor. The judge

denied our motion, saying that Earl Bain will have to prove his case to a jury.

Lisa Roberts was a member of the National Guard when she was arrested in August 2002 and charged with the murder of her partner, Jerri Williams. Ms. Williams' body had been found in Kelley Point Park in Portland in May that year. As the case neared trial, the prosecution misleadingly told the defense that cell phone tower data placed Ms. Roberts' phone near the park on the morning of the murder. Given this expert report, Lisa Roberts' attorney negotiated a plea agreement on her behalf in which she pled guilty to manslaughter and was sentenced to 15 years in prison. Years later, after her state appeals had been denied, Lisa Roberts filed a federal habeas petition in which she was represented by attorneys including the then Federal Public Defender for Oregon, Steve Wax, now our Legal Director. New DNA testing of samples found on a pillowcase next to Ms. Williams' body identified two male profiles. Further analysis of Lisa Roberts' cell phone records concluded cellphone tower data was not capable of placing the phone near the park. In 2014, a judge granted Ms. Roberts' habeas petition and vacated her guilty plea. She was released from prison in May that year and prosecutors dismissed the charge against her the following month.

OIP attorneys presented similar arguments of innocence to the judge in Lisa Roberts' compen-

Earl Bain and Lisa Roberts' compensation cases are at the forefront of litigation under the new statute. Trials in both are scheduled for 2024. Along the way, we will litigate novel issues ranging from the types of evidence that can be used in trial to the types of non-monetary compensation the state should provide. In addition to financial compensation, we will seek an order for the state to provide free access to education, healthcare, and other programs to help heal the profound and lasting harms of incarceration.

sation case as were put forward in her habeas case. The judge in the compensation case denied our motion, leaving Ms. Roberts to prove her case to a jury.

Earl Bain and Lisa Roberts' compensation cases are at the forefront of litigation under the new statute. Trials in both are scheduled for 2024. Along the way, we will litigate novel issues ranging from the types of evidence that can be used in trial to the types of non-monetary compensation the state should provide. In addition to financial compensation, we will seek an order for the state to provide free access to education, healthcare, and other programs to help heal the profound and lasting harms of incarceration.

Outreach and Public Education

This year, we presented OIP's work to, and discussed common causes of wrongful conviction with, the Eugene City Club and the Oregon Association of Property & Evidence Officers.

Staff Updates

OIP's staff continues to include Kenneth A. Kreuzer as Managing Attorney and Cassidy Hetland as a full-time Staff Attorney. Steve Wax continues as Legal Director while co-directing The FA:IR Law Project. We have expanded our legal staff to include a part-time staff attorney, Jonny Gersten, who also litigates civil rights cases for

the Civil Rights Project in the other half of his practice. Britney Plessner continues to litigate on one of our open cases while she works as a co-director of The FA:IR Law Project. Claire Powers, The FA:IR Law Project Staff Attorney, and 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 13 for more information on this work.)

Wayne Houff continues to work with us as a paralegal along with other paralegals and investigators. Elyse Kupfer and Tierra Valentine of OJRC continue to add unthinkable value and many hours to investigating witnesses for our cases in active litigation. Nash Casey and Gerson Rodriguez of OJRC continue to administer OIP's initial intake process.

We would like to give a special thanks to our law student interns and volunteers. In early 2023, we had a terrific group of law student interns Dana Meyer and Pamela Domingo (University of Oregon Law School) and Evelyn Mailander (Lewis & Clark Law School). In the summer, our 2023–2024 cohort of skilled and spirited law students from all three Oregon law schools joined OIP: Mackenzie Carmen and Serene Mistkawi (Lewis & Clark Law); Chris Henegan and Rylin Smith (Willamette Law); and Kelly-Tedeschi Bowman and Hannah Bland (University of Oregon Law). Ms. Tedes-

chi-Bowman argued a case in the Oregon Court of Appeals as a Certified Law Student. Ms. Bland and Ms. Smith are preparing for a pro bono misdemeanor criminal trial in Multnomah County Circuit Court at which they will be presenting arguments of factual innocence.

In 2023, we were fortunate to have dedicated attorney and investigator volunteers: Lisa Christon, Elora Cospes, Phil Lewis, Katie Hardiman, Eryn Karpinski, Kindra Long, Eric Rogers, and Michael Whitney who have assisted with case screenings. In 2023, we said goodbye to Michele Longo Eder, an amazing volunteer attorney, who passed away this year.

OIP also thanks our dedicated undergraduate and community volunteers—who have been assisting with intake questionnaire reviews and collecting court documents—Alyssa Durst, Peter Hamilton, Natalie Hansen, Doran Levin, and Lauren Spady. Their work has been crucial in helping speed up our legal staff's full review of cases.

Women's Justice Project

Re*membering

Our Re*Membering program provides civil legal services to people incarcerated at Coffee Creek Correctional Facility (CCCF), Oregon's only women's prison, with funding partially provided by the legislature. Re*membering assists with a wide range of matter types, such as family, real/personal property, financial, court fines and fees, employment-related, housing-related, criminal case-related, immigration, and more.

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. More than one third of our clients served this year were women of color. We provided services to people returning to 18 different counties.

A sample of the legal matters with which we assisted our clients this year is below.

client for years, we helped our client reestablish regular in-person and phone contact.

- We helped a client obtain a dissolution of a registered partnership with her abusive spouse. The client expressed that this eased the stress of reentry for her because she had been worried about having to interact with/litigate with the abusive spouse after release.
- We helped several clients file Motions for Remission of Court-Ordered Financial Obligations, which resulted in courts waiving thousands of dollars of burdensome court fines.
- When the Oregon Department of Corrections (ODOC) refused to grant our client the 500 plus days of jail credit to which she was entitled, we filed a Motion to Enforce Plea Agreement leading to the client's term of incarceration being properly reduced by 18 months.
- We helped our client respond to a petition for child custody

and temporary custody filed by her child's father. The father was abusive to our client, had never met their child, and was seeking to remove the child from the client's preferred caregivers. Our assistance allows the client to participate in the case and ensure her claims are heard in court.

- A client was originally deemed ineligible for a housing program because of her legal history. We wrote to the program and advocated as to why her legal history should be overlooked as a reasonable accommodation because her crime stemmed from a disability (addiction.) This resulted in the client being accepted into the housing program.
- We helped a client correct an erroneous restitution order that resulted in a reduction in her court-ordered financial obligation for her criminal case in the amount of \$32,400.



Comments from our Re*membering clients

- “[Re*Membering helped me] by finding my daughter who was being essentially hidden from me and reuniting us [and] giving her and I a future together beyond and within these walls!! I can’t express in words how amazing this organization is and what they mean to me.”
- “Being able to get assistance to take care of any legal issues that a person can while still incarcerated is so helpful because it gives you a head start for doing everything that needs to be done when you release.”
- “Re*Membering services changed my release outcome entirely for the better.”
- “I realized how much the Women’s Justice Project and OJRC care about CCCF as a whole. I am grateful for your advocacy.”

Other casework

We represented a client in appellate litigation challenging the improper application of her criminal sentence by the Board of Parole and Post-Prison Supervision and the Oregon Department of Corrections. These appeals, which are now three consolidated cases before the Oregon Court of Appeals, argue that the client was unlawfully denied her statutorily mandated earned time credit, resulting in her overincar-

ceration and that the client was unlawfully placed on a more restrictive form of post-release supervision than was allowed by law. Earned time credits accrue toward a shortened sentence when an incarcerated person completes certain work and self-improvement programs within their case plan. This year we defeated multiple attempts by the Board and ODOC to get the cases dismissed on procedural grounds, and the case remains in active litigation before the Court of Appeals.

Death by a Thousand Cuts

We published an account of the harm done to women at Coffee Creek Correctional Facility based on dozens of reports made to us by incarcerated people. “Death by a Thousand Cuts” is a profoundly disturbing read for anyone who believes that mistreatment and abuse should be unthinkable in our state’s prisons.

Lifers and other long-time inhabitants of CCCF told us they had rarely seen things so bad or morale so low. With the pandemic came changes in the day-to-day operations of CCCF such as restrictions on visiting, more frequent lockdowns, and overstretched staff, some of whom take their stress out on incarcerated people. These changes led to our receiving countless calls and letters from people incarcerated at CCCF

that were filled with despair and hopelessness. The worsened hardships that came in 2020 and 2021 seemed to have become “the new normal” and people feared that there was no end in sight.

Perturbed by what we were hearing, we decided to gather together the accounts shared with us by incarcerated people in order to surface the mistreatment and harm they are experiencing. The harrowing stories we heard needed to be more widely known in the interests of transparency and accountability, hence the publication of “Death by a Thousand Cuts.” We shared the report widely with elected officials, agency leaders, media, and our supporters. Several news organizations covered our report, including *The Bulletin* in Bend whose editorial board called for more transparency from ODOC in light of our findings.

The Gender-Informed Practices Assessment Report

The Gender-Informed Practices Assessment, an independent review of Coffee Creek Correctional Facility commissioned by the legislature, set out the failure of the Oregon Department of Corrections to provide a safe environment for incarcerated people. The report detailed problems ranging from gross mistreatment of people in custody, retaliation for speaking out about sexual abuse/assault, arbitrary movement of individuals around the prison, abuse of solitary confinement, to re-traumatization and mismanagement of individuals dealing with suicidal ideation, and much more. The GIPA assessors found failings — many extremely serious — across every one of 12 domains they reviewed. These issues were not news to us and indeed the report affirmed what we have heard for the past

decade from people incarcerated at CCCF.

One positive aspect of the GIPA report is that it highlighted our own work at CCCF in providing legal services for nearly a decade through WJP. The authors described our services as “one of the greatest strengths of CCCF” and as “essential, research-based, and nationally significant.” We are proud to do this work and remain committed to providing legal services much-needed by Oregon’s incarcerated women.

A Serious Response to a “Sobering” Reality

After careful consideration of the GIPA report, in October we published our full response. We concluded that women should not be incarcerated at Coffee Creek. This is due to a problematic culture; dysfunction and failure among its operations,

Since the publication of “A Serious Response,” we have continually put pressure on Governor Kotek and other state leaders to apologize to people incarcerated at Coffee Creek, their families, and those who work at the prison.

systems, and services; and the harm done by the buildings and physical infrastructure of the prison. In fact, we found that the Department of Corrections should not be incarcerating people in general in its prisons. The agency is in crisis and urgently needs strong oversight.

“A Serious Response to a ‘Sobering’ Reality” offered four recommendations for change. We urged Oregon’s leaders to immediately begin planning for a new system of caring for people sentenced to ODOC custody. We called for a cap on prison populations depending on staffing levels to prevent dangers that arise from chronic short staffing. We advocated for a trauma-informed and human-centered assessment of the other 11 prisons in the state prison system since the findings of the GIPA report strongly indicate that prisons other than Coffee Creek are also harmful and dysfunctional. Finally, we called on leaders to

provide meaningful oversight of ODOC through all three branches of government.

Since the publication of “A Serious Response,” we have continued to put pressure on Governor Kotek and other state leaders to apologize to people incarcerated at Coffee Creek, their families, and those who work at the prison as well as take urgent and decisive action. We wrote to the governor to share a list of improvements that can be brought in at CCCF for no or low cost. Through traditional media, digital and social media, public education, and direct advocacy to stakeholders we are ensuring that the needs of women in prison are not forgotten or disregarded. We are participating in the Advisory Panel on Gender Responsive Practices in Corrections, set up by the governor to discuss and implement the findings of the GIPA. We remain in close contact with incarcerated women to hear from them

about what is happening post-GIPA so we can monitor what changes are occurring.

2024 goals

In 2024, we will continue to provide civil legal services to women at Coffee Creek through the Re*Membering program. We will advocate for more just and humane treatment of survivor-defendants in the criminal legal system. We will work to ensure that the findings of the GIPA are taken seriously and that the state’s responses to it are meaningful and effective. We will continue to document and track women’s experiences in the criminal legal system; develop creative litigation opportunities; advocate for policy changes through the legislature and other avenues, such as administrative rulemaking; provide public education and initiate public awareness campaigns.

Youth Justice Project



Staffing

The Youth Justice Project has been revamped in 2023 with some new staff and some familiar faces. Walter Fonseca co-directs the program with Thad Betz who joined full-time this summer. Thad began practicing law in 2006 at the Metropolitan Public Defender in Portland. There, he represented indigent criminal defendants on charges ranging from simple misdemeanors to aggravated murder. Throughout that time, he also represented many children prosecuted as adults under Measure 11. In 2013, Thaddeus relocated to Bend, where he opened a private criminal defense practice. In addition to standing with the accused in state and federal courts, he con-

tinued a professional focus on youthful offenders, and took up sentencing relief for several individuals serving life sentences for crimes committed as children. Conrad Engweiler remains with YJP as Associate Director and Paralegal for Impact Litigation. YJP has also added a student intern and a part-time assistant.

Progress on youth justice in Oregon

The last five years have seen historic shifts in how Oregon approaches cases of young people who have committed the most serious crimes. In 2019, we were part of efforts to pass Senate Bill 1008 which reformed aspects of youth sentencing

laws after many years of 15–17-year-olds being automatically waived into adult court under Measure 11 and being subject to sentences such as life without parole that do not account for the unique qualities of youth.

However, Senate Bill 1008 did not address the plight of adults in prison who were sentenced prior to SB 1008 for crimes committed as children. Fortunately, Governor Kate Brown announced in October 2021 that she was granting commutations to dozens of people sentenced for crimes committed when they were children. Many of these individuals have had special parole hearings this year thanks to these commutations. Many have been able to show the Board that



they have grown and changed since the time years earlier when they committed their crimes and that they are now ready to rejoin the community. A steady stream of youth lifers have been released throughout 2023.

While many Oregon families are celebrating their first holiday season with their loved one who has returned from prison, there are still some who have not been able to benefit from the clemency opportunity that Brown provided. We remain committed to working to create opportunities for sentencing relief for these individuals.

Casework

The Youth Justice Project has several post-conviction cases

pending ranging from helping youth arrange to serve their sentences in Oregon Youth Authority (OYA) custody as opposed to adult prison, to seeking sentencing relief for adults convicted as children who are serving life without the possibility of parole. Walter Fonseca is litigating a post-conviction case where prosecutors promised that our client would be able to serve his entire sentence in OYA custody. This client has spent his entire sentence so far in the adult correctional system. The case is pending on our motion for summary judgement. Walter is also litigating a case in the Court of Appeals on behalf of another client as to whether that individual should be released

to post-prison supervision as opposed to parole.

We have begun a post-conviction case for a client who was sentenced to life in prison without the possibility of parole for an offense committed when they were 15 years old. We will soon file another post-conviction case for a 14-year-old who is currently serving life with the possibility of parole after 50 years.

A parole appeal is pending for a client who was originally sentenced to death in 1988 and whose commutation to life with the possibility of parole Walter obtained in 2022. Unfortunately, the Board of Parole and Post-Prison Supervision denied his conversion hearing to establish a release date, despite his stellar record while incarcerated. We will pursue his release on appeal.

YJP routinely consults on cases with juvenile law practitioners around the state, particularly regarding sentencing.

2024 goals

Next year, we aim to obtain sentencing relief for juvenile clients serving true life or decades-long sentences. Another priority will be to challenge lifetime sex offender registration for people who committed their crimes as children.

Legal Support Services

OJRC LEGAL SUPPORT Services has continued our work providing support in document processing, investigation, and mitigation. We work with most of the OJRC projects, including the Oregon Innocence Project, the Civil Rights Project, and the Women’s Justice Project.

We are currently working on more than 70 cases with more than 40 attorneys around Oregon. Demand is high, so we have hired five new staff members to keep up. 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 that needs to be processed, especially in juvenile cases. This can be an incredibly time-consuming process as we are often provided data from multiple cell phones but it has proven vital to criminal defense cases. There are often thousands of files from social media stored that need to be reviewed. Providing this data in a cohesive form rather than

the raw cell phone data is invaluable to defense teams. We have also seen an uptick in requests to redact case files to provide to defendants around the state.

Our document processing staff have continued to assist with cases where youth can face a 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 also meet with the young person and walk them through what to expect at every step of the process.

Our investigation staff have continued to expand their client base, working with several OJRC projects as well as taking on more criminal cases with attor-

neys 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 human beings first and as defendants second. We aim to carry on growing our client base in the coming year and assisting as many people as we can.

Our goal continues to be to streamline data management and set a standard for the representation of defendants in Oregon.

Policy and Outreach

Legislative work

It's a hard fact that the 2023 session will be remembered most for what didn't happen. Hundreds of bills on pressing issues that matter to our communities died a quiet death in committee after the Republican walkout saw the legislature come to a standstill. Without two-thirds of senators present, the Senate does not have a quorum and therefore cannot pass bills. Democrats and Republicans eventually did a deal but many important bills were discarded along the way. All of the bills championed by OJRC failed to pass this session including two which were actively being considered by lawmakers until the walkout stopped them in their tracks. This was a frustrating conclusion to a session in which our staff, supporters, and allies had poured countless hours of work to produce impactful legislation that would have been of benefit to our communities and would have addressed key concerns about our criminal legal and punishment systems.

Our 2023 bills

We began the legislative session with a slate of bills we aimed to pass but were stymied by the effect of the walkout and the inability of legislators to get the session going again in time to consider them.

Senate Bill 579 would have guaranteed the right to vote for all incarcerated citizens in Oregon, meaning that people in prison or jail would have been able to register to vote, update their registration, and vote in election. This bill would not have enabled incarcerated people to run for or hold elected office. Continuing to deny incarcerated citizens the vote flies in the face of evidence that strengthening community connections and engagement by people in prison helps reduce re-offending when they are released.

Senate Bill 520 would have reformed Oregon's system of compassionate release from prison for severely and terminally ill people. This would have ensured more humane treatment, a more transparent application process, and significant cost savings. The

price of the failure to pass this bill is clear: people will die in prison needlessly. With one of the oldest prison populations in the country, Oregon urgently needs reform. In fact, under the present system, more people die awaiting a decision on their compassionate release application than are actually released.

Senate Bill 1070 would have allowed for more just sentencing for survivors of domestic violence who become criminal defendants by virtue of the abuse they have suffered, also known as "survivor-defendants". This bill would have also taken a significant step toward much needed care and support for incarcerated survivors. We were heartened and grateful for the robust support we saw for SB 1070 among the community and for the willingness of survivors to share their stories with legislators. We will continue to advocate for more just treatment and care for survivor-defendants.

Other bills we supported this session included one to establish a legal minimum age at which a child may be prosecuted. Oregon currently has no legal minimum.



HB 2327 would have established a minimum age of prosecution of 12. Another bill would have created a process of expedited judicial review for conditions of confinement cases. This would have allowed incarcerated people to challenge their mistreatment more effectively while in prison through the state courts system.

Taking stock of the 2023 legislative session

While reviewing what happened this session, we identified many positive developments. We have strengthened and expanded coalitions of support in key areas, bringing in new groups as advocates for change. We successfully opposed bills

that would have expanded the reach of the criminal legal and punishment systems. We have begun or opened up conversations about some of the most pressing concerns incarcerated Oregonians are telling us they have about the conditions they live in. We have also observed a willingness among lawmakers—including some who surprised us—to engage in substantive dialogue about and express support for reforms designed to ensure more justice for some of the most vulnerable people in our state. There has been real progress this session, just not the kind that concludes with the Governor’s signature on a new law.

Overall, the message from the Legislature as a whole in the 2023

session has been a lack of concern for the needs and interests of the incarcerated population. There are notable individual exceptions to that assessment but, in the main, Oregonians in prison were not a priority for lawmakers during the session.

We were proud to see the impact that our “on the ground” policy team of Kyle Black and Kyle Hedquist had in developing relationships with legislators and their staff and advocating for our bills in Salem. “The Two Kyles” established such a reputation in a short time that they were the subject of an article in *The Oregonian* in May this year, acknowledging the significance of their journey from prison to becoming effective policy advocates.

Other policy work

OJRC's working model of client-centered, integrative advocacy calls for harnessing a wide range of approaches to tackling the challenges of ending mass incarceration in our state. As such, the Policy team is often brought into conversations that individual projects are having about how to advance their goals. In 2023, we worked in partnership with OJRC programs on a variety of policy matters such as advocating for an end to the use of solitary confinement in Oregon prisons and calling for transparency and accountability around increased deaths in Multnomah County jails. We supported the Women's Justice Project in raising awareness of a critical report on conditions at Coffee Creek Correctional Facility and calling for a robust response from state leaders and the Department of Corrections. We wrote or contributed to five reports published by OJRC this year (learn more on pages 42–43.)

To educate the public and stakeholders on the criminal legal system and prisons, we take part in a wide range of speaking engagements at universities and conventions throughout the year. Policy Associates Kyle Hedquist and Kyle Black conducted a tour of Oregon in the fall visiting all corners of the state to meet with city, county, and state leaders as well as participating in media interviews.

Looking ahead to 2024

The 2024 legislative session will be a short session as is usual for sessions held in even-numbered years. These short sessions are not typically expected to be opportunities for major new ground to be broken on policy issues. Legislators are restricted to sponsoring just two bills each in a short session. That means attempting to pass new policy bills such as the type of criminal justice changes that we work on in a short session is always going to be more difficult. That said, we anticipate that the compassionate release bill will be reintroduced in the 2024 session. Working with Senator Michael Dembrow and other legislative and community partners, we hope this will be the session this important bill to create a usable process for compassionate release that is founded on medical evidence of applicants' state of health will become law.

It is our expectation that legislation related to illegal drugs is likely to be at the forefront of legislators' minds when they are thinking about criminal justice. Voters passed Measure 110 in 2020 to decriminalize most unlawful possession of a controlled substance offenses, reducing penalties and allowing people charged with a violation under the law to obtain treatment in return for the dismissal of their charge. The 2024 legislative session is likely to see

efforts to modify Measure 110 as well as make other regressive changes that risk returning Oregon to the failed policies of the War on Drugs era. This is a challenging period for those of us pressing for positive reforms of Oregon's criminal legal and punishment systems. We need to be strategic about where our efforts can be most effective in not only advancing new policy positions but also preventing the passage of harmful and misguided bills. We'll be ready for whatever comes and will continue to make our advocacy for incarcerated Oregonians the focus of all our efforts.

Staff updates

Our Policy and Outreach team, led by Director Zach Winston, grew this year, with the addition of Associate Director of Policy and Research Justin Low. Justin recently graduated with his master's in criminal justice from the University of Southern California. He brings a wealth of knowledge and experience to the position, previously working as a campaign manager for state and local races and a legislative assistant in the Oregon State Legislature. Justin has played a valuable role in navigating the legislative session while researching and publishing numerous reports. He joins Associate Director of Policy and Outreach, Trevor Walraven, and Policy Associates Kyle Black and Kyle Hedquist.

Transparency and Accountability

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.

This year, we have completed more than 120 public records requests. We have received records from seven state agencies, five courts, and four local law enforcement agencies, as well as from every district attorney’s office in the state.

We launched a rule challenge at the Court of Appeals against an unofficial Board of Parole policy that makes it more difficult for people in ODOC custody to determine what they need to present at hearings.

We testified at the legislature in opposition to proposed legislation (House Bill 2323) that would have eroded the principle of letting the punishment fit the crime. We opposed it because we feared

the bill would lead to defendants whose crimes are serious by mere accident receiving the same harsh penalties as those who know exactly the serious circumstances of their offenses. HB 2323 would have resulted in more people going to prison for more years. This bill was successfully defeated.

We also testified against a flawed version of a bill (Senate Bill 1060) with suggested changes that were made before passage and eliminated the unintended consequences that would have resulted. The bill was designed to facilitate prosecution of physical injury cases where the victim is unable to verbally express the injury done

to them, such as babies and toddlers, people with severe disabilities, and nonverbal elders. Its passage unamended would have resulted in sweeping more people into the criminal justice system on more serious charges, even in cases wholly unrelated to victims who are nonverbal due to a disability.

We testified before the House Judiciary Committee in an informational session in support of procedural protections for constitutional due process rights in criminal court.

We presented findings to the Council on Court Procedures from a public records investigation into district attorney jury selection practices.

In 2023, we completed more than 120 public records requests. We received records from seven state agencies, five courts, and four local law enforcement agencies, as well as every district attorney's office in Oregon.



The Council is the public body that is most directly involved in creating, reviewing, and amending the Oregon Rules of Civil Procedure that govern procedure and practice in all Oregon circuit courts (except small claims departments). In 1986, the U.S. Supreme Court ruled in *Batson v. Kentucky* that it is unconstitutional for a court or party to exclude a prospective juror based on their race. Oregon developed rule 57 D which purports to implement a *Batson*-like procedure, but has not prevented the persistence of discriminatory jury selection.

We asked all 36 Oregon district attorneys for their records on the use of *Batson* challenges in their jurisdictions in recent years. Twenty-five responded with anecdotes or informal polls of their staff but none were shown to formally track how often *Batson*

challenges occur. Our conclusion was that this lack of data meant it would be impossible for district attorneys' offices to effectively address selection issues internally. We endorsed proposed changes to Rule 57 D that presented a significant improvement over what came before and suggested further amendments for the future. This facilitated passage of a meaningful reform to jury selection rules in Oregon to address bias and discrimination. The Council thanked us for our contributions and considered our additional suggestions for change.

Parole Reform

Senate Bill 1027

We testified in support of Senate Bill 1027, introduced during the 2023 session of the Oregon legislature, that would have simplified the process of conducting parole hearings for people convicted of murder or aggravated murder. Oregon's parole process is in desperate need of reform. The current process is archaic, harmful, inefficient, and resource intensive. The entirety of this parole process is unnecessarily convoluted for individuals receiving hearings, creates additional work for the Board of Parole, and subjects victims' families

to repeated traumatization. SB 1027 would have greatly reduced the workload of the Board, would have been a more humane experience for victims' family members, and would have encouraged rehabilitation and successful return to the community for those who have proven themselves ready for release. Unfortunately, the bill did not progress out of committee this year.

Following a hearing on the bill, in which the Board's written and oral testimony mischaracterized not only the process of the related parole hearings but also the law, we wrote to the Board.

We reminded the Board members of their responsibility to the public to be accurate in their understanding of their agency's standards and policies and to present them accurately. Our letter identified key misleading points in the testimony and informed the Board that their statements put into effect a new Board rule in violation of the Administrative Procedure Act. We requested the Board immediately repeal this illegally promulgated rule. We also filed a rule challenge in the Court of Appeals against the rule which is still in progress.



Informational hearing on parole

Separate from SB 1027, in May we participated in an informational hearing about the parole hearing process at the request of the Senate Judiciary Committee. Importantly, it was we rather than the Board who were asked to present to the committee. We provided information to the committee on the parole hearing process in cases of people convicted of murder or aggravated murder who have been sentenced to life in prison with the possibility of release after a minimum term of 25 or

30 years. We explained that a well-functioning parole system would encourage rehabilitation, be clear and transparent, and treat people fairly, among other characteristics. Oregon's parole process is failing to meet these standards.

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 provid-

ing public education is through a quarterly newsletter that we began publishing this year. Currently on its fifth 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.

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.



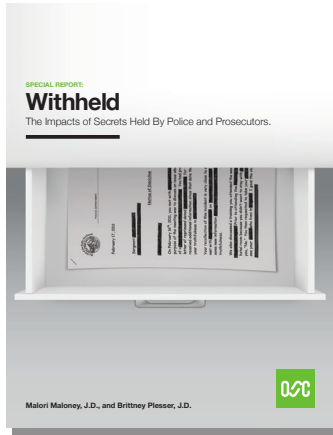
Our weekly podcast

Trail Blazing Justice was created during the pandemic to bring informed discussion of Oregon’s criminal legal and punishment systems to our audience. The podcast is available on a weekly basis on all major platforms. Our show features OJRC staff as well as occasional special guests from outside the organization. Each week, we cover one or more topics ranging from current events and news about criminal justice in our state to deeper conversations with people who have lived experience of Oregon’s prisons and jails. We recently began a new strand called “Outside Voices” to highlight the stories of our staff who are formerly incarcerated.



Listen to Trail Blazing Justice on all major podcast platforms, at ojrc.buzzsprout.com or scan the code at left.

Reports



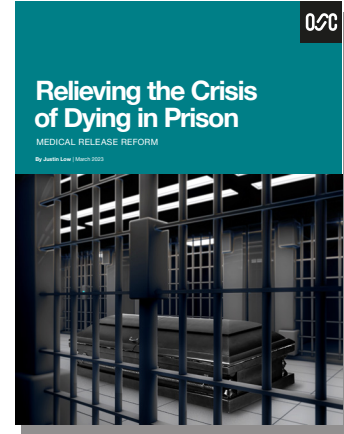
Withheld: The Impacts of Secrets Held by Police and Prosecutors

The FA:IR Law Project poured months of work into looking into former City of The Dalles police officer Jeffrey Kienlen’s work in an independent review for the Wasco County District Attorney’s office. Kienlen was demoted years ago for dishonesty, but that was not shared with defense attorneys. When prosecutors fail to provide information to the defense that may be favorable to the defense, wrongful convictions result. As a result of our review, we recommended dismissal or expungement in 169 cases and the DA accepted that in all but nine.



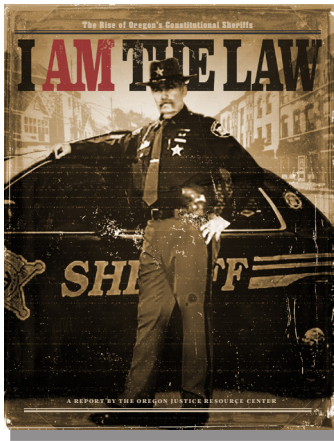
ShotSpotter is Listening

Seeking solutions to gun violence, the City of Portland proposed contracting with ShotSpotter to deploy its gunshot detection technology in Portland. Study after study shows that cities using ShotSpotter see no increases in arrests or case closures nor any decrease in gun violence or homicides. Our report reviews the use of this technology in other cities and concerns such as unconstitutional stops and searches and invasion of privacy. In June 2023, Mayor Wheeler announced Portland would not move forward with a contract.



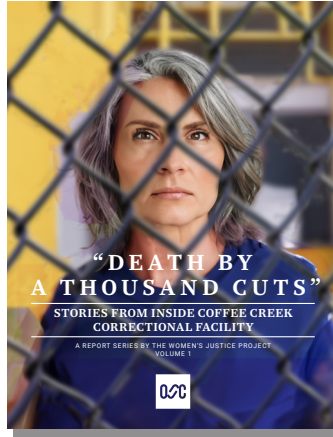
Relieving the Crisis of Dying in Prison

From 2016–2021, Oregon ranked in the top five states with the oldest prison populations, and 259 people in custody passed away in ODOC prisons during this period. Prisons do not provide adequate health care, aid aging populations, or treat people with compassion. Yet, Oregon continues to needlessly incarcerate elderly and health-compromised people. There are laws that should allow people to seek medical release from prison, but they don’t work. We propose a new system that is innovative and medically informed.



I Am the Law: The Rise of Oregon's Constitutional Sheriffs

Oregon sheriffs have increasingly aligned with the values of the constitutional sheriff movement, which is the misguided belief that the sheriff is the highest governmental authority in their county (superior to even the President). This movement has emboldened sheriffs to selectively refuse to enforce state and federal laws and guidelines, based on their extreme interpretations of the U.S. Constitution. Abortion, gun control, and civil rights are all at risk in counties where these sheriffs are in charge.



Death by a Thousand Cuts: Stories from Inside Coffee Creek Correctional Facility

Our Women's Justice Project continued to receive countless calls and letters from people incarcerated at CCCF that were filled with despair and hopelessness. The worsened hardships of prison life that came with the pandemic in 2020 and 2021 seemed to have become "the new normal." We gathered the information shared with us by women at CCCF into a report because we recognized that the harrowing accounts we were hearing needed to be more widely known. (See page 27 to learn more about our work on conditions at Coffee Creek.)



Access for All, in Oregon?

Written as a collaboration between the FA:IR Law Project and our Women's Justice Project, we conducted original research on abortion policies at each of Oregon's 31 county jails. Despite lawmakers' commitment to guaranteeing abortion access and protecting providers, barriers to care for Oregonians in jail are often ignored. Oregon needs mandatory, statewide reproductive health standards for people in county jails that reflect the level of care provided to insured pregnant people who are not in custody.

*Note: OJRC's 2023 publications also included *A Serious Response to a "Sobering" Reality: OJRC's Response to the Gender Informed Practices Assessment of Coffee Creek Correctional Facility*.



To read our reports, visit ojrc.info/reports or scan the code at left.

Credits

Writing **Alice Lundell**

Design **Todd Davilla**

