

ANNUAL REPORT 2020



Image by Kimberly Kimble



PROTECT EACH OTHER

STAY VIGILANT

BUILD COMMUNITY



DEAR OJRC SUPPORTER

2020 is the year the invisible threads connecting our community's challenges become a little easier to see. At the Oregon Justice Resource Center, we strive to recognize, understand, and draw attention to seemingly unconnected problems that show us where we stand and illuminate a path towards a stronger, healthier, and happier future for everyone.

If you're counting down the days until we put 2020 behind us, we're right there with you. But before we say goodbye to the year, it's worth reflecting on what we've learned.

IN 2020, WE SAW MORE CLEARLY HOW MASS INCARCERATION IS A MANIFESTATION OF WHITE SUPREMACY.

From defending protesters in the streets demanding justice for Black lives, to helping immigrants caught up in our deportation system, we are confronting an ideology that has sustained a racial and social hierarchy in this country. Our goal is to ensure every Oregonian can fully participate in our community and enjoy the same rights as everyone else, a vision of our state and country that has yet to be realized.

MASS INCARCERATION IN THE U.S. COMPRISES THE MOST COMPREHENSIVE SYSTEM OF HUMAN CAGING THE WORLD HAS EVER SEEN.

Working to dismantle it is not a task that can be completed in a single year, but we are making progress every day. When you make a gift in support of our work, we can continue to fight for your neighbors who need legal protections. We'll be in their corner when they need us - will you join us?

Thank you for being a friend to the Oregon Justice Resource Center. We wish you and yours the joys of the season and a peaceful and prosperous year to come.

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Artist unknown



“The Portland Police Bureau has met demonstrators’ demands with violence...[including] indiscriminate use of chemical agents against crowds of protesters.”

CIVIL RIGHTS PROJECT

When we began the year, we could not have predicted the scale of the issues that have dominated our work since the spring, yet they have been all-consuming. This year has really tested the protection of the rights of the individual and we have stepped up to defend those rights from the streets to the prisons.

Protecting incarcerated Oregonians from COVID-19

As the trickle of news stories about a new virus called COVID-19 turned into a flood, we were quickly conscious of the risk that this disease could pose to incarcerated Oregonians. At the best of times, prisons and jails are environments that favor the spread of disease. Incarcerated people live at close quarters, they cannot always maintain hygiene as they would wish, healthcare is not always adequate, and this population has higher rates of medical conditions that make them more vulnerable to poor outcomes if infected. Feeling the urgency to act, in partnership with other organizations, we contacted state leaders including Governor Brown and Oregon Department of Corrections (ODOC) Director Colette Peters to ask for a meeting to discuss measures that would help to keep incarcerated people safe from the virus. We are still waiting for that meeting.

We then turned to the courts to seek protections against COVID for Oregonians in prison and redress for those who suffered harm as a result of the handling of the pandemic inside. Seven people incarcerated at four state prisons courageously agreed to become plaintiffs in our federal class action lawsuit on behalf of everyone incarcerated in state prisons. The suit named Governor Brown, ODOC Director Colette Peters, and other ODOC senior staff members as defendants. We asked the court to compel the defendants to take the necessary steps to protect people in prison from the coronavirus, such as facilitating physical distancing, providing hygiene supplies, and helping people in prison to access testing. If the defendants could not comply, we asked

the court to appoint a panel of judges to determine whom to release so as to allow the remaining people inside to stay six feet apart.

We are grateful to attorney David Sugerman of Sugerman Law Office who brings his expertise in class action lawsuits to aid our work.

Due to the urgency of the situation, we did not feel we could wait for the months it would take for Judge Beckerman to decide the lawsuit, so we sought a preliminary injunction and temporary restraining order to provide immediate relief for Oregonians in prison. So far, the court has declined to offer better protections to people in prison. As Judge Beckerman noted in her May ruling denying our preliminary injunction, every expert who testified agreed that “the only meaningful way to save lives in prison during the pandemic we are facing is to reduce the prison population.” Importantly, the Court agreed that ODOC and Governor Brown’s lack of action have made it “likely that some [of our clients] have been infected and that many others will be infected” and “[i]t is also likely that because of their vulnerability to serious infection and death, [our clients] will suffer severe illness, permanent bodily injury, or death.”

When our lawsuit was filed in April, there were just a handful of cases of COVID-19 detected in the prisons. At the time of writing in December, there have now been more than 1600 cases among incarcerated people and more than 400 among staff. Nineteen incarcerated Oregonians have died while positive for COVID, with their deaths presumed to be due to the disease.

Governor Brown released some people from prison in response to the virus though nowhere near the numbers needed by ODOC’s own reckoning to achieve physical distancing.

We are continuing to advocate for people in prison. Work on our lawsuit is progressing and is currently in the discovery phase. We wish to express our profound gratitude to all of the incarcerated people and their families who

have shared their stories with us, despite the risks. The information they have shared has proved invaluable. Our thanks and admiration also go to the many mutual aid groups, community organizations, attorneys, and legislators doing everything possible to protect Oregonians in prison from COVID-19.

Defending the right to protest

The other major story of our work has been the protests that erupted in Portland and elsewhere in the wake of the murder of George Floyd by Minneapolis police. Oregonians took to the streets to declare that Black Lives Matter. Doing so has meant far too often that they were subjected to violence and other abuses at the hands of the police.

Our highest profile case this year has been representing the community advocacy group **Don't Shoot PDX** and individual plaintiffs Nicholas Roberts and Michelle Belden. Don't Shoot PDX and founder Teressa Raiford have taken a leading role in advocating for an end to police brutality and in highlighting the impact on Black Portlanders of systemic and individual racism. The plaintiffs filed a class action lawsuit against the City of Portland in June over the use of tear gas against protesters, later expanded to include the use of so-called "less lethal" munitions and pepper spray. Judge Marco Hernández granted a temporary restraining order in July limiting the use of tear gas by Portland Police. In December, the court agreed with us that the City had violated the terms of the order and we are waiting to learn what sanctions will be imposed. We are joined on this lawsuit by attorneys Ashlee Albies, Whitney Stark, and Maya Rinta of Albies & Stark, and Jesse Merrithew and Viktoria Safarian of Levi Merrithew Horst.

In a separate lawsuit, our clients **Samira and Andy Green** are seeking damages from the City of Portland for the pain, anxiety, fear, and anguish they experienced at the hands of Portland Police after being teargassed at a protest on June 2nd. Mrs. Green was pregnant at the time. As a Muslim family in America, they thought it important to be with their Black neighbors to oppose the violence they had

witnessed on the news.

As the months of protesting continued through the summer, we heard from many people who had been harmed by police while simply attempting to exercise their right to express their support for an end to police violence. We are representing around a dozen individuals among the many affected.

Our clients include **Josie Stanfield**, the leader of the Black Lives Matter protests in Prineville who has faced harassment, racist messages, and even death threats which escalated after the Chief of Prineville Police publicly accused her of having lied about what happened at a meeting they had.

Portland Police snatched **Thomas Dreier's** guitar at a protest while he was playing and singing "All You Fascists Bound to Lose" by Woody Guthrie and did not return it.

Zipporah Lomax was sitting in her car when Portland police slashed her tires and bashed in her rear windshield, forcing her to abandon her work as a journalist and seek medical support and mental healthcare.

Police targeted independent photojournalist **Teri Jacobs** while she was trying to follow an order to disperse. An officer chased her, hit her repeatedly about the head, neck, and back with a truncheon, knocked her to the ground and hit her in the face with the truncheon.

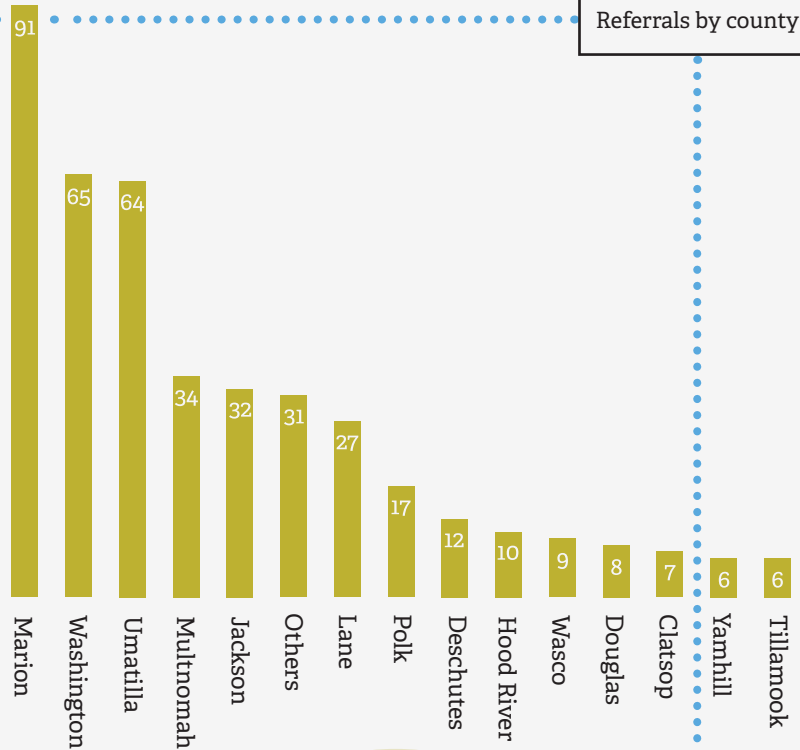
Dmitri Stoyanoff frequently attended protests to share information on registering to vote. Officers tried to take his cardboard sign, pepper sprayed him and pulled him to the ground before kicking him in the back.

Finally, a group of Portlanders is suing individuals associated with the far-right group the **Proud Boys** for battery, assault, intentional infliction of emotional distress, and negligence inflicted on them as counter-demonstrators at two rallies in downtown Portland in August. Our clients seek \$1.25 million in damages after variously being shot with pepper balls, sprayed with bear mace, having weapons pointed at them and being burned by an improvised explosive device.

2020 IN NUMBERS



Referrals by county



Referrals by country of origin



Total intakes in 2020

IRP assisted people from 35 countries of origin. The top three were:



Mexico (227)



Guatemala (43)



Micronesia (6)



IMMIGRANT RIGHTS PROJECT

We provide personalized immigration legal advice to clients of Oregon public defense providers through a contract with the Office of Public Defense Services. Now in our third year, demand for our services has only grown, with referrals at the start of this year triple what they were when we began work in 2018.

Ninth Circuit Court of Appeals

We participated as amicus in **Gonzalez v. U.S. ICE**, 975 F.3d 788 (9th Cir. 2020) arguing that the Fourth Amendment's requirement for prompt review of probable cause following arrest applies to all arrests, including those made pursuant to Immigration and Customs Enforcement (ICE) detainers; and that ICE violates the Fourth Amendment by issuing detainers to state and local officials who have no authority under state law to make civil immigration arrests.

We advocated for and secured an amendment to a published Ninth Circuit opinion, **Dominguez v. Barr**, 975 F.3d 725 (9th Cir. 2020). Originally, the Dominguez court stated that Oregon incorporates the federal controlled substance schedule but failed to recognize that Oregon's controlled substance schedule can be and has been expanded through regulation. This clarification preserves the argument that Oregon's controlled substance schedule is broader than the federal schedule, and therefore an Oregon controlled substance offense does not necessarily trigger inadmissibility or deportability.

Federal Register comments

We submitted comments in opposition to several proposed rules including:

- Drastically increasing **filing fees** for various applications, appeals, and motions in immigration court that would have prevented many eligible applicants from applying for relief from deportation or appealing denials of relief from removal.

This is a transparent attempt to make immigration courts inaccessible to low-income immigrants.

- Expanding the definition of who is likely to become a "**public charge**" or reliant on public assistance and therefore inadmissible or ineligible for permanent residency (a green card). The result is that many otherwise qualified applicants would be denied. Since these are mostly family-based applications, spouses, children, parents, siblings and more will remain separated through what is essentially a wealth test for immigrants.
- Expanding criminal bars to **asylum**. As of November 20, 2020, there are several new bars that will prevent someone from receiving asylum, including any felony conviction, use of a fake ID, drug trafficking or possession and several more. The government would have barred asylum to people convicted of minor offenses that did not even trigger deportation. This regulation is now subject to an injunction.

Plans for 2021

In 2021, we plan to publish a practice advisory on **conditional discharge**, explaining the immigration consequences of no-plea diversion for certain drug offenses under ORS 475.245. (The introduction of no-plea conditional discharge was one of our legislative victories in 2019) We are also planning to publish a practice advisory on the immigration effects of *Ramos v. Louisiana*, the Supreme Court case that found **non-unanimous guilty verdicts** to be unconstitutional and thereby ended the practice of allowing such verdicts in Oregon.

We will continue to advocate in partnership with other immigrant rights organizations locally and at the legislature to strengthen Oregon's position as a state that values inclusion and refuses to participate in the inhumane and fundamentally flawed enforcement of federal immigration law.

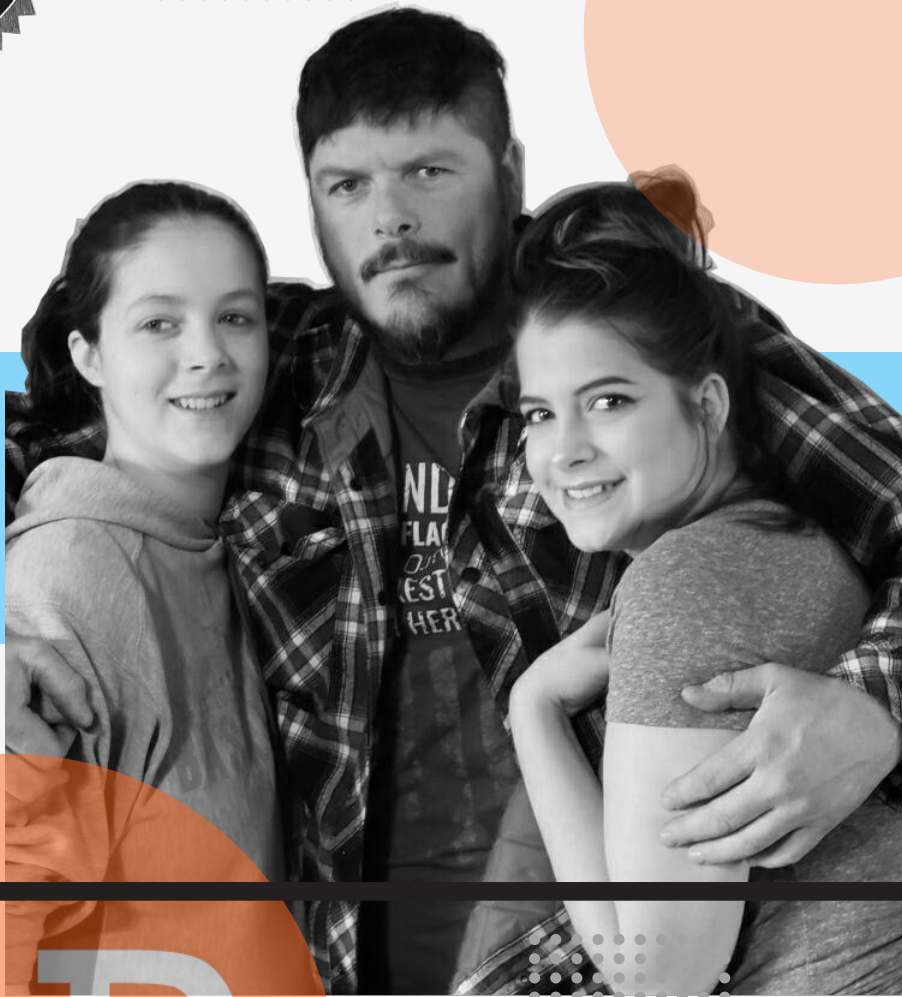


Image courtesy: Earl Bain

PIP

*I, Kate Brown, Governor of the State of Oregon,
hereby grant to Frederick Earl Bain a full pardon.*

OREGON INNOCENCE PROJECT

2020 has been another busy and rewarding year for the Oregon Innocence Project. The undoubted highlight was Governor Kate Brown's grant of a pardon on the grounds of innocence to our client **Earl Bain**. Mr. Bain is the third Oregon Innocence Project client to be exonerated.

Senior Staff Attorney Brittney Plessner and Legal Director Steve Wax started working on Mr. Bain's case when the lawyer who represented him in the state system seeking post-conviction relief contacted us to tell us he believed Mr. Bain was innocent. Our initial investigation supported Mr. Moon's belief. The complainant's grandmother then told us that her granddaughter had informed her that there had never been any abuse; the allegation was the product of a custody battle. Our investigation revealed that the young woman had "found her voice" in therapy which she started after the state of Idaho removed her from her mother. We met with the young woman several times and heard her recantation.

We investigated multiple threats against Mr. Bain that the mother had made during the custody battle and the failure of defense counsel to present those threats to the jury. We obtained reports from two psychologists about the likelihood that the initial investigation had produced a false statement.

Steve, Brittney, and Staff Attorney Alex Meggitt pressed Mr. Bain's case in a federal habeas corpus filing. While Judge Marsh said he believed the recantation was sincere, late last year procedural barriers in habeas corpus led to denial of the petition. By this time Mr. Bain was finished with his prison sentence, had passed multiple polygraph tests while under supervision, and was working steadily as a mechanic. His life was still severely restricted by his felony conviction because he had to register as a sex offender, could not

obtain certain licenses, and could not hunt with firearms. He and his daughter wanted his name cleared. Earl Bain's removal from the sex offender registry was particularly important to him and his daughter since she was due to have a child and wanted her father to be able to spend time with his future grandchild.

With options to help Mr. Bain through the courts exhausted, we got in touch with the new District Attorney in Malheur County, Dave Goldthorpe, and the Governor's counsel to ask about the possibility of a pardon. D.A. Goldthorpe agreed to meet with the complainant. It did not take long for him to be convinced that she was telling the truth: no abuse ever happened. He then agreed to support our request for a pardon. After a thorough review, Governor Brown took

the highly unusual step of granting a full pardon based on Mr. Bain's innocence. This is something that she has never done before, and, to our knowledge, is very rarely done by governors around the country. We were quickly able to have Earl Bain removed from the sex offender registry. It

took a little longer to straighten out his record so he could legally purchase a hunting rifle.

Thrilled with the pardon and the opportunity to move on fully with his life, but concerned about other people who had been convicted by non-unanimous juries as he had, [Mr. Bain wrote an op-ed piece for the East Oregonian urging the state to review the convictions of all Oregonians who have been convicted by non-unanimous juries.](#)

Other cases

While we were pursuing justice for Mr. Bain, we were also working on a number of cases that look promising. We were asked to join private

"This is something I have been fighting for over the past eleven years. There have been times I wanted to give up on life, but now I feel like I can breathe again. This is a new beginning for me and my family."

Earl Bain

Exoneree and former Oregon Innocence Project client

counsel to help with an innocence claim in a case in which a young father was accused of causing severe injury to his infant daughter. We are seeking DNA testing in a murder conviction stemming from a killing that took place in 1982 although our client was not prosecuted until 2015. Our efforts to get DNA testing for **Jesse Johnson** who was sentenced to death in 2004 for a 1998 murder, are now in their sixth year. We are waiting, in hope, for a decision from the Oregon Court of Appeals. The closure of Oregon's death row earlier this year means that, although Mr. Johnson is still under a death sentence, he is now housed in "general population" at the Oregon State Penitentiary with opportunities to work and interact with a much larger number of people than when he was on the row. We are pursuing DNA testing in another old case and investigating a 1994 attempted murder in a gang shooting in which we have statements from the victim that our client was not the shooter and a statement from someone else admitting that he was the shooter.

Somewhat outside our normal work, the state Office of Public Defense Services asked us this summer to look into somewhere between 100 and 500 cases from two central Oregon counties. An Assistant District Attorney filed a bar complaint against a defense attorney after discovering that the attorney had failed to even look at discovery evidence from the D.A.'s office showing what the prosecutor had in their cases against the attorney's clients before resolving the cases. This happened in a substantial number of the defense attorney's cases. We have created a **Wrongful Conviction Review Program** to look into these cases and have just concluded a hiring process to bring on a new attorney to help run that project. We are fortunate that Eugenician **Claire Powers** got the bug for our type of work as an intern with us while in law school and wanted to come back as a staff attorney. Ms. Powers finished near the top of her class at the University of Oregon School of Law and has recently completed a two-year clerkship with Chief U.S. District Judge Marco Hernández.

This year our intake of inquiries from people seeking our help fortunately slowed down. In

our first six years, we received 707 requests for assistance for an average of 113 per year. This year so far, we have received only 53 requests. We say "fortunately" because working remotely as a result of COVID-19 and the press of litigation in the cases we have taken on has slowed our ability to review cases. We have closed 553 of the requests for assistance after screening. Sometimes the screening process takes only a few hours. In other instances it has taken years of investigation. Even with the slower intake this year, our backlog has grown. We now have 207 requests waiting for review.

While we once again have a terrific group of three law student interns from Lewis & Clark Law School, the litigation cases have consumed much of their time. We are fortunate that attorney Caren Rovics continues to volunteer with us. She is now in her sixth year. Caren is doing most of our screening. She is being helped by Lisa Christon, the volunteer who helped break open Josh Horner's case by finding Lucy the dog, leading to our winning his exoneration in 2018. We are grateful that our former Investigator/Paralegal Elora Cospier continues to volunteer with us after she left us this summer to pursue new career opportunities.

Legislation

Finally, we are pursuing legislative reforms that will prevent and address wrongful convictions. This year, our focus has been on the **post-conviction relief statute** that provides limited opportunities for people convicted of crimes in Oregon to challenge their convictions. At present, Oregon's post-conviction relief statute does not grant this opportunity even where someone can prove their innocence. Only certain factors, such as the ineffectiveness of a defense attorney or the withholding of evidence by a prosecutor, are permitted grounds for relief. We hope to expand the statute so that people can use it to raise claims of actual innocence of the crimes of which they were convicted with the goal that the courts will overturn wrongful convictions. We are preparing a draft bill for the 2021 session of the Oregon legislature.



RE* MEMBERING CLIENT TESTIMONIALS

“As women, inmates, humans, we constantly feel degraded, dehumanized and unworthy. There were many times when I felt almost *speechless* because you helped me more than I asked for and I didn't feel like I deserved such *generosity* and *kindness*.”

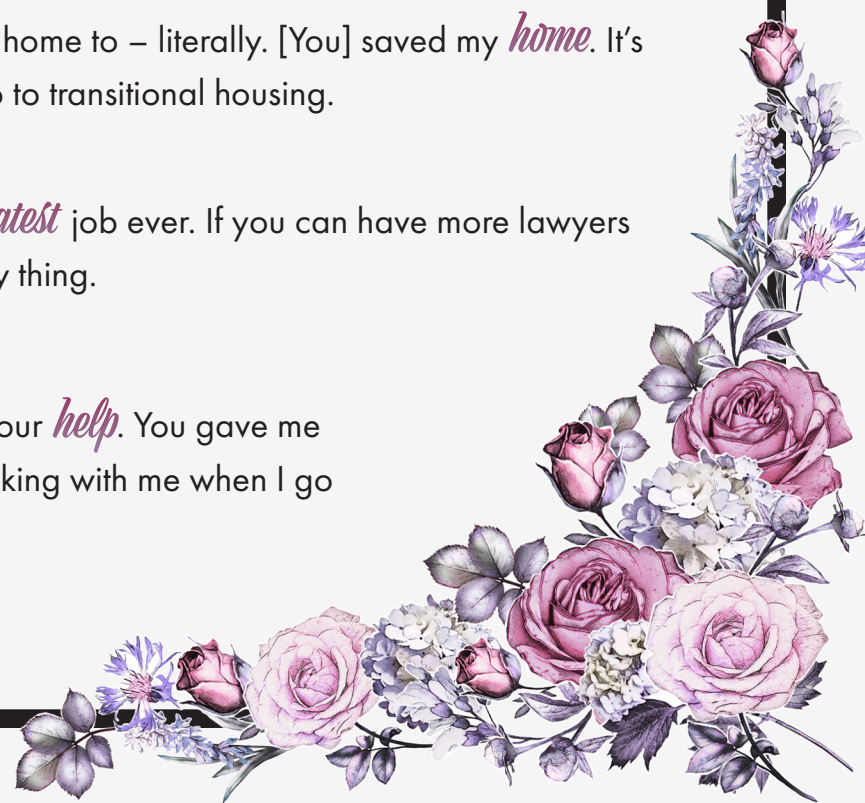
“I am truly amazed by you and OJRC, that you have given so much to me and other women at Coffee Creek just by *supporting us* and making us feel cared about. This has been the most *heartwarming* experience I've had here which is pretty odd considering it's surrounding legal issues.”

“Without this program I would have been lost, and I probably wouldn't have seen my children because of my lack of *knowledge*.”

“[You] gave me a place to come home to – literally. [You] saved my *home*. It's a huge benefit to not have to go to transitional housing.”

“I feel like you are doing the *greatest* job ever. If you can have more lawyers to help us that would be the only thing.”

“I want to say thank you for all your *help*. You gave me *confidence* and *hope* that I'm taking with me when I go home tomorrow.”



WOMEN'S JUSTICE PROJECT

2020 saw the first full year of operation for **Re*Membering**. This pilot program, funded for two years by the legislature, provides civil legal services to women incarcerated at Coffee Creek Correctional Facility in Wilsonville. The goal is to address legal issues that may become challenges to successful reentry while women are still incarcerated rather than leaving them until after release, when women typically face many other challenges such as finding housing, jobs, and reconnecting with their communities. Through Re*Membering, women at Coffee Creek are able to seek our assistance with a wide variety of needs such as housing, parenting/child support, debt, student loans, obtaining IDs and birth certificates, property and wills, and many more. Our work was featured in the Oregon State Bar Bulletin this summer.

This year, we were able to help nearly 60 clients despite the challenges posed by redesigning our operations to adjust to the pandemic since we have been unable to visit clients in prison for most of this year. Some of the work we undertook includes:

- Helping a client avoid foreclosure of her home.
- Helping a client successfully advocate for a reduced prison sanction in another state, based on her progress while incarcerated at Coffee Creek and her support in the community. This advocacy resulted in community supervision instead of further incarceration after release from prison.
- Helping a client file a motion with the court to enforce her right to phone and video contact with her children who reside out-of-state, to maintain their relationship until she is able to reunite with them.
- Advocating for amendment of a client's criminal judgment which resulted in her release from CCCF about one year earlier than originally sentenced, allowing her to be with her husband of more than 30 years who is terminally ill. This client also has underlying medical conditions that make her particularly vulnerable to serious complications or death from COVID-19. She

was released in the spring of this year.

- Assisting a client with a petition against an excessive restitution order.
- Helping a client, sentenced to 20 years to life, prepare for a parole board hearing from an out-of-state conviction.
- Supporting and advising a client during adoption mediation, for the purpose of establishing a written agreement allowing continued communication between the client, her child, and the adoptive parents.
- Helping a client address property code violation notices to protect her home from further legal action.
- Helping a client who was uncertain of how to re-initiate contact with her children (withheld from her by the other parent) to develop a plan for seeking visitation through a court order.
- Helping a client address concerns about the security of her identity and credit after receiving notice from a state agency that her personal information was exposed to a data breach.

In 2021, we will be seeking renewal of funding from the legislature for another two years for Re*Membering. As well as continuing to provide legal services through the program, we will publish general educational materials for people in prison dealing with issues that we have seen through our work are common problems such as garnishment, guardianship, addressing court fines and fees, and more.

Pandemic response

Our response to the impact of **COVID-19** on women in prison has meant more than simply adjusting our existing services to the "new normal." In April, we sought a writ of **mandamus** from the Oregon Supreme Court on behalf of Melanie Pinner, Meggan Cross, and Karen Kidd, three women who were incarcerated at Coffee Creek. OJRC Youth Justice Project Co-Director Conrad Engweiler worked on the mandamus with the WJP team. Each of the women has at least one

health condition that the Centers for Disease Control and Prevention and the Oregon Health Authority recognize as putting them at higher risk of serious and even fatal consequences if they contract COVID-19. Our clients were challenging the Parole Board's approach to determining who is eligible for early medical release on the grounds of ill health. We argued that the Board had unlawfully delegated its responsibility for deciding who qualifies to the Department of Corrections. In our view, this left the Board in breach of its obligations under the Eighth Amendment by failing to address the substantial risk of harm our clients faced from COVID-19. Unfortunately, the Oregon Supreme Court did not agree with us, and declined to order the Board to change its approach to early medical release.

On the very same day that we sought the mandamus, the Board of Parole filed a new temporary rule regarding its release authority. The Board later proposed to adopt this temporary rule permanently. We submitted a letter of comment on the rule to the Board, arguing that it greatly and impermissibly restricts early medical release that has been broadly authorized by the legislature through statute. The Board decided to withdraw the proposed rule and has not yet proposed anything else.

When Oregon prisons closed to visitors in March, the Department of Corrections 'administratively removed' participants in **Alternative Incarceration Programs (AIPs)** due to providers not being able to enter the prisons to offer services. Incarcerated people benefit from AIPs in two main ways: they receive treatment and therapies to help them address root causes of their offending and overcome trauma; and, on successful completion of their program, they become eligible for early release. We received many letters and calls from people who had been removed from their AIPs due to the shutdown, and had thereby seen their release dates pushed back by months, or even lost their early release altogether. The loss of the therapeutic benefit of the AIPs was another concern for those affected who felt they had been making much progress and were distressed and destabilized by having their

programs suddenly taken away. We tracked and monitored the situation and have advocated for affected people to ODOC Director Colette Peters. [Watch our Women's Justice Project Advisory Committee member Jackie Whitt read a letter from Toni Baker, a women affected by removal from an AIP.](#)

The right of people in prison to be able to contact their attorneys confidentially is essential and one that we strenuously advocated for this summer when we experienced difficulties placing phone calls to our clients and prospective clients within Coffee Creek Correctional Facility. After emails, letters, meetings, and even testimony before the Oregon Senate and House Judiciary Committees, ODOC eventually changed its policy. Our attorneys are now allowed to schedule legal calls with people in custody on a first-come-first-served basis. ODOC is also re-organizing and re-structuring its law libraries and phone access to attorneys.

We sent information to 134 people incarcerated in state prisons (including 93 at Coffee Creek) informing them about applying for stimulus checks under the CARES Act.

Legislation

Over the last couple of years, we have taken steps to learn more about and highlight the issues affecting women who are impacted by domestic violence who are also defendants, sometimes known as "**survivor-defendants.**" Our Women in Prison Conference last year focused on justice for survivor-defendants and earlier that year we released [a report based on a survey of women at Coffee Creek that reveals high rates of past experience of domestic abuse among participants.](#) We have worked with Representative Anna Williams to draft a legislative concept to be developed into a bill for the 2021 legislative session.

At the national level, we provided feedback to Senator Ron Wyden's office concerning the **FAMILIES Act** which he proposes to introduce. This legislation would provide alternatives to incarceration for parents with minor children and for other caregivers.



I AM AN AMERICAN NUMBER

NOAH JAMES

Not having any power,
Over where the State puts my body (at risk)
Is starting to bring me,
To the end of my wits.

On the TV it's morbid,
The tally they keep,
On the right side of the screen,
The numbers of infected and those now dead,
No longer able to dream, love, or dread.

And deep in our hearts we all feel shame (but agree)
That the really important numbers are of us,
The dead Americans.
For Americans are more valuable,

Because what makes us US,
Is that we agree on a constitution.

A collective document,
Living and so also at risk for sickness,
But, at its best, it protects individual human freedoms.
Yet when you are an American prisoner in a time of crisis,
You know you don't matter when it comes to any of this,
And that no document, sick or alive,
Will change the fact that you are on the State's expendable list.

For I know I'm not included,
And neither are my friends,
Because while everyone else is sheltering in place at home,
We are still smashed in,
Packed in like cattle to feed us,
And there is little doubt,
That this virus is already passing freely between us.

Spreading like wildfire,
As they force us to infect each other,
At 7 a.m. when we line up for work,
To make cents a day,
We are still being pressed together,
Shuffling through their foul metal detectors.

And there is only so much cotton I can bum,
On my own, because my name is a number,
And I don't know when it will be my turn,
As I don't have control over my own body,
So I can't protect it.

I know they don't care if any of us live or die,
But what makes me mad is that if this virus had me expire tomorrow,
They would love to add one more number,
To their list of those who matter.

The writer is incarcerated in an Oregon prison.

YOUTH JUSTICE PROJECT

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

While youth aged 15-17 will not automatically be waived into adult court when charged with Measure 11 crimes, prosecutors can still seek **waiver hearings** to argue for a case to be transferred to adult court. This year, our staff worked on mitigation and investigation and won in the first case in Oregon in which a waiver into adult court was sought under 1008. We were able to help ensure that the youth remained in the juvenile court system where the differences between youth and adult development can be properly recognized and supported.

In another case in which we assisted, the Clackamas County District Attorney's Office persuaded the circuit court to deny transferring a youth to the juvenile court on the grounds that the youth had turned 18 prior to January 1, 2020, when SB 1008 came into force. Attorneys Katherine O. Berger and Stephen A. Houze brought an original jurisdiction mandamus action, seeking to

compel the circuit court to comply with SB 1008 by transferring the youth to the juvenile court. On October 22, 2020, the Oregon Supreme Court granted an alternative writ of mandamus directing the circuit court to transfer the youth to juvenile court or show cause for refusing to do so. The circuit court immediately complied with the writ by transferring the youth to juvenile court. See *State of Oregon v. Kafoury*, (S067859).

Notably, Senate Bill 1008 is not retroactive, and an important area of our work in 2020 has been continuing to support people in prison who were convicted as children and are serving life sentences. In particular, we have been working with men at Oregon State Correctional Institution on the development of their **peer support program** that will provide mentorship to youth entering the adult prison system when they "age out" of the youth system at 25.

Our commitment to supporting the so-called "**juvenile lifers**," adults serving life sentences for crimes committed as children remains central to our work. We are tracking all post-conviction cases of people who would have benefited from Senate Bill 1008 had it been retroactive. We continue to try to expand the values, concepts, and spirit of SB 1008. In 2021, we will look for opportunities to increase access to justice for young people and are reviewing a number of possibilities for action during the legislative session.

"The community of lifers and other long-timers in this prison hold each other up. We keep each other accountable. In the dark times, when I sink back into deep feelings of shame, depression and hopelessness, my friends notice my change in mood and help to pull me out of it."

Seth Koch
Left Behind series author.

Other activities

Despite the pandemic, we have maintained an active schedule of speaking events, even if these have all been virtual since the spring. Outreach and public education continue to be important components of our work. Some

notable engagements included presenting to the City Club of Eugene; the Lifers Club at the Oregon State Penitentiary; and colleges including Portland State, the University of Oregon, Oregon State University, and Pacific University. Co-Director Trevor Walraven had the opportunity to present to Western Oregon University with his brother Josh Cain while Josh was still incarcerated. The brothers teamed up again after Josh's release for a presentation to students at Lewis & Clark Law School.

chilling, poignant, and thought-provoking, recount the experiences of people “left behind” by the youth sentencing reforms under Senate Bill 1008. [Find links to the articles published so far via our website.](#)

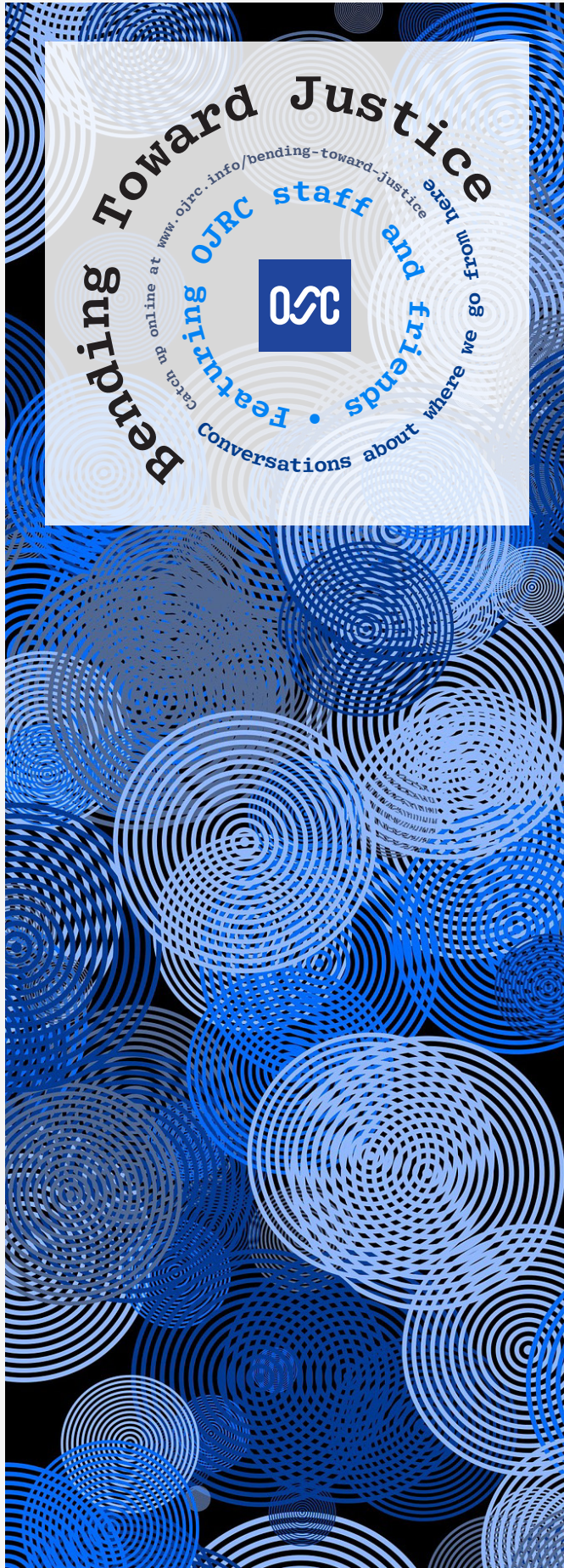
“How I think about myself, what I did, and the situation I’m in has shifted over the years. I’ve had a lot of struggles with changing my life, but I can look back now and see the progress I’ve made. I hope that I will get a second chance one day to rejoin my family and the community outside these walls—where I can prove what kind of man I have grown to be. If I do, I know my labor to heal the harm I have caused will then truly begin.”

Truitt Watts

Left Behind series author.

This fall, we worked with a client to put together a clemency application to Governor Kate Brown. The individual was on the cusp of aging out of Oregon Youth Authority custody and would have been transferred into an adult prison. With our support, the client was able to tell their story to the governor, who granted their release.

Our ***Left Behind: Firsthand Accounts of Growing Up in Prison from People Sentenced as Children*** series of articles written by juvenile lifers was first published by the criminal justice news website The Appeal in March and is ongoing. Through this series, people impacted by the willingness of Oregon and its leaders to tolerate the sentencing of children to die in prison are able to share their stories with a national audience. They remind us that there is still work to be done to address the harm done to young people by a system that does not take account of their capacity for rehabilitation and growth. These articles, by turns uplifting,



BENDING TOWARD JUSTICE

Oregon Justice Resource Center staff and friends came together for a conversation series in November 2020 to ask, “Where do we go from here?”

Find recordings at our website.

www.ojrc.info/bending-toward-justice.

CONVERSATIONS

Confronting the Death Penalty and the Legacy of Lynching.

Public Health and Mass Incarceration.

Women in Civil Rights and Social Justice Work.

Prison Litigation and the Challenge of COVID-19.

The Prison Rape Elimination Act.

From the Streets to the Courtroom — Protest Litigation.

Crimmigration (Intersection of criminal law and immigration law).

Public Defense and Participatory Defense.

2020 in Review — An Update on the Work of the Oregon Innocence Project.

Crime After Crime: Survivor-Defendants.

Police Union Contracts and Accountability in Policing.