

EQUAL ACCESS TO JUSTICE

No matter who we are or how much money we have, all Americans have a constitutional right to legal representation. Those who do not have the aid of a lawyer who has the time, ability and resources to present an effective defense are more likely to be unfairly charged, detained and potentially deported.

But today in Oregon, public defenders are overloaded with cases, meaning many low-income Oregonians are entering the courtroom without adequate representation.

To protect the constitutional right to a fair trial and the pursuit of justice, Oregon must ensure everyone has equal access to adequate legal representation.

A DAILY VIOLATION OF CONSTITUTIONAL RIGHTS

Every Oregonian has a constitutional right to a fair trial. It won't make the nightly news, but that right is being violated on a daily basis in courtrooms across the state. The shortcomings of Oregon's current public defense system have received increased attention in recent years. A 2017 report from the Office of Public Defense Services summarized the challenge, writing, "High caseloads, inadequate funding, and an outdated contract model create significant risk that the legal services provided to clients fail to meet state and national standards." Many public defenders in Oregon are juggling more than 100 open cases at any given time.

Lack of effective legal assistance exacerbates economic inequalities in our community.

Defendants with publicly appointed attorneys are more likely to be detained before trial as well as more likely to be jailed. This means more time away from work and family, placing additional economic burdens on family members, especially women, that can keep families in poverty for generations.

"Oregon's public defense system is overloaded with cases. As a result, low-income Oregonians, many of whom are from communities of color, are entering the courtroom without adequate representation. This isn't what justice looks like."

- Morgen Daniels, appellate public defender, AFSCME Local 2435 president

A DAILY VIOLATION OF CONSTITUTIONAL RIGHTS

This constitutional violation creates immense harm for low-income Oregonians, who are disproportionately people of color as the result of historic and systemic racism. These inequities are amplified by racial profiling and bias embedded in the criminal justice system.

According to an analysis of racial and ethnic disparities in Multnomah County's court system:

- For every 1,000 blacks whose cases are prosecuted, 750 are assigned court-appointed attorneys.
- Blacks are 4.1 times more likely to have a case accepted for prosecution than whites, when compared to the overall jail population.
- Blacks are 4.2 times more likely than whites to be referred to the District Attorney's Office for a case review and they're less likely than whites to receive a citation in lieu of arrest.
- Blacks are six times more likely than whites to be in jail.

For Oregonians experiencing homelessness, lack of adequate representation contributes to a spiral of instability. Those in our community who are living without a home come in contact with law enforcement much more frequently, leading to more arrests and making it more difficult to find stability, housing and steady work. In 2017, the 3% of Portland residents without housing accounted for 52% of arrests. Of those arrests, 84% were for nonviolent offenses.

Inadequate representation compounds discrimination and mistreatment of LGBT Oregonians within the criminal justice system. A national 2014 survey showed that 73% of all LGBT people and people living with HIV reported having face-to-face contact with police during the past five years. One in five young people in U.S. juvenile justice facilities identify as LGBTQ, and 85% of these individuals are youth of color.

"As a result of our state's history of systemic racism and current discriminatory practices, Black Oregonians and other people of color are disproportionately impacted by the state's failure to provide adequate funding for our public defender system," "This legislative session, lawmakers have an opportunity to pursue reforms that will create manageable caseloads for public defenders and live up to the standard of fairness that our constitution requires."

- Nkenge Harmon Johnson, Urban League of Portland president.

THE SOLUTION

In 2019, we have an opportunity to begin the process of reforming Oregon's public defense system and ensuring justice for every Oregonian who enters the courtroom. That work begins by adopting recommendations from the Sixth Amendment Center, an independent nonprofit organization that provides technical assistance regarding the constitutional right to legal representation. The organization released a report in January 2019 that calls out serious deficiencies in Oregon's justice system and highlights the urgent need for reforms to protect every Oregonian's constitutional right to a fair trial.

Recommendations from the Sixth Amendment Center report include:

1. Changing the appointment process for the Public Defense Services Commission to ensure no single branch of government has a majority of appointments and restructuring the commission to be more inclusive.
2. Setting and enforcing specific right to counsel standards, such as: attorney qualification standards, attorney performance guidelines, manageable public defender workloads, client communication protocols, and data collection standards.
3. Providing supports for attorneys and staff to succeed in their jobs, such as trainings in cultural and trauma informed practices.
4. Abolishing fixed fee contracting and other forms of compensation that produce financial disincentives for public defense lawyers to provide effective legal representation.

Reduced Attorney Workloads Produce Better Outcomes for Oregonians

One model for establishing workload standards that is already working and is overseen by the Office of Public Defense Services is the Parent Child Representation Program. Since implementation in 2014, the program has already produced positive results :

- Parents and children in Yamhill and Linn counties are now consistently represented at initial shelter hearings by attorneys who have access to discovery and, in many cases, meet with their clients before the hearings.
- Cases are resolving more efficiently because attorneys with reasonable caseloads are requesting fewer continuances due to scheduling conflicts.
- PCRCP attorneys are able to maintain regular and consistent client contact throughout the life of the case.
- Most importantly, PCRCP reduced the number of children in foster care and reduce time for family reunification

THE SOLUTION

Other states have moved forward with public defense reforms and are producing better outcomes. It's time for Oregon to catch up.

- In 2017, Nevada established a commission to examine public defender workloads, establish minimum standards of representation, and determine how best to fund the state's public defense system.
- In 2013, Michigan created a statewide structure for delivery of public defense services that provides for an independent defense function, county-based systems that are responsive to caseload concerns and allow for resourced, experienced, quality representation, and regular oversight and support to ensure the right to counsel is protected.
- New York has established new standards for public defender services and budgeted \$250 million to bring five counties' public defense systems into constitutional compliance.
- Many other states, including Idaho, Indiana, Louisiana, Mississippi, Tennessee, and Utah are pursuing public defense reforms with bipartisan support.

ABOUT FAIR SHOT FOR ALL

Fair Shot for All is a united movement of more than 30 racial justice organizations, community groups, and labor unions fighting for together for racial, gender and economic justice.

Our priorities tackle critical barriers to safety, health and security and continue to our fight to secure a fair shot for every Oregonian. We are standing up for women, LGBTQ communities, immigrants and working families.

Together, we are sending a message loud and clear every Oregonian needs real opportunity and a fair shot at a secure future.

A graphic titled "2019 LEGISLATIVE PRIORITIES" with a teal background. It lists five priorities, each with a checkmark icon. The fourth priority, "Equal Access to Justice", is highlighted with a yellow background. At the bottom right, it says "This is our shot FAIRSHOT FOR ALL".

2019 LEGISLATIVE PRIORITIES

- ✓ Investing in Our Future
- ✓ Access to the Care We Need
- ✓ Stable Homes for Families
- ✓ Equal Access to Justice**
- ✓ Fairness and Opportunity for Immigrant Families

This is our shot
FAIRSHOT FOR ALL

FAIRSHOT FOR ALL

Learn more: www.FairShotOregon.org