

# ACLU Oregon

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OREGONIANS  
IN THE COURTS**

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PATRIOTIC**

GRI  
PWR



# ACLU

## Oregon

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# STATE OF THE ACLU OF

“How we treat our children is what our hallmark will be.”

This is how the late Senator Jackie Winter (R-Salem) prefaced her vote in favor of SB 1008 for comprehensive youth justice reform in the 2019 Legislative Session. Twenty-five years after Oregon voters approved Measure 11, we were proud to be part of a broad coalition that finally succeeded in dismantling Oregon’s mandatory minimum sentencing laws for youth.

Passed in 1994 at the height of “tough on crime” efforts sweeping the nation, Measure 11 accelerated Oregon’s addiction to incarceration. Even as scientists came to better understand adolescent brain development, and studies proved that youth placed in the adult justice system were over 30 percent more likely to commit additional crimes upon release, it was difficult to make changes to Measure 11 because Oregon requires a supermajority of legislators to decrease criminal sentences created through the ballot.

It took the leadership of legislative champions, the strength of dozens of ally groups, and the power of your voices to finally make this needed change happen.

It is gratifying to know that as we celebrate our 100th anniversary (65th in Oregon), our work is more effective and essential than ever before.

Nationwide, the ACLU is growing and evolving to meet the needs of today, and our mission to protect and advance civil rights and civil liberties remains our hallmark.

The ACLU of Oregon is evolving and transitioning, too.

Last summer, we said goodbye to Executive Director David Rogers. In his tenure, the ACLU of Oregon fought for the passage of the most

It took the leadership of legislative champions, the strength of dozens of ally groups, and the power of your voices to finally make this needed change happen.

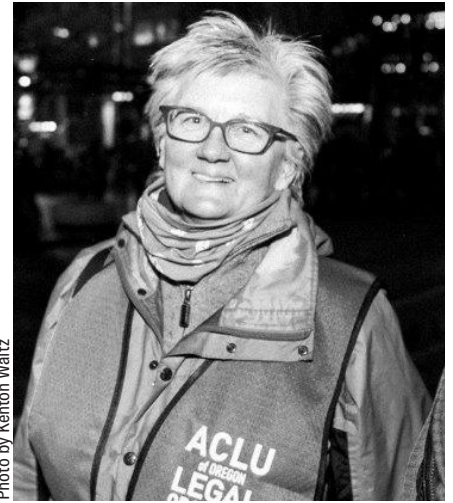


Photo by Kenton Waltz

“We have to transform our country for the better. And that will only happen if we lift up all of our voices.”

extensive protections to abortion access in the country along with the most expansive access to reproductive health care; we launched a district attorney accountability campaign that has shifted the political landscape around criminal justice reform in Oregon; we increased protections for LGBTQ communities; we worked for the historic defeat of a hateful, anti-immigrant ballot measure, and more.

I am honored to guide the ACLU of Oregon as interim executive director. I am working with the Board of Directors and staff to develop a vision for the organization that will inform our search for the next executive director.

As we move forward, I’m in awe of our amazing staff and volunteers who show up to do this work day after day. Our successes are the result of our collective efforts.

One such example is an incredible victory that came just this past November when Oregon’s Chief Justice Martha Walters announced a new rule that prohibits ICE from making warrantless arrests in and around Oregon courthouses. For more than a year, the ACLU of Oregon had worked closely with Innovation Law Lab and a coalition of organizations to advocate for this

# OREGON

new rule. Integral to this effort was the incredible dedication of our volunteer legal observers who patrolled courthouses around the state, documenting ICE's brutal tactics. Their reports, photos, and videos powerfully demonstrated how ICE was impacting access to justice in our state, and made a critical difference in this victory.

As we look to the year ahead, we have to continue to fight for the country and state we want to live in. It is not an exaggeration to believe our democracy is in danger. We have to transform our country for the better. And that will only happen if we lift up all of our voices.

That is why we are holding our 2020 Justice For All membership conference on September 12, in Salem. This will be an inclusive, accessible, skills-building day of action. This election will have a lasting impact on our state and our country and we believe our members and supporters can play a critical role in issue-based ballot measure work, as well in our ambitious goals for the 2021 Legislative Session. I hope you will join us.

Thank you for your ongoing support of the ACLU of Oregon. Though the challenges ahead are great, I am energized by the passion of our members. There are more of us involved in the fight for civil liberties and civil rights than ever before, and we have the opportunity to push back against abuses and injustice. Together, we can ensure our state is a beacon of hope in these turbulent times.

In partnership,



**Jann Carson**  
Interim Executive Director

## MARIA SOTO WAS BORN IN THE U.S., YET THE TRUMP ADMINISTRATION WON'T GIVE HER A PASSPORT. WE SUED.

**Leland Baxter-Neal** | Staff Attorney

Maria Soto was born in 1971 in the Los Angeles County Hospital in California. She has her original birth certificate to prove it. She carefully guards the small, deeply creased document with a dozen other important papers at her home in southern Oregon.

And yet the government refuses to give her a passport, telling her that her birth certificate and other documentation she has submitted is "insufficient."

We are suing on Maria's behalf because the government unjustly denied her a U.S. passport. In August, we filed a federal lawsuit against the U.S. Department of State, demanding that she be provided her passport just as any other citizen.

Maria's parents were migrant workers. They took her to Mexico as a baby to be cared for by her grandparents. Growing up, she always knew she was a United States citizen. She regularly returned to the United States to visit family, showing her original birth certificate each time she crossed the border.

When Maria turned 18, she returned to the United States and settled in southern Oregon. She soon sponsored her husband for his green card—an immigration process that required that she prove her citizenship to the federal government. She would prove her citizenship to the federal government two more times, submitting immigration petitions for her mother and her brother.

In 2018, Maria and her husband hoped to travel to Peru for vacation, so she applied for her passport like anyone would. She sent in her original birth certificate, along with a certified copy issued by the State of California, and other documentation, including her driver's license, social security card, a letter from her school in Mexico, and medical records.

In response, the government denied her application, sending her a letter telling her that she had submitted insufficient evidence to prove her U.S. citizenship.

Cases like Maria's appear to be occurring



Maria Soto and her husband

more frequently. In the summer of 2018, the Trump administration created a "Denaturalization Task Force" to attempt to strip some naturalized citizens of their citizenship, and the Washington Post reported on a surge of passport denials for Latinx Americans who were born along the border. Only a week before we filed Maria's case, President Trump again told reporters he was investigating whether he could issue an Executive Order ending birthright citizenship as guaranteed by the 14th Amendment to the United States Constitution (spoiler alert: he can't).

Across America, Latinx communities are facing unprecedented levels of harassment and discrimination. Behind the racist rhetoric coming from the White House is the insidious message that people like Maria—people of color, people who speak a second language, people who come from immigrant families or communities—are not equals in our country or are somehow less American.

Maria is a citizen, but in the eyes of the Trump administration, her birth certificate is not enough. Her social security card is not enough. The fact that she has already proven her citizenship to the federal government in immigration applications—not once, not twice, but three times—is not enough.

They are wrong. Maria is a citizen and is owed her passport, plain and simple, and we are suing to make sure she receives it.

# 2019 LEGISLATIVE REPORT

**2,768**

We reviewed all 2,768 bills introduced.

**739**

We identified 739 bills with civil rights and civil liberties implications.

**99**

We testified at 99 hearings.

**47**

We advocated for 47 bills that successfully passed.

Despite the divisive rhetoric and harmful policies coming from the White House, Oregon's state legislature continues to pass forward-thinking policies, and often leads the nation with landmark reforms.

The 2019 Legislative Session was an incredibly successful year for immigrants' rights, criminal justice reform, voting rights, and more. Along with ACLU members and supporters, allied organizations, and legislative champions, we fought for smart laws to improve the lives of Oregonians.

Our policy work is expansive. This report shares some key victories and some work that still needs to be done. For information on more of our work in the 2019 Legislative Session, please visit our website at [aclu-or.org/legislation](https://aclu-or.org/legislation).





# IMMIGRANTS' RIGHTS

Over 30 years ago, the Oregon Legislature passed the nation's first "sanctuary" law with the nearly unanimous support of Republicans and Democrats. When that anti-discrimination law faced a referendum on the November 2018 statewide ballot, an overwhelming majority of Oregon voters—nearly 65 percent — chose to keep the law in place. It is clear that Oregonians agree that our state should be a place where people are welcomed and treated fairly.

During the 2019 Legislative Session, lawmakers passed several important bills to advance the rights of immigrants.



## SB 859 ✓

## SB 854 ✓

### TUITION EQUITY & PROFESSIONAL LICENSES

In 2013, Oregon increased access to higher education by allowing all students who grow up in Oregon and graduate from Oregon high schools, including undocumented students, to pay in-state tuition for undergraduate programs at public colleges and universities. SB 859 advances tuition equity by expanding it to include graduate programs.

Undocumented students in Oregon still faced barriers with professional licensing for careers ranging from teaching and healthcare services to barbers and cosmetology. SB 854 ensures successful graduates are able to access the licensing they have earned so they can successfully apply their training and contribute to our communities.

## HB 2932 ✓

### COURTHOUSE SAFETY

It is in the interest of every Oregonian to encourage court appearances by victims, witnesses, and defendants. But when community members fear that appearing in court may result in exposure to immigration enforcement, participation is deterred. This has particularly serious consequences for survivors of violent crime and domestic violence, and for child abuse and trafficking

investigations.

HB 2932 prohibits Oregon courts from inquiring about or requiring the disclosure of a defendant's immigration status at any time during criminal proceedings. It also ensures that defendants are informed of the potential immigration consequences of their case and have an opportunity to obtain additional legal advice.

## HB 2015 ✓

### THE EQUAL ACCESS TO ROADS ACT



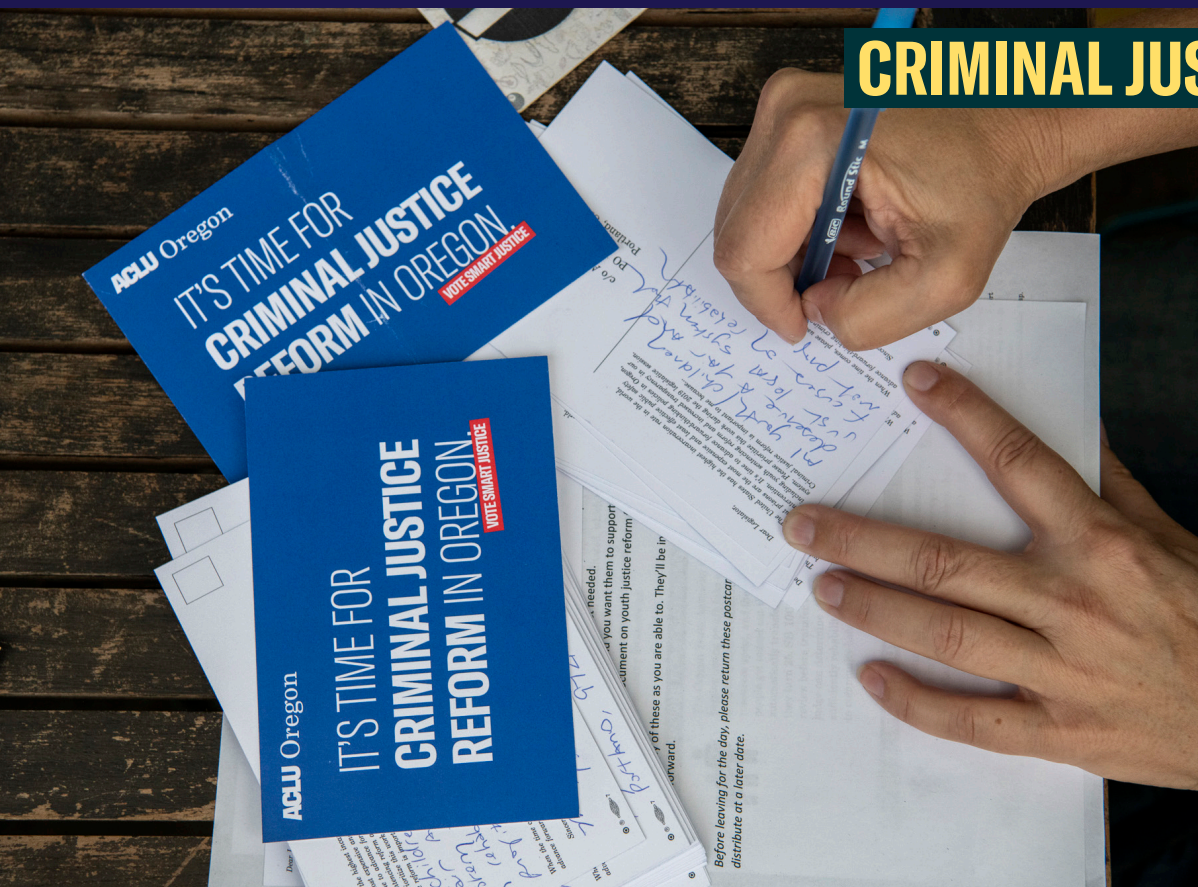
The ability to drive legally is a core necessity for many Oregon families. People need to take their kids to school, commute to work, and take care of family and neighbors in need. Without access to driver's licenses, many immigrants without legal status are in an impossible position: either choose to drive without a license and risk arrest and deportation, or choose not to drive and be unable to provide for their family or be active members

in their communities.

Beginning in 2021, HB 2015 will allow all Oregon residents—regardless of citizenship status—access to a standard driver's license once they meet the normal age, competency, payment, and insurance requirements. This bill also ensures that a person's information is secure and not shared with the federal government.



## CRIMINAL JUSTICE REFORM



Our country has the highest incarceration rate in the world. Many thousands of people, particularly people of color, are cycled in and out of state jails or prisons every day. Extreme sentencing laws and practices are keeping people in prisons for far longer than ever before. The result is that more people are spending more of their lives in prison than at any point in our history.

Imprisonment is brutal. Harsh sentences are not effective deterrents and they destroy a person's chance at rehabilitation, reunification with family, and reintegration into society. With convictions disproportionately affecting poor people and people of color, these sentences are also exacerbating extreme racial disparities in the criminal justice system and tearing vulnerable communities apart.

In the 2019 Legislative Session, Oregon lawmakers passed smart reforms to move our state justice system forward. But there is much more to do to reverse the effect decades of "tough on crime" laws that have fueled racial disparities and filled our prisons.

### HB 3224 ✓

#### DISTRICT ATTORNEYS MUST CREATE AND SHARE POLICIES

Oregonians deserve greater transparency from our district attorneys, the most powerful actors in our criminal justice system. HB 3224 requires district attorneys to create policies and share them with the public.

Unchecked prosecutorial

discretion can lead to unequal treatment, rogue prosecutors, confusion for victims and defendants, and an inability for the public to understand or question what's happening in our justice system. The policies and practices of DAs can be the difference between whether

crime victims get access to critical services that help them rebuild their lives, whether young people are held accountable in a way that protects future life possibilities, whether people of color are treated fairly, or whether children can remain connected with their parents.

### HB 2515 ✓

#### JAILS AND PRISONS MUST PROVIDE FREE MENSTRUAL HYGIENE PRODUCTS

Periods are a fact of life. That's why we supported HB 2515 to ensure access to menstrual hygiene products to people in prison and jail. Previously, prisons and jails in Oregon limited the number and type of pads or tampons that prisoners had access to.

When people cannot adequately manage their periods to prevent bleeding onto clothing or other items, it is humiliating. Although some could supplement their supply by purchasing products at a commissary, for many it was difficult or impossible

to come up with enough money to pay for the products they needed. This was exacerbated by the fact that commissaries typically charge significantly more for menstrual products than local grocery stores and pharmacies.

## SB 1013 ✓

### LIMIT THE DEATH PENALTY

SB 1013 significantly limits the application of the death penalty in Oregon, and is an important step in the right direction for our state. Nationwide data shows that race, county, and quality of lawyer are the biggest indicators of a death sentence — not the facts related to the crime. Executions don't deter crime. And with every execution we carry out, we violate our Constitution's prohibition against cruel and unusual punishment.

It is time to end the death penalty. The problems are so deep they cannot be fixed.

#### ► Innocent people are too often sentenced to death.

Since 1973, 165 people have been released from death rows in 26 states because they were found to be innocent. Nationally, at least one person is exonerated for every 10 that are executed.

#### ► Capital punishment is riddled with racial bias.

People of color are sentenced to death at disproportionately higher rates than white people, and prosecutors routinely remove qualified people of color from jury service in death penalty cases. Also, the death penalty is most often applied when a victim is white.

#### ► The death penalty does not deter people from committing murder.

States with the death penalty have higher murder rates than those without it.

#### ► Oregon spends from \$800,000 to over \$1,000,000 per case to sentence a defendant to death.

This would be better spent on effective violence prevention, mental health treatment, addiction recovery programs, and victim services.

## HB 2614 X

### ENDING DEBT-BASED DRIVER LICENSE SUSPENSIONS

Debt-based license suspensions trap Oregonians in a vicious cycle of poverty and entanglement with the justice system. HB 2614 attempted to end this counterproductive policy, but the bill did not pass.

Debt-based driver's license suspensions punish people because they are poor. This creates a two-tiered justice system, where rich and poor people with otherwise identical records receive different punishments solely because of their ability to pay court debt. We will continue to fight to end this harmful practice that has no public safety benefit.



ACLU activists met with legislators at our Lobby Day in February

## SB 1002 ✓

### PLEA WAIVERS

Close to 95 percent of cases in Oregon's justice system get resolved through plea agreements and defendants are often required to waive access to rehabilitative programs as a condition. This bill prohibits prosecutors from conditioning a plea offer on the waiver of access to rehabilitation programs.

Programs which have been designed to encourage rehabilitation

and reduce recidivism help to put the lives of criminal defendants back on track. Sentence reductions for work, skills development, or good behavior programs promote safety in our correctional facilities and help create pathways for reintegration and productivity after incarceration.

## HB 3145 X HB 5050 ✓

### PUBLIC DEFENSE REFORM

A damning report from the Sixth Amendment Center revealed major problems with Oregon's public defense system. HB 3145 attempted to remove our unfair flat-fee structure and limit caseloads, but the bill did not pass. However, HB 5050, which included a significant increase to our public defense budget, did successfully pass.

The Constitution guarantees that anyone facing jail or prison as a result of a criminal conviction has a right to qualified and engaged counsel, not just those who can afford it. It is the duty of the State of Oregon to ensure that all poor people have a competent and zealous advocate when the state brings a case against them. The state must take action on this issue. The absence of a strong, well-resourced indigent defense system leads to deeply unfair results, and contributes to our overburdened and wasteful jails and prisons.

## SB 577 ✓

### HATE CRIMES LAW

The Attorney General's Hate Crimes Task Force brought together a broad range of stakeholders focused on the experiences of victims. The resulting bill, SB 577, improves the state's response to victims of bias crimes and incidents by connecting victims to services, even if the incident cannot be prosecuted. SB 577 makes clear that transgender people are protected by the law by adding gender identity as a protected class. The bill also requires Oregon's law enforcement agencies to collect data pertaining to bias crimes and bias incidents across the state.



**SB 1008 ✓**

# YOUTH JUSTICE REFORM



Left: Advocating for youth justice reform at our Lobby Day in February. Right: Bill champion Rep. Jackie Winters and Oregon Attorney General Ellen testify in favor of SB 1008.

Justice and accountability are opportunities to heal, not just to punish youth. When young people take responsibility for their actions, we should help them make a positive contribution to society through rehabilitation, education, and opportunity.

But Oregon's Measure 11 created harsh penalties for youth, causing those as young as 15 to face the same mandatory minimum sentences as adults.

SB 1008 provides much-needed reforms to Oregon's youth justice system. **The landmark legislation makes four key changes:**

## KEEPS YOUTH IN JUVENILE COURT



SB 1008 places youth accused of crimes in the juvenile justice system. To move a youth to the adult justice system, prosecutors will need to request a special hearing with a judge.

## EXPANDS ACCESS TO SECOND LOOK



SB 1008 establishes a process where all youth who are convicted in adult court have access to a "Second Look" hearing half way through their sentence. At that hearing, a judge determines whether the youth has taken responsibility for their crime and has been rehabilitated.

## PROVIDES OPTIONS FOR YOUTH AGING OUT OF OYA



SB 1008 requires an opportunity for a judge to release a youth before they are transferred to an adult prison, if they have less than two years left on their sentence.

## GETS RID OF LIFE WITHOUT PAROLE



SB 1008 ends life without parole sentences for youth in Oregon by requiring that anyone convicted of a crime when they are under 18 receives a chance for parole after 15 years of incarceration.

## THE HARMS OF YOUTH INCARCERATION

### Racial disparities

Our current system is not equitable. In Oregon, Black youth are four times more likely to be incarcerated than white youth, and Native American youth are twice as likely to be incarcerated than white youth.

### Lifelong consequences

When children are convicted as adults, they carry the collateral consequences and stigma of an adult criminal conviction. This creates barriers to finding housing, employment, and gaining access to higher education.

### Mental health

In the Oregon Youth Authority (OYA), 88 percent of males, and 75 percent of females have at least one diagnosed mental health disorder. 22 percent of youth in OYA have experienced "at least one foster care episode" and 25 percent have a record of "substantiated child maltreatment."

### Recidivism

A Centers for Disease Control study found that youth are 34 percent more likely to commit additional crimes if prosecuted in the adult system.



## VOTING RIGHTS

Politicians across the country continue to engage in voter suppression efforts that include additional obstacles to registration, cutbacks on early voting, and strict voter identification requirements. Thankfully, Oregon has been a leader in honoring the right to vote. We should be proud that Oregon was the first state in the country to implement vote-by-mail for all elections and has since implemented automatic voting registration. In 2019, Oregon again advanced voting rights in our state.



### SB 870

#### NATIONAL POPULAR VOTE

Oregon joined 14 other states and Washington D.C. by enacting the National Popular Vote, an interstate compact to award electoral votes to the presidential candidate who receives the most votes in all 50 states and the District of Columbia. The compact currently has 196 votes, and will go into effect when states and jurisdictions with a majority (270) of electoral votes have joined.

Once in effect, the National Popular Vote will eliminate the possibility that a candidate who received the most popular votes could lose the election by not receiving the majority of Electoral College votes. The National Popular Vote gives voters equal power in elections, regardless of the state where they live. Instead of voters in a few swing states deciding the outcome, every vote in every state will have equal opportunity in electing the president.

### SB 861

#### PAID POSTAGE FOR BALLOTS

SB 861 will provide Oregonians with a postage-paid return envelope with ballots for each election held in the state. While some Oregonians enjoy the accessibility of a nearby ballot drop box, the majority of rural people have to commute a significant distance to reach their drop box site. For those struggling to get by, working multiple jobs, and trying to put food on the table for their families, finding time and money to buy postage or travel to a ballot drop box can decrease the likelihood to vote.

# 2020 JUSTICE FOR ALL CONFERENCE

## JOIN US!

**SAVE THE DATE:** SATURDAY, SEPTEMBER 12, 2020  
SALEM CONVENTION CENTER

**LEARN** about key civil rights and civil liberties issues on the ballot.

**CONNECT** with ACLU staff, partners, and supporters statewide.

**DEVELOP** and sharpen advocacy skills to help us get out the vote.

**GET READY** to vote like your rights depend on it in 2020!

Registration opens in March.

Questions: Christina Nguyen | [cnguyen@aclu-or.org](mailto:cnguyen@aclu-or.org)



# 2019 LEGAL BRIEFS

## Immigrant rights

### Isidro Andrade Tafolla's Federal Tort Claims Act complaint against ICE



Last August, we filed an unlawful detention and racial profiling complaint against Immigration and Customs Enforcement (ICE) under the Federal Tort Claims Act on behalf of Isidro Andrade Tafolla. Andrade Tafolla is a Hillsboro resident and United States citizen who was illegally detained by ICE in September 2017 outside the Washington County Courthouse. The encounter was recorded by an ACLU of Oregon volunteer legal observer, drawing outrage and making headlines throughout the country. The claim seeks damages of \$100,000 for his humiliation, emotional distress, and psychological harm due to ICE's actions.

"Two years ago, I asked for an apology from ICE, and they said they didn't do anything wrong," Andrade Tafolla said at an August 12 rally in front of the Washington County Courthouse, where we were joined by more than 300 faith leaders, immigrant rights advocates, and community members, including Innovation Law Lab, Adelante Mujeres, the Interfaith Movement for Immigrant Justice (IMIJ), and the Northwest Workers' Justice Project. "Today, I get to fight back through the legal system. These federal agents must be held accountable."

*Cooperating attorneys: Jennifer Middleton and Caitlin Mitchell of Johnson Johnson Lucas & Middleton.*

## Campaign finance reform

### Amicus Curiae in Multnomah County v. Mehrwein

In July, we filed a friend-of-the court brief in the Oregon Supreme Court arguing that under the state constitution, some limits on campaign contributions and expenditures must be permitted and that campaign financing sources for candidate races must be transparent.

There is a legitimate and growing public concern about the impact of big money in politics. To build an effective and truly representative government, valid concerns about free speech and free association must be harmonized with equally

valuable concerns about free and fair elections. Under the current system, the voices and interests of the wealthy few are unduly favored, and the exclusion of historically marginalized communities is perpetuated.

The ACLU of Oregon will continue to advocate for reform of the current state system, including our longstanding commitment to public financing of campaigns and appropriate disclosures.

*Cooperating attorneys: Katherine McDowell of McDowell Rackner Gibson; Daniel Bartz*

## Nonbinary rights

### Amicus Curiae in support of Jones Hollister



Jones Hollister (front, in tie) joined by other nonbinary Oregonians, advocates, and attorneys in Eugene on November 7

Jones Hollister's gender is nonbinary, but their petition for a nonbinary gender marker was denied by Lane County Circuit Court Judge Charles D. Carlson. Hollister appealed that decision at the Oregon Court of Appeals in November; and Basic Rights Oregon, the ACLU of Oregon, and a group of nonbinary Oregonians filed a friend-of-the-court brief in support of their appeal. The Transgender Law Center, InterACT, Beyond Binary Legal, and a group of Oregon law professors also filed briefs in support of Hollister's appeal.

Nonbinary is an umbrella term for people whose gender identity falls outside the binary gender categories of male and female. A nonbinary person may define their gender as somewhere in between male and female, or they may define it as wholly different from these terms. A nonbinary person may or may not describe themselves using the word transgender.

Laws and policies that affirm a person's gender identity are essential for physical and emotional wellbeing. State laws that govern gender marker changes were intended to include nonbinary people, and the court forms for such changes include the nonbinary gender marker, X.

Unfortunately, Hollister is not the only nonbinary person who has been denied a gender marker change. We have heard from others who were denied by the court in Lane County as well as in Jackson County. How you are treated by Oregon courts should not depend on where you live in the state or to which judge you are assigned.

"I want to be who I legally am," Hollister said. "I am appealing because none of my nonbinary siblings should be told 'no' like I was. We should all have the freedom to tell the truth. To tell our stories. To live our lives as our authentic selves."

*Cooperating attorneys: Sara Kobak and Jessie Schuh of Schwabe Williamson & Wyatt.*



## Rights of Oregon's transgender students

### Intervening in Parents for Privacy v. Dallas School District



A small group of parents who seek to do away with public school policies that affirm the rights of transgender students filed a lawsuit against the school district in Dallas, Oregon. We intervened in the case on behalf of Basic Rights Oregon as groups who have an interest in supporting the rights of transgender students.

A district court judge ruled in our favor in 2018, finding that the school's practice of allowing a transgender student to use the same restrooms as other students consistent with his gender identity does not violate the rights of cisgender students or parents. The district court also found that prohibiting

transgender students from using the same facilities as other students likely would amount to illegal discrimination. The plaintiffs appealed this ruling and, in July, we argued for the rights of transgender students at the Ninth Circuit Court of Appeals.

Similar cases have been rejected by other courts around the country. Courts have repeatedly concluded that federal civil rights laws protect transgender students against discrimination, including in the context of restroom and locker room use.

*Cooperating attorneys: Gabriel Arkles, ACLU; Darin Sands, Kelsey Benedick, and Peter Hawkes of Lane Powell LLC.*



## Rights of incarcerated Oregonians

### Carlisle v. Douglas County

In 2017, we filed a federal lawsuit on behalf of Roseburg resident Terri Carlisle against the Douglas County Jail and its private medical service provider, Correct Care Solutions. During a six-month stay in 2015, Carlisle was held in crowded and filthy conditions, and was denied her long-prescribed pain medication for two months. Carlisle complained she was in excruciating pain, but the jail doctor ignored her and her family doctor's requests to stop withholding her medication. Denial of medically-necessary care and inhumane conditions violate the Eighth Amendment's prohibition against cruel and unusual punishment.

In a settlement in February, the Douglas County

## Rights of protesters

### Fawcett v. City of Portland



In August, we filed a lawsuit against the City of Portland on behalf of Michelle Fawcett, who was permanently injured after being shot with a flash-bang grenade by Portland police officers while attending a protest on August 4, 2018. The lawsuit, filed in the Multnomah County Circuit Court, seeks \$250,000 in damages for the Portland resident.

"The police are supposed to protect and serve, but instead they shot me and other peaceful protesters with military-grade weapons," said Fawcett, who suffered third-degree chemical burns, major impact wounds, major soft-tissue damage, and mental and emotional distress. "At this critical time, I realize I must do what I can to ensure that people are free to gather together to exercise our First Amendment free-speech rights to reject racism, violence, and the rising tide of white nationalism and authoritarianism in our country and in our community."

*Cooperating attorneys: Jeff Bradford and Steven Wilker of Tonkon Torp*

agreed to document its treatment of inmates; reduce the number of people housed in their largest holding cell; provide tampons and other hygiene products at no cost to prisoners; provide clean clothing; and prevent private medical contractors from discontinuing prescription medication without appropriate medical review.

Our case against Correct Care Solutions (now known as Wellpath) is ongoing. In September, we asked a federal judge in Eugene to rule that their denial of pain medication violated Carlisle's Eighth Amendment rights.

*Cooperating attorneys: Aliza Kaplan of Lewis & Clark Law School; Daniel Bartz.*

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# DEFENDING FREEDOM IS OUR LEGACY.



**MAKE IT YOURS, TOO.**

For 100 years, the ACLU has worked tirelessly to defend the rights and freedoms of all. By leaving a future gift in your will, you can **help us continue this mission for future generations.**

To learn more about leaving a future gift, visit [aclu.org/yourlegacy](https://aclu.org/yourlegacy) and watch our video, or complete and return the reply envelope.

**ACLU**



# OREGON STUDENTS:

Oregon students are leading our communities to a brighter future. The ACLU of Oregon has been inspired by the courage and vision of our young members and supporters who are making their voices heard on our country's most pressing issues, including gun violence, police violence against Black people, immigrants rights, and the climate crisis. In 2019, we have received a significant increase in calls from students in Oregon who want to exercise their rights fully or feel that their rights have been violated at school. We want to make sure that all public school students in the state know their rights and can exercise them freely. This list below touches on a number of important rights, but it is not exhaustive.

## **You have the right to a safe and inclusive learning environment, free from discrimination and harassment.**

All too frequently, we hear from students experiencing discrimination based on their race, gender identity, sexual orientation, religion, or disability. The law is clear that schools have a duty to ensure all students can learn free from discrimination and harassment. If you feel your school is treating you differently because of who you are or if your school is not responding to your complaints about discrimination from other students, you still have options. Find your school district's policy on how to file a formal complaint, and if that still doesn't work, you can send your complaint to the Oregon Department of Education who has the power to investigate your school.

## **You do not have to stand for the Pledge of Allegiance or the National Anthem.**

The Supreme Court decided decades ago that schools cannot force students to stand during the Pledge of Allegiance. In that case, the court made clear that the job of our public schools is to help you

learn how to participate in our free society, not force you to be government loyalists. This same principle protects your right to kneel during the National Anthem at sporting events or other school activities.

## **You can walk out of school, but there may be consequences.**

While you have a First Amendment right to speak out, you may be punished if your speech "materially and substantially" disrupts classes.

If you choose to leave school to participate in a protest, you may face consequences from school officials. At most schools, leaving campus for any reason (even if you left to participate in a First Amendment activity) will result in punishment for truancy. However, your school cannot give you a more severe truancy punishment than it would give other students just because you are walking out in protest. Consult your school's discipline rules to consider what consequences you may face.

## **You have the right to use school facilities consistent with your gender identity.**

You have the right to use school facilities, like

restrooms and locker rooms, consistent with your gender identity. If your school is forcing you to use the wrong bathroom, that is illegal discrimination.

## **Your speech rights are limited at school, but you still have them!**

You have the right to express your opinion in school, even about controversial topics, but there are some limits. Courts have ruled school officials can limit expression that threatens immediate harm to the welfare of the school or community, encourages unlawful activity, advocates illegal drug use, uses profanity or swear words, or is vulgar.

Although schools can place restrictions on things like vulgar or R-rated movies, they cannot ban books, documentaries, or other materials simply because they disagree with their content.

## **For LGBTQ students, you control when, where, how, and to who you want to be "out."**

The ACLU believes, and several courts have agreed, that everyone has a reasonable expectation of privacy in their sexual orientation and gender identity.





# KNOW YOUR RIGHTS

That means that you choose how to come out. Just because you have been out at school doesn't mean that you have chosen to be out everywhere, to everyone, including your parents or guardians at home.

## **You have the right to be treated fairly.**

Under Oregon law, each school district is required to have clear, written rules that let you know what behavior might result in being suspended or expelled. Those rules must also give you the right to be told when and why you are being disciplined. And the rules must give you the opportunity to tell your side of the story when you disagree with the school's choice to punish you and to challenge the school's decision.

If the punishment involves the police and you are being charged with a crime, you have the right to have an attorney, even if your family can't afford one. You also have a right to refuse to speak to the police at school.

## **Schools must accommodate your disability.**

Schools are required to provide all students with a "free appropriate public education" (FAPE). For students with disabilities, your school must provide you with an evaluation by specialists who provide a report that will help you identify supports the school should provide you to help you be successful. Based on the specialist's report, your school must work

with you to construct an individualized education program (IEP) that meets your educational goals. Your school is also required to consult with your parents or guardians frequently in order to get their input on the IEP. If your school is small and does not have the resources to provide you with a FAPE and IEP, then the school district is required to pay for you to attend a school that can meet your needs.

## **Schools must provide you with sex education.**

Each school district is required to provide age-appropriate human sexuality education classes as a part of their health education curriculum. These classes are required to be medically accurate and comprehensive. While the classes are required to promote abstinence for school-aged students, they should not be shame or stigma based, and they must include information on contraception and disease-reduction. The classes also may not discriminate against you or ignore you based on your sexual orientation or because you are sexually active.

## **You have the right to be free from religion or exercise the religion of your choice.**

Even if a large number of students would like to have a prayer at a school event, the First Amendment does not allow it. Even if a prayer is non-denominational or non-sectarian, it still is unconstitutional. Everyone is welcome to worship

privately in any way they like, including by hosting student-led prayer groups during non-instructional time. But your school and your teachers cannot promote any religion to you at school or allow others to come to your school to promote their religion during the school day or school-sponsored activities.

You also cannot be discriminated at school because of your religion. For example, you have the right to wear a religious head covering without being punished or forced to take it off.

**If you feel your rights have been violated at a public school, please contact us at [intake.aclu-or.org](https://intake.aclu-or.org) or 503.227.3186.**

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KEYNOTE  
SPEAKER **JAMELLE BOUIE**

Jamelle Bouie, a columnist for the New York Times and political analyst for CBS News, covers U.S. politics, public policy, elections, and race. Bouie's political instincts provide audiences with unique insight on the past, present, and future of our national politics, policy, and the state of race relations.

Bouie appears regularly on CBS's Face the Nation. His writings have appeared in The Atlantic, The Washington Post, TIME, and The New Yorker. He has emerged as a leading voice on the national scene, being named to Forbes "30 Under 30 in Media" in 2015.

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