

CIVIL RIGHTS & CRIMINAL JUSTICE

CRIMINAL JUSTICE POLICIES AND PRACTICES clearly have a disproportionate and biased impact on communities of color in Oregon. Despite having one of the smallest Black populations in the country, Oregon ranks 13th highest in the country for its number of Black people in prison per capita.¹⁶ Black people are more than five times as likely to be incarcerated in Oregon’s state prison system than Whites.

	WHITE	BLACK	LATINO	NATIVE AMERICAN	ASIAN/PACIFIC ISLANDER
Percent of Oregon’s General Population ¹⁷	80	2	11	1.6	3.7
Percent of Oregon’s Prison Population	72.5	9.6	14	2.4	1.4

National research shows when looking at crime rates as a whole, there is no meaningful difference among racial groups in regard to their likelihood to commit crime. Clearly there are other factors at play in creating the significant racial disparity within Oregon’s criminal justice system. Oregon must have policies that reduce the impact of racial profiling, the disparity in access to appropriate legal counsel, the bias in certain sentencing laws, and increase the overall cultural competency of our criminal justice system.

At this time, Oregon has no state-level racial impact statement requirements, but a number of bills this session would have required racial impact statements in criminal justice (SB 654) and foster care (HB 3086).

LEGISLATION PASSED DURING THE 2011 SESSION

HB 2707 Diverting Youth Out of Adult Jails

Measure 11 required youth ages 15 years or older to be prosecuted automatically in the adult criminal justice system as soon as they are charged with one of 21 crimes. If convicted of that crime, they must serve the same mandatory sentence that applies to adults. House Bill 2707 makes juvenile detention facilities the default placement for youth held while awaiting trial on Measure 11 charges. HB 2707 will have a positive impact on youth, particularly youth of color.

Laws that transfer young people to the adult court have a disproportionate impact on youth of color. In Oregon, youth of color comprise 25 percent of the youth population but 36 percent of youth indicted under Measure 11. Although Black youth make up just 4 percent of Oregon’s general youth population, African American girls make up 34 percent of all juvenile female Measure 11 indictments.¹⁹ Transferring youth to the adult criminal justice system does not prevent youth from engaging in criminal behavior. In fact, youth transferred to the adult system are more likely to be rearrested and reoffend than youth who committed similar crimes but stayed in the juvenile justice system.²⁰

✓ *Signed into law*



MEASURE 11

In 1994, Oregon voters passed Measure 11, which imposed long mandatory prison terms for 16 designated person-to-person offenses. It also automatically transferred juveniles (15-, 16-, and 17-year-olds) to adult court as soon as they are charged with a Measure 11 crime. Additional action by the State Legislature added five more crimes to Measure 11, bringing the number of crimes covered by the measure to 21. Mandatory minimum sentences require judges to impose the mandatory sentence regardless of the individual circumstances of the case. Since the passage of Measure 11, Oregon’s prison population has doubled and the prison budget has tripled.

Newly released research¹⁸ shows high levels of disturbing racial disparity, particularly among youth and Measure 11 indictments. Black youth are more than three times as likely to be charged with a Measure 11 offense after being arrested than White youth, while Latino youth are most likely to be convicted of a Measure 11 offense after arrest. The research has raised major questions about the potential of prosecutorial over-charging of Black youth as well as the lack of culturally competent legal services and court procedures for Latino youth.

RACIAL IMPACT STATEMENTS

Racial impact statements are a tool developed to estimate the disparate racial impacts of public policies in the same way that fiscal or environmental impact statements describe the budgetary and ecological effects of other policies. This allows legislators to make informed considerations of the racial impacts, including unintended consequences, when crafting solutions to crime and delinquency. It also helps ensure the costs of racial injustices are included in the dialogue regarding public policy choices.

HB 3376 Set Aside Convictions

HB 3376 expands Oregon’s criminal record impingement process and conviction set aside laws to include people with Class B felonies. This process allows people to clear their criminal record after 20 years if they have no further convictions. This process helps reduce the collateral consequences of having a conviction history, like barriers to employment and housing, and increases people’s ability to succeed.

Formerly incarcerated people are stigmatized and stereotyped, and face a range of laws, policies, and practices that undermine their ability to find employment and housing. Oregon is one of a number of states that allows employers to consider arrest records in hiring processes; one study estimated employment rates among young men who had previously been incarcerated was 20-25% lower than those who not been incarcerated. Studies indicate the presence of a criminal history further exacerbates racial bias, and Black applicants with criminal records experienced a staggering 64% reduction in job offers.²¹

✓ *Signed into law*

SB 412 Tribal Police

Senate Bill 412 grants tribal police officers the right to enforce state law off tribal lands, regardless of whether the crime originated on a reservation. The bill also includes requirements for tribal police officers to complete state police training and for the tribes to adopt rules “substantially similar” to Oregon law on public records, evidence retention and insurance.

Native Americans are more likely than people of other races to experience violence at the hands of someone of a different race, and experience almost twice the violence as the general U.S. population.²² However, as a result of a 1978 Supreme Court decision in *Oliphant v. Suquamish Indian Tribe* and three other federal laws, tribal sovereignty for Indian nations has been limited in responding to violence on native lands. Tribal courts have no criminal jurisdiction over non-Indian persons who commit crimes on their reservations. As a result, non-Indians may not be held accountable for criminal actions by tribal governments.²³ Native American women, more than any other group, are adversely affected by this lack of jurisdictional power: more than 1 in 3 Native American women will be a survivor of rape in her lifetime.²⁴ While SB 412 does not address all of the barriers to successful law enforcement on tribal lands, it provides a critical tool to tribal police officers in being able to pursue suspects.

✓ *Signed into law*

HB 2880 Voter Modernization Legislation

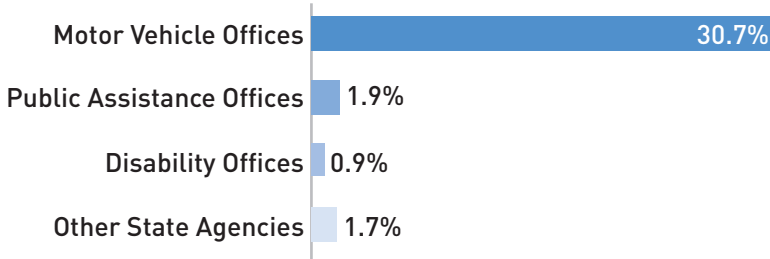
HB 2880 mandates that voter registration be part of core services at state public assistance agencies and the Department of Motor Vehicles, moving Oregon toward full compliance with the National Voter Registration Act (NVRA). Compliance is overseen by a new 10-member state council and the Secretary of State.

Voter registration rates show disparities by race and income: 73.5% of Whites are registered voters, compared to 69.7% of Blacks, 59.4% of Latinos, and 55.9% of Asian Americans. Only 65% of adult citizens in households making less than \$25,000 a year were registered to vote, compared to 85% of those in

households making \$100,000. Effective voter registration programs at public assistance agencies are powerful tools for reducing these disparities and bringing more voices into the democratic process.²⁵ A 2008 national study found 42% of registered voters reported they registered at either a county or government registration office or while at a Department of Motor Vehicles office.²⁶ In 2010, close to 28% of Oregonians (nearly 150,000 people), registered to vote in person.²⁷

✓ *Signed into law*

Applications Received From Oregon Voter Registration Agencies²⁸



MISSED OPPORTUNITIES

HB 2953 Use of Lethal Force

Oregon ranked 13th highest in the nation for arrest-related deaths,²⁹ and a 2007 survey showed more than 55% of Oregon policies on deadly force did not include education and training for police officers and attorneys.³⁰ Since 2000 in the city of Portland, nearly 30% of deaths in police custody have been people of color.³¹ HB 2953 would have required additional education, outreach, and training regarding the reasonable use of deadly physical force for police officers and others in law enforcement. The bill would also have required training in the immediate aftermath of a lethal force incident, investigations into use of deadly force, and district attorney prosecution of deadly force incidents. In addition, the legislation would have modified requirements that law enforcement agencies adopt guidelines for reasonable use of deadly physical force. A national study by the Department of Justice found 55% of the 2,002 arrest-related deaths from 2003 through 2005 were due to homicide by state and local law enforcement officers. More than 56 percent of these victims were Black or Latino men.³²

Died in Committee