

February 22, 2017

The Honorable Floyd Prozanski, Chair
The Honorable Kim Thatcher, Vice Chair
Senate Judiciary Committee Members

RE: House Bill 4149

Dear Chair Prozanski and Members,

On behalf of the Oregon Justice Resource Center, I respectfully request your support for HB 4149. Doing so will help safeguard constitutional and procedural rights.

The Oregon Justice Resource Center is a public interest law firm that represents currently and formerly incarcerated Oregonians and advocates for criminal justice reform. We operate and administer several distinct projects that provide direct representation to Oregonians on a range of issues who otherwise would not have access to legal services. OJRC challenges excessive sentences and those disproportionately impacting people of color.

It may come as a surprise to many Oregonians that roughly 95% of Oregon criminal cases are never tried before a jury and instead are resolved through plea deals. These negotiations happen without public input and frequently lack a mechanism for appeal. Checks and balances are critical for any profession, but are particularly important when a person's constitutional and procedural rights are at stake. Unfortunately, few metrics exist to measure what is happening in the plea negotiation process to shine light on whether important rights are being waived or if the threat of lengthy sentences is being used as a hammer to resolve cases by plea.

Prosecutors have immense discretion in the plea negotiation process with little oversight; generally, the plea process is an unregulated process. Recently numerous troubling examples have come to light of defendants waiving their rights to take advantage of programs passed by the Oregon Legislature as a condition for accepting a plea or release. The pressure to accept a plea deal is powerful. In our work, we have come across numerous accounts of defendants who were eager to go home to their children at any cost and sometimes accepted a plea deal without complete understanding of the consequences such as a permanent record, intensive probation requirements, or missed potential for rehabilitative programs. Reasonable safeguards would provide clarity in the process and ensure individuals are fully informed of their rights.

The U.S. Constitution and Oregon Constitution guarantee the accused of basic safeguards by imposing specific constraints on the state in how it is able to search, arrest or detain, prosecute, convict, and punish individuals. Transparency and reasonable limitations on the largely unregulated plea process will help ensure these rights are protected, acting as an important check on prosecutors. Further, oversight and regulation of the plea process is most certainly consistent with the spirit of many of the protections codified in our constitutions. It is time for a comprehensive and common sense look at plea bargaining and HB 4149 -6 will act as an

important first step in safeguarding all of our interests by ensuring plea deals are not conditioned on waiving important rights. This legislation brings increased fairness, accountability and transparency in Oregon's criminal justice system. For these reasons, we strongly urge you to support HB 4149.

Sincerely,

Kate Gonsalves
Political Director