

Non-Unanimous Jury Legislation Impact

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Cases on direct appeal

- DOJ agreed that over 400 direct appeals cases warrant reversal under *Ramos*
- All have been reversed and returned to the trial court or are in progress
- These cases will not be impacted by the proposed legislation

Final judgments at DOC

- Currently more than 400 pending post-conviction relief cases with a *Ramos* claim
- Additional individuals who could file a petition: ???
- How do we fill in the ???
 - ~12k people incarcerated at DOC
 - About a thousand have unanimous murder convictions
 - 2009 OPDS study estimated 40% of felony jury trials had at least one non-unanimous conviction
 - Some defendants will be able to prove non-unanimity and others will not

Final judgments no longer incarcerated

- Total: ???
 - There are tens of thousands of non-murder felony jury convictions going back to the 1930's
- Subset of total likely to file: ???
 - Likely to be individuals seeking relief from:
 - Non-expungeable records
 - Records with waiting time before expungement is available
 - Sex offender registry

Non-unanimity standard of proof

- Standard for proving non-unanimity will impact #s and process
- If court record is required:
 - 2009 OPDS study estimated that in 2/3 of criminal trials a jury poll was conducted
 - Once the Supreme Court granted review of *Ramos*, requesting a jury poll was standard practice
- If extraneous evidence is allowed, more defendants will be able to seek relief

Impact on DOJ Trial

- Trial division would process petitions for individuals who are incarcerated at DOC
 - Under ORS 138.570, the local DA handles PCR for individuals no longer incarcerated
- If jury poll or court record is required:
 - Fairly simple process with due diligence to ensure petition is correct
 - No need for a hearing or litigation
- If extraneous evidence is allowed:
 - Trial may conduct investigation, track down and interview witnesses, assess reliability of testimony, etc.
 - Hearings would be required and likely litigation

Impact on DOJ Appellate

- Cases that are retried will generate appeals
 - We see appeals in a very high number of cases with a criminal conviction after trial
- How many will be retried?
 - Total # of individuals eligible for relief is unknown
 - Cases where defendant has minimal time left to serve or has completed term are less likely to be retried
 - Older cases are very difficult to retry, so our assumption is many of these cases will result in dismissal
 - We assume that many cases will be resolved through plea negotiations

Impact on Victim Services

- DOJ provides victim notification and services when criminal cases are appealed, post-conviction relief is sought, and when convictions are overturned
- Victim services in each county, coordinated with the local DA office, handle victim services once the case is returned to the trial court for further proceedings
- Board of Parole also provides victim notification and services

Victim Services Capacity

- Volume of cases requiring victim notification and services is already higher than usual
- Staff (state and local) are stretched thin
 - DOJ has 1.5 staff providing this service and are hiring one additional staff authorized last session
- Factors:
 - Decreased VOCA funding
 - Commutations and early medical release

Victims – Messaging and services are crucial

- These are extremely delicate cases to handle and require a great deal of time with the victim
- Victims want to understand how it happened, why it is happening, and who the decision-maker(s) were
- To address re-traumatization, victims need more than notification, but instead require a continuum of services

Victims – Important things to note

- It is essential we locate and notify victims before they read about their case in the paper, yet:
 - It can often be difficult to locate victims
 - Coordination is required to ensure that victim services are made aware of what's coming
- Not all cases have a victim (non-person crimes), but person crime cases often have more than one victim