Criminal Justice Reform Clinic
Lewis & Clark Law School

The Ramos Project

Oregon's Unconstitutional Non-Unanimous Jury System Disproportionately Impacted People of Color

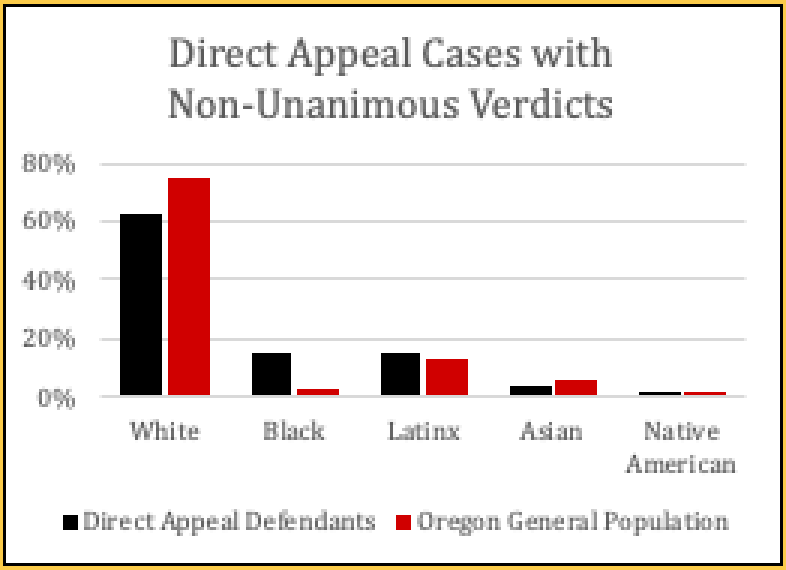
The Supreme Court found Oregon's non-unanimous jury system unconstitutional in *Ramos v. Louisiana*, 140 S. Ct. 1390 (2020)

*The system was enacted by a 1934 amendment to Oregon's Constitution and can be traced to "the rise of the Ku Klux Klan and efforts to dilute the influence of racial, ethnic, and religious minorities on Oregon juries."**

The data available suggests that the system's racially discriminatory purpose was actualized and people of color, *most disparately Black defendants*, were disproportionately convicted by non-unanimous jury verdicts

There is limited data regarding Oregon's non-unanimous jury system, and its full impact will never be known. Records of juror vote counts were not kept unless a jury poll was requested by an attorney or judge.

However, the Oregon Department of Justice (ODOJ) has fully or partially conceded criminal cases pending direct appeal due to a known non-unanimous jury verdict following the decision in *Ramos*. Additionally, according to information provided by Oregon Public Defense Services (OPDS), attorneys in other direct appeal cases have raised claims regarding known non-unanimous jury verdicts. A total of 427 cases are expected to have at least one count reversed due to a non-unanimous jury verdict.



The Ramos Project has reviewed public records to determine the racial designation of defendants in these 427 direct appeal cases, which provides a snapshot of the racial impact of Oregon's non-unanimous jury system in recent years.

- **63%** (269) involved **white** defendants, despite making up **75.1% of Oregon's population**
- **15.46%** (66) involved **Black** defendants, despite making up just **2.2% of Oregon's population**
- **14.99%** (64) involved **Latinx/Hispanic** defendants, despite making up just **13.4% of Oregon's population**
- **2.11%** (9) involved **Native American** defendants, despite making up just **1.8% of Oregon's population**

The Ramos Project is part of the Criminal Justice Reform Clinic at Lewis & Clark Law School. The Ramos Project assists people with final judgments affected by Oregon's non-unanimous jury system who may have claims for post-conviction relief based on the U.S. Supreme Court's recent decision in *Ramos v. Louisiana*.

For more information on The Ramos Project, please contact Professor Aliza B. Kaplan, akaplan@lclark.edu

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The Ramos Project has also reviewed public records to determine the racial makeup of people thus far who are challenging their old non-unanimous jury verdict convictions by filing for post-conviction relief (PCR).** Although this dataset includes cases from within several decades, the data again demonstrates that the non-unanimous jury system disparately impacted Black defendants.

Of these 244 PCR cases:

- **18.03%** (44) involve **Black** petitioners, despite making up just **2.2% of Oregon's population.**
- **16.39%** (40) involve **Latinx/Hispanic** petitioners, despite making up just **13.4% of Oregon's population.**
- **2.87%** (7) involve **Native American** petitioners, despite making up just **1.8% of Oregon's population.**

Please contact Aliza Kaplan, akaplan@lclark.edu, if you would like a copy of both raw datasets and analysis, including all county breakdowns.

County Spotlights

Of **Multnomah County's** 74 direct appeal cases:

- **37.84%** (28) involved **Black** defendants, despite making up just **6% of the county's population**

Of **Washington County's** 89 direct appeal cases:

- **20.22%** (18) involved **Black** defendants, despite making up just **2.5% of the county's population**

Of **Marion County's** 50 direct appeal cases:

- **38%** (19) involved **Latinx** defendants, despite making up just **27.2% of the county's population**

Of **Clackamas County's** 23 direct appeal cases:

- **13.04%** (3) involved **Black** defendants, despite making up just **1.2% of the county's population**

Of **Jackson County's** 19 direct appeal cases:

- **21.05%** (4) involved **Black** defendants, despite making up just **1% of the county's population**

The racist impact of Oregon's non-unanimous jury system compounded existing racial inequalities in Oregon's criminal justice system

People of color, especially Black people, are overrepresented in all stages of the criminal justice system. [1]

At the same time, people of color are underrepresented in jury pools and on juries. [2]

Allowing juries to return a guilty verdict where two jurors voted to acquit effectively suppresses the views of those minority jurors, who are often people of color. [3]

When 10 jurors agreed on the defendant's guilt, there was no need to continue deliberating or consider the opinions of those in disagreement. [4]

1. *See, e.g.*, Safety and Justice Challenge, Racial and Ethnic Disparities and the Relative Rate Index (RRI), at 7 (2016)
2. *See* Or. Judicial Dep't, Office of the State Court Administrator, The Oregon Supreme Court Task Force on Racial/Ethnic Issues in the Judicial System 73-74 (May 1994)
3. *See State v. Williams*, No. 15CR58698, at *18 (Or. Cir. Ct. Dec. 15, 2016)
4. *See* Angela A. Allen-Bell, *How The Narrative about Louisiana's Nonunanimous Criminal Jury System Became a Person of Interest in the Case Against Justice in the Deep South*, 67 MERCER L. REV. 585, 607 (2016).

** Ramos v. Louisiana, 140 S. Ct. 1390, 1394 (2020)*

*** Please be aware of the limitations of this dataset. This data is limited to those who have filed for post-conviction relief as of September 9, 2021, self-identified their conviction as being the result of at least one non-unanimous jury verdict, and sought and were given a court-appointed PCR attorney (therefore determined by the court to be indigent). In addition, translation services are not generally made available to people in prison to assist them in contemplating post-conviction relief or preparing PCR petitions, so the sample is likely underinclusive of non-English speakers.*