



February 3, 2022

Senate Committee on Judiciary and Ballot Measure 110 Implementation  
Oregon State Legislature  
900 Court St. NE  
Salem, OR 97301

**RE: Testimony in Support of SB 1511 — Providing a just process for unconstitutional non-unanimous jury convictions & supporting survivors of crime and violence**

Chair Prozanski, Vice Chair Thatcher, and Members of the Committee,

Thank you for the opportunity to share support for SB 1511 on behalf of the American Civil Liberties Union of Oregon (ACLU of Oregon). The ACLU of Oregon is a nonpartisan, nonprofit organization dedicated to preserving and enhancing civil liberties and civil rights, with more than 28,000 members statewide.

In the American criminal system, every juror's voice is supposed to matter. In almost all states and in federal courts, every juror had to vote for a guilty verdict in order for a person to be found guilty of a crime. However, Oregon and Louisiana deviated from this principle of justice. They were the only two states in U.S. history that allowed a person to be criminally convicted and sent to prison by a non-unanimous jury conviction – where up to two jurors could be ignored and silenced when they did not support a guilty verdict.

Historical research shows that Louisiana adopted its non-unanimous jury law in 1898 to “establish the supremacy of the white race.” Oregon followed Louisiana by adopting a non-unanimous jury law in 1934, during a rising tide of racism, anti-semitism, and xenophobia pushed by the Ku Klux Klan when tens of thousands of Oregonians were KKK members.

Two years ago, in the case *Ramos v. Louisiana*, the US Supreme Court struck down Oregon's law finding it unconstitutional. The Supreme Court stated that Oregon's law could 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.”

After the Supreme Court decision, it would have been just and fair to give all people convicted by an unconstitutional non-unanimous jury conviction the remedy of a just process. However, this did not happen. People with more recent convictions were given the opportunity for a just process, but people with older convictions were given no options – they had to stay in prison or be shackled with criminal convictions on their records. There

was no good reason for this. The Supreme Court simply decided to impose an arbitrary cutoff date for fairness and justice based on the age/status of a person's criminal case as of the *Ramos* decision.

It is not fair or just for any Oregonian convicted by an unconstitutional non-unanimous jury decision to remain in prison or have a criminal record simply based on the age/status of their criminal case as of the *Ramos* decision. It is not consistent with Oregonian's values to allow the harmful impact of this racist law to continue harming people for no good reason, even after Oregon's non-unanimous jury law has been struck down by the courts.

This year, the Oregon Legislature has the historic opportunity to address the systemic racism and injustice of non-unanimous jury convictions. Taking steps to address racism in our criminal system is particularly important given the disproportionate harms of the criminal legal system on Black and Indigenous people. Black Oregonians are imprisoned at a rate almost four times that of White people and Indigenous people are imprisoned at higher rates as well.<sup>1</sup>

Racial justice is an important value for Oregonians, and in order for our state to change systemic racism – including systemic racism in our criminal legal system – our state must acknowledge racist laws and take actions to reverse them.

I also want to support the victims and survivors who testified about SB 1511. I am so sorry for the harms that they experienced, and I want to thank them for their courage in speaking about SB 1511. Much of my professional work has involved supporting the victims and survivors of sexual violence, domestic violence, and human trafficking. This work is personal and important to me as I have loved ones, friends, and colleagues I care about deeply who are the survivors of sexual violence, domestic violence, gun violence, and other violent crimes. It is very important that we hear and support survivors while also making sure that our accountability processes are just and constitutional. I ask on behalf of the ACLU of Oregon community that when Oregonians convicted by non-unanimous juries request a just process under SB 1511, that the criminal legal process also listen to, involve, and support the victims and survivors of crime and violence.

**The ACLU of Oregon is grateful for our state's communities and elected leaders who are fighting to reverse and address the harms of racist laws while also supporting the victims and survivors of crime and violence. We urge your support of SB 1511.**

Thank you,

Sandy Chung  
Executive Director  
ACLU of Oregon  
Pronouns: she, her

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<sup>1</sup> <https://www.vera.org/downloads/pdfdownloads/state-incarceration-trends-oregon.pdf>