

Morgan Elizabeth Godvin
Portland, Oregon

To the Joint Committee:

I was not raised to fear police. The police taught me to fear them, interaction after interaction. Now, a decade after my last arrest, the fear is what lives with, permeating my daily life. A police officer pulls up behind me and my fingers clench around the steering wheel, my heart races. Then like now, I am not engaging in any criminal behavior. But fear imprints on the psyche unlike any other emotion.

It was a game of cat and mouse, predator and prey. The police were not there to protect me. Their goal was to arrest me. Not in the name of public safety, but in the name of arbitrarily defined drug laws. Had I been addicted to alcohol, the most common substance addiction in the world, I would have been considered sick and in need of treatment. Yet a genetic anomaly that leaves me effectively allergic to alcohol meant that my drug of choice could not be the legal substance that can be purchased at any store, with precise dosages, purity percentages, quality controls, and full-scale regulation—though alcohol has a higher morbidity and mortality rate than any other drug and causes the most damage to society.¹

I did not engage in criminal behavior. I delivered pizza at Domino's and attended Portland Community College, enticed by military education benefits and student loans. With legal income streams, I quietly managed a miserable heroin addiction without ever becoming a *criminal*. But that distinction was only important to my moral compass, utterly disregarded by the criminal justice system. Criminalizing drug possession chooses not to judge someone based on their actual, willful behavior, but rather on their state of being addicted to drugs. The substance in my pocket, that I needed to get through my day without suffering excruciating withdrawals that would've made me incapable of going to work or school, made me a criminal under the law.

While many of my friends turned to shoplifting, I continued making minimum wage and living off tip money. Stealing felt *wrong*. Yet I was committing a more severe offense than them, simply by being addicted to drugs and therefore having a speck of said drug in my pocket. While they were charged with a low-level misdemeanor, I was arrested for a felony. I was given the "choice" between pleading to that felony and having my EMT license and hope for my future revoked, or entering Multnomah County's STOP Court.

I thought the risk of a felony would finally be enough for me stop using. But addiction is defined as continued use despite repeated negative consequences. By the time I was finally arrested, after years and years of addiction, over a thousand drug transactions, and tens of thousands of intravenous injections, my luck—mostly my privilege, as a white and middle-class woman—could no longer spare my inevitable criminal justice involvement. I went to detox and treatment more times than I could count, always using my own private insurance. I was made to drive 20 miles to the outpatient treatment

¹ <https://www.reuters.com/article/idUSTRE6A000O/>

center multiple times a week, to pee in a cup while someone looked on. Frustrated with my own inability to stop using and desperate for help, after only ever being released on my own recognizance, I went before Judge Ryan and asked to be taken into custody. I thought if I could just be stabilized on the Suboxone I had finally managed to get prescribed, then and only then would I stop using. If I could get one week of forced sobriety in jail, taking nothing but the gold-standard medication for opioid use disorder, I would have a foundation upon which I could build my recovery. Instead, despite volunteering for jail, the medical department immediately refused to provide the suboxone I had turned myself in with, laughing in my face and condemning me to an agonizing cold turkey detox under fluorescent lights that never turned off, while 77 other women looked on as I vomited into a trash can. After seven days, I was released into the same circumstances as before, a little traumatized and a lot embittered.

Back in jail two weeks later, this time without the ability to plan ahead and take a week off work and organize my affairs, I was fired from my job, unemployed for the first time in my addiction. I withdrew from all my classes, lost my military education benefits, and became homeless when I couldn't pay my rent. For five years, I'd managed to keep my head above water and never turn to crime, the thought of it made my stomach churn. Destitute, I resigned myself to a life and death in heroin addiction.

I learned to associate the concept of recovery with handcuffs and jail cells. Being forced to do something made me dig in my heels, enveloping my identity in the “addict” label. In jail, I made new friends to buy drugs from, who showed me aspects of the criminal underworld I hadn't known existed. The criminogenic effect of incarceration, its propensity to make people *more likely* to commit further crime and return to jail, has been documented for decades.² Calling someone a “criminal” for the mere state of being addicted to drugs de-incentivizes that person from abstaining from criminal behavior, as they're already facing arrest and imprisonment, already a criminal in the eyes of the law and society. There is no evidence that arresting people for drug crimes has any relationship to the level of drug problems in a state.³

These are not hypothetical considerations. Oregon's overdose rate remains middle-of-the-pack nationwide, with two dozen states having a higher overdose rate despite all of them treating drug possession as a crime. The second-most carceral nation in the world, the United States, also has the highest overdose rate—twenty times the global average.⁴ Yet there is comfort in the familiar and political cowardice in the air. Instead of turning to solutions that are known to work, such as safe consumption spaces that simultaneously reduce public drug use, we are reaching into the same tired toolbox of mass incarceration.

The relationship between the police and the community has never been more strained. There is a public defender shortage so severe that people charged with serious crimes

² <https://www.tandfonline.com/doi/full/10.1080/07418825.2023.2193618>

³ <https://www.pewtrusts.org/en/research-and-analysis/speeches-and-testimony/2017/06/pew-analysis-finds-no-relationship-between-drug-imprisonment-and-drug-problems>

⁴ <https://www.bbc.com/news/world-us-canada-63206753>

are being let go due to lack of constitutionally entitled defense. Oregon's own justice officials have serious concerns about the re-criminalization proposal.⁵ States with astronomically higher incarceration rates are among the states with the highest overdose rate in the country. Washington, for example, re-criminalized drugs after their Supreme Court briefly invalidated their statute. Overdose have continued to rise in the aftermath, as overdoses do for seven to eight years after fentanyl becomes the dominant opioid in the supply.

People who have gone to jail for any length of time are twice as likely to overdose, according to research that I took part in for RTI International.⁶ Forced treatment is less effective than voluntary treatment and runs the severe risk of people permanently associating treatment and recovery with something forcibly imposed on them, with handcuffs and jail cells.

Most importantly, this will reignite the game of cat-and-mouse between drug users and police while bringing no public safety benefit. The police should be there to protect us, all of us, including people who use drugs. Instead, you want them to act as our enemy. Unfortunately, many respond in kind, and relations between the two will fray even further, damaging public safety and leading to a reduction in calls to 911 for both drug overdose and victimization.

I serve on the Oregon Alcohol and Drug Policy Commission, the Multnomah County Local Public Safety Coordinating Council, and the Measure 110 Oversight and Accountability Council. Yet I cannot shake the fear. I do not call the police. Ever since my first overdose, where my boyfriend was arrested out of our bedroom and given a felony drug possession conviction, leading to our immediate eviction, I learned. What I once believed to be a fair and just nation, the nation I rose my right hand for and swore to defend with my life when I joined the Air Force, is cruel. We prefer punishment to prevention. We tolerate human suffering as long as it is out of sight, behind the bars of a jail cell.

Unless drug treatment comes with permanent supportive housing, our exploding homelessness crisis will only worsen as jail stints just long enough to destabilize someone's life again become the norm. Overdoses will continue to rise. There is no empirical evidence that any good can come of this proposal, and mountains of evidence of its harms. You are choosing political expediency over public safety.

At the peak of Multnomah County's drug court, a mere 30% graduated successfully. Their success was lauded and held up as the very reason drug possession needs to be a crime. There was no mention of the destruction wrought on the 70% of us who failed, who were jailed repeatedly, whose lives were destroyed, who overdosed and died just after their release, when overdose risk is dramatically increased.

⁵ <https://oregoncapitalchronicle.com/2024/02/14/oregon-judges-including-chief-justice-concerned-about-legislative-addiction-proposal-letter-says/>

⁶ https://s3.amazonaws.com/assets.cfseco.com/m110/M110+RS+Panel+Overview_Final.pdf

There is no deterrent effect of increasing punishment. The only crime deterrent is the certainty of arrest.⁷ Of the 1,500 drug transactions I engaged in during my addiction, exactly two resulted in arrest. According to a survey of hundreds of Oregon drug users across the state, a mere 19% of people knew that either all drugs or fentanyl itself was decriminalized, despite 45% of people reporting regular fentanyl use. Prospective punishments, distant and abstract notions, are nearly incomprehensible to people who cannot see beyond the 12-hour window they have before withdrawals set in, people who are so focused on surviving the day they cannot think about tomorrow. When I was addicted, I assure you I was not following niche state politics.

According to Portland State University criminal justice researcher Dr. Kelsey Henderson, who presented at RTI International's Measure 110 Research Symposium, at the absolute peak of PCS arrests and drug court—before the public defender shortage and police staffing crisis—a mere 5.6% of Oregonians with a substance use disorder were receiving treatment through drug court in a given year⁸, with a mere minority of them graduating successfully. It is a sick calculus to value the abstinence of a few over the lives of the many, and that is what you are voting on.

The first rule of any public policy should be “do no harm.” While healing is a longer journey and much more complicated, it is also imperative. If the outcomes of decades of the war on drugs were scrutinized a fraction of the degree of Measure 110, it long ago would've fallen. Instead, after a trillion dollars in taxpayer resources, drugs are cheaper and more freely available than ever before in history.

The average length of time drug users have lived in Oregon is 21 years. The average length of time they've been using drugs is over 20 years.⁹ Over 95% of Class E drug possession citation recipients are Oregon residents.¹⁰ Calls to 911 did not increase after Measure 110, a proxy for crime and disorder. But it appears that facts no longer matter, in presidential debates nor in the Oregon legislature.

I am crestfallen to think that the system that harmed my friends and me, many of whom did not live to see the day that drug possession was finally treated as a health issue instead of a crime, is going to come back with a vengeance. That anyone who does not stop using drugs on the timeline of the State will again be deemed a criminal, not due to their behavior but due to their drug addiction. Yet it is easier to have a blanket license to arrest drug users than do actual policework.

Racial disparities in drug arrests plummeted after Measure 110. But you would rather appease the anxious elite, who make no effort to hide their disdain for those afflicted with addiction, than create a more equitable and just society. The media may turn their sights elsewhere, never again scrutinizing the outcome of our drug policy, but I will not. I am beginning a doctorate program in substance use, and I will be here to remind you of

⁷ <https://nij.ojp.gov/topics/articles/five-things-about-deterrence>

⁸ https://s3.amazonaws.com/assets.cfsecosystem.com/m110/Presentations/Panel+4_Henderson.pdf

⁹ https://s3.amazonaws.com/assets.cfsecosystem.com/m110/Presentations/Panel+3+Chung_FINAL.pdf

¹⁰ <https://www.courts.oregon.gov/about/Documents/BM110Statistics.pdf>

your cowardice, of the harm you are bringing onto the state, and of the fact that drug users are human beings entitled to the same basic human rights as all other residents of this state.

When people with criminal convictions for drug possession turn to other crime because why not, since they're already a "criminal," when people disengage with treatment because it was forced on them, when people overdose and die the night they are released from jail, when Black and Brown faces begin to fill our jails for their high crime of intoxicating themselves as humans have done for millennia, I will be here to remind you.

Oppose the recriminalization of drugs if you believe in human rights, in dignity for all. Oppose the recriminalization of drugs if you believe that criminal law should be logical and judge people based off their behavior and not simply the fact they are addicted to drugs. Oppose recriminalization if you do not want to destroy the relationship between police and the wider community. Oppose this bill because what did not work before will not work in the future, because when the very policy that is failing us the nation over will not work if we simply do it *more*, do it *harder*.

I oppose the recriminalization of drugs because I want to stand on the right side of history. Because I have traveled to Portugal, Spain, and Uruguay to study their systems of decriminalization and health-based approaches, and seen sane systems that promote public health, if causing police to have to engage in actual policework if disallowing police to sacrifice human life so that a user may "snitch" on their supplier. Drug seizures in Portugal increased astronomically after their decriminalization allowed the police to focus on more serious crime. In Oregon, police abdicated drug enforcement duties and allowed open air markets to crop up, so flagrant a barely-undercover journalist could buy fentanyl in minutes¹¹. The Oregon Health Authority alternated between benign neglect, institutional incompetence, and malicious sabotage in how it operated the Measure 110 Oversight and Accountability Council. Medicaid-funded services, never intended to be funded by the Measure, remain painfully absent.

We had ten years to prepare for fentanyl's arrival from when it first appeared on the East Coast, and we sat on our hands, doing nothing, ranking near last in the country for treatment access and then acting surprised when it supplanted heroin more quickly than anywhere else in the nation, black tar heroin's last stand toppling in months as the dwindling supply chain simply dried up. Long ago I was disabused of the notion this is a fair and just nation, but I took solace in the fact that at least my state had values and a moral compass. I was so proud to be an Oregonian. With this proposal, my pride has been chipped away into nothing. We are little more than a reactive, fear-based populace who choose punishment over true public safety. I should not be surprised, but I am.

¹¹<https://www.wweek.com/news/2023/07/26/on-portlands-fentanyl-corner-a-dance-with-death-sells-for-20/>