

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

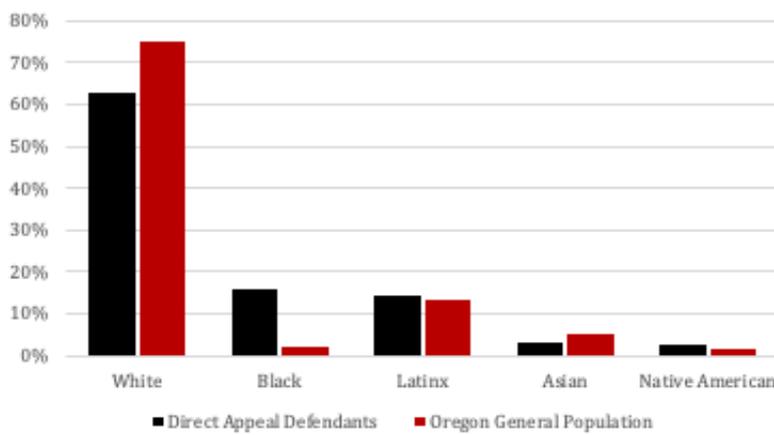
There is limited data regarding Oregon's non-unanimous jury system, and its full impact will never be known. Records of juror vote counts were not kept unless a jury poll was requested by an attorney or judge.

However, on May 11, 2020, the Oregon Department of Justice (ODOJ) released a list of all criminal cases pending direct appeal when the *Ramos* ruling was issued, which the ODOJ identified for the purpose of fully or partially conceding reversal due to a known non-unanimous jury verdict.

The Ramos Project has reviewed public records to determine the racial designation of defendants in the 269 conceded cases, which provides a snapshot of the racial impact of Oregon's non-unanimous jury system in recent years.

- **62.08%** (167) involved **white** defendants, despite making up **75.1% of Oregon's population**
- **15.99%** (43) involved **Black** defendants, despite making up just **2.2% of Oregon's population**
- **14.87%** (40) involved **Latinx** defendants, despite making up just **13.4% of Oregon's population**
- **2.60%** (7) involved **Native American** defendants, despite making up just **1.8% of Oregon's population**

Direct Appeal Cases with Non-Unanimous Verdicts



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*.

*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 201 PCR cases:

- **64.68%** (130) involved **white** petitioners, despite making up **75.1% of Oregon's population**
- **17.91%** (36) involved **Black** petitioners, despite making up just **2.2% 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** 52 conceded cases:

- **32.69%** (17) involved **Black** defendants, despite making up just **6% of the county's population**

Of **Washington County's** 53 conceded cases:

- **22.64%** (12) involved **Black** defendants, despite making up just **2.5% of the county's population**

Of **Marion County's** 37 conceded cases:

- **37.84%** (14) involved **Latinx** defendants, despite making up just **27.2% of the county's population**



Of **Lane County's** 21 conceded cases:

- **28.57%** (6) involved **non-white** defendants, despite making up just **18.7% of the county's population**

Of **Jackson County's** 13 conceded cases:

- **23.08%** (3) 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 January 28, 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.