

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

CHARLES WESLEY KINCHELOE,
Petitioner,

v.

STATE OF OREGON,
Respondent

On Petition for a Writ of Certiorari to the Supreme Court of the State of Oregon

APPENDIX TO PETITION FOR WRIT OF CERTIORARI

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Filed: December 24, 2020

IN THE SUPREME COURT OF THE STATE OF OREGON

STATE OF OREGON,

Respondent on Review,

v.

CHARLES WESLEY KINCHELOE,

Petitioner on Review.

(CC 17CR48475) (CA A167760) (SC S067611)

En Banc

On review from the Court of Appeals.*

Argued and submitted August 18, 2020.

Erik Blumenthal, Deputy Public Defender, Office of Public Defense Services, Salem, argued the cause and filed the briefs for petitioner on review. Also on the briefs were Ernest G. Lannet, Chief Defender, and Joshua B. Crowther, Deputy Public Defender.

Doug M. Petrina, Assistant Attorney General, Salem, argued the cause and filed the brief for respondent on review. Also on the brief were Ellen F. Rosenblum, Attorney General, Benjamin Gutman, Solicitor General, and Christopher A. Perdue, Assistant Attorney General.

Scott Sell, Thomas, Coon, Newton & Frost, Portland, filed the brief on behalf of *amicus curiae* Street Roots.

Jonathan Zunkel-deCoursey, Schwabe, Williams & Wyatt, P.C., Portland, filed the brief on behalf of *amicus curiae* Immigrant and Refugee Community Organization. Also on the brief was Jeanice Chieng, Immigrant and Refugee Community Organization, Portland.

Cody Hoesly, Larkins Vacura Kayser LLP, Portland, filed the brief on behalf of *amici curiae* NAACP Corvallis Branch #1118, NAACP Eugene-Springfield Branch, #1119, NAACP Portland Chapter 1120B, and NAACP Salem-Keizer Branch #1166.

Timothy Wright, Tonkon Torp LLP, Portland, filed the brief for *amicus curiae* Don't Shoot Portland. Also on the brief was J. Ashlee Albies, Albies & Stark, Portland.

Nathan R. Morales, Perkins Coie LLP, Portland, filed the brief on behalf of *amici curiae* The Coalition of Communities of Color and Latino Network. Also on the brief was Misha Isaak.

Aliza B. Kaplan filed the brief on behalf of *amicus curiae* Criminal Justice Reform Clinic at Lewis & Clark Law School. Also on the brief was Sarah Laidlaw.

GARRETT, J.

The decision of the Court of Appeals is affirmed in part and reversed in part. The judgment of the circuit court is affirmed in part and reversed in part, and the case is remanded to the circuit court for further proceedings.

*On appeal from Jackson County Circuit Court,
Timothy Barnack, Judge.
302 Or App 654, 458 P3d 736 (2020).

DESIGNATION OF PREVAILING PARTY AND AWARD OF COSTS

Prevailing party: Petitioner on Review.

- [X] No costs allowed.
[] Costs allowed, payable by:
[] Costs allowed, to abide the outcome on remand, payable by:
-

1 GARRETT, J.

2 In this case, we again address the application of the United States Supreme
3 Court's decision in *Ramos v. Louisiana*, ___ US ___, 140 S Ct 1390, 206 L Ed 2d 583
4 (2020), which held that the Sixth Amendment requires a jury to be unanimous in order to
5 convict a defendant of a serious offense.

6 Defendant was charged with several offenses, including first-degree rape,
7 first-degree sodomy, and fourth-degree assault. Defendant's case was tried to a twelve-
8 person jury in 2018, prior to the Supreme Court's decision in *Ramos*. While formulating
9 jury instructions, the trial court asked defendant whether he wished to object to the
10 instruction that the jury could return a nonunanimous verdict, stating, "All the defense
11 attorneys are doing that now." Defense counsel responded, "That's fine." There was no
12 further discussion of the issue. The jury was instructed that "10 or more jurors must
13 agree on the verdict." The jury found defendant guilty of first-degree rape, first-degree
14 sodomy, and fourth-degree assault. Defendant requested that the trial court poll the jury.
15 The trial court conducted the poll by distributing slips of paper to each juror. On each
16 slip, under the words "I voted for this verdict," were the words "Yes" and "No,"
17 accompanied by lines for jurors to mark. The poll revealed that the jury had unanimously
18 convicted defendant of the sodomy and assault charges but that it had divided eleven to
19 one on the rape count.

20 Defendant appealed, assigning error to the nonunanimous jury instruction

1 and to the receipt of the nonunanimous verdict.¹ Defendant conceded that he had not
2 preserved that assignment of error, and he asked the Court of Appeals to conduct plain
3 error review. In a decision issued before the Supreme Court's decision in *Ramos*, the
4 Court of Appeals affirmed defendant's convictions without opinion. *State v. Kincheloe*,
5 302 Or App 654, 458 P3d 736 (2020).

6 Defendant filed a petition for review, which, after the Supreme Court
7 decided *Ramos*, we allowed. Defendant argues that *Ramos* requires that all his
8 convictions, including the two convictions based on unanimous verdicts, be reversed. As
9 to those latter convictions, he first contends that the nonunanimous jury instruction was a
10 structural error, which always requires reversal. In the alternative, he argues that, even if
11 the error is subject to a harmlessness analysis, the poll of the jury is insufficient to
12 establish that the jury instruction was harmless beyond a reasonable doubt. *See Chapman*
13 *v. California*, 386 US 18, 24, 87 S Ct 824, 17 L Ed 2d 705 (1967) (establishing the
14 "harmless beyond a reasonable doubt" standard for harmless error for federal
15 constitutional violations). In addition, defendant argues that his challenge to the
16 nonunanimous jury instruction qualifies for plain error review, and that this court should
17 reverse defendant's convictions regardless of whether he objected to the jury instruction
18 in the trial court.

19 The state concedes that defendant's single conviction based on a

¹ Defendant raised another assignment of error concerning the denial of a motion for a judgment of acquittal on one count, but that issue is beyond the limited scope of the question that we allowed review to address.

1 nonunanimous verdict must be reversed, but it argues that the instructional error is
2 harmless with respect to the two convictions based on unanimous verdicts.

3 One additional wrinkle has emerged. In the Court of Appeals, defendant
4 conceded that he had not preserved his assignment of error. In his briefing in this court,
5 though, defendant argues that his exchange with the trial court was sufficient to preserve
6 an objection to the nonunanimous jury instruction. The state appears to concede that
7 defendant preserved his assignment of error.

8 Our decision in *State v. Flores Ramos*, ___ Or ___, ___ P3d ___ (Dec 24,
9 2020), also issued today, resolves nearly all the questions in this case. In *Flores Ramos*,
10 the defendant made identical arguments that the jury instruction permitting
11 nonunanimous verdicts was structural error and that it could not be held harmless error
12 even if it were subject to a harmlessness analysis. ___ Or at ___ (slip op at 5:18-6:2).
13 *Flores Ramos* held that instructing the jury that it could return a nonunanimous guilty
14 verdict was not a structural error. *Id.* at ___ (slip op at 32:8-20). It also held that, where
15 the jury poll reveals that the jury unanimously found the defendant guilty of the charged
16 offense, the nonunanimous jury instruction can be held harmless beyond a reasonable
17 doubt. *Id.* at ___ (slip op at 33:7-12). *Flores Ramos* rejected the defendant's narrower
18 argument that, where the jury returned both unanimous and nonunanimous guilty
19 verdicts, the instructional error could not be held harmless as to the unanimous verdicts
20 because the jury's deliberation would have been cut short. *Id.* at ___ (slip op at 50:4-8).
21 And we also rejected the defendant's argument that a jury poll could not reliably show
22 that the jury's verdict was unanimous. *Id.* at ___ (slip op at 38:6-39:2).

1 The principal difference between this case and *Flores Ramos* is the possible
2 lack of preservation. However, whether defendant preserved a challenge to the
3 nonunanimous jury instruction is not, in light of *Flores Ramos*, a dispositive question in
4 this case. Even assuming that defendant preserved an objection to the jury instruction,
5 we conclude that that error was harmless as to the two convictions based on unanimous
6 verdicts, for the same reasons that we affirmed the convictions based on unanimous
7 verdicts in *Flores Ramos*. We therefore affirm defendant's convictions for first-degree
8 sodomy and fourth-degree assault without deciding whether defendant adequately
9 preserved an objection to the nonunanimous jury instruction.

10 As to defendant's nonunanimous conviction for first-degree rape, we would
11 reverse that conviction even if defendant had failed to preserve an objection. The trial
12 court plainly erred in receiving that verdict. *See State v. Ulery*, 366 Or 500, 464 P3d
13 1123 (2020) (holding that receipt of a nonunanimous guilty verdict for a nonpetty offense
14 constitutes plain error in light of *Ramos*). As we explained in *Ulery*, the receipt of a
15 nonunanimous guilty verdict is the type of plain error that an appellate court should
16 exercise its discretion to review, and it is an error that cannot be found harmless. *Id.* at
17 504. Therefore, again without addressing whether defendant preserved his assignment of
18 error, we reverse defendant's conviction for first-degree rape.

19 The decision of the Court of Appeals is affirmed in part and reversed in
20 part. The judgment of the circuit court is affirmed in part and reversed in part, and the
21 case is remanded to the circuit court for further proceedings.

Filed: December 24, 2020

IN THE SUPREME COURT OF THE STATE OF OREGON

STATE OF OREGON,

Respondent on Review,

v.

ISIDRO FLORES RAMOS,
aka Santiago Flores Martinez,

Petitioner on Review.

(CC 17CR30088) (CA A167187) (SC S067105)

En Banc

On review from the Court of Appeals.*

Argued and submitted August 18, 2020.

Erik Blumenthal, Deputy Public Defender, Office of Public Defense Services, Salem, argued the cause and filed the briefs for petitioner on review. Also on the brief were Ernest G. Lannet, Chief Defender, and Joshua B. Crowther, Deputy Public Defender.

Christopher A. Perdue, Assistant Attorney General, Salem, argued the cause and filed the brief for respondent on review. Also on the brief were Ellen F. Rosenblum, Attorney General, Benjamin Gutman, Solicitor General, and Doug M. Petrina, Assistant Attorney General.

Scott Sell, Thomas, Coon, Newton & Frost, Portland, filed the brief on behalf of *amicus curiae* Street Roots.

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Don't Shoot Portland. Also on the brief was J. Ashlee Albies, Albies & Stark, Portland.

Nathan R. Morales, Perkins Coie LLP, Portland, filed the brief on behalf of *amici curiae* The Coalition of Communities of Color and Latino Network. Also on the brief was Misha Isaak.

Aliza B. Kaplan filed the brief on behalf of *amicus curiae* Criminal Justice Reform Clinic at Lewis & Clark Law School. Also on the brief was Sarah Laidlaw.

GARRETT, J.

The decision of the Court of Appeals is affirmed in part and reversed in part. The judgment of the circuit court is affirmed in part and reversed in part, and the case is remanded to the circuit court for further proceedings.

*On appeal from Clackamas County Circuit Court,
Douglas V. Van Dyk, Judge.
298 Or App 841, 449 P3d 572 (2019).

DESIGNATION OF PREVAILING PARTY AND AWARD OF COSTS

Prevailing party: Petitioner on Review.

- [X] No costs allowed.
[] Costs allowed, payable by:
[] Costs allowed, to abide the outcome on remand, payable by:
-

1 GARRETT, J.

2 In this case, we again consider the effect of the United States Supreme
3 Court's decision in *Ramos v. Louisiana*, ___ US ___, 140 S Ct 1390, 206 L Ed 2d 583
4 (2020), which held that the Sixth Amendment¹ requires a jury to be unanimous in order to
5 convict a defendant of a serious offense. We have held that *Ramos* requires reversal of
6 Oregon convictions based on nonunanimous jury verdicts. *State v. Ulery*, 366 Or 500,
7 464 P3d 1123 (2020). This case presents a different issue: After being instructed that it
8 could convict defendant by a vote of ten to two, the jury found defendant guilty of five
9 crimes, four by unanimous verdicts and one by a nonunanimous verdict. Under *Ramos*
10 and *Ulery*, the one conviction based on a nonunanimous verdict must be reversed. The
11 additional question that we must answer in this case is whether the convictions based on
12 unanimous verdicts must also be reversed, because the jury that returned them was
13 instructed that it could convict defendant without reaching unanimity. Although we
14 agree with defendant that instructing the jury that it could convict him by a
15 nonunanimous vote violated the Sixth Amendment, we conclude that the error does not
16 require any of defendant's unanimous convictions to be reversed.

17 I. BACKGROUND

18 A. *Legal Context*

19 We first clarify what we already have decided and the limited scope of the

¹ The Sixth Amendment to the United States Constitution provides that, "[i]n all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed[.]"

1 issues to be decided in this case. In *Ramos*, the Supreme Court held that the Sixth
2 Amendment requires that the jury be unanimous to convict a criminal defendant of a
3 serious offense and that that requirement is binding on the states through the Due Process
4 Clause of the Fourteenth Amendment. ____ US at ____, 140 S Ct at 1397. The rule
5 announced in *Ramos* applies to all cases now on appeal -- regardless of whether the trial
6 occurred before or after *Ramos*. *Griffith v. Kentucky*, 479 US 314, 107 S Ct 708, 93 L Ed
7 2d 649 (1987) (holding that new rules of constitutional law apply to all cases still on
8 direct appeal). Before *Ramos*, in every felony case tried to a jury in Oregon, a
9 nonunanimous verdict of 10 votes out of 12 was sufficient for a conviction of any offense
10 other than murder, and juries were so instructed. *See* Or Const, Art I, § 11 ("[I]n the
11 circuit court ten members of the jury may render a verdict of guilty or not guilty, save and
12 except a verdict of guilty of first degree murder, which shall be found only by a
13 unanimous verdict, and not otherwise[.]"). In many of those cases, the jury was polled,
14 and the jury poll revealed that only 10 or 11 jurors agreed with the verdict on one or more
15 counts of conviction.

16 *Ramos* makes clear that all convictions for serious offenses that were based
17 on nonunanimous verdicts involved constitutional error -- a violation of the defendant's
18 Sixth Amendment right to jury unanimity. Not every constitutional error requires
19 reversal of a conviction, but, in *Ulery*, we held that the receipt of a nonunanimous guilty
20 verdict always does. 366 Or at 504. That is, we held that acceptance of a nonunanimous
21 guilty verdict represents a sufficiently grave error to require reversal of the conviction,
22 when the error is properly presented to an appellate court on appeal.

1 We further held in *Ulery* that reversal of nonunanimous convictions was
2 appropriate even if the error had not been preserved in the trial court. As a general rule,
3 Oregon appellate courts will consider assignments of error only where the error was
4 properly objected to at trial. ORAP 5.45(1). In many cases, jurors were instructed that
5 they could return nonunanimous guilty verdicts, and nonunanimous guilty verdicts were
6 received, without any objection from the defendant -- a circumstance that ordinarily
7 would preclude appellate review. However, the state has conceded, and we have agreed,
8 that receipt of nonunanimous verdicts qualifies as plain error, which is subject to reversal
9 even when the assignment of error was not preserved. *Ulery*, 366 Or at 503. And the
10 receipt of a nonunanimous verdict is an error sufficiently grave that appellate courts
11 should exercise their discretion to correct the error on appeal, despite the state's interest
12 "in avoiding the expense and difficulty associated with a retrial." *Id.* at 504. Further, in
13 *State v. Williams*, 366 Or 495, 466 P3d 55 (2020), we held that it was appropriate to
14 waive the rules of appellate procedure to permit consideration of the nonunanimous jury
15 issue in cases where the issue might not otherwise be considered properly presented on
16 direct appeal.

17 Thus, under *Ramos*, *Ulery*, and *Williams*, the substantial majority of
18 nonunanimous convictions on appeal at the time that *Ramos* was decided must be
19 reversed, and many such convictions already have been reversed, typically by order
20 rather than by published opinion. That much has already been decided. A significant
21 question not yet resolved is whether *Ramos* requires convictions to be reversed when the
22 jury was erroneously instructed that it could convict without being unanimous, but it

1 nonetheless voted unanimously to convict -- which is what happened with four of the
2 counts in this case. The state presents a straightforward argument that a unanimous
3 conviction renders the instructional error harmless because defendant ultimately received
4 that to which he was entitled: unanimity. Thus, although the state agrees that defendant's
5 lone nonunanimous conviction must be reversed, it contends that the unanimous
6 convictions should be upheld. Defendant advances several contrary arguments, which we
7 address in this opinion. Before taking up those questions, we recite the facts of this case.

8 B. *Factual and Procedural Background*

9 Defendant broke into a home and sexually assaulted a nine-year-old girl.
10 Defendant was charged with first-degree unlawful sexual penetration, first-degree sexual
11 abuse, attempted first-degree rape, first-degree burglary, and coercion. Before trial, he
12 filed a motion requesting that the jury be instructed that it needed to be unanimous to
13 convict. The trial court denied that motion. The jury was instructed that,

14 "[a]s to each count, ten or more jurors must agree on your verdict. So
15 whether your verdict is not guilty or guilty, at least ten of you must agree
16 on that verdict. If you are divided nine to three, for example, you do not
17 have a verdict."

18 After deliberations that lasted approximately an hour and a half, the jury
19 returned guilty verdicts on each of the five counts. The trial court polled the jury by
20 asking the jurors who voted "guilty" on each count to raise their hands. The poll
21 indicated that the jury had reached unanimous guilty verdicts on all counts except for the
22 attempted first-degree rape count. On that count, only 10 jurors had voted to convict.
23 Defendant did not object to the manner in which the trial court polled the jury, and

1 defense counsel indicated that he was satisfied by the poll. The trial court received the
2 verdicts and entered a judgment based on them.²

3 Defendant appealed. As relevant here, he assigned error to both the use of
4 the nonunanimous jury instruction and the receipt of the nonunanimous verdict --
5 assignments of error that he had preserved in the trial court. He argued that those errors
6 required reversal of all his convictions. In a decision issued before *Ramos*, the Court of
7 Appeals affirmed defendant's convictions without opinion. *State v. Flores Ramos*, 298
8 Or App 841, 449 P3d 572 (2019). Defendant filed a petition for review in this court,
9 which we held in abeyance until the Supreme Court issued its decision in *Ramos*. After
10 *Ramos* was decided, we allowed review.

11 As noted, the jury returned five guilty verdicts, four of which were
12 unanimous. On the charge of attempted first-degree rape, the jury was not unanimous.
13 The state concedes that, under *Ramos*, defendant's conviction on that count cannot stand.
14 We agree and reverse that part of the trial court's judgment. What we address in this
15 opinion are the other four counts, where, despite being instructed incorrectly, the jury
16 nonetheless voted unanimously to convict.

17 II. CONSTITUTIONAL ERROR

18 The central dispute in this case is whether the trial court's instructional error
19 permitting nonunanimous guilty verdicts requires defendant's unanimous convictions to

² Although the jury returned five guilty verdicts, the first-degree unlawful sexual penetration and first-degree sexual abuse counts merged for purposes of conviction, so the judgment reflects four convictions.

1 be reversed, either because it amounted to a "structural" error that always requires
2 reversal or, in the alternative, because the error was not harmless. Before turning to those
3 arguments, we briefly address an additional argument made by the state, which suggests
4 that no constitutional error occurred at all.

5 Defendant argues that the Sixth Amendment, as incorporated through the
6 Due Process Clause of the Fourteenth Amendment, was violated when the trial court
7 instructed the jury that it could return a unanimous conviction. Although the state agrees
8 that the instruction was erroneous, it disagrees that the Sixth Amendment was violated
9 simply by the giving of the instruction. The state argues that an erroneous jury
10 instruction amounts to a federal constitutional violation only if there is "'a reasonable
11 likelihood that the jury has applied the challenged instruction in a way' that violates the
12 Constitution." *Estelle v. McGuire*, 502 US 62, 72, 112 S Ct 475, 116 L Ed 2d 385 (1991)
13 (quoting *Boyde v. California*, 494 US 370, 380, 110 S Ct 1190, 108 L Ed 2d 316 (1990)).
14 The state further argues that, because the jury was unanimous on the four counts in
15 question, the jury necessarily did not apply the instruction in a way that violated the
16 constitution.

17 *Boyde* and *McGuire* are inapplicable. Those cases articulate a standard that
18 applies to "claims that allegedly ambiguous instructions caused jury confusion." *Jones v.*
19 *United States*, 527 US 373, 390, 119 S Ct 2090, 144 L Ed 2d 370 (1999). "In such cases,
20 constitutional error exists only if 'there is a reasonable likelihood' that the jury so
21 interpreted the instruction." *Calderon v. Coleman*, 525 US 141, 146, 119 S Ct 500, 142 L
22 Ed 2d 521 (1998). *McGuire* suggests nothing different, as a fuller quotation of the

1 passage excerpted by the state makes clear:

2 "In addition, *in reviewing an ambiguous instruction such as the one at issue*
3 *here*, we inquire 'whether there is a reasonable likelihood that the jury has
4 applied the challenged instruction in a way' that violates the Constitution."

5 502 US at 72 (quoting *Boyde*, 494 US at 380) (emphasis added).

6 The state appears to read *Boyde* and *McGuire* to hold that whether a jury
7 instruction violates the constitution depends on whether the instruction affected the jury's
8 verdict, even where the jury would certainly have understood the instruction in a manner
9 that violated the constitution. But "[t]he *Boyde* analysis does not inquire into the actual
10 effect of the error on the jury's verdict[.]" *Coleman*, 525 US at 147. That is, when the
11 claim is that "the jury was given an ambiguous instruction that it might have interpreted"
12 in an impermissible manner, the question is whether "there is a reasonable likelihood that
13 the jury *so interpreted* the instruction." *Id.* at 146 (emphasis added; internal quotation
14 marks omitted). See *United States v. Doyle*, 130 F3d 523, 536 (2d Cir 1997) ("In other
15 words, then, we do not engage in an inquiry of harmless error review such as was
16 enunciated in *Chapman v. California*, 386 US 18, 23, 87 S Ct 824, 17 L Ed 2d 705
17 (1967), which looked at the *case* in its entirety to analyze the effect of the error on the
18 jury's *verdict*. Rather, we assess only the *charge*, taken as a whole, in order to determine
19 whether there is a reasonable likelihood that the jury misinterpreted the *reasonable doubt*
20 *instruction*." (Emphases in original)).

21 *Boyde* and *McGuire* thus articulate an inquiry applicable only to ambiguous
22 instructions. But the problem with the instruction challenged in this case is not that it
23 was ambiguous. Rather, in light of *Ramos*, it was unambiguously wrong; it expressly

1 told the jury that it could do what the Sixth Amendment forbids. *Boyde* and *McGuire*
 2 thus do not apply. And even if they did, they would have little to add; because the
 3 instruction was unambiguously incorrect, there is more than a reasonable likelihood "that
 4 the jury so interpreted the instruction." *Coleman*, 526 US at 146. We conclude that the
 5 Sixth Amendment is violated when a trial court tells the jury that it can convict a
 6 defendant of a serious offense without being unanimous. A unanimous verdict may
 7 render that constitutional violation harmless, as we explain in detail below, but it does not
 8 operate retroactively to prevent the violation from having occurred.

9 III. STRUCTURAL ERROR

10 Having concluded that the Sixth Amendment was violated when the jury
 11 was instructed that it could return a nonunanimous guilty verdict, we turn to the central
 12 question presented -- whether that error requires reversal of defendant's unanimous
 13 convictions. Most federal constitutional errors require reversal unless the error can be
 14 found "harmless beyond a reasonable doubt." *Chapman*, 386 US at 24. That is, the
 15 reviewing court must be satisfied that the error did not affect the outcome. We address
 16 harmless error in section IV below. However, some federal constitutional violations
 17 qualify as "structural" errors, which is to say that the error is a "structural defect affecting
 18 the framework within which the trial proceeds, rather than simply an error in the trial
 19 process itself." *Arizona v. Fulminante*, 499 US 279, 310, 111 S Ct 1246, 113 L Ed 2d
 20 302 (1991). Structural error is not susceptible to a harmless analysis; if a structural
 21 error occurred, the conviction must be reversed. Defendant argues that the instructional
 22 error that occurred in this case was structural, requiring reversal of all his convictions.

A. *Structural Error Defined*

In arguing that the instructional error was structural, defendant must satisfy a high standard. The Supreme Court has "found an error to be 'structural,' and thus subject to automatic reversal, only in a 'very limited class of cases.'" *Neder v. United States*, 527 US 1, 8, 119 S Ct 1827, 144 L Ed 2d 35 (1999) (quoting *Johnson v. United States*, 520 US 461, 468, 117 S Ct 1544, 137 L Ed 2d 718 (1997)). And, "[i]f the defendant had counsel and was tried by an impartial adjudicator, there is a strong presumption that any other errors that may have occurred are subject to harmless-error analysis." *Rose v. Clark*, 478 US 570, 579, 106 S Ct 3101, 92 L Ed 2d 460 (1986).

Consistent with that presumption, the Supreme Court has held that a wide variety of trial errors are subject to harmless analysis.³ The concept of structural

³ In *Fulminante*, 499 US at 306-07, the Supreme Court offered the following partial list of errors subject to harmless analysis:

"unconstitutionally overbroad jury instructions at the sentencing stage of a capital case"; "admission of evidence at the sentencing stage of a capital case in violation of the Sixth Amendment Counsel Clause"; "jury instruction containing an erroneous conclusive presumption"; "jury instruction misstating an element of the offense"; "jury instruction containing an erroneous rebuttable presumption"; "erroneous exclusion of defendant's testimony regarding the circumstances of his confession"; "restriction on a defendant's right to cross-examine a witness for bias in violation of the Sixth Amendment Confrontation Clause"; "denial of a defendant's right to be present at trial"; "improper comment on defendant's silence at trial, in violation of the Fifth Amendment Self-Incrimination Clause"; "statute improperly forbidding trial court's giving a jury instruction on a lesser included offense in a capital case in violation of the Due Process Clause"; "failure to instruct the jury on the presumption of innocence"; "admission of identification evidence in violation of the Sixth Amendment Confrontation Clause"; "admission of the out-of-court statement of a nontestifying codefendant in violation of the Sixth

error, by contrast, has been reserved for "basic protections" without which "a criminal trial cannot reliably serve its function as a vehicle for determination of guilt or innocence, and no criminal punishment may be regarded as fundamentally fair." *Clark*, 478 US at 577-78 (citation omitted).

The error at issue here is instructional, and the Supreme Court has held an instructional error to be structural only once. In *Sullivan v. Louisiana*, 508 US 275, 113 S Ct 2078, 124 L Ed 2d 182 (1993), the Court held that failure to properly instruct the jury on the "beyond a reasonable doubt" standard was structural error. As the Court explained in *Neder*, *Sullivan*'s holding rested on the fact that an improper reasonable-doubt instruction "'vitiates *all* the jury's findings' and produces 'consequences that are necessarily unquantifiable and indeterminate.'" *Neder*, 527 US at 11 (quoting *Sullivan*, 508 US at 281-82) (internal citations omitted).

By contrast, the Supreme Court has several times held significant instructional errors to be subject to a harmless analysis. In *Neder* the Court held that failure to instruct the jury as to an element of an offense is not structural error. The Court emphasized that

"[the defendant] was tried before an impartial judge, under the correct standard of proof and with the assistance of counsel; a fairly selected, impartial jury was instructed to consider all of the evidence and argument

Amendment Confrontation Clause"; "confession obtained in violation of *Massiah v. United States*, 377 US 201, 84 S Ct 1199, 12 L Ed 2d 246 (1964)"; "admission of evidence obtained in violation of the Fourth Amendment"; [and] "denial of counsel at a preliminary hearing in violation of the Sixth Amendment Confrontation Clause."

1 in respect to [his] defense against the tax charges."

2 *Neder*, 527 US at 9. The Court has similarly held that unconstitutional mandatory
3 presumptions and misinstruction on a single element of an offense are errors subject to
4 harmlessness analysis. *See Carella v. California*, 491 US 263, 109 S Ct 2419, 105 L Ed
5 2d 218 (1989); *Pope v. Illinois*, 481 US 497, 107 S Ct 1918, 95 L Ed 2d 439 (1987);
6 *Clark*, 478 US 570. In those cases, the Court has explained that, depending on the
7 strength of the evidence presented at trial, the "erroneous instruction" may be "simply
8 superfluous." *Clark*, 478 US at 581. Although removing an element from the jury's
9 consideration entirely, or incorrectly permitting the element to be decided based on a
10 mandatory presumption, are undoubtedly serious Sixth Amendment violations, the Court
11 has nonetheless been clear that such errors are not structural.

12 The Supreme Court also has applied harmless error analysis even where the
13 error was necessarily one that would have made an impression on the jury. In
14 *Fulminante*, the Court held that admission of a defendant's coerced confession, in
15 violation of the Fifth Amendment, was subject to review for harmlessness. The Court
16 recognized that

17 "an involuntary confession may have a more dramatic effect on the course
18 of a trial than do other trial errors -- in particular cases it may be
19 devastating to a defendant -- but this simply means that a reviewing court
20 will conclude in such a case that its admission was not harmless error; it is
21 not a reason for eschewing the harmless-error test entirely."

22 *Fulminante*, 499 US at 312.

23 Similarly, in *Bruton v. United States*, 391 US 123, 88 S Ct 1620, 20 L Ed
24 2d 476 (1968), the Supreme Court held that a defendant's Confrontation Clause rights

1 were violated by the admission against a nontestifying codefendant at a joint trial of a
2 confession by the codefendant that implicated the defendant as well. Even though the
3 jury was instructed that it could not consider the confession as evidence against the
4 defendant, the Court explained that the jury could not be presumed to have followed
5 those instructions where "the powerfully incriminating extrajudicial statements of a
6 codefendant, who stands accused side-by-side with the defendant, are deliberately spread
7 before the jury in a joint trial." 391 US at 135-36. Nonetheless, even though the premise
8 of the *Bruton* line of cases is that certain evidence put before the jury may be so powerful
9 that the jury cannot ignore it even if instructed to do so, the Court nevertheless has held
10 that *Bruton* error is subject to harmless analysis and may be held harmless based on
11 other evidence admitted at trial. *Harrington v. California*, 395 US 250, 254, 89 S Ct
12 1726, 23 L Ed 2d 284 (1969).

13 In sum, the Supreme Court has rejected the notion of structural error in
14 many circumstances that have involved violations of indisputably fundamental
15 constitutional protections afforded to criminal defendants. The Court's most recent
16 substantial discussion of when an error is structural came in *Weaver v. Massachusetts*,
17 ___ US ___, 137 S Ct 1899, 198 L Ed 2d 420 (2017). In *Weaver*, the Court explained
18 that it had held errors to be structural for at least three reasons. "First, an error has been
19 deemed structural in some instances if the right at issue is not designed to protect the
20 defendant from erroneous conviction but instead protects some other interest." *Id.* at ___,
21 137 S Ct at 1908. An example given in *Weaver* is a defendant's right to self-
22 representation at trial: *pro se* representation typically makes a conviction more likely, not

1 less, but wrongful denial of the right is a structural error because of its interference with
2 "the fundamental legal principle that a defendant must be allowed to make his own
3 choices about the proper way to protect his own liberty." *Id.* at ___, 137 S Ct at 1908.
4 "Second, an error has been deemed structural if the effects of the error are simply too
5 hard to measure." *Id.* at ___, 137 S Ct at 1908. The principal example given in *Weaver*
6 is a defendant's right to select his own retained counsel. *Id.* at ___, 137 S Ct at 1908.
7 "Third, an error has been deemed structural if the error always results in fundamental
8 unfairness" -- for example, a denial of appointed counsel or the absence of a beyond-a-
9 reasonable-doubt instruction. *Id.* at ___, 137 S Ct at 1908.

10 *Weaver* does not hold that any of those conditions is *sufficient* to make an
11 error structural. Neither, as *Weaver* acknowledges, does every example of structural
12 error fall neatly into only one category. *See id.* at ___, 137 S Ct at 1908 ("In a particular
13 case, more than one of these rationales may be part of the explanation for why an error is
14 deemed to be structural."). Rather, the purpose of that categorization, in *Weaver* itself,
15 was simply to establish that "[a]n error can count as structural even if the error does not
16 lead to fundamental unfairness in every case." *Id.* at ___, 137 S Ct at 1908. Thus,
17 although *Weaver* sets out important factors to consider, it does not offer a clear rubric for
18 evaluating whether an error is structural.

19 In particular, we note that one of the bases for holding an error structural
20 mentioned in *Weaver* -- that the effects of the error are "simply too hard to measure," ___
21 US at ___, 137 S Ct at 1908 -- often will have only a modest role to play in the analysis.
22 Because the content of jury deliberations will remain unknown to the reviewing court --

1 which can therefore never be certain about which path the jury took to its decision or
2 what evidence jurors thought important -- nearly all trial errors are capable of producing
3 effects that are difficult to measure. Yet the Supreme Court has elsewhere recognized
4 that many significant constitutional errors, despite having effects that are difficult to
5 measure, are not structural. Referring to improper admissions of a defendant's confession
6 and violations of the Confrontation Clause, for example, the Court acknowledged that
7 "[s]uch errors, no less than the failure to instruct on an element in violation of the right to
8 a jury trial, infringe upon the jury's factfinding role and affect the jury's deliberative
9 process in ways that are, strictly speaking, not readily calculable." *Neder*, 527 US at 18.
10 Nevertheless, those errors are subject to a harmless analysis. *Id.*

11 As another example, in *Hedgpeth v. Pulido*, 555 US 57, 58, 129 S Ct 530,
12 172 L Ed 2d 388 (2008), "the jury was instructed on alternative theories of guilt and may
13 have relied on an invalid one" in convicting the defendant. Such an error, almost by
14 definition, precludes any certainty about whether the error was harmless. Nevertheless,
15 the Court held that the error was not structural, reasoning that "[a]n instructional error
16 arising in the context of multiple theories of guilt no more vitiates *all* the jury's findings
17 than does omission or misstatement of an element of the offense when only one theory is
18 submitted." *Id.* at 61.

19 As *Weaver* notes, in the context of the denial of a defendant's right to select
20 his or her own attorney, the Supreme Court did rely on the immeasurability of the effects
21 of the error in concluding that the error was structural. *United States v. Gonzalez-Lopez*,
22 548 US 140, 150, 126 S Ct 2557, 165 L Ed 2d 409 (2006). But *Gonzalez-Lopez* appears

1 to be the only Supreme Court decision to deem an error structural based primarily on
2 immeasurability, and the violation in that case did not involve the ordinary measurement
3 difficulties attendant to any evidentiary or instructional error. Rather, as the Court
4 explained, denial of a defendant's counsel of choice could affect "investigation and
5 discovery, development of the theory of defense, selection of the jury, presentation of the
6 witnesses, and style of witness examination and jury argument," as well as "whether and
7 on what terms the defendant cooperates with the prosecution, plea bargains, or decides
8 instead to go to trial." *Id.* From the Supreme Court's treatment of the issue in those
9 cases, we conclude that the difficulty of measuring the effects of an error can support a
10 determination that an error is structural, but it will generally weigh heavily only where
11 the error "pervades the entire trial." *Id.*

12 With those broad contours of structural error in mind, we turn to the error at
13 issue in this case. As we have explained, the reason that the Sixth Amendment forbids
14 the jury instruction challenged here is because the jury instruction told the jury that it
15 *could* do something that it constitutionally could not: return a guilty verdict without
16 being unanimous. The state argues that, as a result, the instruction does not lead to
17 fundamental unfairness in every case; it does so, at most, only when the jury returns a
18 nonunanimous verdict. And, given that the jury can be (and here was) polled, the
19 unfairness is easy to detect when it does occur. The state concludes that, because the
20 error does not make every case fundamentally unfair and because the effect of the error is
21 measurable, it is not structural; rather, it is instead subject to a harmlessness analysis.

22 Defendant, on the other hand, offers several accounts of how the erroneous

1 instruction leads to unfairness that is neither readily detectable nor limited to situations in
2 which the jury returns a nonunanimous verdict. We examine each of those arguments in
3 turn.

4 B. *Reasonable Doubt*

5 Defendant's first and most straightforward argument is that telling a jury
6 that it may convict a defendant without being unanimous is tantamount to misinstructing
7 the jury about the reasonable-doubt standard. Were that so, *Sullivan*, 508 US 275, would
8 require us to conclude that the error is structural.

9 In this case, the jury was instructed that it could not convict defendant
10 unless persuaded of his guilt beyond a reasonable doubt:

11 "The defendant, Mr. Flores Ramos, is innocent unless and until Mr.
12 Flores Ramos is proven guilty beyond a reasonable doubt. The burden is
13 on the State and the State alone to prove the guilt of the defendant beyond a
14 reasonable doubt.

15 "Reasonable doubt is a doubt based on common sense and reason.
16 Reasonable doubt is not an imaginary doubt. Reasonable doubt means an
17 honest uncertainty as to the guilt of the defendant.

18 "You must return a verdict of not guilty if, after careful and impartial
19 consideration of all of the evidence in the case, you are not convinced to a
20 moral certainty that the defendant is guilty."

21 Defendant did not object to those instructions, and he does not argue that they were
22 wrong or that ordinarily they would be insufficient. Rather, he argues that "the
23 nonunanimous jury instruction is structural error even in light of an otherwise adequate
24 reasonable-doubt instruction." He makes two arguments for that proposition.

25 First, defendant contends that "[a] nonunanimous-verdict instruction

1 incorrectly informs the jury about the quantum of certitude necessary to find guilt beyond
2 a reasonable doubt -- 83%." We disagree with that characterization. An instruction that
3 10 votes out of 12 is sufficient to convict no more instructs the jury that "beyond a
4 reasonable doubt" means "83% certainty" than a jury unanimity instruction implies that a
5 juror must be 100% certain to convict. Defendant's argument incorrectly conflates the
6 percentage of votes required for a verdict with the degree of certainty that an *individual*
7 juror must feel in order to conclude that the defendant is guilty beyond a reasonable
8 doubt.

9 The subtler version of defendant's argument is that the nonunanimous jury
10 instruction improperly indicates to a juror that that juror may find guilt beyond a
11 reasonable doubt despite the reasonable doubts of *other* jurors. As a result, defendant
12 contends, jurors would misunderstand the nature of the "beyond a reasonable doubt"
13 standard, which defendant understands to require acquittal if any reasonable juror could
14 have a reasonable doubt. As defendant puts it, "[T]he court has effectively told the jury
15 that the reasonable doubts of other jurors are irrelevant: the jury may find guilt beyond a
16 reasonable doubt even if individual jurors do not agree." The problem with defendant's
17 argument, as we understand it, is that it relies on a conception of reasonable doubt that
18 the Supreme Court has expressly rejected.

19 "What the factfinder must determine to return a verdict of guilty is
20 prescribed by the Due Process Clause." *Sullivan*, 508 US at 277. Specifically, the Due
21 Process Clause requires proof of guilt beyond a reasonable doubt. *In re Winship*, 397 US
22 358, 364, 90 S Ct 1068, 25 L Ed 2d 368 (1970). That is true regardless of whether the

finder of fact is a judge or a jury. As the Court explained in *Sullivan*,

"It would not satisfy the Sixth Amendment to have a jury determine that the defendant is probably guilty, and then leave it up to the judge to determine (as *Winship* requires) whether he is guilty beyond a reasonable doubt. In other words, the jury verdict required by the Sixth Amendment is a jury verdict of guilty beyond a reasonable doubt."

508 US at 278. As a result, both the Sixth Amendment and the Due Process Clause include an identical requirement of proof beyond a reasonable doubt.

In *Apodaca v. Oregon*, 406 US 404, 92 S Ct 1628, 32 L Ed 2d 184 (1972), overruled by *Ramos*, 140 S Ct 1390, the Supreme Court upheld a nonunanimous conviction against a challenge under the Sixth Amendment, as incorporated through the Due Process Clause of the Fourteenth Amendment. In a companion case, *Johnson v. Louisiana*, 406 US 356, 92 S Ct 1620, 32 L Ed 2d 152 (1972), the Court upheld nonunanimous convictions against an independent Due Process Clause challenge. The limited scope of *Johnson* had a somewhat technical reason behind it: the defendant in *Johnson* had been convicted in a state court before the Court had issued its opinion in *Duncan v. Louisiana*, 391 US 145, 88 S Ct 1444, 20 L Ed 2d 491 (1968), which had incorporated the Sixth Amendment's jury trial right to the states through the Fourteenth Amendment. Under *DeStefano v. Woods*, 392 US 631, 88 S Ct 2093, 20 L Ed 2d 1308 (1968), overruled by *Griffith*, 479 US 314, the Sixth Amendment was not applicable to the cases tried before *Duncan*, even if those cases were still on direct appeal. Thus, *Johnson* did not address the Sixth Amendment, which did not apply to the defendant's case; instead, it addressed only whether the Due Process Clause or the Equal Protection Clause of the Fourteenth Amendment required jury unanimity independent of the Sixth

1 Amendment.

2 One of the arguments advanced by the defendant in *Johnson* was that the
3 nonunanimous verdict interfered with the Due Process Clause's requirement of proof
4 beyond a reasonable doubt. The defendant's contention in *Johnson* is indistinguishable
5 from the argument advanced by defendant in this case. The Supreme Court rejected that
6 argument, explaining:

7 "In our view disagreement of three jurors does not alone establish
8 reasonable doubt, particularly when such a heavy majority of the jury, after
9 having considered the dissenters' views, remains convinced of guilt. That
10 rational [jurors] disagree is not in itself equivalent to a failure of proof by
11 the State, nor does it indicate infidelity to the reasonable-doubt standard."

12 *Johnson*, 406 US at 362. That is, *Johnson* held that proof beyond a reasonable doubt
13 does not require a conclusion that no reasonable juror could (or did) have a reasonable
14 doubt. A juror who understands that he or she may believe a defendant guilty beyond a
15 reasonable doubt even though other reasonable jurors may disagree properly understands
16 the concept. As *Johnson* explained, that conclusion is consistent with numerous other
17 applications of the reasonable-doubt standard:

18 "Jury verdicts finding guilt beyond a reasonable doubt are regularly
19 sustained even though the evidence was such that the jury would have been
20 justified in having a reasonable doubt; even though the trial judge might not
21 have reached the same conclusion as the jury; and even though appellate
22 judges are closely divided on the issue whether there was sufficient
23 evidence to support a conviction. That want of jury unanimity is not to be
24 equated with the existence of a reasonable doubt emerges even more clearly
25 from the fact that when a jury in a federal court, which operates under the
26 unanimity rule and is instructed to acquit a defendant if it has a reasonable
27 doubt about his guilt, cannot agree unanimously upon a verdict, the
28 defendant is not acquitted, but is merely given a new trial. If the doubt of a
29 minority of jurors indicates the existence of a reasonable doubt, it would
30 appear that a defendant should receive a directed verdict of acquittal rather

1 than a retrial. We conclude, therefore, that verdicts rendered by nine out of
 2 12 jurors are not automatically invalidated by the disagreement of the
 3 dissenting three. Appellant was not deprived of due process of law."

4 *Johnson*, 406 US at 362-63 (citations omitted). Of course, *Ramos* holds that even a
 5 substantial majority of jurors, properly satisfied beyond a reasonable doubt that the
 6 defendant is guilty, nevertheless cannot deliver a valid guilty verdict, but that is a distinct
 7 question from whether those jurors properly understand the concept of proof beyond a
 8 reasonable doubt.

9 The *Johnson* reasonable-doubt holding remains good law after *Ramos*.
 10 *Ramos* addressed only whether the Sixth Amendment requires nonunanimous verdicts, a
 11 question that was not at issue in *Johnson*. And the holding in *Ramos* that the Sixth
 12 Amendment -- because of the original meaning of the term "jury" that appears in its text -
 13 - requires jury unanimity does not call into question the holding in *Johnson* that the
 14 *concept of reasonable doubt* does not, in and of itself, demand unanimity. In addition,
 15 the holding in *Johnson* on this point also has been relied on in at least one subsequent
 16 case, *Tibbs v. Florida*, 457 US 31, 42 n 17, 102 S Ct 2211, 72 L Ed 2d 652 (1982) (citing
 17 *Johnson*, 406 US at 362, for the proposition that "[o]ur decisions also make clear that
 18 disagreements among jurors or judges do not themselves create a reasonable doubt of
 19 guilt"). We are bound by the holding in *Johnson* on the relationship between reasonable
 20 doubt and unanimity, and, therefore, we reject the argument that defendant advances
 21 about their relationship. Moreover, even if we were not bound by it, the Court's
 22 reasoning in *Johnson* on this point is persuasive.

23 C. *Effect of Nonunanimous Jury Instruction*

1 Next, defendant engages more directly with the state's central contention:
2 that no fundamental unfairness results when the jury returns a unanimous verdict, which
3 can be discerned through polling. Defendant resists that conclusion in two related ways.
4 First, he contends that the jury instruction that unanimity was not required prevented
5 jurors from appreciating the significance of their individual decisions and that, as a result,
6 jurors may have voted to convict without being convinced of defendant's guilt. Second,
7 he argues that the nonunanimous jury instruction affected the manner of deliberations.
8 We consider each of those issues in turn.

9 1. *Reduced responsibility*

10 Defendant takes the position that, because jurors were told that the votes of
11 only 10 of them were sufficient for a conviction, if there were one or two remaining
12 holdout jurors on any of the counts, those jurors may have felt a diminished sense of
13 responsibility, knowing that their votes were not essential to the verdict. A sense of
14 futility having been instilled, those jurors may have voted to convict defendant, perhaps
15 simply to appease the majority or because of social pressure, even though they in fact
16 retained reasonable doubts about his guilt. Had those jurors known what they should
17 have been told -- that even a single vote to acquit was enough to prevent a conviction --
18 they might have refused to convict. Thus, defendant contends, his trial was
19 fundamentally unfair, regardless of whether the jury reached a unanimous verdict. Even
20 unanimous verdicts are tainted by the instruction.

21 We disagree with defendant's central contention, which is that the jury
22 instruction permitting nonunanimous verdicts necessarily left holdout jurors with a

1 diminished sense of responsibility for their votes, such that the trial was rendered
2 fundamentally unfair. Even assuming that the erroneous instruction by itself may have a
3 tendency to lower the perceived stakes of the decision for some jurors, the jury received
4 other instructions that made clear that, outvoted or no, jurors could not find the defendant
5 guilty unless they were convinced of his guilt beyond a reasonable doubt.

6 The trial court began its instructions to the jury with the following:

7 "Members of the jury, it is your sole responsibility to make all of the
8 decisions about the facts in this case. You must evaluate the evidence to
9 determine how reliable or how believable that evidence is. When you make
10 your decision about the facts, you must then apply the legal rules to those
11 facts and reach your verdict.

12 "Remember that your power to reach a verdict is not arbitrary.
13 When I tell you what the law is on a particular subject or tell you how to
14 evaluate certain evidence, you must follow these instructions."

15 Jurors were also instructed that

16 "[i]t is your duty to weigh the evidence calmly and dispassionately and to
17 decide this case on its merits. Do not allow bias, sympathy, or prejudice
18 any place in your deliberations. Do not decide this case based on
19 guesswork, conjecture, or speculation. Do not consider what sentence
20 might be imposed by the Court if the defendant is found guilty."

21 And, after being instructed on reasonable doubt, jurors were told:

22 "You must return a verdict of not guilty if, after careful and impartial
23 consideration of all of the evidence in the case, you are not convinced to a
24 moral certainty that the defendant is guilty."

25 The state argues that those instructions were sufficient to inform jurors that they could
26 cast a guilty vote only if they concluded, based on the evidence, that defendant was guilty
27 beyond a reasonable doubt, and so also would have told jurors that they could not vote to
28 convict simply because they found themselves outnumbered.

1 Defendant counters that all those instructions are ambiguous: "[T]he
2 second-person use of the word 'you' in the reasonable doubt instruction reasonably refers
3 to 'you,' *the entire jury*." He asserts that jurors were not told that they could not
4 *individually* vote to convict unless they were convinced beyond a reasonable doubt of
5 defendant's guilt.

6 Even assuming a certain level of ambiguity in those instructions, however,
7 those instructions were given alongside an instruction that clearly emphasized jurors'
8 obligation to make individual decisions. Jurors were instructed to "keep in mind that
9 each party is entitled to the considered decision of each juror." And, before any of those
10 other instructions, each juror swore or affirmed, as required by ORCP 57 E, "that they
11 and *each of them* will well and truly try the matter in issue between the plaintiff and
12 defendant, and a true verdict give according to the law and evidence as given them on the
13 trial."⁴ (Emphasis added.)

14 Taking the instructions as a whole, we do not think that jurors would have
15 been left with any doubt that they were required to make an individual decision based on
16 the evidence. For example, we see no basis for thinking that a juror, upon being told,
17 "Do not decide this case based on guesswork, conjecture, or speculation," would assume
18 that the instruction applied only to the jury as a whole, but not to its members
19 individually, and so would feel free to make his or her own decision based on a guess.

⁴ The transcript reflects that the oath was administered, but it does not record the precise wording. Defendant makes no argument that the oath in this case was in any way defective.

1 Similarly, reasonable jurors, having been reminded that "each party is entitled to the
 2 considered decision of each juror," would not interpret the instruction that "[y]ou must
 3 return a verdict of not guilty if * * * you are not convinced to a moral certainty that the
 4 defendant is guilty" to permit individual votes to be cast on some other standard.

5 We therefore perceive no realistic possibility that jurors would understand
 6 their oath and the instructions as permitting them to cast a vote to convict defendant
 7 while still retaining a reasonable doubt about his guilt. With that conclusion in mind,
 8 defendant's argument can succeed only if we assume that jurors may have disobeyed
 9 those other instructions. That is, defendant's argument that the nonunanimous jury
 10 instruction leads to fundamental unfairness, by creating the risk that a juror who would be
 11 inclined to acquit will "give up" too easily, requires us to assume that that juror will
 12 disregard the other instructions addressed to his or her individual responsibility.

13 In evaluating whether an error requires reversal, the Supreme Court has
 14 repeatedly emphasized the presumption that "jurors, conscious of the gravity of their
 15 task, attend closely the particular language of the trial court's instructions in a criminal
 16 case and strive to understand, make sense of, and follow the instructions given them."
 17 *United States v. Olano*, 507 US 725, 740, 113 S Ct 1770, 123 L Ed 2d 508 (1993)
 18 (quoting *Francis v. Franklin*, 471 US 307, 324, n 9, 105 S Ct 1965, 85 L Ed 2d 344
 19 (1985)). In evaluating whether the instructional error that did occur here is such as to
 20 require reversal in every case, we must, like the Supreme Court, give great weight to "the
 21 almost invariable assumption of the law that jurors follow their instructions." *Richardson*
 22 *v. Marsh*, 481 US 200, 206, 107 S Ct 1702, 95 L Ed 2d 176 (1987). In only a few

1 circumstances has the Supreme Court found an exception to that rule. In *Bruton*, for
2 example, as noted above, the Supreme Court held that it was unrealistic to expect jurors
3 to obey an instruction to ignore a confession by a codefendant directly implicating the
4 defendant when considering the question of the defendant's guilt.

5 But this is not a case of that type. Here, jurors not convinced of guilt
6 beyond a reasonable doubt were simply required to report a vote of "not guilty," even if
7 they were outvoted. Jurors were not asked to perform the equivalent of "the mental
8 gymnastics of considering an incriminating statement against only one of two defendants
9 in a joint trial." *Frazier v. Cupp*, 394 US 731, 735, 89 S Ct 1420, 22 L Ed 2d 684 (1969).

10 There was no contradiction in the instructions, nor is there any reason to think that
11 holdout jurors would face pressure to change their votes after the jury had already
12 reached a verdict. Simply put, all 12 jurors, when polled, individually stated that they
13 had found the defendant guilty beyond a reasonable doubt of the counts in dispute. We
14 would have to speculate not to take them at their word.

15 Our rejection of defendant's argument is consistent with, and likely
16 compelled by, Supreme Court precedent. In *Romano v. Oklahoma*, 512 US 1, 114 S Ct
17 2004, 129 L Ed 2d 1 (1994), the defendant was sentenced to death by a jury that had been
18 told that the defendant already had received a death sentence for a separate crime. The
19 defendant argued that the imposition of a death sentence by a jury that had received that
20 information violated the Due Process Clause because knowledge of the extant sentence
21 would have diminished jurors' sense of responsibility for their own sentencing decision.
22 *Id.* at 6. The Supreme Court rejected that argument for two reasons. First, the Court held

1 that, "if the jurors followed the trial court's instructions, which we presume they did, this
 2 evidence should have had little -- if any -- effect on their deliberations." 512 US at 13
 3 (citation omitted). Second, the Court explained:

4 "Even assuming that the jury disregarded the trial court's instructions and
 5 allowed the evidence of petitioner's prior death sentence to influence its
 6 decision, it is impossible to know how this evidence might have affected
 7 the jury. It seems equally plausible that the evidence could have made the
 8 jurors more inclined to impose a death sentence, or it could have made
 9 them less inclined to do so. Either conclusion necessarily rests upon one's
 10 intuition. To hold on the basis of this record that the admission of evidence
 11 relating to petitioner's sentence in the [earlier murder prosecution] rendered
 12 petitioner's sentencing proceeding for the [second murder case]
 13 fundamentally unfair would thus be an exercise in speculation, rather than
 14 reasoned judgment."

15 *Id.* at 13-14. To conclude that the erroneous instruction in this case will always cause a
 16 diminished sense of responsibility in individual jurors, so as to render all trials
 17 fundamentally unfair, would strain against the Court's Due Process Clause analysis in
 18 *Romano*.

19 2. *Effect on Deliberation*

20 That does not dispose of defendant's alternative structural error contention,
 21 which is that the instruction that jurors could convict without being unanimous affected
 22 the process of jury deliberation. Defendant argues that, as a result of the instructional
 23 error, jurors in effect were not told "to engage in a unanimous-consensus deliberative
 24 model." As defendant puts it, permitting jurors to return nonunanimous verdicts "shifts
 25 the burden of persuading other jurors from majority jurors to minority jurors."

26 That is an unconvincing account of how an instruction that unanimity was
 27 required for guilty verdicts could have made a difference for counts where the jury *did*

1 vote unanimously to convict. Whatever the number of votes necessary to reach a verdict,
2 jurors in the minority will seek to persuade jurors in the majority, and jurors in the
3 majority will seek to persuade jurors in the minority. The potential difference, when the
4 verdict need not be unanimous, is that jurors in the majority need not persuade everybody
5 to reach a verdict. But, while that might provide an account of why the instruction is
6 unfair when the jury returns a *nonunanimous* guilty verdict, it fails to explain why the
7 instruction makes the trial fundamentally unfair even if the jury returned a *unanimous*
8 verdict. When the verdict is unanimous, either the jurors in the majority did successfully
9 persuade any holdouts in favor of acquittal -- that is, what defendant contends should
10 have happened in fact did happen -- or all jurors were persuaded of the defendant's guilt
11 before any discussion occurred. We see no fundamental unfairness so as to universally
12 require reversal of unanimous verdicts.

13 *Amicus curiae* the Criminal Justice Reform Clinic at Lewis & Clark Law
14 School presents a more concrete argument about how the nonunanimous verdict
15 instruction may have affected jury deliberations. Relying on social science research, the
16 Clinic argues that juries told that they can reach a nonunanimous verdict are more likely
17 to follow a deliberative process that is "verdict-driven rather than evidence-driven,"
18 meaning that the jury votes sooner and more often, reaches a verdict more quickly, and
19 spends comparatively less time discussing evidence.

20 Below, we examine in more depth the question of how those asserted
21 differences affect the harmless error analysis. At this point, though, the question is
22 whether the error is structural, and we conclude that -- even on the assumption that such

1 differences do exist -- the Clinic's brief does not provide an account of why the erroneous
 2 jury instruction given in this case "cast[s] so much doubt on the fairness of the trial
 3 process that, as a matter of law, [the error] can never be considered harmless."
 4 *Satterwhite v. Texas*, 486 US 249, 256, 108 S Ct 1792, 100 L Ed 2d 284 (1988).

5 As an initial matter, we note that the Supreme Court's decision in *Ramos*
 6 did not require that jurors follow any particular deliberative model, nor is that an obvious
 7 implication of its holding. Neither defendant nor the Clinic develops an argument that
 8 the Sixth Amendment -- or any other provision of the United States Constitution --
 9 requires that jurors deliberate in a particular manner. To the contrary, most courts to
 10 consider the question have rejected the argument that the Sixth Amendment requires a
 11 particular quality or quantity of deliberation before a conviction can be held valid. As
 12 one court put it, "It seems self-explanatory that '[n]o rule requires a jury to deliberate for
 13 any set length of time.'" *United States v. Dolan*, 120 F3d 856, 870 (8th Cir 1997) (quoting
 14 *United States v. Penagaricano-Soler*, 911 F2d 833, 846 n 15 (1st Cir 1990)). Challenges
 15 to verdicts based on the length of jury deliberations have been consistently rejected, even
 16 when the jury was out "only five to seven minutes" before returning a verdict. *United*
 17 *States v. Brotherton*, 427 F2d 1286, 1289 (8th Cir 1970); *see also Wall v. United States*,
 18 384 F2d 758, 762 (10th Cir 1967) (upholding verdict where jury deliberated for one hour
 19 following an eight-day trial); *Kimes v. United States*, 242 F2d 99, 101 (5th Cir), *cert den*,
 20 354 US 912, 77 S Ct 1299, 1 L Ed 2d 1429 (1957) ("we find nothing suspicious,
 21 questionable, or remarkable in the action of the jury in returning its verdict of guilty after
 22 deliberating only twenty minutes"); *United States v. Anderson*, 561 F2d 1301, 1303 (9th

1 Cir 1977) (upholding verdict returned after "brief deliberation"); *United States v. Burfoot*,
2 899 F3d 326, 342 (4th Cir 2018) (upholding convictions where the jury deliberated for
3 five hours after a five-week trial). Similarly, there are no cases purporting to regulate the
4 frequency with which juries should vote on their way to reaching a verdict or the extent
5 to which the evidence must be discussed.

6 Finally, the Clinic does not argue that there is a one-to-one correlation
7 between "verdict-driven" deliberations and instructions that jurors do not need to be
8 unanimous to convict. The Clinic's claim, as we understand it, is that a jury instruction
9 permitting nonunanimous verdicts makes "verdict-driven" deliberations more likely, not
10 that "verdict-driven" deliberations occur *only* when juries are misinstructed on unanimity.
11 At bottom, then, we are left with an argument that the instruction may have made the jury
12 less likely to employ one constitutionally permissible style of deliberation and more
13 likely to use a different, also constitutionally permissible, style of deliberation. That falls
14 far short of the type of error after which "no criminal punishment may be regarded as
15 fundamentally fair," *Clark*, 478 US at 577-78, so as to amount to structural error.

16 D. *Erosion of Public Confidence*

17 Finally, defendant argues that a nonunanimous jury instruction constitutes
18 structural error because it "erodes public confidence in the jury-trial right." However, the
19 Supreme Court has emphasized that "the harmless-error doctrine is essential to preserve
20 the 'principle that the central purpose of a criminal trial is to decide the factual question
21 of the defendant's guilt or innocence, and promotes public respect for the criminal
22 process by focusing on the underlying fairness of the trial rather than on the virtually

inevitable presence of immaterial error.'" *Fulminante*, 499 US at 308 (quoting *Delaware v. Van Arsdall*, 475 US 673, 681, 106 S Ct 143, 189 L Ed 2d 674 (1986)). Thus, although constitutional error may tend to undermine public confidence, unwarranted reversals of criminal convictions also undermine the reliability of the adjudicative process, along with the public perception of it.

Defendant draws an analogy to two other cases in which the Supreme Court has found structural error: *Batson v. Kentucky*, 476 US 79, 106 S Ct 1712, 90 L Ed 2d 69 (1986), and *Vasquez v. Hillery*, 474 US 254, 106 S Ct 617, 88 L Ed 2d 598 (1986). In *Batson*, the Supreme Court held that it violated the Equal Protection Clause for a prosecutor to exercise a peremptory strike against a juror on the basis of race. In *Hillery*, the Court reaffirmed that the Equal Protection Clause forbids the indictment of a defendant by a grand jury from which members of the defendant's race have been excluded. In both cases, the error was held structural. In *Hillery*, the Court explained that, "[w]hen constitutional error calls into question the objectivity of those charged with bringing a defendant to judgment, a reviewing court can neither indulge a presumption of regularity nor evaluate the resulting harm." 474 US at 263. In *Batson*, the Court held that race-based exclusion of jurors "undermine[s] public confidence in the fairness of our system of justice." 476 US at 87.

Defendant argues that the same is true here. He points out that, in *Ramos*, the Supreme Court observed that the initial adoption of nonunanimous juries in Oregon had been motivated by racism:

"Adopted in the 1930s, Oregon's rule permitting nonunanimous verdicts

1 can be similarly traced to the rise of the Ku Klux Klan and efforts to dilute
2 'the influence of racial, ethnic, and religious minorities on Oregon juries.'"

3 *Ramos*, ___ US at ___, 140 S Ct at 1394 (quoting *State v. Williams*, No. 15-CR-58698).

4 Defendant contends that, because Oregon's nonunanimous jury system was adopted in
5 part for racist reasons, it should be held to undermine confidence in the criminal justice
6 system just as in *Batson*. Several *amici* join defendant on this point, arguing that reversal
7 of defendant's convictions, and all others obtained under a system that permitted
8 nonunanimous convictions, is necessary to restore the legitimacy of the criminal justice
9 system.

10 But there is little analogy between the constitutional violations that
11 occurred in *Batson* and *Hillery* and the violation in this case. In this case, no juror was
12 excluded on the basis of race. All jurors, regardless of race, unanimously found
13 defendant guilty of the four counts in dispute. If the jury were permitted to convict a
14 defendant without being unanimous, there undoubtedly would be some cases where the
15 jury's vote breaks down along racial or ethnic lines. But that does not explain why public
16 confidence in unanimous verdicts -- where that potential verifiably was not realized --
17 should be undermined.

18 Defendant's analogy to decisions under the Equal Protection Clause fails for
19 another reason as well. The Sixth Amendment violation that occurred here -- instructing
20 the jury that it did not need to be unanimous to convict -- does not depend on *why* Oregon
21 first began using nonunanimous juries. The right to a unanimous verdict derives from the
22 text and history of the Sixth Amendment and, as the Supreme Court explained in *Ramos*,

1 "a jurisdiction adopting a nonunanimous jury rule even for benign reasons would still
 2 violate the Sixth Amendment." ____ US at ____, 140 S Ct at 1401 n 44. We cannot
 3 conclude that the error is structural -- that it always requires reversal, regardless of the
 4 circumstances under which it is given and the effect that it is likely to have -- based on a
 5 historical circumstance that has no inherent link to the constitutional violation at issue.
 6 *See Neder*, 527 US at 14 ("Under our cases, a constitutional error is either structural or it
 7 is not.").

8 In all, defendant's emphasis on the importance of unanimity to public
 9 confidence in the jury's verdict only cements our view that the instructional error that
 10 occurred here was not the type of constitutional violation after which "a criminal trial
 11 cannot reliably serve its function as a vehicle for determination of guilt or innocence, and
 12 no criminal punishment may be regarded as fundamentally fair." *Clark*, 478 US at 577-
 13 78 (citation omitted). The jury was not told that it needed to be unanimous, but -- as to
 14 the four counts in dispute here -- it did reach unanimous verdicts. Those verdicts
 15 represent the consensus of "a jury selected from a representative cross section of the
 16 entire community." *Ramos*, ____ US at ____, 140 S Ct at 1402 n 47. Defendant's trial
 17 before that "impartial adjudicator," combined with his representation by counsel, gives
 18 rise to "a strong presumption that any other errors that may have occurred are subject to
 19 harmless-error analysis." *Clark*, 478 US at 579. For the reasons we have articulated
 20 above, defendant has not overcome that presumption.⁵

⁵ Our conclusion on this point is consistent with the Supreme Court's decision in *Burch v. Louisiana*, 441 US 130, 132 n 4, 99 S Ct 1623, 60 L Ed 2d 96

1 IV. HARMLESS ERROR

2 When a federal constitutional error is not structural, the conviction can be
 3 affirmed only if the error "was harmless beyond a reasonable doubt." *Fulminante*, 499
 4 US at 307-08. An error is harmless beyond a reasonable doubt if the reviewing court is
 5 satisfied "beyond a reasonable doubt that the error complained of did not contribute to the
 6 verdict obtained." *Chapman*, 386 US at 24.

7 The state argues that a "nonunanimous verdict" instructional error is
 8 harmless whenever the jury, in fact, reached a unanimous verdict. Thus, the state argues,
 9 all that is needed to establish harmlessness is the jury poll showing unanimity. Defendant
 10 pushes back against that argument in several ways, contending that this court cannot find
 11 the error harmless as to any count in this case. We consider each of defendant's
 12 arguments and, for the reasons that follow, reject them.

13 A. *Neder*

14 First, defendant argues that the state's position is inconsistent with the
 15 Supreme Court's decision in *Neder*. Relying on *Neder*, defendant argues that, whatever
 16 the poll shows, his convictions can be affirmed only if the record contains "uncontested
 17 and overwhelming evidence of guilt on *every* element." In *Neder*, the trial court erred by
 18 failing to submit one of the elements of the offense to the jury at all, instead making its

(1979), which affirmed the conviction of a defendant convicted unanimously by a six-person jury instructed that it could convict by a vote of five to one. The Court's reasoning in *Burch* is somewhat obscure, and it is not clear whether the questions that we consider here were squarely presented in that case, so we have made our decision in this case without relying on *Burch*.

own decision that the state had satisfied that element beyond a reasonable doubt. The Court held that the conviction could nevertheless be affirmed if the error was harmless beyond a reasonable doubt, summarizing the applicable inquiry in the following manner: "Is it clear beyond a reasonable doubt that a rational jury would have found the defendant guilty absent the error?" *Neder*, 527 US at 18. Applying that standard in *Neder*, the Court framed the question as being "whether the record contains evidence that could rationally lead to a contrary finding with respect to the omitted element." *Id.* at 19. The Court concluded, in that case, that there was no such evidence. *Id.* at 19-20.

Defendant argues that this court must conduct the same inquiry here, with respect to each element of every charged offense. But that argument ignores the difference between the error in *Neder* and the error in this case. Under the *Chapman* standard, the overall question is whether the court can "conclude beyond a reasonable doubt that the jury verdict would have been the same absent the error." *Neder*, 527 US at 19. In *Neder*, the error lay in failing to submit an element to the jury at all, with the result that the jury never had an opportunity to decide it. *That* error could be held harmless only if the Court could be confident that the jury would have convicted the defendant even if it had considered the additional element. And the Court could have that confidence only if the "omitted element is supported by uncontroverted evidence." *Id.* at 18.

In this case, by contrast, every element of each of the four disputed counts was submitted to the jury, and the poll shows that the jury unanimously had concluded that the state had proved every element beyond a reasonable doubt. The question is not

whether a reasonable jury necessarily would reach the same conclusion; unlike the Court in *Neder*, we know that this jury *in fact* did so. The question in this case is whether we can be confident, beyond a reasonable doubt, that the jury would have reached the same conclusion had it been properly instructed as to unanimity -- a conclusion that does not require overwhelming evidence on every element, if we can be satisfied that the poll was accurate and that the instruction did not have a significant impact on jury deliberations.⁶

B. Zolotoff

Next, defendant argues that the state's position is inconsistent with this court's decision in *State v. Zolotoff*, 354 Or 711, 320 P3d 561 (2014). Defendant argues that, under *Zolotoff*, an error in an instruction that otherwise would have provided "the jury with a legal distinction to apply during its deliberations" can be found harmless only if another instruction conveyed the same legal distinction to the jury. Defendant argues that "a proper unanimity instruction would have given the jury a significant legal distinction to consider when deliberating and assessing guilt," although, perhaps because he reads *Zolotoff* as establishing a *per se* rule, he does not articulate a specific theory of how the instruction could have affected the jury's deliberations. We disagree with defendant's reading of *Zolotoff*.

In *Zolotoff*, the defendant was convicted of possession of a weapon by an

⁶ For the same reason, this case does not involve "first-guessing" a jury's decision, which defendant argues is not permitted by the Oregon Constitution. The jury reached unanimous decisions on the disputed counts. The question is whether those decisions, which the jury did make, must be reversed because of the instructional error. We therefore reject defendant's state constitutional argument.

1 inmate. 354 Or at 713. He had requested, but been denied, an instruction on the lesser-
2 included offense of attempted possession of a weapon by an inmate. *Id.* The state
3 conceded that the failure to so instruct the jury had been error, but argued that the error
4 was necessarily harmless because, even if the jury had been instructed on the lesser-
5 included offense, it would also have been instructed, pursuant to ORS 136.460(2), that it
6 could consider the lesser-included offense only after reaching a not guilty verdict on the
7 greater-inclusive offense. 354 Or at 715-16. Thus, the state's reasoning ran, the jury
8 never would have had cause to consider the attempt charge, even had it been so
9 instructed, so the error could not have affected the verdict.

10 We rejected that categorical argument. We first recognized that, as the
11 state had argued, "there may be many instances in which an appellate court will be able to
12 conclude from the evidence, the arguments, and the instructions that the jury would have
13 reached the same verdict on the charged offense even if it also had received instruction
14 on the lesser-included offense." *Zolotoff*, 354 Or at 718-19. But we held that "an error in
15 failing to instruct on a lesser-included offense will not always be harmless" because
16 "[t]here may be circumstances in which the elements of the charged crime are clearer
17 when they are viewed in contrast with the elements of a lesser-included offense." *Id.* at
18 719. Applying that reasoning to the case at hand, we explained,

19 "That erroneously omitted instruction would have told the jurors that there
20 was a legal distinction between taking a substantial step toward making the
21 spoon into a weapon and completing the task. In other words, the
22 definition of the term 'weapon' told the jury what a weapon is, but it did not
23 tell the jury that the spoon was not a weapon if it was an object that
24 defendant was still in the process of making into a weapon. In this case, an
25 instruction on the elements of the lesser-included offense of attempted

1 possession of a weapon by an inmate would have been particularly helpful
2 because, as the state concedes, there was evidence from which the jury
3 could have found that the spoon was not a weapon and therefore that
4 defendant did not actually possess a weapon; he only attempted to make the
5 spoon into a weapon and possess it."

6 *Id.* at 720.

7 *Zolotoff* did not, therefore, embrace a categorical rule that the omission of
8 any instruction that might help the jury understand a legal distinction cannot be harmless.
9 Rather, *Zolotoff* rejected the categorical rule proposed by the state in favor of a different
10 approach, recognizing that an instruction on a lesser-included offense may help the jury
11 better understand the elements of the greater-inclusive offense, and the absence of such
12 an instruction may therefore have affected the verdict. But, as *Zolotoff* acknowledged,
13 both of those conclusions turn on what the instruction would have helped the jury
14 understand and the importance of the distinction to the case at hand.

15 Here, even leaving aside the fact that *Zolotoff* did not involve an application
16 of the federal harmlessness standard, *Zolotoff* is not especially pertinent. Defendant
17 faults the instruction here for failing to inform the jury about the importance of unanimity
18 and that that jury could return a guilty verdict only if it were unanimous. Obviously, the
19 failure to impress upon the jurors that guilty verdicts needed to be unanimous was
20 significant as to the single nonunanimous guilty verdict returned by the jury. But, insofar
21 as the jury did return unanimous guilty verdicts on the other counts, defendant does not
22 persuasively explain how instructing the jury on the necessity of a unanimous verdict
23 would have affected the unanimous verdicts that they did return. As discussed above,
24 jurors were given ample instruction on their duty with respect to their individual

determinations of the defendant's guilt, and they are presumed to have followed those instructions. "Judicious application of the harmless-error rule does not require that we indulge assumptions of irrational jury behavior when a perfectly rational explanation for the jury's verdict, completely consistent with the judge's instructions, stares us in the face." *Schneble v. Florida*, 405 US 427, 431-32, 92 S Ct 1056, 31 L Ed 2d 340 (1972).

C. *The Jury Poll*

Defendant also challenges the sufficiency of the poll of the jury. Insofar as defendant's argument is that the poll, in and of itself, does not establish that the instruction had no effect on the jury's deliberations, we agree. But, to the extent that defendant contends that the poll was insufficient to establish whether the jury in fact was unanimous, we disagree.

Defendant suggests several ways in which a poll may fail to capture how jurors, in fact, voted: the jury may not have understood the use of words like "unanimous," jurors had no legally significant reason to "record a unanimous verdict," and jurors may simply raise their hands when put on the spot by a poll. But most of those concerns do not apply to this case. Here, the trial court, count-by-count, asked all jurors who voted "guilty" to raise their hands. No juror could have misunderstood that simple instruction; the poll itself gave jurors a reason -- and a duty -- to record their votes; and defendant suggests no basis for thinking that any juror would have given a false answer. More broadly, we are skeptical that jurors would not understand the word "unanimous" or that jurors, however polled, would not respond honestly. *See United States v. Poole*, 545 F3d 916, 921 (10th Cir 2008) (rejecting an argument that jurors would not have

1 understood the trial court's use of the word "nullity").

2 D. *Effect on Deliberations*

3 With those arguments addressed, we turn to the argument made by the
4 Clinic as *amicus*: that the instruction permitting nonunanimous guilty verdicts may have
5 affected deliberations, and so cannot be held to be harmless. Although we considered the
6 Clinic's arguments above in the context of whether the instructional error was structural,
7 there we dealt only with the question whether any potential difference in deliberation
8 resulting from the instruction would make the trial fundamentally unfair. In the harmless
9 error context, the question before us is whether any difference in the style of deliberation
10 could have made a difference to the result in this case. On that question, the fact that no
11 particular deliberative style is constitutionally required is not dispositive.

12 We are not able to approach this question entirely as a matter of first
13 impression. In *Johnson*, when considering the argument that a nonunanimous verdict
14 violated the Due Process Clause, the Supreme Court considered and rejected the
15 defendant's contention that a lack of unanimity indicated that the jurors voting to convict
16 could not have conscientiously voted to convict. The Court gave the following reasons
17 for its rejection of the argument:

18 "Appellant, in effect, asks us to assume that, when minority jurors express
19 sincere doubts about guilt, their fellow jurors will nevertheless ignore them
20 and vote to convict even if deliberation has not been exhausted and
21 minority jurors have grounds for acquittal which, if pursued, might
22 persuade members of the majority to acquit. But the mere fact that three
23 jurors voted to acquit does not in itself demonstrate that, had the nine jurors
24 of the majority attended further to reason and the evidence, all or one of
25 them would have developed a reasonable doubt about guilt. We have no
26 grounds for believing that majority jurors, aware of their responsibility and

1 power over the liberty of the defendant, would simply refuse to listen to
 2 arguments presented to them in favor of acquittal, terminate discussion, and
 3 render a verdict. On the contrary it is far more likely that a juror presenting
 4 reasoned argument in favor of acquittal would either have his arguments
 5 answered or would carry enough other jurors with him to prevent
 6 conviction. *A majority will cease discussion and outvote a minority only*
 7 *after reasoned discussion has ceased to have persuasive effect or to serve*
 8 *any other purpose -- when a minority, that is, continues to insist upon*
 9 *acquittal without having persuasive reasons in support of its position. At*
 10 *that juncture there is no basis for denigrating the vote of so large a majority*
 11 *of the jury or for refusing to accept their decision as being, at least in their*
 12 *minds, beyond a reasonable doubt. * * ** Appellant offers no evidence that
 13 majority jurors simply ignore the reasonable doubts of their colleagues or
 14 otherwise act irresponsibly in casting their votes in favor of conviction, and
 15 before we alter our own longstanding perceptions about jury behavior and
 16 overturn a considered legislative judgment that unanimity is not essential to
 17 reasoned jury verdicts, we must have some basis for doing so other than
 18 unsupported assumptions."

19 *Johnson*, 406 US at 361-62 (emphasis added).

20 In *Johnson*, the Supreme Court appeared to assume that, even when the jury
 21 was *in fact* not unanimous, it still would have deliberated with the same care and to the
 22 same extent as if unanimity were required. *A fortiori*, the same presumption would
 23 appear to extend to juries that, while instructed that they could return a nonunanimous
 24 guilty verdict, nevertheless did reach unanimity. As noted above, *Ramos* did not address
 25 the Due Process Clause arguments considered in *Johnson*, and it did not overrule the
 26 majority opinion in *Johnson*. The reasoning of *Ramos*, based on text and history, does
 27 not call into question the reasoning of *Johnson*. And, though *Johnson* concerned whether
 28 a nonunanimous verdict violated the Due Process Clause, and the question here concerns
 29 the harmlessness of an error that did occur, the factual assumption in *Johnson* is relevant
 30 to both. *Johnson* therefore still binds us.

1 Nevertheless, we read *Johnson* to establish only a rebuttable presumption;
2 *Johnson* faulted the defendant for failing to rebut it, but it did not hold that nothing could.
3 In this case, the Clinic argues that social science research, post-dating *Johnson*,
4 demonstrates that instructions that jurors need not be unanimous *do* affect deliberations.
5 Principally, the clinic relies on a study documented in Reid Hastie *et al.*, *Inside the Jury*
6 (1983).⁷ In the Hastie study, 69 mock juries, drawn from actual jury pools, were asked to
7 render a verdict after watching a taped reenactment of a real trial. *Id.* at 45-55, 60. A
8 third of the mock juries needed to be unanimous to reach any verdict, another third could
9 reach any verdict by a ten-to-two vote, and the final third could reach any verdict by an
10 eight-to-four vote. *Id.* at 60. In analyzing the results, the researchers looked at when the
11 jury first took an internal vote. Juries that polled themselves within 10 minutes were
12 labeled "verdict-driven." *Id.* at 164. When the first ballot took place after at least 40
13 minutes of deliberation, the jury was labeled "evidence-driven." *Id.* "Evidence-driven"
14 juries ended up deliberating for longer than "verdict-driven" juries and the deliberations
15 involved more connections between facts and legal issues. *Id.* Based on the Hastie
16 study, the Clinic argues that an instruction that jurors do not need to be unanimous "leads
17 to the likelihood that deliberations are verdict-driven rather than evidence-driven," thus
18 producing less reliable (and, as pertinent here, different) results.

19 Even assuming the validity of the Hastie study, and that it would be

⁷ The brief cites multiple other sources; however, many of those sources refer back to the Hastie study on the pertinent point.

1 appropriate to accord dispositive weight to a single study, there are three reasons why it
2 does not lend much support to a conclusion that deliberations in this case were affected
3 by the erroneous jury instruction. First, the study found only a weak correlation between
4 unanimity requirements and whether a jury was "evidence-driven," and it is not clear
5 whether the result was statistically significant. *See id.* at 173 ("majority rule juries are
6 slightly likelier to adopt a verdict-driven deliberation style in contrast to the evidence-
7 driven style").

8 Second, the Clinic's theory of how the erroneous jury instruction was not
9 harmless is not -- and cannot be -- just that the instruction may have affected
10 deliberations. Rather, it is that the potentially altered deliberations could in turn have
11 affected the jury's verdicts. But the Hastie study found "no relationship between
12 [deliberation] style and final verdict." *Id.* at 165.

13 Third, the Hastie study did not examine juries, like the jury in this case, that
14 returned a unanimous verdict despite being instructed that unanimity was not required (it
15 is not clear that any of the mock juries reached such a result), and so it sheds little light
16 on how those juries deliberated or whether their unanimous verdicts differed in any way
17 from those rendered by juries that were instructed that unanimity was required.

18 To be sure, some research shows -- contrary to the Supreme Court's
19 presumption in *Johnson* -- that juries that *return* a nonunanimous guilty verdict may not
20 have given full consideration to the views of the outvoted jurors. *See* Brief of Law
21 Professors and Social Scientists as *Amici Curiae* in Support of Petitioner at 6-9, *Ramos v.*
22 *Louisiana*, ___ US ___, 140 S Ct 1390. In those cases, the nonunanimity instruction may

1 well exert an influence on both deliberations and the verdict, and for that reason the
2 research cited by the Clinic supports our decision to reverse the one nonunanimous
3 verdict in defendant's case. But the same does not appear to hold when jurors do, despite
4 not being obligated to, reach a unanimous verdict. The fact that the verdict *is* unanimous
5 provides some assurance, in and of itself, that no juror was ignored and that all jurors'
6 reasonable doubts as to those counts were resolved. Neither the social science research
7 that has been offered, nor common sense, calls that conclusion into question, much less
8 overcomes the presumption articulated in *Johnson*. We therefore conclude that, though
9 slight differences in deliberative process may have occurred had the jury been properly
10 instructed, those potential differences do not prevent us from concluding that the result
11 was not affected and that the error was harmless beyond a reasonable doubt.

12 E. *Mixed Verdicts*

13 Defendant also advances a narrower argument -- that, even if the jury's
14 unanimous verdicts were not directly affected by the erroneous jury instruction, those
15 verdicts could still have been indirectly affected. Defendant argues that "it is *certain* that
16 the instructional error affected deliberations because the jury was not 12-0 on every
17 count." That is, had the jury been properly instructed, it would have continued
18 deliberating past the point at which it returned its verdict on the attempted first-degree
19 rape charge, because two jurors still favored acquittal on that charge.

20 The ultimate question in this case, however, is not whether further
21 deliberation on the attempted rape count could have led to a different result as to *that*
22 count, but whether we can conclude, beyond a reasonable doubt, that the jury's decisions

1 on the *other* counts were unaffected. We know from the jury poll that, as to the other
2 four counts, the jury -- including the two jurors who would have acquitted defendant on
3 the attempted first-degree rape count -- unanimously agreed that defendant was guilty
4 beyond a reasonable doubt.

5 That fact lends strong support to a conclusion that the instructional error
6 was harmless as to the unanimous verdicts. As the Supreme Court has explained, the
7 harmless error analysis proceeds on the assumption "that the jury considered all the
8 evidence bearing on the issue in question before it made the findings on which the verdict
9 rested," except in cases where the instructions precluded the jury from doing so. *Yates v.*
10 *Evatt*, 500 US 391, 405-06, 111 S Ct 1884, 114 L Ed 2d 432 (1991), *overruled in part on*
11 *other grounds by McGuire*, 502 US 62. Here, the jury was properly instructed on the
12 elements of each count, the beyond-a-reasonable-doubt standard, its "duty to weigh the
13 evidence calmly and dispassionately," and its obligation to "return a verdict of not guilty
14 if, after careful and impartial consideration of all the evidence in the case, you are not
15 convinced to a moral certainty that the defendant is guilty." Giving appropriate weight to
16 the "almost invariable assumption of the law that jurors follow their instructions," *Marsh*,
17 481 US at 206, the fact that the jury returned unanimous verdicts on four counts tells us
18 that each juror, after considering all of the evidence, was convinced beyond a reasonable
19 doubt of the defendant's guilt on those counts. We see no nonspeculative basis for
20 supposing that further deliberation on those counts, based on the same evidence and
21 among jurors who already had unanimously agreed that defendant was guilty, would have
22 led jurors to change their minds. And defendant's argument requires even more -- a

1 supposition that further deliberation on a *different* count would have shaken jurors'
2 confidence in the unanimous verdicts that they had already reached.

3 The abstract possibility that a juror could have changed his or her mind
4 after further deliberation is insufficient to prevent us from concluding that the
5 instructional error was harmless beyond a reasonable doubt. The Supreme Court
6 addressed a similar argument in *Harrington*, 395 US 250. In that case, the Court
7 considered whether a violation of the *Bruton* rule -- the introduction of two codefendant
8 confessions implicating the defendant at a joint trial -- was harmless. *Id.* at 252. The
9 defendant had argued that the Court "must reverse if [the Court] can imagine a single
10 juror whose mind might have been made up because of [the codefendants'] confessions
11 and who otherwise would have remained in doubt and unconvinced." *Id.* at 254. But the
12 Court rejected that interpretation of the *Chapman* standard: "We of course do not know
13 the jurors who sat. Our judgment must be based on our own reading of the record and on
14 what seems to us to have been the probable impact of the two confessions on the minds
15 of an average jury." *Id.* Thus, even if we can imagine a juror changing his or her mind
16 because of further deliberations on a different charge, that merely conceivable possibility,
17 though significant in the double jeopardy context, does not preclude us from finding that
18 the error is harmless beyond a reasonable doubt. "To set a barrier so high that it could
19 never be surmounted would justify the very criticism that spawned the harmless-error
20 doctrine in the first place[.]" *Neder*, 527 US at 18.

21 Defendant cites no authority for the proposition that a possibility so slim of
22 a different result precludes a finding that an error was harmless beyond a reasonable

1 doubt.⁸ The absence of authority on that point is notable, because the possibility of
 2 extended deliberations on a different offense presents a situation no different from any
 3 time that an error affects one count in a multicount case. For example, if evidence
 4 relevant to only one count is erroneously admitted against the defendant, it will be
 5 possible that deliberations as to that count would have been prolonged had the evidence
 6 been properly excluded. Similarly, an instructional error as to one count -- misdescribing
 7 or omitting an element, for example -- may shorten deliberations on that count.
 8 Defendant's theory would be just as applicable in those cases as it would be here, as any

⁸ The only decision that could be read to lend support to defendant's position is *Blueford v. Arkansas*, 566 US 599, 607-08, 132 S Ct 2044, 182 L Ed 2d 937 (2012), a case that did not involve a harmless error question. In *Blueford*, the defendant was charged with capital murder and several lesser-included homicide offenses. *Id.* at 602. The jury was instructed that it could consider each lesser-included offense only after concluding that the defendant was not guilty of all greater-inclusive offenses. *Id.* at 602. After several hours of deliberation, and a reported deadlock, the foreman reported that the jury had unanimously voted to acquit the defendant of capital murder and first-degree murder but was deadlocked on manslaughter. *Id.* at 603-04. The trial court had the jury deliberate for another half hour and ultimately declared a mistrial, discharging the jury without any further polling or verdict. *Id.* at 604.

The defendant argued to the Supreme Court that the Double Jeopardy Clause barred his retrial for capital murder and first-degree murder, because he had been acquitted on those charges in the first trial. The Court disagreed, holding that the poll conducted by the trial court lacked the finality necessary to constitute a verdict of acquittal. *Id.* at 606. The Court explained that the jury "was free to reconsider a greater offense, even after considering a lesser one" and that one or more jurors could have reconsidered their views on the greater-inclusive offenses after further deliberation about the manslaughter charge. *Id.* at 607. But the question before the Court in *Blueford* was meaningfully different from the question before us in this case. In *Blueford*, the question of finality for double jeopardy purposes turned only on whether the jury *could* have reconsidered its view. Thus, a purely theoretical possibility that a single juror could have reconsidered her view about a different count was enough to prevent the judge's poll from representing a final verdict.

1 further deliberation on any count would bring into play the abstract possibility that a juror
2 could change his or her mind about a different charge. In effect, defendant's position
3 appears to be that any time reversible error is found as to one count, all other convictions
4 must be reversed, unless, perhaps, they are supported by overwhelming evidence.

5 Defendant's argument would require a substantial break from past practice.
6 Although we have never expressly considered defendant's argument before, we have
7 sustained convictions in several cases in which defendant's position would have required
8 reversal. For example, in *State v. Boots*, 308 Or 371, 374-75, 780 P2d 725 (1989), two
9 theories of aggravated murder were submitted to the jury, and the jury was instructed that
10 it did not need to unanimously agree on a theory of aggravation to convict the defendant
11 of aggravated murder. We held that that failure to require unanimity on the elements of
12 the crime violated Article I, section 11. *Id.* at 377. However, we reversed only the
13 defendant's conviction on aggravated murder, permitting the state the option of retaining
14 the murder conviction, as to which the jury had necessarily reached unanimous
15 agreement. *Id.* at 381. The likelihood that a properly instructed jury would have
16 deliberated longer, and could conceivably have reached a different result on the murder
17 conviction, did not feature in the analysis. As we explained, in a second appeal after our
18 remand, "an error-free conviction of a criminal offense need not be retried even though
19 an appellate court has ordered a retrial of a greater offense of which the lesser offense is a
20 lesser-included offense." *State v. Boots*, 315 Or 572, 577, 848 P2d 76 (1993).

21 Similarly, in *State v. Lotches*, 331 Or 455, 17 P3d 1045 (2000), the trial
22 court erred in failing to instruct the jury about the need for unanimity as to the basis for

1 three aggravated murder convictions. We determined that, as to two of the counts, the
2 error was not harmless because the jury may not have been unanimous as to the basis for
3 each conviction. *Id.* at 470-71. With respect to the third count, however, we determined
4 that the error was harmless because a different verdict revealed that jury necessarily did
5 agree on the basis for that conviction. *Id.* at 471-72. Although a properly instructed jury
6 may well have deliberated longer on the other two aggravated murder counts, we did not
7 hold that those errors required reversal of the third count or of any of defendant's other
8 convictions. *Id.* at 472,

9 *Boots and Lotches* admittedly were not decided under the "harmless beyond
10 a reasonable doubt" standard applicable to federal constitutional violations, but we see no
11 indication that that standard must be applied any differently. In *United States v. Russell*,
12 134 F3d 171 (3d Cir 1998), for example, the defendant was convicted of conducting a
13 continuing criminal enterprise (CCE) and of conspiracy to distribute controlled
14 substances. The jury was instructed that, to return a conviction on the CCE count, it
15 needed to unanimously find that defendant participated in at least three violations of
16 federal drug laws but was not told that it needed to unanimously agree on which
17 violations occurred. *Id.* at 177. The court held that the defendant's right to jury
18 unanimity had been violated and held, under the *Chapman* standard, that the error was
19 not harmless as to the CCE count. *Id.* at 182. But the court nonetheless affirmed
20 defendant's conspiracy conviction. *Id.* at 184. *See also State v. Charboneau*, 323 Or 38,
21 51, 913 P2d 308 (1996) (finding errors harmless as to some counts but not others under
22 the *Chapman* standard).

1 And in *Benton v. Maryland*, 395 US 784, 89 S Ct 2056, 23 L Ed 2d 707
2 (1969), the Supreme Court considered something of the reverse situation. In that case,
3 the defendant had been convicted of burglary and acquitted of larceny at a single trial. *Id.*
4 at 785. After an appeal, the defendant's burglary conviction was reversed, and the state
5 retried him -- for both burglary and larceny. *Id.* at 786. The Court held that retrying the
6 defendant for larceny violated the Double Jeopardy Clause, as the defendant had already
7 been tried and acquitted of that offense. *Id.* at 796. The defendant also sought reversal of
8 his burglary charge, arguing that "some evidence, inadmissible under state law in a trial
9 for burglary alone, was introduced in the joint trial for both burglary and larceny, and that
10 the jury was prejudiced by this evidence." *Id.* at 797. The Court did not adopt a *per se*
11 rule that the mere submission of the larceny offense to the jury, by resulting in additional
12 deliberation on a related topic, could have affected the verdict on the burglary offense.
13 Rather, the Court concluded that "[i]t is not obvious on the face of the record that the
14 burglary conviction was affected by the double jeopardy violation" and remanded the
15 case to consider whether the larceny charge had led to consideration of additional
16 evidence. *Id.* at 798. Thus, the Court necessarily found that the abstract possibility of an
17 effect on deliberation was insufficient to preclude the finding of harmlessness beyond a
18 reasonable doubt and indicated that only a direct effect on the verdict would suffice to
19 require reversal.

20 While none of those decisions expressly considered the argument that
21 defendant advances here, they demonstrate that the approach to harmless error that
22 defendant would have us adopt -- a view that any change that would have lengthened jury

1 deliberations on one count reasonably could have affected the verdict on any count --
2 would be inconsistent with prior practice, in this court and in others. For the reasons
3 given above, the possibility that the jury would have reached a different result on the
4 unanimous counts because of further deliberation on the attempted rape count is too
5 remote to persuade us that the error that occurred in this case was not harmless beyond a
6 reasonable doubt.

7 V. CONCLUSION

8 Because the jury failed to reach a unanimous guilty verdict on count three,
9 attempted first-degree rape, we reverse defendant's judgment of conviction as it pertains
10 to that crime. However, as to the unanimous guilty verdicts on all other counts, we
11 conclude that the trial court's instruction to the jury that it could return a nonunanimous
12 verdict did not amount to a structural error and was harmless beyond a reasonable doubt.
13 We therefore affirm the judgment as to defendant's other convictions.

14 The decision of the Court of Appeals is affirmed in part and reversed in
15 part. The judgment of the circuit court is affirmed in part and reversed in part, and the
16 case is remanded to the circuit court for further proceedings.

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DECLARATION OF MICHAELA GORE

I, Michaela Gore, do declare and state as follows:

1. I am one of two staff attorneys at the Ramos Project, part of the Criminal Justice Reform Clinic at Lewis & Clark Law School. The Ramos Project assists attorneys and people with final judgments affected by Oregon's non-unanimous jury system who may have claims for post-conviction relief based on the United States Supreme Court's recent decision in *Ramos v. Louisiana*, 590 U.S. ___, 140 S. Ct. 1390 (2020).

2. To the best of my knowledge, no one, including the State of Oregon, has attempted to compile and analyze information or data regarding the race and ethnicity of those convicted by non-unanimous jury verdicts in Oregon. There is limited information and data available regarding people who have been convicted by a non-unanimous verdict in Oregon because Oregon law never required juror votes to be recorded or put into public record. Juror vote counts were not kept unless a jury poll was requested by an attorney or judge. *See* ORS 136.330(1) ("The jury in a criminal action may, in the discretion of the court, be polled in writing."); Office of Public Defense Services, [*On the Frequency of Non-Unanimous Felony Verdicts in Oregon*](#) at 3-4 ("It became apparent that no attempt had been made to collect and analyze quantifiable data relating to the frequency of non-unanimous verdicts.").

3. In light of the well-documented racist origins and purpose of Oregon's non-unanimous jury system, in December 2020 we at the Ramos Project decided to review and analyze the available information regarding people with known non-unanimous jury verdicts.

1 – DECLARATION OF MICHAELA GORE

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1 Due to the limited information available, we could only focus on cases pending or resolved on
 2 direct appeal following the decision in *Ramos* and pending post-conviction relief (PCR) cases
 3 raising claims related to being convicted by a non-unanimous jury verdict. This information
 4 and data regarding convictions by non-unanimous jury verdict and the race and ethnicity of
 5 those convicted was gathered and analyzed by myself and my co-staff attorney, Laney Ellisor,
 6 OSB #173425. Our data and analysis were last updated on April 20, 2021.

7 4. Our list of identified cases pending or resolved on direct appeal with known non-
 8 unanimous jury verdicts can be found on pages 27-48 of Attachment 1. To compile this dataset,
 9 we looked at the following sources: the Oregon Department of Justice's (ODOJ) May 11,
 10 2020, letter to Appellate Commissioner Theresa Kidd and Appellate Legal Counsel Lisa
 11 Norris-Lampe regarding ODOJ's concessions and partial concessions of cases on direct appeal
 12 in light of *Ramos*; Oregon appellate court decisions available on Thomson Reuters Westlaw
 13 citing *Ramos* or *State v. Ulery*, 366 Or. 500 (2020) (holding that receipt of a non-unanimous
 14 guilty verdict always requires reversal of the conviction when the constitutional error is raised
 15 on direct appeal) (as of April 13, 2021); pleadings and court orders on Oregon's Appellate
 16 Case Management System – Public Access Site (as of April 16, 2021); Oregon Public Defense
 17 Services' (OPDS) list of cases reversed and remanded due to a non-unanimous jury verdict
 18 (obtained by the Ramos Project on April 12, 2021); and a list compiled by ODOJ and shared
 19 with OPDS identifying all appellate cases ODOJ has identified as raising a *Ramos*-related issue
 20 (obtained from OPDS by the Ramos Project on April 12, 2021).

1 5. Direct appeal cases included on pages 27-48 of Attachment 1 have had at least
2 one count reversed due to being the result of a known non-unanimous jury verdict, have been
3 fully or partially conceded by the State due to a known non-unanimous jury verdict, or have
4 raised an assignment of error requesting reversal due to a known non-unanimous jury verdict.
5 We believe this dataset is the most representative and reliable available because the non-
6 unanimous verdicts were identified by attorneys and pending direct appeal during a specific
7 time period.

8 6. Our list of identified pending PCR cases raising claims related to being convicted
9 by a non-unanimous jury verdict can be found on pages 49-57 of Attachment 1. To compile
10 this dataset, we looked at the Oregon Post-Conviction Consortium's list of PCR cases where a
11 claim relating to *Ramos* has been raised and the petitioner has been deemed indigent and
12 appointed a PCR attorney as of April 13, 2021 (obtained by the Ramos Project on April 13,
13 2021). We verified each case on the list by reviewing each petitioner's *pro se* and amended
14 petitions for post-conviction relief on the Oregon eCourt Case Information system. Where only
15 a *pro se* PCR petition was available, we did not take non-unanimous jury verdict claims at face
16 value but also checked the underlying criminal cases to verify that the petitioner in fact had a
17 jury trial, removing any petitioners who were convicted by guilty plea or after a bench trial.

18 7. PCR cases included on pages 49-57 of Attachment 1 have self-identified, or have
19 had their attorney identify, their convictions as being the result of at least one non-unanimous
20 jury verdict. We believe this dataset is less representative and reliable than the direct appeal
21 dataset because it relies primarily on self-identification of non-unanimous jury verdicts, spans

1 convictions over many decades, and includes only those appointed a PCR attorney and
2 therefore determined by the PCR court to be indigent.

3 8. Race and ethnicity information of these defendants and petitioners was
4 determined primarily relying on designations on Oregon Department of Corrections' Oregon
5 Offender Search and Oregon eCourt Case Information system (OECI). However, because
6 OECI often does not list race, frequently lists defendants' race as "Other" or "Unavailable,"
7 and has no designation for Latinx or Hispanic and often miscodes Latinx and Hispanic people
8 as white, other sources such as booking information, mugshots, and news stories were
9 sometimes relied upon to determine defendants' race. The source of racial and ethnic
10 designation is noted in Attachment 1. An internet hyperlink is provided where other sources
11 were relied on besides Oregon Offender Search or OECI. Due to their relatively low number
12 within the dataset, Asian and Pacific Islander designations have been combined into one
13 designation of "Asian."

14 9. An analysis of both datasets is compiled on pages 1-26 of Attachment 1. This
15 analysis also includes a breakdown by county of the defendants' and petitioners' underlying
16 criminal conviction. Statewide and county statistics regarding race and ethnicity are provided
17 for comparison purposes, obtained from the United State Census Bureau's website.

18 10. Additionally, for comparison purposes, Attachment 2 is a Data Request Briefing
19 from the Oregon Criminal Justice Commission showing the number of all Oregon felony
20 criminal convictions by county and race/ethnicity from 2015 to 2019. An analysis of this Data
21 Request Briefing is included in Attachment 3, where Asian and Pacific Islander designations

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1 have again been combined into one category as “Asian.” This was used to compare the
2 disproportionate rate of conviction by non-unanimous jury verdict on defendants of color to the
3 already disproportionate rate at which defendants of color are convicted in Oregon generally.

4 11. Of the 427 direct appeal cases with known non-unanimous jury verdicts that we
5 identified:

- 6 a. 63.00% (269) involved white defendants, despite white people making up
7 75.1% of Oregon’s population and 75.82% of Oregon’s felony convictions
8 between 2015-2019.
- 9 b. 15.46% (66) involved Black defendants, despite Black people making up just
10 2.2% of Oregon’s population and 6.49% of Oregon’s felony convictions
11 between 2015-2019.
- 12 c. 14.99% (64) involved Latinx/Hispanic defendants, despite Latinx/Hispanic
13 people making up just 13.4% of Oregon’s population and 13.96% of Oregon’s
14 felony convictions between 2015-2019.
- 15 d. 2.81% (12) involved Asian/Pacific Islander defendants, despite Asian/Pacific
16 Islander people making up 5.4% of Oregon’s population and 1.36% of
17 Oregon’s felony convictions between 2015-2019.
- 18 e. 2.11% (9) involved Native American defendants, despite Native American
19 people making up just 1.8% of Oregon’s population and 2.28% of Oregon’s
20 felony convictions between 2015-2019.

1 f. 1.64% (7) involved defendants whose race and ethnicity could not be
2 determined.

3 12. Of the 226 PCR cases asserting conviction by at least one non-unanimous jury
4 verdict that we identified:

5 a. 65.04% (147) involved white petitioners, despite white people making up
6 75.1% of Oregon's population.

7 b. 16.81% (38) involved Black petitioners, despite Black people making up just
8 2.2% of Oregon's population.

9 c. 14.16% (32) involved Latinx/Hispanic petitioners, despite Latinx/Hispanic
10 people making up just 13.4% of Oregon's population.

11 d. 1.33% (3) involved Asian/Pacific Islander petitioners, despite Asian/Pacific
12 Islander people making up 5.4% of Oregon's population.

13 e. 2.65% (6) involved Native American defendants, despite Native American
14 people making up just 1.8% of Oregon's population.

15 13. In addition to those statewide comparisons, county-specific comparisons can be
16 found at pages 1-26 of Attachment 1.

17 14. In sum, the data available to us suggests that non-unanimous jury verdicts in
18 Oregon disproportionately impacted non-white people, most severely Black people. We at the
19 Ramos Project would welcome further data-gathering and statistical analysis, by the State or
20 any other organization, on Oregon's non-unanimous jury system and its impacts on defendants
21 of color.

6 – DECLARATION OF MICHAELA GORE

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DATED: April, 21, 2020

s/ Michaela Gore
MICHAELA GORE, OSB #185252
Staff Attorney
The Ramos Project
Criminal Justice Reform Clinic
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Post-Ramos Direct Appeal - Identified for Concession or Conceded by ODOJ or Raising Known NUJV per OPDS - as of 04/12/2021

Compiled by The Ramos Project

Last Updated 04/20/2021

<u>NUJV Direct Appeal Cases</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Oregon Population (2019)</u>
Total:	427	100.00%	
White:	269	63.00%	75.10%
Black:	66	15.46%	2.20%
Latinx:	64	14.99%	13.40%
Asian:	12	2.81%	5.40%
Native American:	9	2.11%	1.80%
Unclear or Unknown:	7	1.64%	

County Breakdown

<u>Multnomah Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Multnomah General Population (2019)</u>
Total:	74	17.33%	
White:	36	48.65%	69.10%
Black:	28	37.84%	6.00%
Latinx:	7	9.46%	12.00%
Asian:	2	2.70%	8.80%
Native American:	1	1.35%	1.40%

<u>Washington Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Washington General Population (2019)</u>
Total:	89	20.84%	
White:	43	48.31%	64.60%
Black:	18	20.22%	2.50%
Latinx:	17	19.10%	17.10%
Asian:	5	5.62%	12.20%
Native American:	1	1.12%	1.10%
Unknown:	5	5.62%	

<u>Clackamas Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Clackamas General Population (2019)</u>
Total:	23	5.39%	
White:	18	78.26%	81.10%
Black:	3	13.04%	1.20%
Latinx:	2	8.70%	9.00%
Asian:	0	0.00%	5.20%
Native American:	0	0.00%	1.10%

<u>Lane Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Lane General Population (2019)</u>
Total:	32	7.49%	
White:	24	75.00%	81.30%
Black:	4	12.50%	1.30%
Latinx:	2	6.25%	9.30%
Asian:	2	6.25%	3.50%
Native American:	0	0.00%	1.60%

<u>Marion Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Marion General Population (2019)</u>
Total:	50	11.71%	
White:	27	54.00%	64.70%
Black:	2	4.00%	1.60%
Latinx:	19	38.00%	27.20%
Asian:	2	4.00%	3.50%
Native American:	0	0.00%	2.60%

<u>Jackson Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Jackson General Population (2019)</u>
Total:	19	4.45%	
White:	13	68.42%	80.10%
Black:	4	21.05%	1.00%
Latinx:	1	5.26%	13.50%
Asian:	1	5.26%	2.00%
Native American:	0	0.00%	1.60%

<u>Deschutes Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Deschutes General Population (2019)</u>
Total:	12	2.81%	
White:	7	58.33%	86.80%
Black:	1	8.33%	0.60%
Latinx:	2	16.67%	8.30%
Asian:	0	0.00%	1.50%
Native American:	2	16.67%	1.10%

<u>Linn Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Linn General Population (2019)</u>
Total:	6	1.41%	
White:	4	66.67%	84.30%
Black:	1	16.67%	0.80%
Latinx:	1	16.67%	9.50%
Asian:	0	0.00%	1.50%
Native American:	0	0.00%	1.70%

<u>Douglas Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Douglas General Population (2019)</u>
Total:	10	2.34%	
White:	8	80.00%	87.50%
Black:	0	0.00%	0.50%
Latinx:	2	20.00%	6.10%
Asian:	0	0.00%	1.30%
Native American:	0	0.00%	2.10%

<u>Yamhill Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Yamhill General Population (2019)</u>
Total:	12	2.81%	
White:	7	58.33%	76.80%
Black:	1	8.33%	1.20%
Latinx:	3	25.00%	16.20%
Asian:	0	0.00%	2.30%
Native American:	1	8.33%	2.00%

<u>Benton Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Benton General Population (2019)</u>
Total:	6	1.41%	
White:	5	83.33%	79.80%
Black:	0	0.00%	1.20%
Latinx:	1	16.67%	7.80%
Asian:	0	0.00%	7.30%
Native American:	0	0.00%	0.90%

<u>Josephine Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Josephine General Population (2019)</u>
Total:	7	1.64%	
White:	7	100.00%	86.60%
Black:	0	0.00%	0.60%
Latinx:	0	0.00%	7.70%
Asian:	0	0.00%	1.40%
Native American:	0	0.00%	1.70%

<u>Polk Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Polk General Population (2019)</u>
Total:	7	1.64%	
White:	5	71.43%	77.30%
Black:	1	14.29%	1.10%
Latinx:	0	0.00%	14.50%
Asian:	0	0.00%	2.60%
Native American:	1	14.29%	2.50%

<u>Umatilla Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Umatilla General Population (2019)</u>
Total:	13	3.04%	
White:	10	76.92%	65.10%
Black:	0	0.00%	1.20%
Latinx:	2	15.38%	27.60%
Asian:	0	0.00%	1.40%
Native American:	0	0.00%	4.30%
Unknown:	1	7.69%	

<u>Klamath Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Klamath General Population (2019)</u>
Total:	3	0.70%	
White:	0	0.00%	77.10%
Black:	1	33.33%	0.90%
Latinx:	1	33.33%	13.80%
Asian:	0	0.00%	1.30%
Native American:	1	33.33%	5.00%

<u>Coos Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Coos General Population (2019)</u>
Total:	16	3.75%	
White:	14	87.50%	84.90%
Black:	1	6.25%	0.60%
Latinx:	0	0.00%	6.80%
Asian:	0	0.00%	1.60%
Native American:	0	0.00%	3.00%
Unknown:	1		

<u>Columbia Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Columbia General Population (2019)</u>
Total:	0	0.00%	
White:			87.80%
Black:			0.80%
Latinx:			5.60%
Asian:			1.30%
Native American:			1.50%

<u>Lincoln Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Lincoln General Population (2019)</u>
Total:	13	3.04%	
White:	11	84.62%	82.00%
Black:	0	0.00%	0.90%
Latinx:	0	0.00%	9.50%
Asian:	0	0.00%	1.60%
Native American:	2	15.38%	4.00%

<u>Clatsop Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Clatsop General Population (2019)</u>
Total:	4	0.94%	
White:	3	75.00%	85.10%
Black:	0	0.00%	0.90%
Latinx:	1	25.00%	8.60%
Asian:	0	0.00%	1.90%
Native American:	0	0.00%	1.40%

<u>Malheur Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Malheur General Population (2019)</u>
Total:	4	0.94%	
White:	3	75.00%	60.01%
Black:	1	25.00%	1.70%
Latinx:	0	0.00%	34.60%
Asian:	0	0.00%	1.70%
Native American:	0	0.00%	2.00%

<u>Tillamook Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Tillamook General Population (2019)</u>
Total:	7	1.64%	
White:	5	71.43%	84.00%
Black:	0	0.00%	0.70%
Latinx:	2	28.57%	10.50%
Asian:	0	0.00%	1.40%
Native American:	0	0.00%	1.60%

<u>Union Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Union General Population (2019)</u>
Total:	0	0.00%	
White:			88.20%
Black:			0.80%
Latinx:			5.20%
Asian:			2.60%
Native American:			1.30%

<u>Wasco Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Wasco General Population (2019)</u>
Total:	2	0.47%	
White:	2	100.00%	73.60%
Black:	0	0.00%	0.80%
Latinx:	0	0.00%	19.20%
Asian:	0	0.00%	1.80%
Native American:	0	0.00%	3.80%

<u>Jefferson Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Jefferson General Population (2019)</u>
Total:	0	0.00%	
White:			
Black:			
Latinx:			
Asian:			
Native American:			

<u>Hood River Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Hood River General Population (2019)</u>
Total:	1	0.23%	
White:	1	100.00%	
Black:	0	0.00%	
Latinx:	0	0.00%	
Asian:	0	0.00%	
Native American:	0	0.00%	

<u>Crook Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Crook General Population (2019)</u>
Total:	5	1.17%	
White:	4	80.00%	88.00%
Black:	0	0.00%	0.50%
Latinx:	1	20.00%	7.60%
Asian:	0	0.00%	0.80%
Native American:	0	0.00%	1.70%

<u>Curry Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Curry General Population (2019)</u>
Total:	6	1.41%	
White:	6	100.00%	85.70%
Black:	0	0.00%	0.50%
Latinx:	0	0.00%	7.40%
Asian:	0	0.00%	1.00%
Native American:	0	0.00%	2.60%

<u>Baker Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Baker General Population (2019)</u>
Total:	1	0.23%	
White:	1	100.00%	89.70%
Black:	0	0.00%	0.70%
Latinx:	0	0.00%	4.70%
Asian:	0	0.00%	1.00%
Native American:	0	0.00%	1.60%

<u>Morrow Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Morrow General Population (2019)</u>
Total:	0	0.00%	
White:			
Black:			
Latinx:			
Asian:			
Native American:			

<u>Lake Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Lake General Population (2019)</u>
Total:	0	0.00%	
White:			
Black:			
Latinx:			
Asian:			
Native American:			

<u>Harney Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Harney General Population (2019)</u>
Total:	0	0.00%	
White:			
Black:			
Latinx:			
Asian:			
Native American:			

<u>Grant Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Grant General Population (2019)</u>
Total:	3	0.70%	
White:	3	100.00%	91.30%
Black:	0	0.00%	0.30%
Latinx:	0	0.00%	3.90%
Asian:	0	0.00%	0.80%
Native American:	0	0.00%	1.70%

<u>Wallowa Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Wallowa General Population (2019)</u>
Total:	1	0.23%	
White:	1	100.00%	92.60%
Black:	0	0.00%	0.50%
Latinx:	0	0.00%	3.60%
Asian:	0	0.00%	0.60%
Native American:	0	0.00%	0.90%

<u>Gilliam Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Gilliam General Population (2019)</u>
Total:	1	0.23%	
White:	1	100.00%	87.40%
Black:	0	0.00%	0.30%
Latinx:	0	0.00%	7.40%
Asian:	0	0.00%	1.40%
Native American:	0	0.00%	2.10%

<u>Sherman Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Sherman General Population (2019)</u>
Total:	0	0.00%	
White:			
Black:			
Latinx:			
Asian:			
Native American:			

<u>Wheeler Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Wheeler General Population (2019)</u>
Total:	0	0.00%	
White:			
Black:			
Latinx:			
Asian:			
Native American:			

PCR Petitioners Raising NUJV Claims, Appointed Indigent Counsel - as of 04/13/2021

Compiled by The Ramos Project

Last Updated 04/20/2021

<u>NUJV PCR Petitioners</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Oregon Population (2019)</u>
Total:	226	100.00%	
White:	147	65.04%	75.10%
Black:	38	16.81%	2.20%
Latinx:	32	14.16%	13.40%
Asian:	3	1.33%	5.40%
Native American:	6	2.65%	1.80%

County Breakdown

<u>NUJV PCR Petitioners - Multnomah Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Multnomah General Population (2019)</u>
Total:	58	25.66%	
White:	23	39.66%	69.10%
Black:	26	44.83%	6.00%
Latinx:	6	10.34%	12.00%
Asian:	1	1.72%	8.80%
Native American:	2	3.45%	1.40%

NUJV PCR Petitioners - Washington Convictions	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Washington General Population (2019)</u>
Total:	28	12.39%	
White:	18	64.29%	64.60%
Black:	2	7.14%	2.50%
Latinx:	7	25.00%	17.10%
Asian:	1	3.57%	12.20%
Native American:	0	0.00%	1.10%

NUJV PCR Petitioners - Clackamas Convictions	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Clackamas General Population (2019)</u>
Total:	8	3.54%	
White:	3	37.50%	81.10%
Black:	1	12.50%	1.20%
Latinx:	3	37.50%	9.00%
Asian:	0	0.00%	5.20%
Native American:	1	12.50%	1.10%

NUJV PCR Petitioners - Lane Convictions	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Lane General Population (2019)</u>
Total:	18	7.96%	
White:	12	66.67%	81.30%
Black:	3	16.67%	1.30%
Latinx:	3	16.67%	9.30%
Asian:	0	0.00%	3.50%
Native American:	0	0.00%	1.60%

<u>NUJV PCR Petitioners - Marion Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Marion General Population (2019)</u>
Total:	29	12.83%	
White:	18	62.07%	64.70%
Black:	2	6.90%	1.60%
Latinx:	8	27.59%	27.20%
Asian:	1	3.45%	3.50%
Native American:	0	0.00%	2.60%

<u>NUJV PCR Petitioners - Jackson Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Jackson General Population (2019)</u>
Total:	12	5.31%	
White:	10	83.33%	80.10%
Black:	1	8.33%	1.00%
Latinx:	0	0.00%	13.50%
Asian:	0	0.00%	2.00%
Native American:	1	8.33%	1.60%

<u>NUJV PCR Petitioners - Deschutes Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Deschutes General Population (2019)</u>
Total:	8	3.54%	
White:	6	75.00%	86.80%
Black:	0	0.00%	0.60%
Latinx:	2	25.00%	8.30%
Asian:	0	0.00%	1.50%
Native American:	0	0.00%	1.10%

NUJV PCR Petitioners - Linn Convictions	Count	Percentage	Percentage of Linn General Population (2019)
Total:	0	0.00%	
White:			84.30%
Black:			0.80%
Latinx:			9.50%
Asian:			1.50%
Native American:			1.70%

NUJV PCR Petitioners - Douglas Convictions	Count	Percentage	Percentage of Douglas General Population (2019)
Total:	5	2.21%	
White:	5	100.00%	87.50%
Black:	0	0.00%	0.50%
Latinx:	0	0.00%	6.10%
Asian:	0	0.00%	1.30%
Native American:	0	0.00%	2.10%

NUJV PCR Petitioners - Yamhill Convictions	Count	Percentage	Percentage of Yamhill General Population (2019)
Total:	9	3.98%	
White:	8	88.89%	76.80%
Black:	0	0.00%	1.20%
Latinx:	1	11.11%	16.20%
Asian:	0	0.00%	2.30%
Native American:	0	0.00%	2.00%

NUJV PCR Petitioners - Benton Convictions	Count	Percentage	Percentage of Benton General Population (2019)
Total:	1	0.44%	
White:	0	0.00%	79.80%
Black:	1	100.00%	1.20%
Latinx:	0	0.00%	7.80%
Asian:	0	0.00%	7.30%
Native American:	0	0.00%	0.90%

NUJV PCR Petitioners - Josephine Convictions	Count	Percentage	Percentage of Josephine General Population (2019)
Total:	6	2.65%	
White:	6	100.00%	86.60%
Black:	0	0.00%	0.60%
Latinx:	0	0.00%	7.70%
Asian:	0	0.00%	1.40%
Native American:	0	0.00%	1.70%

NUJV PCR Petitioners - Polk Convictions	Count	Percentage	Percentage of Polk General Population (2019)
Total:	2	0.88%	
White:	1	50.00%	77.30%
Black:	0	0.00%	1.10%
Latinx:	1	50.00%	14.50%
Asian:	0	0.00%	2.60%
Native American:	0	0.00%	2.50%

NUJV PCR Petitioners - Umatilla Convictions	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Umatilla General Population (2019)</u>
Total:	6	2.65%	
White:	5	83.33%	65.10%
Black:	1	16.67%	1.20%
Latinx:	0	0.00%	27.60%
Asian:	0	0.00%	1.40%
Native American:	0	0.00%	4.30%

NUJV PCR Petitioners - Klamath Convictions	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Klamath General Population (2019)</u>
Total:	6	2.65%	
White:	5	83.33%	77.10%
Black:	0	0.00%	0.90%
Latinx:	1	16.67%	13.80%
Asian:	0	0.00%	1.30%
Native American:	0	0.00%	5.00%

NUJV PCR Petitioners - Coos Convictions	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Coos General Population (2019)</u>
Total:	7	3.10%	
White:	7	100.00%	84.90%
Black:	0	0.00%	0.60%
Latinx:	0	0.00%	6.80%
Asian:	0	0.00%	1.60%
Native American:	0	0.00%	3.00%

NUJV PCR Petitioners - Columbia Convictions	Count	Percentage	Percentage of Columbia General Population (2019)
Total:	3	1.33%	
White:	3	100.00%	87.80%
Black:	0	0.00%	0.80%
Latinx:	0	0.00%	5.60%
Asian:	0	0.00%	1.30%
Native American:	0	0.00%	1.50%

NUJV PCR Petitioners - Lincoln Convictions	Count	Percentage	Percentage of Lincoln General Population (2019)
Total:	8	3.54%	
White:	8	100.00%	82.00%
Black:	0	0.00%	0.90%
Latinx:	0	0.00%	9.50%
Asian:	0	0.00%	1.60%
Native American:	0	0.00%	4.00%

NUJV PCR Petitioners - Clatsop Convictions	Count	Percentage	Percentage of Clatsop General Population (2019)
Total:	3	1.33%	
White:	2	66.67%	85.10%
Black:	0	0.00%	0.90%
Latinx:	0	0.00%	8.60%
Asian:	0	0.00%	1.90%
Native American:	1	33.33%	1.40%

NUJV PCR Petitioners - Malheur Convictions	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Malheur General Population (2019)</u>
Total:	2	0.88%	
White:	1	50.00%	60.01%
Black:	1	50.00%	1.70%
Latinx:	0	0.00%	34.60%
Asian:	0	0.00%	1.70%
Native American:	0	0.00%	2.00%

NUJV PCR Petitioners - Tillamook Convictions	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Tillamook General Population (2019)</u>
Total:	1	0.44%	
White:	1	100.00%	84.00%
Black:	0	0.00%	0.70%
Latinx:	0	0.00%	10.50%
Asian:	0	0.00%	1.40%
Native American:	0	0.00%	1.60%

NUJV PCR Petitioners - Union Convictions	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Union General Population (2019)</u>
Total:	1	0.44%	
White:	1	100.00%	88.20%
Black:	0	0.00%	0.80%
Latinx:	0	0.00%	5.20%
Asian:	0	0.00%	2.60%
Native American:	0	0.00%	1.30%

<u>NUJV PCR Petitioners - Wasco Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Wasco General Population (2019)</u>
Total:	1	0.44%	
White:	1	100.00%	73.60%
Black:	0	0.00%	0.80%
Latinx:	0	0.00%	19.20%
Asian:	0	0.00%	1.80%
Native American:	0	0.00%	3.80%

<u>NUJV PCR Petitioners - Jefferson Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Jefferson General Population (2019)</u>
Total:	0	0.00%	
White:			
Black:			
Latinx:			
Asian:			
Native American:			

<u>NUJV PCR Petitioners - Hood River Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Hood River General Population (2019)</u>
Total:	0	0.00%	
White:			
Black:			
Latinx:			
Asian:			
Native American:			

NUJV PCR Petitioners - Crook Convictions	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Crook General Population (2019)</u>
Total:	1	0.44%	
White:	1	100.00%	88.00%
Black:	0	0.00%	0.50%
Latinx:	0	0.00%	7.60%
Asian:	0	0.00%	0.80%
Native American:	0	0.00%	1.70%

NUJV PCR Petitioners - Curry Convictions	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Curry General Population (2019)</u>
Total:	2	0.88%	
White:	2	100.00%	85.70%
Black:	0	0.00%	0.50%
Latinx:	0	0.00%	7.40%
Asian:	0	0.00%	1.00%
Native American:	0	0.00%	2.60%

NUJV PCR Petitioners - Baker Convictions	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Baker General Population (2019)</u>
Total:	0	0.00%	
White:			89.70%
Black:			0.70%
Latinx:			4.70%
Asian:			1.00%
Native American:			1.60%

<u>NUJV PCR Petitioners - Morrow Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Morrow General Population (2019)</u>
Total:	1	0.44%	
White:	0	0.00%	58.00%
Black:	0	0.00%	1.10%
Latinx:	0	0.00%	37.70%
Asian:	0	0.00%	0.90%
Native American:	1	100.00%	2.50%

<u>NUJV PCR Petitioners - Lake Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Lake General Population (2019)</u>
Total:	0	0.00%	
White:			
Black:			
Latinx:			
Asian:			
Native American:			

<u>NUJV PCR Petitioners - Harney Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Harney General Population (2019)</u>
Total:	0	0.00%	
White:			
Black:			
Latinx:			
Asian:			
Native American:			

<u>NUJV PCR Petitioners - Grant Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Grant General Population (2019)</u>
Total:	0	0.00%	
White:			91.30%
Black:			0.30%
Latinx:			3.90%
Asian:			0.80%
Native American:			1.70%

<u>NUJV PCR Petitioners - Wallowa Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Wallowa General Population (2019)</u>
Total:	0	0.00%	
White:			92.60%
Black:			0.50%
Latinx:			3.60%
Asian:			0.60%
Native American:			0.90%

<u>NUJV PCR Petitioners - Gilliam Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Gilliam General Population (2019)</u>
Total:	0	0.00%	
White:			87.40%
Black:			0.30%
Latinx:			7.40%
Asian:			1.40%
Native American:			2.10%

<u>NUJV PCR Petitioners - Sherman Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Sherman General Population (2019)</u>
Total:	0	0.00%	
White:			
Black:			
Latinx:			
Asian:			
Native American:			

<u>NUJV PCR Petitioners - Wheeler Convictions</u>	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Wheeler General Population (2019)</u>
Total:	0	0.00%	
White:			
Black:			
Latinx:			
Asian:			
Native American:			

Post-Ramos Direct Appeal - Raw Dataset

Appellate Case No.	Defendant Name	County of Conviction	County Case No.	Race/Ethnicity	Race Source *Please Note that Oregon E-Court Information does have code for Latinx parties, and usually miscodes them as "White," does not list race, or lists as "Other"
A167483	Joshua Dean Baker	Baker	17CR08783	White	Oregon E-Court Information
A162420 (S066786)	Jose Carlos Perez-Cardenas	Benton	14CR32483	Latinx	Oregon E-Court Information says "Other"
A165326 (S067298)	Ryan Nolan Heine	Benton	16CR65170	White	Oregon E-Court Information
A166320 (S067666)	Raymond Turner	Benton	17CR15384	White	Oregon E-Court Information
A167718	Kevin Raymond Sullivant	Benton	17CR73835	White	Oregon E-Court Information
A170215	Jose Gabriel Gonzalez Merwin	Benton	17CR27086	White	Oregon E-Court Information, Mugshot
A171915	Raymond Merl Turner	Benton	17CR16692	White	Oregon Offender Search
A172754	Demeatrice Jean Farr	Clackamas	19CR35257	Black	Oregon E-Court Information
A171969	Alonzo Delauno Mashadda	Clackamas	19CR41061	Black	Oregon E-Court Information
A167339	Ernest Lee Dean	Clackamas	CR1400822	Black	Oregon Offender Search
A164001 (S066418)	Jordan Michael Salazar	Clackamas	16CR42038	Latinx	Booking Information
A167187 (S067105)	Isidro Flores Ramos	Clackamas	17CR30088	Latinx	Oregon Offender Search
A173256	Donald Paquin	Clackamas	19CR29198	White	Booking Information
A171035	Andrew Pulver	Clackamas	16CR50802	White	Oregon E-Court Information
A164733 (S066523)	Sean Michael Burke	Clackamas	16CR73708	White	Oregon E-Court Information

A166005 (S067421)	Steven Wilson	Clackamas	16CR74252	White	Oregon E-Court Information
A169300	Steven Daniel Gilpin	Clackamas	16CR78633	White	Oregon E-Court Information
A167969	Jerry Thomas Wellington	Clackamas	17CR09581	White	Oregon E-Court Information
A172189	Ernest Franklin	Clackamas	18CR06951	White	Oregon E-Court Information
A169796	Jeremy Dunn	Clackamas	18CR59861	White	Oregon E-Court Information
A170157	Wesley Kirt Covington	Clackamas	CR1200564	White	Oregon E-Court Information
A165155 (S067474)	Ardie Adrian Ziegler	Clackamas	16CR77446	White	Oregon E-Court Information
A172047	Ronald Gene Tatman	Clackamas	17CR21042	White	Oregon E-Court Information
A169643	David Paul Burnett	Clackamas	18CR49111	White	Oregon E-Court Information
A173726	Victor Naumov	Clackamas	18CR76806	White	Oregon E-Court Information
A172992	Leslie Raymond Meyer	Clackamas	18CR86682	White	Oregon E-Court Information
A172717	Pavel Ilich Kuzik	Clackamas	19CR13241	White	Oregon E-Court Information
A172777	Steven Michael Hutchinson	Clackamas	19CR27736	White	Oregon E-Court Information
A164142 (S066731)	Roy Allen Richards	Clackamas	16CR82472	White	Oregon Offender Search
A164057	Lynn Edward Benton	Clackamas	CR1201792	White	Oregon Offender Search
A168441 (S067594)	Andres Peon De La Cruz	Clatsop	18CR30821	Latinx	Oregon E-Court Information says "Other"
A171926	Nathan Richcreek	Clatsop	19CR13356	White	Oregon E-Court Information
A170784	Mark Paiz, Jr	Clatsop	17CR83950/ 17CR69301/ 17CN04848	White	Oregon E-Court Information
A173803	Mark Paiz, Jr.	Clatsop	19CR11252	White	Oregon Offender Search (but news story says he needed a translator)
A164777 (S066756)	Matthew Cage	Coos	16CR31619	Black	Oregon E-Court Information
A172046	Mathail Wayne Beason	Coos	19CR24846	Unknown	Unlisted on Oregon E-Court Information

A165869 (S067326)	Cody John Gilbert	Coos	17CR18966	White	Oregon E-Court Information
A167320 (S066885)	Edward Bruce Pierce	Coos	17CR25501	White	Oregon E-Court Information
A166451 (S067115)	Jeremy James Perry	Coos	17CR37523	White	Oregon E-Court Information
A167022 (S067067)	Lucas Arlen Real	Coos	17CR79015	White	Oregon E-Court Information
A170848	Lila Larae McCovey	Coos	18CR59542	White	Oregon E-Court Information
A171849	Michael Dean Bowman	Coos	18CR19181	White	Oregon E-Court Information
A172303	Walter James Ertle	Coos	18CR80425	White	Oregon E-Court Information
A170729	Eric Borchman	Coos	19CR06508	White	Oregon E-Court Information
A172692	Roxanne Chaix Osborn	Coos	19CR37140	White	Oregon E-Court Information
A172926	John Alan Sjogren	Coos	19CR51792	White	Oregon E-Court Information
A173734	Raylin James Sotirakis	Coos	19CR73011	White	Oregon E-Court Information
A167994 (S067733)	Christopher Lawrence McDannald	Coos	18CR00423	White	Oregon Offender Search
A170276	Guy David Allen, Jr	Coos	18CR61339	White	Oregon Offender Search
A173407	Donald Evan Bignell	Coos	19CR74234	White	Oregon Offender Search
A172063	Luis Jimenez Gonzales, Jr	Crook	18CR86298	Latinx	Mugshot, Oregon E-Court Information says "Other"
A165492 (S066848)	Myron Lee Newell	Crook	13CR08263	White	Booking Information
A169038	Alex Michael Stewart	Crook	16CR15363	White	Booking Information
A167855	Timothy Jay Gassner	Crook	16CR47092	White	Oregon E-Court Information
A171862	Justin Dewey Bittick	Crook	17CR81343	White	Oregon Offender Search
A168768	Christopher Brian Wilburn	Curry	17CR76317	White	Oregon E-Court Information
A169776	Matthew Quale	Curry	18CR13850	White	Oregon E-Court Information
A168433	Charles Guy Bolte	Curry	18CR28317	White	Oregon E-Court Information

A169646	Michael Robison	Curry	18CR71142	White	Oregon E-Court Information
A171373	Jennifer Grace Gayman	Curry	18CR81255	White	Oregon E-Court Information
A173449	Donald Lawrence Wamsley	Curry	19CR59190	White	Oregon E-Court Information
A167344 (S067089)	Kenneth Blue	Deschutes	15CR57070	Black	Oregon E-Court Information
A168773	Juan Manuel Retano-Hernandez	Deschutes	17CR14375	Latinx	Oregon E-Court Information - in Information filed on 03/06/2017
A173451	Armando Puac Puac Damaso	Deschutes	19CR52081	Latinx	Oregon E-Court Information says "Other", Mugshot
A171426	Kyle Wayne Vandyke	Deschutes	17CR07565	Native American	Appellate Brief
A170121	Gregory L. Tahsahsanah	Deschutes	18CR70274	Native American	Booking Information
A162595 (S067701)	Christopher Allen Shoemaker	Deschutes	16CR22762	White	Oregon E-Court Information
A167430	David Fincher	Deschutes	16CR57266	White	Oregon E-Court Information
A167461 (S067289)	Daniel Kotila	Deschutes	17CR77569	White	Oregon E-Court Information
A173670	Sarah Beth Magness	Deschutes	18CR05383	White	Oregon E-Court Information
A171059	Samuel Jay Hill	Deschutes	18CR31655	White	Oregon E-Court Information
A160640	Troy Monger	Deschutes	14FE0086/ 13FE1069	White	Oregon E-Court Information
A171205	Thomas Edward Borden	Deschutes	16CR18891	White	Oregon Offender Search
A173878	Adrian Henry Fabela	Douglas	18CR49434	Latinx	Oregon E-Court Information (Case No. 18CR60623, Citation)
A172610	Walter Mauricio Hernandez	Douglas	19CR37752	Latinx	Oregon Offender Search
A168220	Gary Howard Sweetin	Douglas	18CR03941	White	Oregon E-Court Information
A172722	Kevin Wade Davison	Douglas	19CR43894	White	Oregon E-Court Information
A173868	Rodger Vince Royle	Douglas	19CR83167	White	Oregon E-Court Information

A164910 (S066868)	Nicholas Clyde	Douglas	14CR1911FE/ 17CR13245	White	Oregon E-Court Information
A168342 (S067331)	Dee Swiss Thomas, III	Douglas	15CR58384	White	Oregon Offender Search
A167154	Kelly Lee Starnes, Sr	Douglas	17CR63480	White	Oregon Offender Search
A168466 (S067585)	Amanda Marie Knox	Douglas	18CR35395	White	Oregon Offender Search
A167343 (S066878)	Michael Timothy Collier	Douglas	18CR02728	White	Unlisted on Oregon E-Court Information, but appears White in mugshot
A169278	Ashley Annette Boggs	Gilliam	17CR69412	White	Oregon E-Court Information
A167133	Bradley Moles	Grant	160459CR	White	Oregon E-Court Information
A173942	Christopher Ryan Hoppe	Grant	19CR34904	White	Oregon E-Court Information
A172738	Susan Marahrens	Grant	19CR46671	White	Oregon E-Court Information
A171087	Salime Colby Saloom	Hood River	18CR60502	White	Oregon E-Court Information, Mugshot
A165956 (S067116)	Adiolefaga Ah Sam	Jackson	16CR74260	Asian	Oregon E-Court Information
A171403	Richard Sowell	Jackson	19CR02922	Black	Mugshot
A165959 (S067108)	Ricardo McCants	Jackson	17CR45843	Black	Oregon E-Court Information
A171584	Kenneth Jefferson	Jackson	19CR24786	Black	Oregon E-Court Information
A172318	Dominic Spaulding	Jackson	17CR46093	Black	Oregon E-Court Information
A171332	Romualdo Balero	Jackson	17CR43493	Latinx	Oregon Offender Search
A162615 (S067055)	Craig Alan McNutt	Jackson	14CR30680	White	Mugshot
A170208	Meagan Price Fuller	Jackson	16CR29867	White	Oregon E-Court Information
A165200 (S067349)	Robert Chaffee	Jackson	16CR63225	White	Oregon E-Court Information
A165499	Eric Lee Stockton	Jackson	17CR22703	White	Oregon E-Court Information

A170354	Chance Wallace	Jackson	17CR27381	White	Oregon E-Court Information
A168809	Susan King	Jackson	17CR40593	White	Oregon E-Court Information
A167760 (S067611)	Charles Kincheloe	Jackson	17CR48475	White	Oregon E-Court Information
A168077	Jason Swindler	Jackson	17CR84835	White	Oregon E-Court Information
A168908	Aaron Michael Brown	Jackson	18CR48312	White	Oregon E-Court Information
A172968	Shayna Joy Stanford	Jackson	19CR01529	White	Oregon E-Court Information
A172794	Adora Elissa Bond	Jackson	16CR64106	White	Oregon Offender Search
A173631	Charles Anthony Mott, Jr	Jackson	19CR39798	White	Oregon Offender Search
A173728	Josiah Francis Laqua	Jackson	19CR18597	White	Oregon E-Court Information
A164479 (S066548)	Tracy Benet	Josephine	16CR06640	White	Oregon E-Court Information
A167476 (S067194)	David Anderson	Josephine	16CR63560	White	Oregon E-Court Information
A166136 (S066912)	Jeremiah Partain	Josephine	17CR31394	White	Oregon E-Court Information
A171562	Otis Darrell Huey	Josephine	18CR08069	White	Oregon E-Court Information
A173810	Sheila Marie Swanson	Josephine	13CR0504	White	Oregon E-Court Information
A172670	Jayton Troy Heath Spangler	Josephine	18CR65853	White	Oregon E-Court Information
A173745	Tristan Frank-Vidales	Josephine	19CR61427	White	Oregon Offender Search
A171307	Daniel Mull	Klamath	17CR38162	Black	Oregon E-Court Information
A171767	Salvador Abrica Lopez	Klamath	16CR22788	Latinx	Oregon Offender Search
A164597	Racina Allen	Klamath	1402843CR	Native American	Oregon Offender Search
A172448	Kiah Loy Lawson	Lane	19CR00852	Asian	Booking Information
A166648 (S066943)	John Back	Lane	17CR26831	Asian	Not noted on Oregon E-Court Information, Daily Emerald
A164893 (S067627)	Kevin Eggleston	Lane	16CR60704	Black	Booking Information

A166590 (S067524)	Harry Pankey	Lane	17CR49733	Black	Oregon E-Court Information
A168231	Alexander Clemens	Lane	17CR75348	Black	Oregon Offender Search
A162860	A.J. Scott Nelson	Lane	201216841	Black	Oregon Offender Search
A167190 (S067328)	Melvin Monjaras-Guevara	Lane	17CR55872	Latinx	Oregon Offender Search
A167042 (S067486)	Edgar Rodriguez	Lane	16CR73299	Latinx	Register Guard
A167354	Billy Newton Jones	Lane	16CR69409	White	Booking Information
A164981 (S066809)	Jason Lackey	Lane	17CR14500	White	Booking Information
A168672	Lori Ann Moseley	Lane	18CR28830	White	Booking Information
A171470	Cory Allen Earley	Lane	19CR19462	White	Booking Information
A170964	Gerald Roy Strebendt	Lane	18CR27375	White	Booking Information
A172662	Andrew Dalton Capps	Lane	19CR04201	White	Booking Information
A172036	Levi Dakota Heath	Lane	19CR11822	White	Booking Information
A173729	Jeffrey Todd Creek	Lane	19CR25742	White	Booking Information
A172305	Andrew Kenneth Samdahl	Lane	19CR37815/ 19CN02709	White	Booking Information
A173709	Allan Wayne Fulk	Lane	19CR80990	White	Booking Information
A170015 (control) A170016	Patrick Wigginton	Lane	18CR59415/ 18CR74486	White	Booking Information
A168642	Matthew Alan Krieger	Lane	18CR03821	White	Mugshot
A162293	Jeremy Lance Horner	Lane	201204868	White	Mugshot
A164233	Trevor Michael Ryan	Lane	16CR60796	White	Oregon E-Court Information
A169868 (S067584)	Douglas Paul Bailey	Lane	17CR14885	White	Oregon E-Court Information
A165592	Levi Garrett Barden	Lane	17CR27975	White	Oregon E-Court Information

A166193 (S066729)	Joshua Daniel Weltch	Lane	17CR36545	White	Oregon E-Court Information
A166617 (S066754)	Anthony Ray Greene	Lane	17CR60602	White	Oregon E-Court Information
A170223	Travis Gary Kelly	Lane	18CR40441	White	Oregon E-Court Information
A169948	Roy Jay Williams	Lane	17CR80163	White	Oregon Offender Search
A171585	Nicholas Tallman	Lane	19CR08377	White	Oregon Offender Search
A172055	Adam Joseph Tardie	Lane	17CR15794	White	Oregon Offender Search
A173334	Michael Wayne Wesley, Jr	Lane	19CR58352	White	Oregon Offender Search
A168681	Anthony Modrzejewski	Lane	18CR09518/ 18CR37061	White	Oregon Offender Search
A169850	Sabrina Vinson	Lincoln	18CR47488	Native American	Oregon E-Court Information
A168999	Gregory Joseph Handsaker	Lincoln	18CR17278/ 18CR17907	Native American	Oregon Offender Search
A166953	Jeremy Lee Johns	Lincoln	17CR30473	White	Oregon E-Court Information
A169227	Pierce Montgomery Miller	Lincoln	18CR05050	White	Oregon E-Court Information
A170951	Frederick Walker	Lincoln	18CR07737	White	Oregon E-Court Information
A169082	Mark Edgar Landry	Lincoln	18CR11280	White	Oregon E-Court Information
A169585	Kayla Dawn Borden	Lincoln	18CR43865	White	Oregon E-Court Information
A171786	Lawson Reed Rankin, III	Lincoln	19CR05087	White	Oregon E-Court Information
A171711	Stephen Bodee Hicks	Lincoln	19CR17846	White	Oregon E-Court Information
A164359 (S066965)	Antone Bernal	Lincoln	15CR49018	White	Oregon Offender Search
A171378	Clinton Joseph Hylton	Lincoln	18CR07731	White	Oregon Offender Search
A170360	Randy Dean Manns	Lincoln	18CR26628	White	Oregon Offender Search
A170934	Vincent Mychal Sandoval	Lincoln	18CR51243	White	Oregon Offender Search
A163469 (S067647)	Andrew Amelio Formby-Carter	Linn	15CR38708	Black	Oregon E-Court Information
A173251	Johnny Angel Gonzalez	Linn	19CR21583	Latinx	Oregon Offender Search

A158920 (S067423)	Wenona Rossiter	Linn	13CR06277	White	Booking Information
A158973 (S067423)	Travis Lee Rossiter	Linn	13CR06278	White	Oregon E-Court Information
A171669	Richard Lee Curtis, Jr.	Linn	18CR09196/ 19CR25744	White	Oregon E-Court Information
A173858	Gerlinde Spring Lynch	Linn	19CR54294	White	Oregon Offender Search
A172196	Lane Alexander Galloway	Malheur	19CR34395	Black	Oregon E-Court Information
A173316	James Forrest Alger	Malheur	18CR59545	White	Booking Information
A167757	Lois June Catron	Malheur	17CR71598	White	Oregon E-Court Information
A171199	Jonathan Rodriguez	Malheur	17CR32369	White	Oregon Offender Search
A166796 (S067214)	Casper Ankin	Marion	17CR75929	Asian	Oregon E-Court Information
A170249	Lenny Yener	Marion	18CR79941/ 16CR68642	Asian	Oregon E-Court Information
A170189	Maurice Williams	Marion	18CR29704	Black	Oregon E-Court Information
A171082	Sharday Elizabeth Garrett	Marion	17CR41093/ 14C44994/ 16CR29098/ 19CR20115	Black	Oregon E-Court Information
A168357	Juan Francisco Martinez	Marion	17CR22692	Latinx	Booking Information
A169793	Felix Zepeda Salinas	Marion	17CR48100	Latinx	Booking Information
A171624	Uriel Gaona-Mandujano	Marion	18CR67184	Latinx	Booking Information
A171308	Antonio Vasquez-Reyes	Marion	19CR28462	Latinx	Booking Information
A170759	Armando Texale-Castro	Marion	17CR62168	Latinx	Booking Information
A173250	Jorge Ulises Serrano	Marion	19CR02471	Latinx	Booking Information
A173354	Yessica Gurrola	Marion	19CR44748	Latinx	Booking Information
A170633	Salvador Martinez-Olvera	Marion	18CR37651/ 18CR71070	Latinx	Booking Information

A162994 (S066550)	Jose Perez-Garcia	Marion	16CR15033	Latinx	Oregon Offender Search
A165536 (S066907)	Enrique Vera-Medina	Marion	16CR34891	Latinx	Oregon Offender Search
A166220	Jose Antonio Hernandez	Marion	16CR65578	Latinx	Oregon Offender Search
A171147	Jerry Borrego	Marion	18CR44399	Latinx	Oregon Offender Search
A173702	Roman Patino-Ochoa	Marion	18CR27215/ 18CR57235	Latinx	Oregon Offender Search
A172271	Robert Guadalupe Guerrero	Marion	18CR58854	Latinx	Oregon Offender Search
A167711	Alberto Baez	Marion	16CR37168/ 17CR32899	Latinx	Oregon Offender Search
A166020 (control) (S066990)	Rigoberto Manzanares- Hernandez	Marion	16CR74436/ 17CR07702	Latinx	Oregon Offender Search
A169123	Salvador Guido Ledesma	Marion	17CR81016/ 17CR80321	Latinx	Oregon Offender Search
A170450	Pablo Mendoza-Lopez	Marion	13C46615	Latinx	Statesman-Journal Article
A170449	Pablo Mendoza-Lopez	Marion	15CR06590	Latinx	Statesman-Journal Article
A167421	Kori Leigh Nelson	Marion	17CR06369	White	Booking Information
A172438	Amber Dawn Alvarado	Marion	18CR81399	White	Booking Information
A172278	David Wayne Orr	Marion	19CR48594	White	Booking Information
A161140 (S067699)	David Alan Moles	Marion	15CR09283	White	Oregon E-Court Information
A165647	Nikolay Avdeyev	Marion	15CR55011	White	Oregon E-Court Information
A165147 (S067529)	Steven J. Frystak	Marion	16CR19046	White	Oregon E-Court Information

A164697 (S066815) (S066805)	Christopher May	Marion	16CR44572	White	Oregon E-Court Information
A164575	John Joseph Rideout	Marion	16CR46282	White	Oregon E-Court Information
A166194 (S066984)	Christopher Michael Gerig	Marion	17CR30280	White	Oregon E-Court Information
A166588 (S066883)	Joseph Mark Carrier	Marion	17CR47465	White	Oregon E-Court Information
A168772	Joshua Maurice Ballard	Marion	17CR65181	White	Oregon E-Court Information
A170102	Sabrina Ann Trenary-Brown	Marion	17CR69783	White	Oregon E-Court Information
A170543	Shelly Fischer	Marion	18CR30393	White	Oregon E-Court Information
A169334	Jonathan Busch	Marion	18CR31395	White	Oregon E-Court Information
A170329	Michael Buell	Marion	18CR32915	White	Oregon E-Court Information
A171198	Christian Cook	Marion	18CR41001	White	Oregon E-Court Information
A171595	Laura Marie Galindo	Marion	18CR61977	White	Oregon E-Court Information
A173711	Austin Erik Carter	Marion	19CR56913	White	Oregon E-Court Information
A165927 (S067401)	Christopher Cassidy	Marion	17CR25970/ 16CN02611	White	Oregon E-Court Information
A171080	Devon Thomas Lee Bock	Marion	19CR20501/ 15CR31837	White	Oregon E-Court Information
A163332 (S066369)	Cory Dennison	Marion	15CR05414/ 15CR53696/ 16CR09716	White	Oregon E-Court Information
A166335 (control)	Michael Benjamin Smith	Marion	16CR68675/ 16CR75862/ 17CR12608	White	Oregon E-Court Information
A166890 (S067205)	Richard Lopez	Marion	17CR28479	White	Oregon Offender Search

A165056 (S067082)	Sean Michael Johnson	Marion	14C44115	White	Oregon Offender Search
A171916	William Harrison Gibbens	Marion	18CR47115	White	Oregon Offender Search
A171548	Rocky Ray Robison	Marion	18CR72158/ 18CR81258	White	Oregon Offender Search
A173524	Justin Narlock	Marion	19CR46728	White	Oregon Offender Search
A168223	Shree Sangrolla	Multnomah	16CR37625	Asian	Oregon E-Court Information
A171872	Hung Cam Tat	Multnomah	18CR59837	Asian	Oregon E-Court Information
A163658 (S066643)	Kevin Levi Scott	Multnomah	15CR15251	Black	Oregon E-Court Information
A162977 (S066437)	Eric Jones	Multnomah	15CR44943	Black	Oregon E-Court Information
A162421	Marcus Paye	Multnomah	15CR50132	Black	Oregon E-Court Information
A163895 (S066872)	Olan Williams	Multnomah	15CR58698	Black	Oregon E-Court Information
A164964	Marcus Gant	Multnomah	16CR02080	Black	Oregon E-Court Information
A166011 (S066885)	Robert Shelby	Multnomah	16CR20915	Black	Oregon E-Court Information
A165852 (S067012)	Rayonte Henry	Multnomah	16CR56079	Black	Oregon E-Court Information
A165628 (S067081)	Kalvin Ray Ransom	Multnomah	16CR68430	Black	Oregon E-Court Information
A169356	Virgil Adams	Multnomah	16CR68680	Black	Oregon E-Court Information
A165653 (S066884)	Rashi Saunders	Multnomah	16CR77978	Black	Oregon E-Court Information
A168552	Angelina Logan	Multnomah	16CR82865	Black	Oregon E-Court Information
A168219	Moncello James	Multnomah	17CR33157	Black	Oregon E-Court Information
A168472	Curtis Williams	Multnomah	17CR37474	Black	Oregon E-Court Information
A167303	Shelly Thompson	Multnomah	17CR40356	Black	Oregon E-Court Information

A168909	Zirimuabagado Mutara	Multnomah	17CR46156	Black	Oregon E-Court Information
A169960	Leonard Ray Brightmon, Jr.	Multnomah	18CR13868	Black	Oregon E-Court Information
A167302	Latrell Earvin Poston	Multnomah	120431530	Black	Oregon E-Court Information
A168253	Steven Lamar Roberts	Multnomah	130733183	Black	Oregon E-Court Information
A172584	Deonte Ahmad Powe	Multnomah	17CR32507	Black	Oregon E-Court Information
A173922	Andre Latroy Lightsey	Multnomah	17CR49508	Black	Oregon E-Court Information
A171261	Byron Edward Davis	Multnomah	18CR49635	Black	Oregon E-Court Information
A172962	Percy Lee Ware	Multnomah	18CR49930/ 17CR06882/ 17CR36852	Black	Oregon E-Court Information
A172780	Jammie Toyel Smith	Multnomah	18CR58872	Black	Oregon E-Court Information
A172994	Brandon Deuntrell Frison	Multnomah	18CR59970	Black	Oregon E-Court Information
A171375	Stefan Miguel Johnson	Multnomah	18CR61796	Black	Oregon E-Court Information
A173993	Taichi Kareaf Burton	Multnomah	19CR77985	Black	Oregon E-Court Information
A165931 (S067276)	Tony Brown	Multnomah	16CR55091/ 16CR62746	Black	Oregon E-Court Information
A169710	Darian Lee McWoods	Multnomah	16CR78185	Black	Oregon Offender Search
A168985	Pedro Sanchez, Jr.	Multnomah	17CR22890	Latinx	Booking Information
A171574	Luis Fernando Perez-Mejia	Multnomah	18CR85387	Latinx	Booking Information
A172176	Ismael Nava Bibiano	Multnomah	18CR75259	Latinx	Booking Information
A171313	Miguel Grano Damian	Multnomah	18CR61279	Latinx	Mugshot, Oregon E-Court Information says "Other"
A170071	Jorge Beltran	Multnomah	18CR11715	Latinx	Oregon Offender Search
A170116	Freddy Velasquez-Soto	Multnomah	18CR26005	Latinx	Oregon Offender Search
A167351 (S067576)	Alexis Leon Suarez	Multnomah	17CR05361/ 17CR52800/ 16CR09775	Latinx	Oregon Offender Search
A173149	Valery Parmenolvich Meladze	Multnomah	19CR44122	Native American	Oregon E-Court Information

A161408	Nathan Oxford	Multnomah	140230856	White	Oregon E-Court Information
A173587	Michael George Sperou	Multnomah	14CR10194	White	Oregon E-Court Information
A162748 (S067083)	Hossein Tajipour	Multnomah	15CR26096	White	Oregon E-Court Information
A164035	Nicholas Clifton Jones	Multnomah	15CR38327	White	Oregon E-Court Information
A162360	Audrey Beth Cannon	Multnomah	15CR51118	White	Oregon E-Court Information
A165274 (S066877)	James Swearingen	Multnomah	16CR22360	White	Oregon E-Court Information
A164500	Caleb James Johnson	Multnomah	16CR25479	White	Oregon E-Court Information
A164245 (S067403)	Joseph Valentino Longoria	Multnomah	16CR31152	White	Oregon E-Court Information
A165105	Nicholas Patrick Merrill	Multnomah	16CR54578	White	Oregon E-Court Information
A167157 (S067575)	James Lin Browning	Multnomah	16CR74878	White	Oregon E-Court Information
A167487	Dennis Ray Howie	Multnomah	17CR09383	White	Oregon E-Court Information
A168406	Dominic Andrew Hawk	Multnomah	17CR17672	White	Oregon E-Court Information
A167036 (S067137)	Keith Ingham	Multnomah	17CR22399	White	Oregon E-Court Information
A165938 (S067013)	Robert Graham	Multnomah	17CR26673	White	Oregon E-Court Information
A168599 (S067339)	Kevin John Hunt	Multnomah	17CR37402	White	Oregon E-Court Information
A170902	Emily Tallman	Multnomah	17CR41142	White	Oregon E-Court Information
A167148 (S067516)	Ronald Roy Riekens	Multnomah	17CR64424	White	Oregon E-Court Information
A167990	Joshua Scott Lipka	Multnomah	17CR82732	White	Oregon E-Court Information
A169009	Jedaiah Lunn	Multnomah	17CR83077	White	Oregon E-Court Information
A169250	Jesse Phillips	Multnomah	18CR03448	White	Oregon E-Court Information
A171769	Rene Pugmire	Multnomah	18CR09282	White	Oregon E-Court Information

A168930	Jeffrey David Boone	Multnomah	18CR10630	White	Oregon E-Court Information
A171044	Dustin Eugene Hall	Multnomah	18CR21233	White	Oregon E-Court Information
A170612	Raji Azar	Multnomah	18CR28295	White	Oregon E-Court Information
A170014	Jonathan Hanson	Multnomah	18CR37909	White	Oregon E-Court Information
A171458	Kent Richardson	Multnomah	18CR59962	White	Oregon E-Court Information
A167788	Dean Eric Parsons	Multnomah	16CR36224	White	Oregon E-Court Information
A172716	Edward Merle Riebhoff	Multnomah	18CR58490	White	Oregon E-Court Information
A173717	Veniamin Mikhaylovich Mashtalyar	Multnomah	18CR79577	White	Oregon E-Court Information
A172307	Michael Tori Amatullo	Multnomah	18CR84057	White	Oregon E-Court Information
A173994	James David Keith	Multnomah	19CR57655	White	Oregon E-Court Information
A166941 (control)	David LaRue	Multnomah	16CR73753/ 17CR26529	White	Oregon E-Court Information
A172468	Russell Orlando Courtier	Multnomah	16CR50154	White	Oregon Offender Search
A172368	Blake David Burch	Multnomah	18CR32878	White	Oregon Offender Search
A172739	Ryan Wayne Perkins	Multnomah	19CR05893	White	Oregon Offender Search
A173014	Alexander Tomas Harrison	Multnomah	19CR22701	White	Oregon Offender Search
A167756 (S067665)	Kester Harry	Polk	17CR07025	Black	Oregon E-Court Information
A166945 (S067084)	Adrian Ulery	Polk	17CR79026	Native American	Oregon Offender Search
A171928	Edward Lemont Case, Jr.	Polk	17CR61289	White	Oregon E-Court Information
A171700	Dennis Gene Sarver	Polk	19CR33803	White	Oregon E-Court Information
A171003	Ryan Villemeyer	Polk	17CR45845	White	Oregon Offender Search
A173110	Quinlyn Reed Harden	Polk	18CR38191/ 18CR79539/ 18CR82393/ 19CR24133	White	Oregon Offender Search
A173809	John Scott Cooley	Polk	20CR02436	White	Oregon Offender Search

A170287	Marcelino Garcia	Tillamook	91071	Latinx	Booking Information
A168547	Jose Franco-Carillo	Tillamook	17CR77618	Latinx	Oregon Offender Search
A165986	Mark Edward Jones	Tillamook	16CR22760	White	Oregon E-Court Information
A167184 (S067392)	Trevor Tohl	Tillamook	16CR73242	White	Oregon E-Court Information
A167825	Joseph Jacob	Tillamook	17CR24167	White	Oregon E-Court Information
A167780	Justin Patrick Uribe	Tillamook	17CR81036	White	Oregon E-Court Information
A166928	Justin Phillips	Tillamook	17CR12173	White	Oregon Offender Search
A168978	Ramiro Reynaga	Umatilla	18CR59823	Latinx	Oregon Offender Search
A170920	Jose Francisco Garcia	Umatilla	19CR04832	Latinx	Oregon Offender Search
A170145	Hussein Hassan	Umatilla	18CR57567	Unknown	Oregon E-Court Information says "Unavailable", Oregon Offender says White
A168388	Lisa Mornay McBean	Umatilla	17CR76459	White	Oregon E-Court Information
A169637	Joshua Ralph Norton	Umatilla	18CR58741	White	Oregon E-Court Information
A163648	Shaun Dick	Umatilla	CF150130	White	Oregon E-Court Information
A166410 (control) (S066819)	Tracee Ray Harris	Umatilla	16CR71067	White	Oregon E-Court Information
A173074	Joseph Dean Johnson	Umatilla	18CR18230	White	Oregon E-Court Information
A172308	Leman Louis Bledsoe	Umatilla	18CR54385	White	Oregon E-Court Information
A171947	Robert Glen Rupert	Umatilla	18CR57911	White	Oregon E-Court Information
A171816	John Arthur Nibler	Umatilla	18CR79307	White	Oregon E-Court Information
A173125	Stephen Mark Forest	Umatilla	19CR59044	White	Oregon E-Court Information
A173559	Krystian Thomas Allen	Umatilla	19CR42523	White	Oregon Offender Search
A169975	Daniel Paul Sticka	Wallowa	16042410/ 17CR09185	White	Oregon E-Court Information
A171776	Justin McClour	Wasco	19CR32373/ 19CR38036	White	Mugshot
A170271	William David Harris	Wasco	18CR09450	White	Oregon E-Court Information

A169752	Muizz Tabir Sosna	Washington	17CR75838	Asian	Oregon E-Court Information
A166825 (S067416)	Juan Carlos Perdomo-Menjivar	Washington	17CR35523	Asian	Oregon Offender Search
A170498	Leo Gabonia	Washington	18CR17436	Asian	Oregon Offender Search
A173744	Elliot Satoru Carr	Washington	19CR61080	Asian	Oregon Offender Search (Pacific Islander)
A166302 (S067065)	An Ngoc Le	Washington	16CR78119	Asian	Washington Co. Jail Roster
A171571	Antonio D'Epiro Jeffery	Washington	18CR82121	Black	Booking Information
A160838 (S067384)	Larry Dale Smith, Jr.	Washington	C150361CR	Black	Booking Information
A166375	Ronald Edwin Bradley, II	Washington	C081099CR	Black	Booking Information
A167055 (S067190)	Daniel Pierre Parker	Washington	17CR57461	Black	Mugshot
A169467	Thomas Charles Wollam	Washington	16CR31207	Black	Oregon E-Court Information
A168695 (control) A168795	Micah Rhodes	Washington	17CR09421	Black	Oregon E-Court Information
A168296 (S067619)	Green Newton	Washington	18CR27428	Black	Oregon E-Court Information
A170376	Preston Neely	Washington	18CR43203	Black	Oregon E-Court Information
A169092	George Fisher	Washington	18CR45318	Black	Oregon E-Court Information
A164662	Tyrell Dupree Damper	Washington	C141222CR	Black	Oregon E-Court Information
A173169	Jason Jeremiah Patton	Washington	18CR74554	Black	Oregon E-Court Information
A173542	Auston Tyrese Butts	Washington	19CR79872	Black	Oregon E-Court Information
A165721 (S066911)	Tyrone Criss	Washington	16CR46123/ 16CR80489	Black	Oregon E-Court Information
A173379	Nathan Gene Davis	Washington	19CR42943	Black	Oregon E-Court Information (Case No. 19CR71237)
A171043	Israel Marcel Moore	Washington	18CR39673	Black	Oregon Offender Search

A170110	Robert Duke	Washington	18CR72489	Black	Oregon Offender Search
A172919	Seneca Honjuay Isaiah Cayson	Washington	18CR15470	Black	Oregon Offender Search
A172621	Johnathan Richard Black	Washington	C140510CR	Black	Oregon Offender Search
A171634	Anthony Michael Delarosa	Washington	19CR08484	Latinx	Booking Information
A173601	Margarita Solis-Ruiz	Washington	19CR51973	Latinx	Defense Counsel - Theo Erde-Wollheim
A173805	Fidencio Diaz-Eguiza	Washington	19CR09963	Latinx	Oregon E-Court Information says "Other" (Case No. Z1648603)
A165375	Jose Arellano-Sanchez	Washington	16CR70262	Latinx	Oregon E-Court Information says "Other", Oregon Offender says White
A168101	Francisco Chavez-Reyes	Washington	17CR75366	Latinx	Oregon Offender Search
A170592	Samuel Santos-Vasquez	Washington	18CR80029	Latinx	Oregon Offender Search
A154601 (S065199)	Baltazar Garcia-Rocio	Washington	C122337CR	Latinx	Oregon Offender Search
A162764	Luis Hernandez-Sanchez	Washington	C152335CR	Latinx	Oregon Offender Search
A168105	Eliseo Tellez-Suarez	Washington	17CR50926	Latinx	Oregon Offender Search
A173766	Armando Lozano-Memije	Washington	18CR80042	Latinx	Oregon Offender Search
A171946	Angel Alexander Negron	Washington	19CR02972	Latinx	Oregon Offender Search
A172664	Jose Manuel Nunez-Reyes	Washington	19CR23773	Latinx	Oregon Offender Search
A173456	Carlos Santana Valero, Jr	Washington	19CR67325	Latinx	Oregon Offender Search
A163557 (S067534)	Eduin Asael Murcia-Linarez	Washington	C160066CR	Latinx	Oregon Offender Search
A165148 (S066683)	Fabian Castrejon-Medina	Washington	16CR23274/ 16CR36763	Latinx	Oregon Offender Search
A165265	Edgar Minor-Osuna	Washington	C142666CR/ 17CR13508	Latinx	Oregon Offender Search

A171533	Jose Luis Berumen-Carlos	Washington	18CR42669/ 17CR51367/ 18CR06154/ 19CR15516	Latinx	Oregon Offender Search
A169663	Charles Alfonso Pina	Washington	17CR76560	Native American	Oregon Offender Search
A172520	Rosa Idalia Vasquez	Washington	18CR77601	Unknown	Unlisted on Oregon E-Court Information
A162884 (S066471)	Jonathan David Smoot	Washington	C152825CR/ 16CR17498	Unknown	Unlisted on Oregon E-Court Information
A165932	Joel Isaac Harris, III	Washington	17CR42757	Unknown	Unlisted on Oregon E-Court Information
A167913	Beatriz Rivera-Sanchez	Washington	17CR68395	Unknown	Unlisted on Oregon E-Court Information
A171226	Juan Gabriel Sosa	Washington	18CR77083	Unknown	Unlisted on Oregon E-Court Information, but appears Latinx in news stories
A166925 (S067255)	Thomas Jackson, Jr.	Washington	17CR42780	White	Booking Information
A167088	Max Montano	Washington	17CR64866	White	Booking Information
A170139	Christopher Herr	Washington	18CR47471	White	Booking Information
A168710	Mercedes Peloquin	Washington	18CR52376	White	Booking Information
A171811	Mark Gonzales	Washington	19CR36159	White	Booking Information
A162335 (S067094)	Don Lacey Hamilton	Washington	C152050CR	White	Booking Information
A172202	Kenneth Oliver Blackburn, Jr	Washington	19CR07928	White	Booking Information
A172867	Christopher McKye Dixon	Washington	19CR49634	White	Booking Information
A170610	Jason Herfurth	Washington	C110010CR	White	Booking Information
A165393 (S067428)	Levon Lord	Washington	16CR34012/ 16CR38893	White	Booking Information
A167772	Daniel James Worley	Washington	14FE1644	White	Oregon E-Court Information
A165236 (S067560)	Mark Elwyn Lawson	Washington	16CR68630	White	Oregon E-Court Information
A171074	John Edward Courier	Washington	18CR01964	White	Oregon E-Court Information

A170033	Christina Cobb	Washington	18CR13962	White	Oregon E-Court Information
A169056	George Lee Vaughn	Washington	18CR17001	White	Oregon E-Court Information
A168873	Hilary Witt	Washington	18CR18939	White	Oregon E-Court Information
A170011	Tyrone Neil Murphy	Washington	18CR29852	White	Oregon E-Court Information
A163866	William Savage	Washington	C132332CR	White	Oregon E-Court Information
A168787 (S067692)	John Dale Parker	Washington	18CR21144	White	Oregon E-Court Information
A171078	Randall Todd Brown	Washington	18CR75115/ 18CR85116	White	Oregon E-Court Information
A172367	Hayden Landry Davis	Washington	19CR17769	White	Oregon E-Court Information
A173333	Brandon Michael Binetti	Washington	19CR25663	White	Oregon E-Court Information
A173201	Travis Lee Brady	Washington	19CR31931	White	Oregon E-Court Information
A169750	Patrick Paluda	Washington	18CR42276/ 18CR08523	White	Oregon E-Court Information
A173801	Glenn Fishbuch	Washington	19CR54051	White	Oregon E-Court Information (Case No. 080532158)
A173752	Shane Yerkes	Washington	18CR75283	White	Oregon E-Court Information (Case No. 14VI75748)
A165343 (S067015)	Thomas William Scanlon	Washington	16CR50442	White	Oregon Offender Search
A165882	Charles McCurry	Washington	17CR01344	White	Oregon Offender Search
A169480	Corey Alan Bock	Washington	17CR41800	White	Oregon Offender Search
A169238	Mark Dwain Quandt	Washington	17CR78026	White	Oregon Offender Search
A168835	Michael Serhienko	Washington	18CR04475	White	Oregon Offender Search
A169566	Ryan Bush	Washington	18CR27886	White	Oregon Offender Search
A171738	Todd Allen Wymer	Washington	18CR78463	White	Oregon Offender Search
A173279	Chad Brandon Pitcher	Washington	17CR63109	White	Oregon Offender Search
A170073	Tevis Daniel Steven Wilson	Washington	18CR33906	White	Oregon Offender Search
A173375	John William Miller, III	Washington	18CR41405	White	Oregon Offender Search

A170923	Bryon Lloyd Akins	Washington	18CR58266	White	Oregon Offender Search
A173492	Cupertino Juarez-Hernandez	Washington	19CR24766/ 19CR34886	White	Oregon Offender Search
A170399	Haven Alexander Luton	Washington	18CR69878/ 16CR74919	White	Oregon Offender Search
A173692	Carl Todd, Jr	Washington	19CR53379	White	Twitter - appears White in picture
A160031 (S067744)	Steven Douglas Rockett	Washington	C131929CR/ C132673CR	White	Unlisted on Oregon E-Court Information, but appears White in Mugshot
A170027	David Allan Detgen	Washington	18CR18810	White	Washington Co. Jail Roster
A164920	Jessie Chavez-Echeverria	Washington	16CR32732/ C152304CR	White	Booking Information
A169997	Earl Douglas Woods, Jr.	Yamhill	18CR56229	Black	Oregon E-Court Information
A165075 (S066765)	Juan Jose Guardado	Yamhill	15CR54913	Latinx	Oregon E-Court InformationI says "Other", Oregon Offender says White
A165860 (control) (S067327)	Pedro Sanchez, Jr.	Yamhill	15CR12240/ 16CR39104	Latinx	Oregon E-Court Information says "Other"
A173391	David Alexander Bedinger	Yamhill	19CR74565	Latinx	Oregon Offender Search
A162357 (S066686)	Gary Lee Campbell	Yamhill	15CR13064	Native American	Oregon Offender Search
A170434	Joshua Michael Hartwick	Yamhill	18CR52957	White	Mugshot
A165140	Michael Robert Clark	Yamhill	16CR48485	White	Oregon E-Court Information
A165076 (S067244)	Johnny Johnson	Yamhill	16CR50500	White	Oregon E-Court Information
A168708	Brian Thorpe	Yamhill	18CR04710	White	Oregon E-Court Information
A169977	Derek Durrett	Yamhill	18CR43786	White	Oregon E-Court Information
A167857 (S067601)	Omar Fierro	Yamhill	17CR72508	White	Oregon E-Court Information, Mugshot

A170434	Joshua Michael Hartwick	Yamhill	18CR52957	White	Oregon E-Court Information (Case No. Z1562067)
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Post-Ramos PCR - Raw Dataset

PCR Case No.	Petitioner Name	County of Conviction	County Case No.	Race/Ethnicity	Race Source *Please Note that Oregon E-Court Information does have code for Latinx parties, and usually miscodes them as "White," does not list race, or lists as "Other"
20CV38033	Tyler Warren	Benton	15CR29528	Black	Oregon Offender Search
20CV27515	William Bams	Clackamas	CR0601768	Black	Oregon E-Court Information
21CV09131	Ray Esquivel	Clackamas	CR0102599	Latinx	Oregon Offender
20CV29322	Antonio Gomez	Clackamas	CR9800332	Latinx	Oregon Offender Search
20CV29381	Pedro Valdez	Clackamas	CR1300156	Latinx	Oregon Offender Search
20CV20876	Thomas Cremeen	Clackamas	CR9401652	Native American	Oregon Offender Search
20CV25301	Joshua Marsing	Clackamas	CR9800050	White	Oregon Offender Search
20CV39842	Keith McMullin	Clackamas	CR1200400	White	Oregon Offender Search
20CV20439	Zachary Hughes	Clackamas	CR1500310	White	Oregon Offender Search
20CV23179	Thomas Cremeen	Clatsop	CC83432	Native American	Oregon Offender Search
20CV22625	Conn Maloney	Clatsop	991242	White	Oregon Offender Search
20CV34561	Sterling Frinell	Clatsop	131173	White	Oregon Offender Search
20CV39118	David Gregory	Columbia	14CR10452	White	Oregon Offender Search
20CV33245	Paul Fitzgibbons	Columbia	14CR07185/ 14CR00556	White	Oregon Offender Search
20CV20913	Shawn Smith	Columbia	15CR20904	White	Oregon Offender Search
21CV12327	Chris Harlukowicz	Coos	88CR2295	White	Oregon E-Court Information (Case No. 98CR1776)
21CV12728	Steven Forbess	Coos	86487	White	Oregon Offender
20CV23886	Detlef Callender	Coos	00CR0535	White	Oregon Offender Search

20CV31249	Alby Smith	Coos	00CR0627	White	Oregon Offender Search
20CV26538	Lymon Henson	Coos	01CR1518	White	Oregon Offender Search
20CV23069	Jason Barreras-Sanchez	Coos	14CR1642	White	Oregon Offender Search
20CV37888	Frank Noakes	Coos	16CR55408	White	Oregon Offender Search
20CV18521	Robert Clark	Crook	17CR68373	White	Oregon Offender Search
20CV24085	Marvin Daniels	Curry	10CR0544	White	Oregon Offender Search
20CV21334	Glen Burkhaw	Curry	13CR0058	White	Oregon Offender Search
20CV33559	Mario Mendoza	Deschutes	08FE0766MS	Latinx	Oregon Offender Search
20CV22737	Alejandro Hernandez	Deschutes	13FE0470	Latinx	Oregon Offender Search
20CV20240	Steven Dick	Deschutes	00FE1239AB	White	Mugshot
20CV43058	Thurlow Hanson	Deschutes	10FE1561MS	White	Oregon E-Court Information
20CV30852	Christopher Nichols	Deschutes	17CR24675	White	Oregon E-Court Information
20CV26005	Shane Hall	Deschutes	06FE0017MS	White	Oregon Offender Search
20CV27367	Aaron Choat	Deschutes	07FE0809MS	White	Oregon Offender Search
20CV34717	Robert Hernandez	Deschutes	08FE1636AB	White	Oregon Offender Search
21CV13986	Stephen Wong	Douglas	97CR2060FE	White	Oregon Offender
20CV35970	Donald Hamilton	Douglas	09CR1468FE	White	Oregon Offender Search
20CV27104	Karl Hall	Douglas	09CR1439FE	White	Oregon Offender Search
20CV28639	Richard Gurule	Douglas	11CR0887FE	White	Oregon Offender Search
20CV30365	Aaron Cripe	Douglas	13CR1314FE	White	Oregon Offender Search
20CV26909	Darryl Smith	Jackson	120826FE	Black	Oregon Offender Search
20CV19022	Juan Romero	Jackson	973456C2	Native American	Self Identified
20CV28990	Lucian Patchell	Jackson	053573FE	White	Oregon E-Court Information
20CV43391	Michael Doughty	Jackson	115634FE	White	Oregon E-Court Information
20CV25959	Michael Evans	Jackson	963526C1	White	Oregon Offender Search

20CV29943	Mark Jackson	Jackson	972026C3	White	Oregon Offender Search
20CV28050	Wade Katzenback	Jackson	033814DV	White	Oregon Offender Search
20CV27164	Terry Smith	Jackson	003700FE	White	Oregon Offender Search
20CV21502	Brandon Gillespie	Jackson	073469FE	White	Oregon Offender Search
20CV27518	David Williams	Jackson	101531DV	White	Oregon Offender Search
20CV33435	Sean Wedel	Jackson	123822FE	White	Oregon Offender Search
20CV29818	Robert Quinn	Jackson	16CR59318	White	Oregon Offender Search
21CV10253	Anthony McGuire	Josephine	12CR0121	White	Oregon E-Court Information
21CV07526	Kieth Benson	Josephine	14CR02219	White	Oregon Offender
20CV28021	Stanley Miller	Josephine	01CR0698	White	Oregon Offender Search
20CV38928	Franklin Uhl	Josephine	08CR0223	White	Oregon Offender Search
20CV20412	Shawn Andrews	Josephine	10CR0192	White	Oregon Offender Search
20CV33107	Kenneth Binger	Josephine	13CR0344	White	Oregon Offender Search
20CV37569	Jaime Pena	Klamath	0901463CR	Latinx	Oregon Offender Search
20CV33009	Gerald Skelton	Klamath	9502265CR	White	Oregon Offender Search
20CV29533	Martin Romero	Klamath	9802643CR	White	Oregon Offender Search
20CV20255	Mark McQueen	Klamath	1200528CR	White	Oregon Offender Search
17CV48406	Talloak Jones	Klamath	1302852CR	White	Oregon Offender Search
20CV20418	Mateo Zannotto	Klamath	15CR36487	White	Oregon Offender Search
20CV27131	Terrance Kimble	Lane	200024274	Black	Oregon E-Court Information
20CV27168	Jonathon Kelly	Lane	201000375	Black	Oregon Offender Search
20CV21289	Allen Reed	Lane	201313457	Black	Oregon Offender Search
21CV11930	Jose Flores	Lane	201411281	Latinx	Oregon Offender
21CV03630	Gonzalo Barbosa Salgado	Lane	200512118	Latinx	Oregon Offender
20CV25291	Armando Fernandez	Lane	200814447A	Latinx	Oregon Offender Search
21CV00447	Shawn Monro	Lane	200821493A	White	Oregon Offender
20CV25953	Philip McClure	Lane	108209309	White	Oregon Offender Search
20CV20429	Melanie Knight	Lane	201027504	White	Oregon Offender Search
20CV21684	Dustin Fletcher	Lane	201114141	White	Oregon Offender Search

20CV32834	Shawn Steinbach	Lane	201113212	White	Oregon Offender Search
20CV27818	William Pagniano	Lane	201207907	White	Oregon Offender Search
20CV21347	Tommy Adams	Lane	201209401	White	Oregon Offender Search
20CV27919	Anthony Enlow	Lane	201316776A	White	Oregon Offender Search
20CV12673	Daniel White	Lane	201411557	White	Oregon Offender Search
20CV21224	Joshua Dallavis	Lane	201500520	White	Oregon Offender Search
20CV31839	Brian Nissen	Lane	17CR00599	White	Oregon Offender Search
20CV33008	Barry Barger	Lane	200721991/ 200801740	White	Oregon Offender Search
20CV46659	Floyd Roper	Lincoln	25027	White	Oregon E-Court Information
20CV42151	Julian Combs	Lincoln	112270	White	Oregon E-Court Information
20CV35685	Donovan Fortin	Lincoln	22460	White	Oregon Offender Search
20CV22796	Rex Stephenson	Lincoln	63257	White	Oregon Offender Search
20CV38193	John Larsen	Lincoln	101793	White	Oregon Offender Search
20CV34182	Donald Labar	Lincoln	103435	White	Oregon Offender Search
20CV17863	Ian Williams	Lincoln	104249	White	Oregon Offender Search
20CV27685	Anthony Mendibles	Lincoln	131699	White	Oregon Offender Search
20CV29553	Michael Souter	Malheur	16CR69139	Black	Oregon Offender Search
20CV40951	Lester Reger	Malheur	12034379C1	White	Oregon Offender Search
20CV21190	Russell Ros	Marion	08C42419	Asian	Oregon Offender Search
20CV26802	Alfredo Hylton	Marion	04C51746	Black	Oregon Offender Search
20CV26509	Claude Thomas	Marion	06C52925	Black	Oregon Offender Search
20CV31260	Daniel Lopez Dejesus	Marion	07C51038/ 09C44455/ 10C40968	Latinx	ICE Locator (Country of Origin Mexico)
20CV29457	Jossua Natividad-Aguilar	Marion	14C47044	Latinx	Oregon E-Court Information says "Other"
20CV42271	Heracilo Gonzalez-Cristin	Marion	13C43230	Latinx	Oregon E-Court Information says "Other"

20CV19799	Enrique Bautista	Marion	02C45977	Latinx	Oregon Offender Search
20CV19537	Cristobal Moreno	Marion	13C47022	Latinx	Oregon Offender Search
20CV27816	Manuel Hernandez-Nunez	Marion	13C43842	Latinx	Oregon Offender Search
20CV18735	Uvaldo Espericueta	Marion	15CR38734	Latinx	Oregon Offender Search
20CV23436	Paul Requena	Marion	12C47324	Latinx	Oregon Offender Search
20CV33549	Casey Stapp	Marion	11C51403	White	Oregon E-Court Information
21CV03704	David Adams	Marion	99C56963	White	Oregon E-Court Information
21CV05579	Richard Odell	Marion	11C46931	White	Oregon Offender
21CV12539	Ivan Cam	Marion	08C49052	White	Oregon Offender
20CV20201	Robert Bogle	Marion	93C20794	White	Oregon Offender Search
20CV19728	David Isringhausen	Marion	94C20568	White	Oregon Offender Search
20CV23291	Tracy Condron	Marion	94C21301	White	Oregon Offender Search
20CV17854	Liam O'Neil-Barrett	Marion	96C20237	White	Oregon Offender Search
20CV20045	Maurice Frazier	Marion	97C21048	White	Oregon Offender Search
20CV26850	Rodney Orr	Marion	01C41186/ 00C45374	White	Oregon Offender Search
20CV28618	Jordan Phillips	Marion	04C54409	White	Oregon Offender Search
20CV25911	John Ovendale	Marion	09C48935	White	Oregon Offender Search
20CV27534	Jacob Watkins	Marion	10C46734	White	Oregon Offender Search
20CV26023	Anthony West-Howell	Marion	11C47990	White	Oregon Offender Search
20CV24633	Emerson Johnson	Marion	12C40155	White	Oregon Offender Search
20CV37848	Bradley Monical	Marion	11C47033	White	Oregon Offender Search
20CV26072	Steven Berlandi	Marion	18CR76967	White	Oregon Offender Search
20CV27528	Daniel Stubblefield	Marion	13C40025/ 13C40402	White	Oregon Offender Search
21CV00224	Daniel Arce	Morrow	17CR83355	Native American	Oregon Offender Search
20CV23445	Sang Nguyen	Multnomah	30130471	Asian	Oregon Offender Search
21CV04561	Timothy Harrison	Multnomah	880232142	Black	OECI (Case No. 911035701)
20CV23267	Lavont Baker	Multnomah	860130059	Black	Oregon E-Court Information

20CV21176	Fredrick Knight	Multnomah	950331730	Black	Oregon E-Court Information
20CV25775	Denge Gahano	Multnomah	111134860	Black	Oregon E-Court Information
20CV18963	Terrance Bradley	Multnomah	130230749	Black	Oregon E-Court Information
21CV02184	Marvin Goree	Multnomah	950130442	Black	Oregon Offender
20CV22589	Kenneth Hamilton	Multnomah	981139538/ 990130725	Black	Oregon Offender Search
20CV29444	Appleton Pickett	Multnomah	990634286	Black	Oregon Offender Search
20CV20506	Joel McCool	Multnomah	990130212	Black	Oregon Offender Search
20CV20655	Tacuma Jackson	Multnomah	534308	Black	Oregon Offender Search
20CV23913	Albert Hamilton	Multnomah	1239970	Black	Oregon Offender Search
20CV25471	Willie Sanders	Multnomah	10130320	Black	Oregon Offender Search
20CV21172	Christopher Lambert	Multnomah	20834911	Black	Oregon Offender Search
20CV22835	Kevin Walls	Multnomah	050331753/ 050533090	Black	Oregon Offender Search
20CV27234	Benjamin Pervish	Multnomah	10130419	Black	Oregon Offender Search
20CV20427	Eric Presley	Multnomah	60432032	Black	Oregon Offender Search
20CV20438	Carlos Nash	Multnomah	70230594	Black	Oregon Offender Search
20CV27969	David Moore	Multnomah	111134807	Black	Oregon Offender Search
20CV29258	Abdalla Sheikhwali	Multnomah	120431795	Black	Oregon Offender Search
20CV32898	Jo'Nell James	Multnomah	110933844	Black	Oregon Offender Search
20CV28184	Antwaun Spencer	Multnomah	121034526	Black	Oregon Offender Search
20CV20421	Eric Russell	Multnomah	130732956	Black	Oregon Offender Search
20CV22723	Tyrone Allen	Multnomah	15CR09208	Black	Oregon Offender Search
20CV34665	Ryan Davis-Pinney	Multnomah	15CR03728	Black	Oregon Offender Search
20CV21464	Keoni Young	Multnomah	15CR46411	Black	Oregon Offender Search
20CV26017	Aaron Gee	Multnomah	041035831/ 050432200	Black	Oregon Offender Search
21CV00632	Benito Valdez	Multnomah	332249	Latinx	Oregon E-Court Information
21CV03695	Christopher Pantoja	Multnomah	14CR10621	Latinx	Oregon Offender

20CV25873	Eduardo Alvarez-Vega	Multnomah	31236371	Latinx	Oregon Offender Search
20CV28632	Jose Navarro-Paredes	Multnomah	90331255	Latinx	Oregon Offender Search
20CV40793	Kevin Hill	Multnomah	110833373	Latinx	Oregon Offender Search
20CV25316	Jesus Arciaga-Bucio	Multnomah	15CR40263	Latinx	Oregon Offender Search
20CV23684	Thomas Cremeen	Multnomah	C830733596	Native American	Oregon Offender Search
20CV27201	John Wade	Multnomah	20331954	Native American	Oregon Offender Search
20CV35102	Brian Redmond	Multnomah	940935853/ 941137768	White	Booking Information
20CV21282	Thomas Fergusson	Multnomah	990231264	White	Oregon E-Court Information
20CV28776	Daniel Bluestein	Multnomah	60734357	White	Oregon E-Court Information
20CV39573	Thomas Cain	Multnomah	130230504	White	Oregon E-Court Information
20CV35219	Kyle Scheible	Multnomah	14CR23003	White	Oregon E-Court Information
21CV00236	Timothy Lepesh	Multnomah	110833244	White	Oregon E-Court Information
21CV07692	Michael Boyles	Multnomah	40532648	White	Oregon Offender
21CV12106	Chad Pearson	Multnomah	121034585	White	Oregon Offender
20CV20133	Glenn Marshall	Multnomah	871136869	White	Oregon Offender Search
20CV19545	Richard Thompson	Multnomah	920130083	White	Oregon Offender Search
20CV26037	Timothy Hinkhouse	Multnomah	930936386	White	Oregon Offender Search
20CV25729	Gary Brown	Multnomah	11238461	White	Oregon Offender Search
20CV24583	James Torkelson	Multnomah	11238657	White	Oregon Offender Search
20CV19139	Scott Bowen	Multnomah	40935242	White	Oregon Offender Search
20CV25972	Michael Evans	Multnomah	60935098	White	Oregon Offender Search
20CV25979	Michael Evans	Multnomah	61035934	White	Oregon Offender Search
20CV26099	Delbert Ross	Multnomah	90331136	White	Oregon Offender Search
20CV31151	Satya Dasa	Multnomah	31236658	White	Oregon Offender Search
20CV23560	Jan Melampy	Multnomah	110331078	White	Oregon Offender Search
20CV21881	Darius Hathaway	Multnomah	120934184	White	Oregon Offender Search
20CV23625	Robert Miller	Multnomah	14CR09718	White	Oregon Offender Search
20CV20423	Troy Thompson	Multnomah	15CR54095	White	Oregon Offender Search

20CV22614	Darren O'Neill	Multnomah	871237738/ 891237089	White	Oregon Offender Search
20CV21348	Emmanuel Tenorio	Polk	11P3353	Latinx	Oregon Offender Search
20CV28914	James Snodgrass	Polk	96P3054	White	Booking Information
20CV30474	Richard McKenzie	Tillamook	941207	White	Oregon Offender Search
20CV43643	Darryl Galloway	Umatilla	CF070382	Black	Oregon Offender Search
20CV25024	Brian Barnes	Umatilla	CF160276	White	Oregon E-Court Information
20CV29451	Jacob Futter	Umatilla	CF990662	White	Oregon Offender Search
20CV24629	George Ardizzone	Umatilla	CF110047	White	Oregon Offender Search
20CV20024	John Bindley	Umatilla	CFH110305	White	Oregon Offender Search
20CV33253	Russell Baughman	Umatilla	CF120180	White	Oregon Offender Search
20CV38500	Jacob Pomerleau	Union	16CR68576	White	Oregon Offender Search
21CV05276	Douglas Sproule	Wasco	0300192CR	White	Oregon Offender
20CV24536	Set Aung	Washington	C102017CR	Asian	Oregon Offender Search
20CV30796	Sir James Williams	Washington	C082046CR	Black	Oregon E-Court Information
20CV38147	Dayten Hopkins	Washington	C092046CR	Black	Oregon Offender Search
20CV38261	Noe Pineda-Escobar	Washington	C122537CR	Latinx	ICE Locator (Country of Origin Mexico)
20CV30045	Luis Santos-Escamilla	Washington	C152899CR	Latinx	Oregon Offender
20CV23970	Mario Calderon	Washington	C070448CR	Latinx	Oregon Offender Search
20CV21463	Silvestre Cervantes-Avila	Washington	C082678CR	Latinx	Oregon Offender Search
20CV27674	Gerardo Luna-Benitez	Washington	C081907CR	Latinx	Oregon Offender Search
20CV35709	Hugo Marquez	Washington	C082983CR	Latinx	Oregon Offender Search
20CV28274	Gerardo Luna-Benitez	Washington	C130766CR	Latinx	Oregon Offender Search
20CV27145	Edwin Gunter	Washington	C002014CR	White	Booking Information
20CV43941	James Worley	Washington	C072666CR	White	Oregon E-Court Information
20CV24980	Lanny Brenner	Washington	C102337CR	White	Oregon E-Court Information
20CV45082	Daniel Broome	Washington	C132111CR	White	Oregon E-Court Information
20CV46619	Roger Sanders	Washington	C131242CR	White	Oregon E-Court Information

20CV27142	Richard Cason	Washington	C141904CR	White	Oregon E-Court Information
20CV20200	Adam Lyon	Washington	17CR33075	White	Oregon E-Court Information
21CV03983	Donald Gosney	Washington	C072077CR	White	Oregon Offender
21CV08207	Brian Geary	Washington	C131437CR	White	Oregon Offender
21CV13308	Carlos Smith	Washington	C053243CR	White	Oregon Offender
18CV38124	Ronald Leistikio	Washington	C072939CR	White	Oregon Offender Search
20CV29877	Travis Powers	Washington	C092619CR	White	Oregon Offender Search
20CV20934	Cecil Fairley	Washington	C090982CR	White	Oregon Offender Search
20CV25260	Angelo Dinocenzo	Washington	C150061CR	White	Oregon Offender Search
20CV18405	James Null	Washington	C152860CR	White	Oregon Offender Search
20CV18936	John Busby	Washington	C153026CR	White	Oregon Offender Search
20CV29885	Andrew Lobo	Washington	C091025CR	White	Oregon Offender Search
20CV35277	Chad Vanderhoof	Washington	C940071CR	White	Sex Offender Registration
21CV05746	Martin Chavez-Jimenez	Yamhill	CR00706	Latinx	Oregon Offender
20CV26371	Laurie Price	Yamhill	CR110070	White	Mugshot
20CV36936	Nicholas Lanz	Yamhill	16CR76479	White	Oregon E-Court Information
20CV27517	Russell Shipley	Yamhill	CR020076	White	Oregon Offender Search
20CV24514	James Knox	Yamhill	CR020240	White	Oregon Offender Search
20CV29431	Robert Stamper	Yamhill	CR040554	White	Oregon Offender Search
20CV26081	Corey Weidner	Yamhill	CR070325	White	Oregon Offender Search
20CV45529	Troy Sorensen	Yamhill	CR110564	White	Oregon Offender Search
20CV20331	Gregory Siefken	Yamhill	CR020627	White	Self Identified



Data Request Briefing

Oregon Criminal Justice Commission

05 February 2021

1. NATURE OF THE REQUEST

Michaela Gore, Staff Attorney with The Ramos Project, Criminal Justice Reform Clinic, Lewis & Clark Law School, requested felony convictions by county and race from 2015 to 2019.

The conviction data was queried from the Oregon Department of Corrections (DOC) sentencing data which includes felony convictions from Oregon's 36 counties. The race categories presented have a racial correction algorithm applied to mitigate race/ethnicity reporting issues within criminal justice data sources.¹

2. DATA REQUEST RESULTS

The following table (next page) shows the number of convictions by county and race/ethnicity from 2015 to 2019.

¹ The CJC has developed a racial correction algorithm based on Bayesian Improved Surname Geocoding (BISG), an approach that is widely used in studies and litigation evaluating mortgage and non-mortgage lending patterns, in academic research, and by financial institutions (see Elliott et al. 2009).

<https://www.oregon.gov/cjc/CJC%20Document%20Library/RaceCorrectionTechDocFinal-8-6-18.pdf>

Felony Convictions by Race and County, 2015-2019

County	Asian	Black	Latinx	Native American	Pacific Islander	Unknown	White
BAKR	2	2	19	7	0	0	304
BENT	13	43	112	10	3	6	829
CLAC	71	373	673	98	12	13	4,949
CLAT	8	15	57	12	1	1	853
COLU	5	14	47	8	2	0	861
COOS	3	13	75	20	3	0	1,333
CROO	1	8	55	5	0	0	579
CURR	2	4	23	11	0	1	361
DESC	25	70	356	73	7	2	3,288
DOUG	9	41	232	35	1	6	3,105
GILL	0	0	10	3	0	0	64
GRAN	0	1	2	2	0	0	109
HARN	3	3	11	15	0	0	124
HOOD	0	14	102	13	2	0	312
JACK	26	263	826	55	6	5	4,221
JEFF	3	15	147	169	0	2	362
JOSE	15	44	227	50	0	1	2,459
KLAM	5	67	290	260	2	1	1,711
LAKE	0	4	16	6	0	2	242
LANE	45	333	522	126	13	5	5,658
LINC	7	27	105	70	0	0	1,061
LINN	11	79	288	27	4	0	3,004
MALH	3	20	272	14	0	1	389
MARI	95	366	2,029	125	39	0	4,280
MORR	1	5	42	4	0	0	116
MULT	240	2,166	1,052	199	22	8	5,406
POLK	12	50	204	38	4	1	1,036
SHER	0	3	15	4	0	2	52
TILL	3	8	61	8	3	0	532
UMAT	4	45	447	55	0	1	1,330
UNIO	6	6	45	7	5	1	505
WALL	0	0	5	2	0	1	90
WASC	11	14	109	52	2	0	583
WASH	218	689	1,673	91	23	1	5,087
WHEE	0	0	1	0	0	0	19
YAMH	9	27	246	27	0	0	1,231
Total	856	4,832	10,396	1,701	154	61	56,445

All Felony Convictions in Oregon by Race and County, 2015-2019

Analyzed by The Ramos Project

Statewide Felony Convictions 2015-2019	Count	Percentage	Percentage of Oregon Population (2019)
Total:	74,445	100.00%	
White:	56,445	75.82%	75.10%
Black:	4,832	6.49%	2.20%
Latinx:	10,396	13.96%	13.40%
Asian:	1,010	1.36%	5.40%
Native American:	1,701	2.28%	1.80%
Unclear or Unknown:	61	0.08%	

County Breakdown

<u>Multnomah Felony Convictions, 2015- 2019</u>	Count	Percentage	Percentage of Multnomah General Population (2019)
Total:	9,085	12.20%	
White:	5,406	59.50%	69.10%
Black:	2,166	23.84%	6.00%
Latinx:	1,052	11.58%	12.00%
Asian:	262	2.88%	8.80%
Native American:	199	2.19%	1.40%
Unknown:	8	0.09%	

<u>Washington Felony Convictions, 2015- 2019</u>	Count	Percentage	Percentage of Washington General Population (2019)
Total:	7,782	10.45%	
White:	5,087	65.37%	64.60%
Black:	689	8.85%	2.50%
Latinx:	1,673	21.50%	17.10%
Asian:	241	3.10%	12.20%
Native American:	91	1.17%	1.10%
Unknown:	1	0.01%	

**Clackamas Felony
Convictions, 2015-
2019**

	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Clackamas General Population (2019)</u>
Total:	6,189	8.31%	
White:	4,949	79.96%	81.10%
Black:	373	6.03%	1.20%
Latinx:	673	10.87%	9.00%
Asian:	83	1.34%	5.20%
Native American:	98	1.58%	1.10%
Unknown:	13	0.21%	

**Lane Felony
Convictions, 2015-
2019**

	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Lane General Population (2019)</u>
Total:	6,702	9.00%	
White:	5,658	84.42%	81.30%
Black:	333	4.97%	1.30%
Latinx:	522	7.79%	9.30%
Asian:	58	0.87%	3.50%
Native American:	126	1.88%	1.60%
Unknown:	5	0.07%	

**Marion Felony
Convictions, 2015-
2019**

	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Marion General Population (2019)</u>
Total:	6,934	9.31%	
White:	4,280	61.72%	64.70%
Black:	366	5.28%	1.60%
Latinx:	2,029	29.26%	27.20%
Asian:	134	1.93%	3.50%
Native American:	125	1.80%	2.60%
Unknown:	0	0.00%	

**Jackson Felony
Convictions, 2015-
2019**

	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Jackson General Population (2019)</u>
Total:	5,402	7.26%	
White:	4,221	78.14%	80.10%
Black:	263	4.87%	1.00%
Latinx:	826	15.29%	13.50%
Asian:	32	0.59%	2.00%
Native American:	55	1.02%	1.60%
Unknown:	5	0.09%	

**Deschutes Felony
Convictions, 2015-
2019**

	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Deschutes General Population (2019)</u>
Total:	3,821	5.13%	
White:	3,288	86.05%	86.80%
Black:	70	1.83%	0.60%
Latinx:	356	9.32%	8.30%
Asian:	32	0.84%	1.50%
Native American:	73	1.91%	1.10%
Unknown:	2	0.05%	

**Linn Felony
Convictions, 2015-
2019**

	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Linn General Population (2019)</u>
Total:	3,413	4.58%	
White:	3,004	88.02%	84.30%
Black:	79	2.31%	0.80%
Latinx:	288	8.44%	9.50%
Asian:	15	0.44%	1.50%
Native American:	27	0.79%	1.70%
Unknown:	0	0.00%	

**Douglas Felony
Convictions, 2015-
2019**

	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Douglas General Population (2019)</u>
Total:	3,429	4.61%	
White:	3,105	90.55%	87.50%
Black:	41	1.20%	0.50%
Latinx:	232	6.77%	6.10%
Asian:	10	0.29%	1.30%
Native American:	35	1.02%	2.10%
Unknown:	6	0.17%	

**Yamhill Felony
Convictions, 2015-
2019**

	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Yamhill General Population (2019)</u>
Total:	1,540	2.07%	
White:	1,231	79.94%	76.80%
Black:	27	1.75%	1.20%
Latinx:	246	15.97%	16.20%
Asian:	9	0.58%	2.30%
Native American:	27	1.75%	2.00%
Unknown:	0	0.00%	

**Benton Felony
Convictions, 2015-
2019**

	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Benton General Population (2019)</u>
Total:	1,016	1.36%	
White:	829	81.59%	79.80%
Black:	43	4.23%	1.20%
Latinx:	112	11.02%	7.80%
Asian:	16	1.57%	7.30%
Native American:	10	0.98%	0.90%
Unknown:	6	0.59%	

**Josephine Felony
Convictions, 2015-
2019**

	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Josephine General Population (2019)</u>
Total:	2,796	3.76%	
White:	2,459	87.95%	86.60%
Black:	44	1.57%	0.60%
Latinx:	227	8.12%	7.70%
Asian:	15	0.54%	1.40%
Native American:	50	1.79%	1.70%
Unknown:	1	0.04%	

**Polk Felony
Convictions, 2015-
2019**

	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Polk General Population (2019)</u>
Total:	1,345	1.81%	
White:	1,036	77.03%	77.30%
Black:	50	3.72%	1.10%
Latinx:	204	15.17%	14.50%
Asian:	16	1.19%	2.60%
Native American:	38	2.83%	2.50%
Unknown:	1	0.07%	

**Umatilla Felony
Convictions, 2015-
2019**

	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Umatilla General Population (2019)</u>
Total:	1,882	2.53%	
White:	1,330	70.67%	65.10%
Black:	45	2.39%	1.20%
Latinx:	447	23.75%	27.60%
Asian:	4	0.21%	1.40%
Native American:	55	2.92%	4.30%
Unknown:	1	0.05%	

**Klamath Felony
Convictions, 2015-
2019**

	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Klamath General Population (2019)</u>
Total:	2,336	3.14%	
White:	1,711	73.24%	77.10%
Black:	67	2.87%	0.90%
Latinx:	290	12.41%	13.80%
Asian:	7	0.30%	1.30%
Native American:	260	11.13%	5.00%
Unknown:	1	0.04%	

**Coos Felony
Convictions, 2015-
2019**

	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Coos General Population (2019)</u>
Total:	1,447	1.94%	
White:	1,333	92.12%	84.90%
Black:	13	0.90%	0.60%
Latinx:	75	5.18%	6.80%
Asian:	6	0.41%	1.60%
Native American:	20	1.38%	3.00%
Unknown:	0	0.00%	

**Columbia Felony
Convictions, 2015-
2019**

	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Columbia General Population (2019)</u>
Total:	937	1.26%	
White:	861	91.89%	87.80%
Black:	14	1.49%	0.80%
Latinx:	47	5.02%	5.60%
Asian:	7	0.75%	1.30%
Native American:	8	0.85%	1.50%
Unknown:	0	0.00%	

**Lincoln Felony
Convictions, 2015-
2019**

	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Lincoln General Population (2019)</u>
Total:	1,270	1.71%	
White:	1,061	83.54%	82.00%
Black:	27	2.13%	0.90%
Latinx:	105	8.27%	9.50%
Asian:	7	0.55%	1.60%
Native American:	70	5.51%	4.00%
Unknown:	0	0.00%	

**Clatsop Felony
Convictions, 2015-
2019**

	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Clatsop General Population (2019)</u>
Total:	947	1.27%	
White:	853	90.07%	85.10%
Black:	15	1.58%	0.90%
Latinx:	57	6.02%	8.60%
Asian:	9	0.95%	1.90%
Native American:	12	1.27%	1.40%
Unknown:	1	0.11%	

**Malheur Felony
Convictions, 2015-
2019**

	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Malheur General Population (2019)</u>
Total:	699	0.94%	
White:	389	55.65%	60.01%
Black:	20	2.86%	1.70%
Latinx:	272	38.91%	34.60%
Asian:	3	0.43%	1.70%
Native American:	14	2.00%	2.00%
Unknown:	1	0.14%	

**Tillamook Felony
Convictions, 2015-
2019**

	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Tillamook General Population (2019)</u>
Total:	615	0.83%	
White:	532	86.50%	84.00%
Black:	8	1.30%	0.70%
Latinx:	61	9.92%	10.50%
Asian:	6	0.98%	1.40%
Native American:	8	1.30%	1.60%
Unknown:	0	0.00%	

**Union Felony
Convictions, 2015-
2019**

	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Union General Population (2019)</u>
Total:	575	0.77%	
White:	505	87.83%	88.20%
Black:	6	1.04%	0.80%
Latinx:	45	7.83%	5.20%
Asian:	11	1.91%	2.60%
Native American:	7	1.22%	1.30%
Unknown:	1	0.17%	

**Wasco Felony
Convictions, 2015-
2019**

	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Wasco General Population (2019)</u>
Total:	771	1.04%	
White:	583	75.62%	73.60%
Black:	14	1.82%	0.80%
Latinx:	109	14.14%	19.20%
Asian:	13	1.69%	1.80%
Native American:	52	6.74%	3.80%
Unknown:	0	0.00%	

**Jefferson Felony
Convictions, 2015-
2019**

	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Jefferson General Population (2019)</u>
Total:	698	0.94%	
White:	362	51.86%	
Black:	15	2.15%	
Latinx:	147	21.06%	
Asian:	3	0.43%	
Native American:	169	24.21%	
Unknown:	2	0.29%	

**Hood River Felony
Convictions, 2015-
2019**

	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Hood River General Population (2019)</u>
Total:	443	0.60%	
White:	312	70.43%	
Black:	14	3.16%	
Latinx:	102	23.02%	
Asian:	2	0.45%	
Native American:	13	2.93%	
Unknown:	0	0.00%	

**Crook Felony
Convictions, 2015-
2019**

	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Crook General Population (2019)</u>
Total:	648	0.87%	
White:	579	89.35%	88.00%
Black:	8	1.23%	0.50%
Latinx:	55	8.49%	7.60%
Asian:	1	0.15%	0.80%
Native American:	5	0.77%	1.70%
Unknown:	0	0.00%	

**Curry Felony
Convictions, 2015-
2019**

	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Curry General Population (2019)</u>
Total:	402	0.54%	
White:	361	89.80%	85.70%
Black:	4	1.00%	0.50%
Latinx:	23	5.72%	7.40%
Asian:	2	0.50%	1.00%
Native American:	11	2.74%	2.60%
Unknown:	1	0.25%	

**Baker Felony
Convictions, 2015-
2019**

	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Baker General Population (2019)</u>
Total:	334	0.45%	
White:	304	91.02%	89.70%
Black:	2	0.60%	0.70%
Latinx:	19	5.69%	4.70%
Asian:	2	0.60%	1.00%
Native American:	7	2.10%	1.60%
Unknown:	0	0.00%	

**Morrow Felony
Convictions, 2015-
2019**

	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Morrow General Population (2019)</u>
Total:	168	0.23%	
White:	116	69.05%	
Black:	5	2.98%	
Latinx:	42	25.00%	
Asian:	1	0.60%	
Native American:	4	2.38%	
Unknown:	0	0.00%	

Lake Felony
Convictions, 2015-
2019

	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Lake General Population (2019)</u>
Total:	270	0.36%	
White:	242	89.63%	
Black:	4	1.48%	
Latinx:	16	5.93%	
Asian:	0	0.00%	
Native American:	6	2.22%	
Unknown:	2	0.74%	

Harney Felony
Convictions, 2015-
2019

	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Harney General Population (2019)</u>
Total:	156	0.21%	
White:	124	79.49%	
Black:	3	1.92%	
Latinx:	11	7.05%	
Asian:	3	1.92%	
Native American:	15	9.62%	
Unknown:	0	0.00%	

Grant Felony
Convictions, 2015-
2019

	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Grant General Population (2019)</u>
Total:	114	0.15%	
White:	109	95.61%	91.30%
Black:	1	0.88%	0.30%
Latinx:	2	1.75%	3.90%
Asian:	0	0.00%	0.80%
Native American:	2	1.75%	1.70%
Unknown:	0	0.00%	

**Wallowa Felony
Convictions, 2015-
2019**

	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Wallowa General Population (2019)</u>
Total:	98	0.13%	
White:	90	91.84%	92.60%
Black:	0	0.00%	0.50%
Latinx:	5	5.10%	3.60%
Asian:	0	0.00%	0.60%
Native American:	2	2.04%	0.90%
Unknown:	1	1.02%	

**Gilliam Felony
Convictions, 2015-
2019**

	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Gilliam General Population (2019)</u>
Total:	77	0.10%	
White:	64	83.12%	87.40%
Black:	0	0.00%	0.30%
Latinx:	10	12.99%	7.40%
Asian:	0	0.00%	1.40%
Native American:	3	3.90%	2.10%
Unknown:	0	0.00%	

**Sherman Felony
Convictions, 2015-
2019**

	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Sherman General Population (2019)</u>
Total:	76	0.10%	
White:	52	68.42%	
Black:	3	3.95%	
Latinx:	15	19.74%	
Asian:	0	0.00%	
Native American:	4	5.26%	
Unknown:	2	2.63%	

**Wheeler Felony
Convictions, 2015-
2019**

	<u>Count</u>	<u>Percentage</u>	<u>Percentage of Wheeler General Population (2019)</u>
Total:	20	0.03%	
White:	19	95.00%	
Black:	0	0.00%	
Latinx:	1	5.00%	
Asian:	0	0.00%	
Native American:	0	0.00%	
Unknown:	0	0.00%	