

**TESTIMONY ON SB 234
BEFORE THE HOUSE COMMITTEE ON JUDICIARY
MARCH 8, 2023**

**PRESENTED BY: VALERIE COLAS,
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OREGON JUDICIAL DEPARTMENT**

Chair Kropf, Vice-Chairs Andersen and Wallan, and Members of the Committee:

I am Valerie Colas, Access to Justice Counsel for Equity, Diversity, and Inclusion at the Oregon Judicial Department (OJD).

I am very grateful to you for scheduling this important bill and providing this opportunity to testify. I am here to testify in support of SB 234, a bill brought before you at our request.

OJD's mission is to provide fair and accessible justice services that protect the rights of individuals, preserve community welfare, and inspire public confidence. We have an affirmative responsibility to not only ensure that our practices, policies, and procedures are fair and equitable, but are also perceived as fair and equitable by all. Unfortunately, people of color do not always perceive our system of justice as fair and equitable.

Studies, both nationally and locally, document that people of color experience disproportional impacts in our system of justice. In 1994, the Oregon Supreme Court Task Force on Racial and Ethnic Issues in the Judicial System noted that the Oregon court system was not immune from the legacy of centuries of discrimination and stated that there was "strong evidence [that] demonstrates that racial minorities are at a disadvantage in virtually all aspects of the Oregon court system." To address these inequities, the task force recommended, among other things, that OJD collect racial and ethnic demographic information.

The legislature already has recognized the need for more information to identify and assess disparate outcomes in the justice system. Oregon law directs law enforcement agencies to collect demographic and other data relating to stops initiated by officers (ORS 131.935) and directs the Criminal Justice Commission to prepare racial and ethnic impact statements on certain legislation relating to crime (ORS 137.683). Approving this bill will provide additional information that can be used in those reviews.

Others have also echoed the need to collect demographic data to evaluate disparities and inequities. In 2020, the Conference of Chief Justices (CCJ) and Conference of State Court Administrators (COSCA) adopted a joint resolution encouraging state courts to "collect, maintain and report court data regarding race and ethnicity that enables courts to identify and remedy racial disparities."

Following the CCJ and COSCA's joint resolution, the Oregon Supreme Court Council on Inclusion and Fairness (OSCCIF) proposed the legislative concept for SB 234 in 2023 to the Chief Justice. OSCCIF works to ensure that all Oregonians have equal access to our courts and advises the Chief Justice on issues relating to access, bias, and equity. OSCCIF recommended that OJD collect demographic data in all case types in addition to developing extensive data collection standards for this information based, in part, on past OJD task force

recommendations, the disproportionate impacts of the pandemic, and heightened calls for racial justice reform.

OJD currently requests and collects self-identified demographic data from treatment court participants as part of federal, state, or grant requirements, but we do so with the understanding that we must exercise due diligence in ensuring the privacy of this information. The collection of demographic information in which we ask individuals to self-report their racial and ethnic identity is deeply personal and sensitive and needs to be protected while still providing avenues for using the information to address disparities in our justice system.

For individuals to voluntarily provide sensitive information, there must be trust and confidence that the entity they are providing the information to has the ability to ensure that the information will not be misused or misinterpreted if public disclosure is allowed. However, national trends demonstrate that the public's trust and confidence in courts has decreased; and people of color have even less trust and confidence in courts. In 2022, the National Center for State Courts' State of State Courts Survey, which Oregon's State Court Administrator helped oversee, found that the "gulf between white and people of color is wide" when it comes to perceptions of equal justice.¹ Therefore, generally assuring individuals, especially people of color whose identities have been marginalized and oppressed, that they can provide their sensitive, personal information without concerns about anonymity is insufficient as the current statute does not unequivocally state that this sensitive demographic data can be shared only at the de-identified, aggregate level.

SB 234 provides that balance of ensuring the privacy of the individual and security of this information while allowing the use of the information at the aggregate, de-identified level to evaluate our justice system. We are committed to ensuring that our process for developing extensive data collection standards is an equitable and thoughtful process that includes the engagement of our diverse communities and stakeholders and incorporates the thoughtful and intentional work of the Oregon Health Authority in implementing REALD (Race, Ethnicity, Language, and Disability). That is an extensive effort mandated by the legislature to collect similar data at health care encounters.

The Oregon State Bar seeks similar protections with its data collection efforts, and it supports this bill. I believe that you will hear more from the Oregon State Bar, but I am happy to answer questions. Thank you for your time.

¹ See State of the State Courts 2022, https://www.ncsc.org/_data/assets/pdf_file/0019/85204/SSC_2022_Presentation.pdf