The View From Here

Highs and Lows
A Little Mental Health Reform Is Not Enough

Alyssa Bartholomew — Page 4

“QUOTABLE”
Together with the right to vote, those who wrote our Constitution considered the right to trial by jury ‘the heart and lungs, the mainspring and the center wheel’ of our liberties, without which ‘the body must die; the watch must run down; the government must become arbitrary.’

Calendars

2019 CLEs

Forensic Science: Challenging the Government’s Soft Science
September 13–14 | Agate Beach Inn, Newport

Juvenile Law Training Academy
Oct 21–22 | Valley River Inn, Eugene

Public Defense Management
Oct 24–25 | Hallmark Resort, Newport

Death Penalty Defense
Oct 25–26 | Hallmark Resort, Newport

Sunny Climate Seminar
Nov 7–11 (CLE on Nov 9) | Hyatt Regency Maui Resort and Spa, HI

Winter Conference
Dec 6–7 | The Benson, Portland

2019 CLEs
Confirmed to date

Z is for Zealous: Effective Criminal Defense Advocacy
Jan 25 | World Trade Center, Portland

Trial Skills College
Feb 7–8 | OCDLA Office, Eugene

DUII Seminar
Mar 6–7 | Hood River Inn, Hood River

Juvenile Training Immersion Program
Apr 23–24 | Agate Beach Inn, Newport

Annual Juvenile Law Conference
Apr 24–25 | Agate Beach Inn, Newport

Annual Conference
June 11–13 | Riverhouse, Bend (Earlier Weekend & New Location!)

Nancy Bergeson Ardent Advocate Lecture Series
July 16 | Portland

Juvenile Law Training Academy
Oct 5–6 | Valley River Inn, Eugene

Sunny Climate Seminar
Nov 11–14 (CLE on Nov 13) | Grand Hyatt, Kauai

Winter Conference
Dec 4–5 | The Benson, Portland

Online summary of seminars and events at OCDLA.org

Board Meetings

2019
Fri, Sept 13, 9:00 a.m. – 12:00 p.m., Agate Beach Inn, Newport
Sat, Dec 7, Benson Hotel, Portland

2020
Fri, Mar 6, Hood River Inn, Hood River
Fri, Jun 12, Riverhouse on the Deschutes, Bend
Thurs-Sat, July 9–11, Board Retreat, location TBD.

Visit OCDLA.org for a complete calendar of meetings.

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Online summary of seminars and events at OCDLA.org

Board Members

President: Alyssa R. Bartholomew | Southern Oregon Public Defender, Medford                      alyssa@sopd.net
Vice President: Jennifer Robins | District 4, Hillsboro                                jennifer@robinslawsite.com
Secretary: Gina Stewart | District 3, Roseburg                                gstein@ernesongroup.com
Elizabeth Baker | District 2, Eugene                                 eicbakeratty@comcast.net
Nell Brown | Federal Public Defenders Office, Portland           nell_brown@fd.org
Richard Garbutt | District 1, Klamath Falls                           rgarbutt@fireserve.net
Carl Macpherson | Metropolitan Public Defenders, Portland             cmacpherson@mpdlaw.com
Stacey Reding | Multnomah Defenders, Portland                        sreding@multnomahdefenders.org
Andrew Robinson | Office of Public Defense Services, Salem           andrew.robinson@opds.state.or.us
Jeff Ryding | Public Defender Services of Lane County, Eugene    iryding@lanepds.org
John Schlosser | District 5, Portland                                 jesattorney@gmail.com
Eugene Thompson, Umpqua Valley Public Defender | Roseburg. eugene.thompson@uvpd.org
Neal Weingart | At-large, Portland                                   neal@nealweingartlaw.com
Shannon Wilson | District 6, Salem                                    wilson@clackamaslawoffice.com

Visit OCDLA.org to view board members and meetings or a map of board districts.
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Forensic Science Seminar ......................................................................................... Back Cover
O CDLA is 40 years young this year. With nearly 1,300 members, which includes lawyers, investigators, doctors and experts, we are growing and continue to have a huge impact with the legislature. We are respected and heard, and legislators take notice. What an incredible accomplishment by an organization that started with just 30 lawyers.

For the first time in 40 years we have an all-women executive board. What a huge testimonial for how far women have come. The funny thing is we didn’t even notice that it was an all-women board until after elections when someone came up to us and said, “Wow, all women, that is incredible. We should all be proud!” You know what, it is something to be extremely proud of.

So many good things happened this past legislative session: the highs of our juvenile justice reform bills and death penalty limitations, and the lows—the failure of HB 3145 and HJR10, which makes me worry about the future of defense attorneys. However, one thing that saddens me and has yet to be really addressed is the desperate need for mental health reform in our state and in our country.

While trying to decide what to write in my first “View from Here” column as President of OCDLA, I was conflicted on what to discuss. Fate has a funny way of presenting itself and this morning my legal assistant put a cut-out article on my chair for me to see as soon as I came in. A former client of mine that I had tried desperately to help had died due to the prison’s neglect of his mental health issues while incarcerated. I have to admit, I cried and am still crying as I write this. This makes me wonder how we can just forget how serious the mental health crisis is in America. And, when will it change?

My client had a mental health history dating back 25 years. He was on and off medication and in and out of jail for various petty things. One day while having a psychotic break, he went into a bank and asked for money. He left with thousands of dollars and within two minutes he was arrested by police. When I met him, we had him evaluated. I genuinely cared for him. He was a kind soul, a good person, but he had severe mental health issues.

I tried to get him a GEI, to no avail. I tried to get him into drug court, to no avail. We had just started a mental health court in my county and I tried to get him in, but at that time the DDA would not allow it since it was a Measure 11 charge. So, he ended up in prison. He had family support, community support, mental health professionals in the community who stood there at sentencing supporting him, yet no one in the legal system seemed to care enough to embrace him and give him the help he so desperately needed because, there was “no other option.”

No other option. Those words haunt me to this day. I knew prison would not help him. I knew it would destroy him. There has to be another option, but what?

More and more people are being arrested and put in prison with mental health issues. Prisons are being used as a means of taking them off the streets, but nothing is being done to address the root of the problem. There are no mental health programs in prison. There are no behavioral support classes, no cognitive realignment classes. Nothing. We have help for those addicted to drugs, those with sex addictions, those with anger issues, but hardly anything in the legal system besides prison and the state hospital for those with mental health issues.

And what about the state hospital? It costs, on average, $1,100 a day to house a person there. The average stay is only three months.

Continued on page 24.

Board President Alyssa Bartholomew is an attorney with Southern Oregon Public Defender, Inc. in Medford. She serves as the board liaison to the Web Governance Committee.
NEWS

Welcome New Board Members and Officers!

At the Annual Conference these public defenders were reappointed/appointed to the board of directors:

- **Jeff Ryding**, Eugene, Public Defender Services of Lane County, (reappointed)
- **Andrew Robison**, Salem, Office of Public Defense Services (reappointed)
- **Carl Macpherson**, Portland, Metropolitan Public Defenders (reappointed)
- **Alyssa Bartholomew**, Medford, Southern Oregon Public Defender, Inc. (reappointed)

These private bar members were elected/reelected to the board of directors:

- **John Schlosser**, Portland, District 5 (elected)
- **Shannon Wilson**, Oregon City, District 6 (elected)
- **Gina Stewart**, Roseburg, District 3 (reelected)

Officers elected at the June 14 board meeting:

- **Alyssa Bartholomew**, President
- **Jennifer Robins**, Hillsboro, Vice President
- **Gina Stewart**, Secretary

See who represents you and view district map here.

Sara Snyder Defendant Support Fund — Small Grants Available

A new fund in Oregon seeks to help criminal defendants pay fines and fees that can be insurmountable barriers to better lives.

Named for Sara Snyder, a former member of the OCDLA Board of Directors who died April 20, the fund offers small grants in the range of $200–$500, so criminal defendants can pay for such things as outstanding fines, unpaid fees or required classes. (The fund is not designed to pay for ongoing expenses such as rent, gas or groceries.)

Attorneys representing criminal defendants may apply on behalf of their clients (after first checking to make sure clients have no other resources to pay the fines or fees).

The process is simple. An attorney identifies a need and makes a request to the Sara Snyder Defendant Support Fund [here](#). (Additional questions may be sent to dsf@defendantsupportfund.org.)

The fund promises few hurdles and a quick turnaround. If approved, the fund attaches no strings to the grant. Grantors will consider a donation to any situation that removes an obstacle for a defendant. For example, the first grant paid for a woman's glasses after her pair disappeared in jail. The woman needed glasses to aid in her own defense.

Checks will be disbursed to attorneys directly.

The fund honors Sara D. Snyder and her distinguished contributions to the field of criminal defense. Before her death in April, Sara worked in private practice as a capital defender for the State of Oregon and, earlier, as a staff attorney for Metropolitan Public Defender in the Washington and Multnomah county offices. She served on the board of the Oregon Criminal Defense Lawyers Association from 2016 to 2018. Sara died of colon cancer one day before the 15th anniversary of her admission to the bar. She was 45. 🇺🇸
A Public Defender with Power

Stacey Reding

No, it’s not me. It’s not any of my colleagues, or any of the many other fierce and fighting defense attorneys I’ve had the pleasure of watching advocate for their clients over the past 13 years. Try as we might, no amount of sweat or tears gives us the power of our adversaries across the aisle. We have victories, and when we do they are so, so sweet, but always we’re Davids fighting Goliaths. It’s the prosecutors who hold the real power.

On June 5, 2019, Rod Underhill, the District Attorney in Multnomah County, announced that he would be retiring at the end of 2020. His retirement from the top of the largest district attorney’s office in Oregon leaves an enormous vacuum at an opportune time. His successor will have the ability to institute meaningful and potentially drastic reforms in why, when, and how our clients are prosecuted.

Our voting public is becoming increasingly aware of the power of prosecutors. Thanks to efforts in recent years from organizations like the ACLU’s Prosecutorial Reform Project, mindful citizens are increasingly aware of what we in the criminal justice system already know: prosecutors wield extraordinary power, frequently unchecked and behind closed doors. Decisions about what to charge and how, what plea offers to extend, creating and using treatment court programs, the threat and application of the death penalty, and positions in sentencing hearings all have lasting impacts on our clients and our communities.

The tough-on-crime attitude of the 1980s and 1990s resulted in reforms like mandatory minimums that removed power from judges case by case and handed it to prosecutors. We all have horror stories of the client who faced a mandatory minimum under Measure 11 or Measure 57, and despite that client’s wonderful qualities and potential problems with the state’s case, we could not nudge the prosecutor to show mercy and extend a non-prison offer. When a mandatory minimum sentence is on the line, it’s the rare client who risks increased prison with no good-time reductions or access to programs and rolls the dice by going to trial. Even with good facts, the risk is all too often too severe. Mandatory minimum sentencing schemes have changed even the tone of negotiations, including hearings when a law mandating prosecutorial control isn’t in play. My colleagues and I have all experienced a judge turning to the district attorney, asking for buy-in (my optimistic take) or permission (my more cynical take) before exercising his or her lawful authority and to take a particular action.

This past legislative session with its extraordinary achievements for criminal and juvenile justice demonstrates how the political tide has been shifting towards reform. The ACLU of Oregon conducted a study of District Attorney policies, and submitted HB 3224, a House Bill that “[d]irects [the] district attorney of each county to, no later than December 1, 2020, develop and adopt policies relating to discovery, charging decisions, sentencing and program recommendations and other specified subjects, and to make policies available to the public on [a] website.” Governor Brown signed HB 3224 into law on June 20, 2019.

Historically, district attorney elections are rarely contested. According to the ACLU, from 2004 to 2014 78 percent of district attorney elections in Oregon were uncontested. Multnomah County’s Rod Underhill worked in the office for nearly 30 years before rising to the head position in an unopposed election in 2012. His predecessor, Mike Schrunk, was the district attorney of Multnomah County from 1980 until his retirement.

Now, DA elections are shifting from quietly uncontested elections of insiders and incumbents to heated, symbolic fights for reform. The recent hotly contested district attorney primary in Queens, currently being recounted, provides an exciting example. Just a few weeks ago, the New York Times announced that the Board Member Stacey Reding is an attorney with Multnomah Defenders, Inc., Portland.
likely winner of that race was Tiffany Caban, a 31-year-old queer Latinx public defender. (At the time of this submission deadline, recounts are resulting in astonishingly close results, showing a lead by more centrist candidate Melinda Katz of just 16 votes.) Tiffany Caban’s an extraordinary candidate, not just because of who she is, but also what she stood for. Her campaign priorities – ending mass incarceration, ending the war on drugs and treating substance use disorders as medical issues, decriminalizing poverty and ending racist law enforcement – resonate with my public defender heart, and they don’t sound like anything I would have expected to hear from a prosecutor when I first joined my public defender firm 12 years ago. I’m willing to bet they resonate with progressive Portland voters.

Larry Krasner, district attorney of Philadelphia, provides another inspirational model for potential reforms we might get to see in Multnomah County. A self-described “public defender with power,” Krasner ran his 2017 platform with promises to “stop prosecuting insufficient and insignificant cases,” to stop cash bail, to treat addiction as a medical problem, and to review past convictions with an eye towards freeing those wrongfully convicted.

Unlike our last changing of the guard, no prosecutors currently working in the Multnomah County office have yet announced a desire to run for the open position. Progressives and activists will have a say in who we elect and our future DA’s policies. Showing Up for Racial Justice and the Pacific Northwest Family Circle are creating a platform with a list of demands for our future head prosecutor. These demands are still in development, but no doubt they will include prioritizing a commitment to end mass incarceration, to recognize and remedy the disparate impact our criminal justice system on has on people of color, hold police officers accountable, and decriminalize low-level offenses and drug addiction.

In a recent Op Ed, ACLU contributors wrote, “2020 should be remembered as the year that voters start holding prosecutors accountable at the ballot box, not only for what they do within their offices but also for what they do at state and local legislatures. Candidates should be visible champions of legislative change.”

Multnomah County has a tremendous opportunity in the 2020 election to institute real and meaningful reforms, and to seize an opportunity to elect a reformer who values criminal justice reform and reflects the values of our community.
**Friday SEPTEMBER 13**

Moderator: Susan Elizabeth Reese, Newport

- **Noon** Registration

- **1:00** The Nuts and Bolts of DNA: Science, Discovery and Litigation
  Karen Lawless, Forensic Scientist, Forensic Edge Consulting, Forest Grove, and Janis Puracal, Attorney, Forensic Justice Project, Portland

- **2:00** Daubert and 104 Hearings: Challenging the Government’s Forensic Science
  Patrick Sweeney, Attorney, Portland

- **3:00** Break / Door Prizes

- **3:15** Shaken Baby Syndrome, Abusive Head Trauma, Non-accidental Trauma: An Evolution of Bad Science
  Michael Bertholf, Attorney, Medford

- **4:00** Fighting Forensic Fallacies and Dislodging Discovery Documents: What You Can Discover If You Ask
  Russell Barnett, Attorney, Portland

- **5:00** Adjourn for the day

**Saturday SEPTEMBER 14**

Moderator: Janis Puracal, Portland

- **8:30** Breakfast

- **9:00** Up In Smoke: Putting Fire ‘Science’ to the Test in the Courtroom
  Andrew Lauersdorf, Attorney, Portland

- **10:00** Challenges to Your Identification Expert, Combatting Cross-Examination and the State’s Use of an Eyewitness Identification Expert
  Ilona Coleman, Legal Director for the Criminal Defense Practice, Bronx Defenders, New York, NY

- **11:00** Break / Door Prizes

- **11:15** Cross-Examination of the Eyewitness
  Bridget Krause, Public Defender’s Office, Milwaukee, WI

- **12:15** Lunch

- **1:15** Attorneys and Forensic Scientists: What to Expect When Working Together
  Dianna Gentry, Attorney, Portland, and Karen Green, Green Forensics, Puyallup, WA

- **2:15** Break / Door Prizes

- **2:30** Pattern Matching: Challenging Subjective Disciplines in Forensic Science
  Gentry Roth, Mach 1 Forensics, Clackamas

- **3:15** Legislative Update: Forensics (what you need to know before you go to court Monday morning)
  Mary Sofia, OCDLA Legislative Director

- **4:00** Adjourn

Program developed by Brian Schmonsees for the Education Committee. Program topics, speakers and times subject to change. Updates posted online at ocdla.org.

**CLE Credit**

Approval pending for 9.25 general credits in Oregon. OCDLA is also an approved DPSST CLE provider. Pending approval in Washington and California. For other state certifications, contact OCDLA.
Who can attend?  
This program is open to defense lawyers and those professionals and law students directly involved in the defense function.

What’s included in the fee?  
- CLE credit  
- Written materials (download)  
- Breakfast & lunch on Saturday, and refreshments at the breaks

Need financial assistance?  
Members may contact OCDLA to apply for scholarships or request a payment plan—please request by September 3.

Cancellations  
...made before Sept. 9 will receive a refund less a $25 cancellation fee.  
...made on or after Sept. 9—once material download link has been emailed—will receive a refund less a $100 cancellation/copy (sharp) fee.  

No-show Policy: Written materials link sent in advance to all registrants. MP3 audio recordings will be sent to OCDLA members only; nonmembers who “no-show” (do not fulfill their registration by attending) are not eligible to receive the audio recordings or a refund.

Lodging: Agate Beach Inn  
1-541-265-9411  
3019 North Coast Highway  
Newport, Oregon 97365  
Make reservations by August 12. After that date rooms may not be available at our special rate ($139 single/dbl ocean view or $104 hillside). Mention OCDLA for this rate. Pet-friendly rooms, additional fee. Note: Rooms fill fast at the coast in the summer.

CLE Registration  
Online: www.ocdla.org  
Phone: (541) 686-8716  
Fax: (541) 686-2319  
Mail: 101 E 14th Ave, Eugene, OR 97401

Visit ocdla.org.

FORENSIC SCIENCE:  
Challenging the Government’s Soft Science  

September 13–14, 2019 ■ Agate Beach Inn, Newport

Name ________________________________________  Bar #/PSID# ________________________  
Name for Badge __________________________________________________________________  
Address __________________________________________________________________________  
City _________________________________________State ____________ Zip ________________  
Phone _______________________________________ Fax _________________________________  
Email ____________________________________________________________________________  

CLE Tuition and Materials (Materials link emailed September 9)  

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Material Options  
☐ Add a CD of materials for an additional $15  + $____  
☐ Add a hard copy of materials (without supplements) for an additional $30  (Pre-order the hard copy by September 10)  + $____

Menu Selection  
☐ Check here if you require a vegan (vegetarian) lunch on Saturday.

Can’t Attend? Audio & Written Materials  
Download material & MP3 audio from the web following the seminar, $230, members only.  
☐ Written materials (CD) & audio CDs for CLE credit, $255, members only.  + $____  
☐ Written materials (hardcopy & CD) & audio CDs for CLE credit, $285, members only.  + $____  
☐ Written material only—CD and hardcopy, $150, no CLE credit.  + $____

OCDLA Donations  
☐ $25 donation to the Scholarship Fund  = $____  
☐ $25 donation to the Legislative Advocacy Fund  = $____  
☐ $25 donation to OCDLA’s General Fund  = $____

Not an OCDLA Member? Join now and SAVE on this CLE!  
Membership effective through June 2020  
Bar entry 2015 to 2018  ☐ $265  = $____  
Bar entry 2014 or earlier  ☐ $370  = $____  
Non-lawyer Professional Membership  ☐ $150  = $____  
Bar entry 2019—New Bar Admittee  ☐ $50 includes $50 CLE Certificate  = $____

Payment Information  
Payment must accompany registration.  
☐ Check enclosed  ☐ VISA/MC/AMEX/Discover  Total = $____  

Card Number  Exp. Date  CVC #

Billing Address
LEGISLATIVE UPDATE

From the Desk of Mary Sofia

Beautiful Words — Sine Die!

Mary Sofia

On June 30th both chambers of the 80th Legislative Assembly simultaneously gavelled out, officially marking the constitutional conclusion of session known as Sine Die and bringing six months of lawmaking to an end. The legislature’s final gavel sealed the (mostly positive) fates of OCDLA’s priority bills that we began working on in 2017/2018.

More to Come!

Esteemed colleague Jennifer Root and I are currently working on compiling and summarizing the relevant criminal justice, juvenile justice, human services, and delinquency bills for the annual Legislative Analysis which will be available for members to download for free in September. The Legislative Analysis will be a robust analysis with summaries, live links, background information and insights not constrained by word limits.

I am also currently compiling a report of key legislation with emergency clauses that will go into effect upon Governor Brown’s signature—I will publish this report in an email to OCDLA membership.

And lastly, Jennifer Root and I will be reimagining the Legislative pages on the Library of Defense to include archived Legislative Update Member emails, relevant reports, and other information to keep you apprised of new laws going into effect.

Here is a highlight of just a few (of many!) of OCDLA’s 2019 Legislative priorities passed this session.

• Limiting Warrantless Removal of Children (HB 2849): Passed! OCDLA teamed up with long-time OCDLA member Angela Sherbo, Amy Miller with Youth, Rights & Justice, Representative Tawna Sanchez, and Senator Sara Gelser to create and pass this watershed juvenile delinquency law. This bill brings Oregon’s standard for protective custody without a court order in line with the constitutional standard. Upon signature by the Governor, this bill becomes effective January 1, 2020.

• Expanding Recording Requirements of Juvenile Interrogations (HB 3261): Passed! OCDLA joined criminal justice reformers Representative Chris Gorsek and Representative Carla Piluso to again make Oregon a frontrunner in juvenile justice reform. This bill expands the requirement to record juvenile interrogations to include all offenses— anywhere interrogations take place—when the peace officer or school resource officer has a bodycam. This bill expanded our successful but more narrow change to the interrogation laws in 2017 (HB 3242) that required law enforcement to record interrogations of youth suspected of felony conduct in law enforcement facilities. Special “thank you” to OCDLA member Norah Van Dusen who testified in front of the House and Senate Judiciary Committees in support of this bill. I also had the pleasure of working with Samantha Buckingham, director of the Juvenile Justice Clinic at Loyola Law School, who joined our efforts at the suggestion of Brendan Dassey’s lawyer Steve Drizin. Upon signature by the Governor, this bill becomes effective January 1, 2020.

• OCDLA’s Lawyer Client Confidentiality Protection Act (HB 3249): Passed! OCDLA’s Legislative Committee crafted this bill after receiving countless stories from members about the lack of confidentiality afforded to clients and the defense team (especially in jails/DOC), despite lawyer-client privilege and case law establishing that confidentiality extends to other members of the defense team. Armed with the law, OCDLA teamed up with Representative Jennifer Williamson and Representative Mike McLane to pass this small but meaningful change establishing that a client has a right to communicate privately with the

“Member Mary A. Sofia is OCDLA’s Legislative Advocate.”
client’s lawyer as well as representatives of that lawyer, and precludes any evidence obtained in violation of the lawyer-client privilege (under ORS 40.225) from being used against a client. This bill should have a huge impact on your practice—this is the lawyer-client privilege with teeth. This bill has been successfully signed by the Governor and goes into effect January 1, 2020.

- **Juvenile Justice Reform (SB 1008): Passed!** In late 2017, key concepts within this bill were dreamed up by a group of dedicated lawyers including long-time OCDLA members Marc Brown, KO Berger, Angela Sherbo, Dawn Andrews, and others. Together, we strategized and created a **gigantic** advocacy coalition to bring about legislative change (please [click here](#) for our one-pager that lists all of our partners) spearheaded by policy director Kimberly McCullough with the ACLU of Oregon. SB 1008 does away with automatic waiver of youth into adult court under Measure 11, expands access to second look hearings to all youth regardless of charge, creates a transfer hearing meant to limit youth from being transferred to DOC from OYA, and does away with Juvenile Life Without the Possibility of Parole (JLWOP) by making all juveniles eligible for parole hearings after 15 years. These changes apply to all youth sentenced after January 1, 2020, and the application is limited by **SB 1005** which (myopically, in my opinion) excludes youth remanded for resentencing after the first of the year. Our dynamic coalition worked tirelessly to pass what people are rightfully calling one of the most significant juvenile justice reform bills in Oregon ever passed.

This session was long, fast-paced, exhilarating, affirming and heartbreaking, all at the same time. We accomplished so much together, and I am truly honored to work for this amazing organization. Stay tuned for the annual Legislative Analysis and look out for member emails with new resources and information coming soon.

### 2019 Legislative Session Information Available in the Library of Defense

The [2019 legislative session section](#) of the The Library of Defense will include archived Legislative Update member emails, relevant reports, legislative updates from The Oregon Defense Attorney journal, and other information to keep you apprised of new laws going into effect. **Access the information here.**
BRAND NEW 2019 Silver Anniversary Edition

Felony Sentencing in Oregon
Guidelines, Statutes, Cases

By Jesse Wm. Barton

Indispensable Editorial Assistance

Chapter 1—Introduction: Ryan T. O’Connor
Chapter 2—Crime Seriousness Rankings: Jennelle Meeks Barton
Chapter 3—Criminal History Scoring: Jesse Wm. Barton
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Just Keep Truckin’ On

Lane Borg

As I write this the week of the Oregon Country Fair, perhaps it is appropriate to sum up the 2019 Legislative Session with a quote from that merry band of minstrels, the Grateful Dead: “What a long strange trip it’s been.” While the defense community likely has not seen as great a session as this in many decades, the failure of HB 3145—the public defense reform bill—still stings and is hard to reconcile.

However, before we toss the Sixth Amendment Center report on top of the pile of a dozen or so other studies showing that Oregon public defense needs reform, I think it important to acknowledge our successes. Advances we made are directly related to the tremendous work of many stakeholders, not the least of which is the persistent efforts of OCDLA’s legislative lobbying team. There are almost too many; I am afraid if I miss one it will imply less value, but perhaps it is enough to say that between stopping warrantless removal of children to changing death penalty law, we literally have a cradle-to-grave scope of reforms. That said, certainly the crown jewel is SB 1008, marking the mortal wounding, if not death, of juvenile Ballot Measure 11.

Our community will have to revert to pre-1994 days and relearn how to conduct juvenile waiver hearings. I believe that many DA’s will either embrace the new law or be somewhat judicious about choosing cases in which to seek waiver. Nevertheless, I also believe we will initially see a higher rate of these hearings than what we experienced pre-Ballot Measure 11. Our preparation as a community of defenders will certainly impact not just our clients, but the trajectory of the law. We have a chance to reset and improve practices. I think the valuable skills we have developed around mitigation in death penalty work will be applicable to juvenile remand practice.

Overall we received an unprecedented $55 million more than in past biennia for public defense use—this is a very good thing. However, it is important to break down the various increases to understand how the funds can be used.

Approximately $20 million is for the base budget. The Current Service Level (CSL) went up, which will allow OPDS to cover increases in operations as well as increase the Public Services Account (PSA)—the account from which contracts and NREs are paid. Although the legislature cut the PSA by $7 million, the legislative record is clear that we can go back on that account to supplement funds, should we need to, for contracts. The PSA was built around the old contracting model of case credits, so we will need to pay attention to how future contracting changes effect that account.

HB 5050, the Christmas Tree Bill, provided money to begin the Parent Child Representation Program in Multnomah County starting July 2020. It also gave us $20 million in a Special Appropriations Account (SPA), that we can access to address issues from the Sixth Amendment Center report—criminal representation, high caseloads, and manner of compensation. I intend to apply for and receive those funds, but the money must be tied to decreasing caseloads and changing contracting to eliminate the flat-fee case rate model.

I believe the defeat of HB 3145 by a unanimous vote in the Senate is more about the amendment of the bill to create a task force than rejecting the need to reform the public defense system. We will need to reassess where we stand and the appetite for further action. In any case, we need to work together to get this right as we move away from a case rate world and toward fair compensation and transparent accountability. As Jerry Garcia would croon, we’ll “just keep truckin’ on.”

“...I believe the defeat of HB 3145 by a unanimous vote in the Senate is more about the amendment of the bill to create a task force than rejecting the need to reform the public defense system.”

Member Lane Borg is executive director of the Office of Public Defense Services.

Upcoming Public Defense Services Commission Meetings

August 15, Salem

Online calendar
Nancy Bergeson Ardent Advocacy Series
Thursday, July 18, 2019 • Portland

Mark your 2020 calendar!
Thursday, July 16

The Honorable Judith Levy, District Judge for the Eastern District of Michigan (right) with her brother Paul Levy, Portland.

Photo by Shaun McCrea.

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See Honored Members online or on page 42.
IN MEMORIAM

Donald F. “DF” Myrick
June 23, 1923 – February 19, 2019

Shaun S. McCrea

Ed. Note: This is a belated in memoriam as a reminder of the good work of good people who have gone before us.

DF Myrick — one of Oregon’s criminal defense champions — was born June 23, 1923, and died February 19, 2019. Myrick served in World War II and graduated from U of O Law School in 1950. He practiced law in Grants Pass for more than 56 years and served on the Oregon State Bar Board of Governors. He was known as an “exceptionally successful and skilled trial lawyer.”

A Westlaw search for “Calvin Roy Ott” will turn up four appellate decisions underscoring Myrick’s caliber. He and his partner Donald H. Coulter were appointed to represent Ott in a murder case prosecuted by Bob Burrows (who later became a defense lawyer and OCDLA member). The defense took their public defender role seriously. Pretrial they twice took Judge Cushing up to the Oregon Supreme Court on mandamus on issue of the right not to answer the state psychiatrist’s questions about the facts of the shooting and the right of Myrick to be present when the psychiatrist interviewed Ott.

The defense won important protections for their client. (This decision built on Myrick’s and Coulter’s earlier work in mandamus against Judge Bowe). The defense then tried the case offering a defense of extreme emotional disturbance (EED). Judge Neufeld gave DA Burrows’s proposed jury instruction defining EED, which Myrick and Coulter challenged. The jury convicted Ott of murder. But Myrick and Coulter weren’t done. They appealed to the Oregon Court of Appeals for a new trial. They were unsuccessful, but the Oregon Supreme Court accepted review, and reversed and remanded for a new trial. On retrial, the jury accepted the EED defense and convicted Ott of manslaughter instead of murder.

Grants Pass attorney and OCDLA member Holly A. Preslar said this about DF Myrick:

I tried my very first case with Don while I was still in law school the summer of ’90. It was an adoption revocation case, us representing the young 15-year-old mother who had changed her mind about surrendering her baby. Many days in court, very emotional case, one we ultimately lost, and I was upset with losing. And as we stood out in the courthouse lobby immediately after Judge Allan Coon delivered his ruling, DF asked me if I thought we had worked hard and given it our all. I said I thought we had. And he said then that is all we can do. Work hard, do our very best, accept the outcome, know that our great legal system works, then move on. Such great advice to my then 24-year-old self.

DF Myrick was not an OCDLA member but his son, Lynn Myrick, of Grants Pass is and has been a long-time member — maintaining his membership despite retiring from criminal defense approximately six years ago. Lynn tried multiple murder cases with his father and several hundred criminal cases on his own in his first 35 years of practice. The last case Lynn tried was an attempted aggravated murder case where the complainant was Oregon State Trooper Ken Snoo. The verdict: 12-0 Not Guilty. Even so, Lynn says of his father: “Hard to match up with those talents.”

Rest in Peace, DF Myrick.

Shaun S. McCrea is the executive of the Oregon Criminal Defense Lawyers Association and a life member.
Thank you to our Annual Conference Scholarship Fund donors:

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ANNUAL CONFERENCE

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Photos on pages 16–19 by Eric Squires, P.I. & OCDLA member. Order the conference material and audio at ocdla.org.

Could it be our last year in the tent? Yes. See page 30 for 2020 Annual Conference lodging reservation information at a new location.

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ANNUAL CONFERENCE AWARDS

PRESIDENT’S AWARDS
presented by president Olcott Thompson at the Annual Conference to —

Jim Arneson
As a cooperating attorney on the OCDLA Strike Force, for answering the call on short notice, during the holidays, to assist an OCDLA member in need,
For defending that member against the power of the state without pay or self-interest, and
For showing our members they never stand alone.

Alyssa Bartholomew
For her spirited dedication in organizing the 2018 Winter Conference oral auction,
For her imagination in creating extraordinary auction items such as Trail Blazers vs. the Warriors tickets, a stay in a Historic Steiner Cabin, and Skydiving for Two, and
For her contagious enthusiasm before and during the auction, leading to a record-breaking fundraiser.

Nell Brown
For taking on the long shot: challenging a murder conviction in federal habeas corpus,
For persevering with the case for over seven years’ of investigation, analysis and a belief in justice, and
For refusing to back down, refusing to give up, and her absolute, unassuming grace in achieving a well-deserved victory and justice for an innocent man.

Rich Cremer
For his extraordinary dedication to building this organization since the beginning as member, OCDLA President, Board Member and NACDL Board Member,
For being a major donor to the OCDLA Building Campaign dedicated to leaving a “home” for future generations of defense lawyers, and
For his unflagging dedication to the principles of OCDLA and justice in his representation of the voiceless, serving as an example of excellence in criminal defense.

ROSS SHEPARD AWARD for LIFETIME SERVICE to OCDLA
presented to Bob Thuemmel
For leading the association through the transition of John Potter’s retirement,
For dedicated service as President, Board Member and Chair of the Education Committee,
For championing continuing outreach to members statewide, from the Magic Bus to the Honored Members Committee, and
For such commitment to trial excellence that his cross-examination example at the Trial Skills College will always be known as the “Thuemmel drill.”

Thoughts from Bob Thuemmel on OCDLA —
“The secret ingredient is companionship and camaraderie.”

“If you want to talk about a lifetime of serving an organization, this is a very easy organization to serve, and I’ll always do it, and I’ll always appreciate it. And Ross, we’re still here and we’re doing alright.”

Sara Snyder
For being a fierce advocate on behalf of every person she represented,
For refusing to give up — ever,
For being a generous donor to OCDLA, and
For inspiring us with her incredible dedication and zest for life.

David T. McDonald (2018 recipient)
For his work behind the scenes with the Education Committee and our legislative efforts,
For his encouragement to serve on the OCDLA Board and as an officer, and
For his words of wisdom.
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What’s Left to Argue?  
Defending failure to report as a sex offender cases in the wake of legislative changes

Mark Kimbrell

The various sex offender reporting statutes have undergone important changes over the last decade. Yet many of these changes have gone unnoticed by defense attorneys. This article seeks to highlight two of those changes—those altering where and when an offender must report—and their impact on defending failure to report cases under ORS 163A.040.

Changes to Where to Report

As discussed in State v. Depeche (2011), prior to 2011 the pertinent reporting statutes “did not specify a place at which a defendant had to report. Rather, a defendant could report to specified people or entities in any county within the state.”

Accordingly, in the absence of a reporting location specified in the statute, a defendant’s failure occurred in whichever county the defendant was located when the relevant time period to report expired. If the state could not establish a defendant’s location at that time, it could not establish venue. That was the case in Depeche, where the Oregon Court of Appeals reversed because the state charged the defendant in Washington County but failed to prove that he was there at the time that his reporting period expired.

In response to Depeche, the legislature amended reporting statutes in 2011 to specify that offenders should initially report in the county in which they were placed, released, or moved into, and, subsequently, in the county of their last reported residence. That legislative change put an end to the venue issues that previously plagued failure to report prosecutions.

Changes to When to Report

As recently as 2016, ORS 163A.040 (1)(d) stated that a person committed the crime of failure to report as a sex offender when they “move[d] to a new residence and fail[ed] to report the move and the person’s new address.” In State v. Hiner, (2015), the Oregon Court of Appeals construed that subsection and held, “the reporting requirement is triggered when the defendant has both left his former residence and acquired a new residence.” (Emphasis added.) Thus, under Hiner, the crime of failure to report as a sex offender occurred ten days after a defendant had established a new residence.

In 2017 the legislature amended ORS 163A.040 in response to Hiner to provide that a person commits failure to report as a sex offender if he “fails to report following a change of residence.” (Emphasis added.) The effect of the legislation was to return that subsection of the failure to report statute to its pre-2009 state. Under case law interpreting pre-2009 versions of the statute, a “change of residence” occurs when a defendant merely leaves a residence. Accordingly, the crime of failure to report as a sex offender now occurs ten days after a defendant leaves a residence; the state no longer must show that the defendant established a new residence. In essence, the legislature lowered the state’s burden.

Defending Failure to Report Cases After Changes

So where does that leave us? Due to the 2011 change, the fruitful venue arguments descending from Depeche are likely gone. And, due to the 2017 legislative change, a once solid MJOA argument—the state failed to show that my client established a new residence—is now gone.

However, despite the recent changes to address when and where a sex offender must report, an important part of the appellate court’s holding in Depeche still exists and may be useful to defendants. The Depeche court had to determine when the offense of failure to report as a sex offender occurs before it could reach the question of whether the state had proven venue. It concluded that failure to report as a sex offender is a discrete offense that begins and ends when the period for reporting expires and a defendant has not reported.

In holding as much, the court rejected the state’s argument that failure to report is a continuing crime, as well as the “necessary implication” of that argument: “that a defendant could be charged for a new crime of failing to report every day—indeed, every moment—that he or she is out of compliance.” Rather, the “gravamen of the offense of failure to report as a sex offender…was

Continued on next page.

Member Mark Kimbrell is a Deputy Defender with the Office of Public Defense Services, Salem.
the failure to take a specific action—reporting—within a finite time period...not...the absence of action from that point forward.”

That holding is still good law and can be applied to multiple subsections in ORS 163A.040. For example, under subsection (e), the crime begins and ends at the end of the tenth day following a sex offender’s birthday. Regardless of whether that individual fails to report for an entire year, he does not commit another failure to report offense until ten days after his next birthday. The same goes for subsection (d), where the crime “occur[s] literally at midnight on the tenth day after [the] defendant changed his residence.” See Depeche, 242 Or App at 163.

Using Depeche and the Bar Against Successive Prosecutions to Fight Repetitive Charges

Despite the Court of Appeals’ clear statement to the contrary, some prosecutors continue to believe that failure to report is a continuing offense that persists until a defendant reports. Therefore, they may attempt to charge your client multiple times following a single event that triggered a reporting requirement.

For example, assume your client is arrested for failing to make an annual report on the 11th day following his birthday. Six months later, he is arrested a second time when he again is contacted by the police and still has not made his annual report. The state then twice charges your client—once for each arrest date.

In such a circumstance, Depeche and the bars against successive prosecutions found in ORS 131.515(1), Article I, section 12, of the Oregon Constitution, and the Fifth Amendment to the United States Constitution should apply to protect your client from the second prosecution.

ORS 131.515(1) provides that “[n]o person shall be prosecuted twice for the same offense.” It prohibits a person’s prosecution twice “for conduct that the legislature has defined as a single crime.” In other words, “ORS 131.515(1) prohibits a prosecutor from dividing a single crime into multiple parts and successively prosecuting a defendant two or more times on that basis.”

That is exactly what the state does when it twice prosecutes a defendant following the expiration of a mandatory reporting period—it takes what is a single crime under Depeche and divides it into multiple offenses. Moreover, because ORS 131.515(1) simply “restates” the Article I, section 12, guarantee against double jeopardy, when a subsequent failure to report prosecution is barred under ORS 131.515(1), it is also barred by Article I, section 12.

Finally, the Fifth Amendment similarly prohibits a successive prosecution if the requirements of the same-elements test are satisfied. That test “inquires whether each offense contains an element not contained in the other; if not, they are the ‘same offence’ and double jeopardy bars successive prosecution.” Two prosecutions predicated on the same reporting requirement would, by nature, share the same elements. Thus, the second prosecution would violate the Fifth Amendment.
In summary, legislative changes of the last decade have eliminated fruitful defense arguments in failure to report prosecutions. However, when the state tries to double dip by prosecuting your client multiple times for staying “out of compliance” with reporting requirements, Depeche—in concert with the statutory and constitutional prohibitions against successive prosecutions—remains good law to challenge those subsequent prosecutions.

Endnotes
2 See also State v. Turner, 235 Or App 462, 467, 234 P3d 993 (2010) (Edmonds, J., concurring) (the statute is silent regarding where a defendant must report in order to comply with its requirements).
3 Depeche, 242 Or App at 163.
4 Id. at 164.
5 See Or Laws 2011, ch 675 (amending the reporting statutes now found in ORS 163A.010-ORS 163A.025); State v. Streeter, 270 Or App 441, 445, 348 P3d 290 (2015) (noting that in response to Depeche, the legislature amended the relevant statutes to specify where reporting must occur).
7 See former ORS 181.599(1)(c) (2008) (stating that a person commits the crime of failure to report as a sex offender if they fail to report following a "change of residence").
9 242 Or App at 163-64.
10 Id. at 164; see also Thompson, 251 Or App at 600 ("the crime of failure to report as a sex offender is not an ongoing crime").
11 Depeche, 242 Or App at 163.
13 Id. at 295.
16 Dixon, 509 US at 696.
and then they are sent back to the jail to determine the next course of action. The state hospital does not have enough staff, not enough room, not enough doctors to house all those with mental illness.

As some of you are aware, Senate Bill 24 is a new law passed by the legislature that revises the aid & assist statutes. The bill has an emergency clause and was signed by the Governor on July 15, 2019, which means the bill is now current law to help address the need for mental health treatment within the community (see detailed Aid & Assist Law information in the 2019 legislative session section of the Library of Defense here). This is a good start, and I hope that this continues to embolden communication that our mental health system is broken and needs to be fixed. The Legislature’s intent is to reduce the number of defendants committed to OSH and to increase community treatment and supervision of defendants. They say that we need more community restoration resources, and I fully agree. Prison is not the answer; the state hospital is not the solution; however, there are not enough mental health resources in the communities to fulfill this dire need.

If we don’t fix the root problem, how can we fix those in need?

On a daily basis articles in the paper and on the news spout the need for mental health reform. Yes, some things are being put into place, but not fast enough. There is no funding. How can we as a people not realize the need for reform and put that first? If this were addressed sooner, people wouldn’t be arrested, wouldn’t be committed and wouldn’t be forgotten by a broken system. This not only a problem for adults with mental health conditions, but for children. Our juvenile system is just as riddled with these issues.

Any time a client dies I always cry. The system failed them. The system failed my client and it’s time that we as a society start focusing on the root problems and not just throw them into the criminal system. What can we do? I don’t know, but I know something needs to happen soon.

New Aid & Assist Law in Effect Now!

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Visit the The Library of Defense here to learn what you need to do.
Shorty after one of my recent trials, I sent an email to a transcriber who had completed a number of documents I needed from the audio and video materials in the case. She would also occasionally send me comments about the witness’ demeanor in a video recording, something I appreciated from her as a neutral observer. At the end of the case, I wrote to let her know the outcome and thank her for the work she had done.

Her reply startled me. She wrote, “Counsel, “I remember this case well!! Some cases are rather troubling…. But in all my 20 years of being in this business, I have never had an attorney take time out of their busy schedule to let me know the end results, albeit good or bad. You are the most considerate, thoughtful, courteous attorney I have ever had the pleasure to work for… [more praise omitted]. I am moved to tears with your thoughtfulness. Thank you, Counsel!!!”

This response touched me, not so much for the compliments (which were certainly heartfelt and deeply appreciated), but more for the revelation that she had never before learned the outcome of a case from a lawyer who had hired her.

Such oversight suggests a sad absence of some basic courtesy which could help those who support us feel a little better about the work we do. Therefore, I’m writing this piece to encourage each of you to follow up at the conclusion of a case with individuals who were involved.

For many years, I have contacted everyone involved in one of my trial cases to report the results. This simple gesture gives me a chance to thank each person for his or her help and also, to the extent it might be useful, provide a closing note on the events for folks who participated on the sidelines. Experts, investigators, and paralegals are usually close enough to a case to be aware of the outcome, but a note or a telephone call is always a good idea just to be certain.

I always send a real letter — signed, stamped and by snail-mail — to lay witnesses. These people have given their time and emotional energy — sometimes a lot of it if there are multiple pretrial preparation sessions — in response to my requests. Sometimes I have subpoenaed them, and they have been reluctant to come. Other times they may have sacrificed either work time or personal commitments or both to help me and my client. Letting them know “how it all turned out” is a small but important act of appreciation.

Our jobs are hard. We try to inspire understanding, at least, if not also empathy for clients who are difficult, sometimes even reprehensible, people. Often they are accused of doing very bad, even horrendous, things. Those whom we bring into the process are necessarily affected by what occurs. On our clients’ behalf, and for our own humanity, we should work to make the “system” less frightening and more comprehensible to those we must, however briefly, draw into it.

When we acknowledge the contributions of witnesses, transcriptionists, clerks, and others with minor but important roles in the process, we let them know that we and our clients are grateful. It is just one small note of civility in an uncivil world, but it does make a difference.

Life Member Susan Elizabeth Reese practices law in Newport. She serves on the Education Committee and writes the “Beautiful Words” and “Reese’s Pieces” columns that appear in this journal.
Defending Veterans?

PUBLICATIONS

👩‍❤️‍👨 Still At War: A Guide for Defenders, Judges and Prosecutors Dealing with Oregon’s Veteran Defendant Crisis
Jesse Wm. Barton, editor

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Jesse Wm. Barton and William “Bud” Brown, June 2016 OCDLA Annual Conference

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<th>Tuition and Materials</th>
<th>Early Bird (By Oct. 11)</th>
<th>Standard (After Oct. 11)</th>
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<tr>
<td>Lawyers</td>
<td>$125</td>
<td>$150</td>
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<tr>
<td>Nonlawyers (CRB, CASA, DHS, service providers, and others)</td>
<td>$100</td>
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State v. Gary Kenneth Orr

Susan Elizabeth Reese

Case: State v. Gary Kenneth Orr
Defense Counsel: Gregory Veralrud
Defense Expert: Daniel Reisberg [consulted but not called at trial]
Court: Coos County Circuit Court Judge Andrew E. Combs
Prosecutor: Coos County DDA John Blanc
Dates: May 8-10, 2019
Charges: Sodomy in the first degree [one count]
Unlawful sexual penetration in the first degree [one count]
Sexual abuse in the first degree [one count]
Verdict: Not guilty on all charges

Mr. Orr and his wife accepted parental roles toward their
granddaughter, Allison, very early in the youngster’s life. Both the Orrs’ son and Kristina, Allison’s mother, suffered
problems from addiction. Kristina also had mental health issues,
including a suicide attempt and hospitalizations for psychiatric care.
During Allison’s early years, the extended Orr family lived in Idaho;
Kristina was often homeless and regularly involved with that state’s
Child Protective Services.

In the spring of 2013, an Idaho court declared Mrs. Orr
Allison’s temporary guardian. The court made this award permanent
the following November, when Allison was four years old. During
the next few years, Allison and her mother visited with each other
when Kristina was clean and sober. Tensions arose between Kristina
and the Orrs, however, as Kristina began to resist continued
 guardianship and her daughter’s residence with the Orrs.

Eventually, Gary Orr took a job with a private agency that
provides drug and alcohol counseling for the probation department,
the DA’s office and DHS in Coos County, Oregon, and by 2014 the
family had moved there. Two other grandchildren (born to the Orrs’
daughter) joined Allison in the Orr household when their daughter
had her own difficulties.

In 2017, the Idaho court terminated jurisdiction of Allison’s
guardianship because the family lived in Oregon. In May that year
Kristina filed her own petition in Coos County seeking Allison’s
custody. Because the Orrs’ received no notice of those proceedings,
Kristina received a default order awarding Allison’s custody to her.
In December, the Orrs filed their own petition seeking custody of
Allison.

In March 2018, Allison began counseling. One month later,
DHS received a report, probably from the counselor, that Allison
had claimed that her grandfather, Gary Orr, had abused her
between December 2016 and March 2017. Allison described her
alleged sexual abuse in a forensic interview at Kids Hope. A trial
date on the Orrs’ custody petition had been set for summer but the
proceedings were dismissed after Allison’s allegations surfaced.

The criminal case lingered in the investigation stage, but
Gary retained defense counsel. On November 15, 2018, Gary was
indicted on three charges of touching Allison’s vagina, penetrating
her with his finger, and engaging in oral sexual behavior with her.
After a courtesy call from the prosecutor's office to let him know of
the warrant, he surrendered and was able to post bail and remain
free before the trial.

The defense received extensive records through subpoenas to
DHS and Allison’s therapist. The Kids Hope interview reflected
Kristina’s extensive contamination of Allison’s story. When asked the
location of the alleged abuse, for example, the child responded that
she didn’t know, she did not remember, but then said, “My mom
says it also happened when I was a baby.” Later, when asked the
name of the first person Allison told about the abuse, she stated that
it was her mother, but “I didn’t really tell her but she just knew.”

At the trial, Allison was a month shy of her tenth birthday.
She admitted in her testimony that no oral sex had occurred, but
she still claimed that her grandfather had touched her vaginal area.
Kristina’s involvement in the process was clear not only in the
forensic interview which was introduced, but also in the counselor’s
records. The anticipated custody battle for Allison provided a
motive for the child’s mother to encourage a false accusation.

Continued on next page.

Life Member Susan Elizabeth Reese practices law in Newport. She serves on the
Education Committee.

Life Member Greg Veralrud practices law in Eugene. He served as OCDLA
board president from March 1984 to May 1986.

Dr. Daniel Reisberg is Patricia & Clifford Luneborg Professor of Psychology
at Reed College.
BEAUTIFUL WORDS Continued from page 33

Mr. Orr’s extended family (including his parents) provided both moral support and testimony for him at trial. Facing a potential mandatory minimum sentence of 25 years if convicted, Mr. Orr was an emotional witness in his own defense. His wife and others added their testimony on his behalf. Although he was not called at trial, Professor Daniel Reisberg provided helpful pretrial discussions with defense counsel concerning issues in discovery and areas to be explored in witness examinations.

After the jury retired to deliberate, defense counsel Veralrud drove to a nearby filling station to service his car for the return drive to Eugene. He had no sooner reached the pump than he received a call informing him that the jury had reached a verdict. The jury, Mr. Orr learned later, had taken merely three minutes after entering their room to award him Beautiful Words. Several jurors contacted him later through social media to apologize for the trauma he had experienced as a result of the charges. After nearly a year of personal horror, Mr. Orr is now able to put his life back on track.

Endnotes
1 A pseudonym
2 Also not her real name
3 Mr. Orr passed a polygraph administered by Steven Hebner and reviewed with approval by Det. Mike Tabor in Roseburg, but the court granted a prosecution request that the results not be admitted into evidence.

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- Brett Willis, Senior Assistant Public Defender, Gainesville, GA

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