

**GUEST EDITORIAL FROM  
THE REGISTER-GUARD**

## Improving justice for criminal defendants

Justice by the dollar is not justice for all.

Yet that is how justice commonly is provided to criminal defendants in Oregon who cannot afford to hire their own lawyers. It is a system that the national Sixth Amendment Center suggests violates the Constitution and that Eugene Sen. Floyd Prozanski, chair of the state Senate Judiciary Committee, said makes the state vulnerable to lawsuits.

It is an unconscionable system, one that likely leaves many Oregonians with undeserved criminal records that can undo relationships; cause them to lose their professional licenses for work; and block them from obtaining student loans, employment or housing.

If mishandled, even the lowest level of misdemeanor cases can create unexpected consequences for indigent defendants, who disproportionately are people of color. Yet the state does not even monitor indigent defense in the municipal courts and county justice courts that handle many misdemeanors.

Oregon had the insight this year to hire the Boston-based Sixth Amendment Center to study legal representation provided at the circuit court level through the state Office of Public Defense Services. The center examined nine counties from July 30 through Oct. 4.

The Sixth and Fourteenth amendments intersect to require that indigent defendants have competent counsel in criminal cases that carry a potential sentence of imprisonment. But the preliminary report from the nonpartisan, nonprofit Sixth Amendment Center contends that Oregon's system for providing that defense is badly broken. Experts from the center, who testified before the Senate and House Judiciary committees on Friday, essentially suggested that Oregon scrap its current system.

The report underscores what public defenders said in a recent Register-Guard story. Their low pay and high workload potentially undermine their ability to provide a competent defense. Once lawyers gain sufficient experience they frequently leave for better jobs in the private sector or as prosecutors.

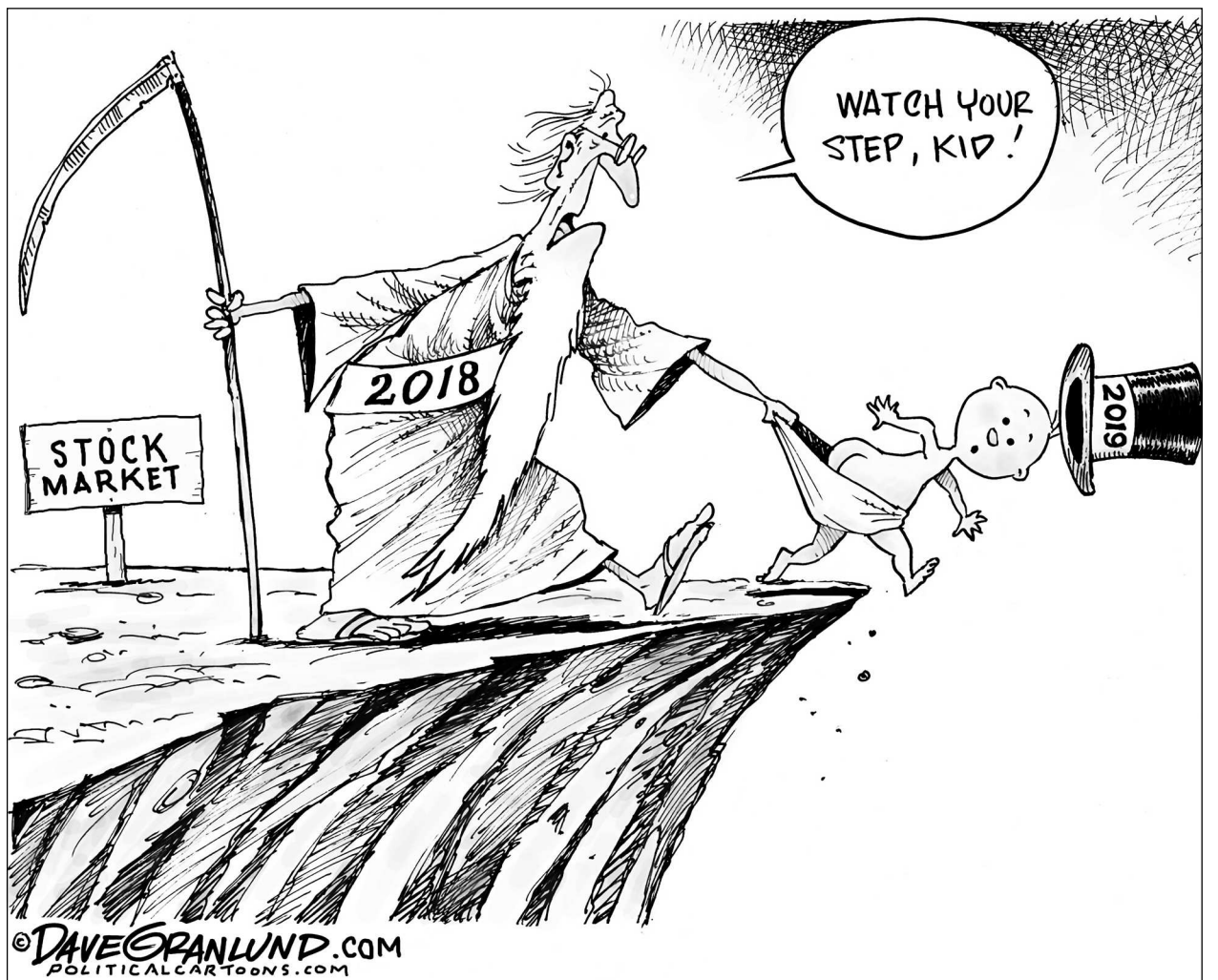
Oregon's convoluted system of indigent defense varies by county and among lawyers. In most instances, public defender offices, consortia and law firms are paid a flat fee for each type of case, regardless of the time involved or the quality of their work.

The Sixth Amendment Center said flat fees create an inherent conflict of interest between the counsel's financial well-being and the client's legal well-being. The more time a lawyer devotes to a case, the less money that he or she earns per hour.

In addition, Oregon does not keep tabs on whether indigent defense lawyers have the qualifications, experience and up-to-date knowledge for all the types of cases they handle. They often have broad portfolios, which take them into areas of law where they are less knowledgeable. Meanwhile, these lawyers are up against prosecutors who are better paid, who may have more experience and who have greater resources for investigations and other legal work.

In criminal cases, inadequate defense representation can lead to innocent people being found guilty or, without realizing the lifelong consequences, taking plea bargains to avoid facing more serious charges and longer sentences. The Sixth Amendment Center acknowledges that Oregon's fixed fees create an incentive for pushing clients toward plea bargains regardless of the facts and a disincentive for pursuing legal resources that must be paid from that flat fee.

Oregon must invest in a new system of indigent defense. That will take planning and time, but the state must not stand still. The 2019 Legislature has a moral, ethical and legal obligation to invest far more in pay and resources for lawyers who serve poor Oregonians.



## Spout Springs parking plan supports multiple uses

As the Walla Walla District Ranger, I have had the privilege of talking with many of our community members regarding the two Sno-Parks at Spout Springs Ski Area. I want to sincerely thank everyone who has contacted me and engaged in conversations around Spout Springs.

Through all of these discussions it is apparent to me this area of the Umatilla National Forest is highly valued by many of the communities that we serve. I also recognize the values in this area include a whole spectrum of forest uses, including skiing, snowshoeing, snowmobiling, skiing, powersports, hiking, hunting, wildlife viewing, cabin recreation, swimming, timber production, horseback riding and more. In fact, the Spout Springs area is a perfect example as to why the Forest Service has a mandate to support multiple uses.

In the past two years, the Spout Springs Ski Area has not opened for business, citing safety concerns with the administration of the parking lot north of Highway 204.

I have been working with the owner of the Spout Springs Ski Area to address these safety concerns, which he states are preventing him from obtaining liability insurance needed

to open for winter operations.

In order to alleviate these concerns, I recently agreed to modify the north parking area by eliminating overnight parking once Spout Springs opens for the 2018-2019 season.

My objective with this agreement was to have Spout Springs operate its downhill and cross country operations during the 2018 and 2019 ski season, while providing for the safety of all users who enjoy recreating in this area.

The north parking area is within the Spout Springs Mountain Resort Special-Use Permit and is utilized by ski area customers and other winter recreationists.

The north parking area is managed in partnership with Spout Springs and the Forest Service and is part of Oregon's Sno-Park program.

A second parking area (known as the south parking area) is located across the highway from the resort. The south parking area is outside of the Spout Springs Ski Area permit and managed by the Forest Service under a separate Sno-Park agreement with ODOT.

In the past, the south parking area has been designated for passenger vehicles only.

Since announcing the north parking area modi-

### My Voice

#### ABOUT THE AUTHOR

Mike Rassbach is the Walla Walla District Ranger for the United States Forest Service.

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fication, I have received numerous phone calls and emails from various community members regarding concerns over the loss of overnight parking in the Spout Springs north parking area.

Through these discussions, including input from ODOT, I decided to modify the configuration of the south parking area in order to authorize overnight parking for trucks and trailers in a portion of the south parking area.

The new parking arrangements for both the north and south parking areas provide equitable and safe access for a variety of recreational uses, including alleviating the concerns raised by the Spout Springs Ski Area.

I encourage anyone with questions to contact me directly or visit the Umatilla National Forest

website for the latest information. The updated parking area map is available at <https://www.fs.usda.gov/umatilla>.

My long-term vision is to see this area thrive and continue to serve the variety of communities that enjoy recreating on their National Forest.

I look forward to seeing Spout Springs Ski Area open again to our public, as I believe it is an important local resource, providing family-friendly recreational opportunities and jobs for our communities. I also look forward to continuing to provide the important multiple-use recreational opportunities that connect you all to your National Forest.

I am grateful for the time and effort invested by each of you. I hope these discussions will serve as a positive step toward continued work together.

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