

2004 Public Safety Review Recommendations Status Report February 2006

Adult Sentencing Task Force

Recommendations:

- Create legislation to establish Assault 3 committed by the driver of a motor vehicle who is driving under the influence to intoxicants to be a Class B felony, with a crime seriousness ranking of CS 8. This did not advance.
- Create legislation to amend ORS 163.160(b) to remove the requirement that prior convictions be related to domestic violence and add prior convictions of Menacing, Assault 1, Assault 2, and Assault 3 to qualify a person for felony Assault 4 treatment. This did not advance.
- Create legislation to provide increased incapacitation of chronic property offenders by increasing the presumptive repeat property offender (RPO) sentence for persons who previously have served a RPO sentence and are convicted of a subsequent RPO offense. This did not advance.
- Create legislation to adjust any statute or policy that limits the ability of those assessed as mentally ill, who meet the other established criteria and are incarcerated, from receiving immediate enrollment in Oregon Health Plan and qualification for medication upon release of custody. This legislation was adopted.
- Create legislation to establish statutory provision that when a trial court finds multiple factors that justify a departure sentence, that remand for re-sentencing is not required when one of the factors is reversed. This did not advance.
- Create legislation to require defense to notify State of intention to challenge the existence and/or legal effect of prior convictions submitted for CH purposes. This did not pass.
- Create legislation to amend Pre-Sentence Investigation (PSI) statutes to require attention to "Analysis of what is most likely to reduce this offender's future criminal behavior and why, including the availability of any relevant programs in or out of custody" Referred to the Criminal Justice Commission in SB 919. CJC has created a committee, chaired by Justice Wallace Carson, to study this issue. Also included in SB 914.
- Create legislation to allow Class C felons to enter plea w/out an appearance w/ stipulation of the parties - This did not pass.

Administrative Recommendations:

- Review practice of some courts of requiring misdemeanor defendants to appear in court for all proceedings. This was rolled into the criminal caseflow management project. It was not identified as an issue by courts, DAs, or defense attorneys in the caseflow management survey.
- Judicial Office Staffing. By vote of the Public Safety Review Committee on Oct 8, 2004, this was permanently tabled.
- Develop a uniform trial fast-track system statewide. Referred to CJAC. See caseflow management (below)
- Inconsistent docketing strategy statewide. Referred to CJAC.
Best Practices in Caseflow Management in Criminal Cases Chair: Judge Julie Frantz
Status (Jan 06)

- Surveyed judges, district attorneys, defense attorneys.
 - Developed menu of “Best Practices.”
 - Model criminal court pilot (5 courts) to implement Best Practices Menu in progress. “Kick-off” workshop scheduled for March 3, 2006.
 - Possible development of statewide data reports from results of pilot.
 - Possible fall educational session related to criminal caseflow management for judges and trial court administrators.
- Cumbersome process for Uniform Criminal Judgment. Referred to CJAC CASE MANAGEMENT WORKGROUP, Chair: Judge Julie Frantz.
Status (Jan 06):
 - Created technical assistance guide and distributed to courts (*Uniform Criminal Judgment – Implementation Assistance for Oregon Circuit Courts*).
 - “Pre-load” function rolled out to courts (Oct 2005).
 - 50.79% of felonies disposed of with UCJ document (Oct 2005).
 - 24/36 circuit courts using UCJ (Oct 2005).
 - Remaining courts developing implementation plans.
 - Clarify what types of pre-trial restraints (jail, work release, electronic monitoring) are eligible for credit for time served. Referred to CJC, part of SB 919 workgroup.
 - Modify Sentencing Guidelines rule re: greater harm/loss than typical to include threat of future harm. Included in CJC SB 919 workgroup.
 - Review whether Compelling Prostitution and other offenses should be added to crimes requiring lifetime post-prison supervision. Refer to CJC for follow up/possible referral to DOC advisory committee confirm that this is being handled by the legislature
 - Modify Sentencing Guidelines rule to allow introduction of plea petition or other judicial admission of non-Oregon offense for CH purposes. Referred to CJC, no action taken.
 - Include out-of-state, federal, and military sex offense convictions as triggers for requiring Sex Offender treatment as condition of probation. This was passed as part of HB 2144.
 - Develop script for pro se defendants pleading guilty. Scripts were developed by the UNIFORM SCRIPT WORKGROUP; Chair: Judge Patricia Sullivan
 - Model Bench Scripts
 - Created script for accepting waiver of counsel.
 - Created script for accepting a guilty/no contest plea.
 - Model Forms
 - Created waiver of counsel form (translated into Spanish).
 - Created waiver of jury form.
 - Model plea petition form (in progress).
 - Merge current crime seriousness (CS) ranking, CS7 for Burglary 1 into CS8. Refer to CJC for review.
 - It is recommended that the Chief Justice sponsor education for the judiciary on the impact on recidivism of length of revocation sentences and sanctions imposed as a result of violations. A breakout session on sentencing (presented by Judge Marcus) has been scheduled for the Circuit Judges' Association Conference this spring (April 9-11). This issue will be discussed at that session.
 - The courts should expand the use of video hearings as widely as possible (HB2282). - Referred to CJAC TECHNOLOGY WORKGROUP Chair: Judge Robert Huckleberry.

Electronic Appearances in Criminal Cases Status (Jan 06)

- Legislation providing expanded authority for the use of appearances by electronic means in criminal cases enacted (HB 2282, effective 7/20/05).
- Recommending the development of video conferencing equipment standards, protocols, and user guides.

Other:

- Request the Oregon Criminal Justice Commission to examine the feasibility and means of incorporating consideration of future criminal conduct and reducing the crime rate into Oregon's felony sentencing guidelines. **This is being done - SB 919**

Criminal Justice Systems Review Task Force

Recommendations:

- Support SB 617 - Single Subpoena/Court Filing review. **Passed as SB 36.**
- Support Review of Court Appointed Attorney Applications. **This recommendation did not advance.**
- Support SB 784 – Amend cross reporting of child abuse reporting statute. **This bill passed (SB 94) and DHS and Law enforcement have finished creating and implementing the rules for implementation of this bill.**
- Create legislation to amend ORS to provide for a single hearing on sensitive sex crime cases before a Juvenile Court of Record (Circuit Court). **This recommendation did not advance.**
- Support legislation to provide stable funding for Oregon State Police system critical services. **OSP system critical services was addressed when the legislation passed dedicating CFAA funding to DPSST, Crime Lab, LEDS, and Victims Asst.**
- OSP/local L.E. Agencies review policing agreements. **Check status on this recommendation**
- Support Governor's Mental Health TF recommendations. **No major changes occurred during the '05 session.**
- The Criminal Justice Commission to periodically convene a group of stakeholders in sex offender management issues (including DOC, community corrections directors, SOSN, OYA, juvenile department directors, and others) to provide a forum to identify and update needs in sex offender treatment and supervision practices including (Post Sentencing subcommittee #1, page 35) -
 - 1) Developing recommendations for accrediting sex offender treatment providers.
 - 2) Developing recommendations to resolve conflicts between treatment practices and prosecution policies
 - 3) Reviewing and making recommendations on resource issues, including DOC developing a pre-release program to prepare sex offenders for community-based sex offender treatment; reviewing the availability of sex offender treatment (statewide or regionally); and identify needs/solutions for culturally-appropriate sex offender treatment for various racial/ethnic populations.
 - 4) Reviewing how to involve Oregon's academic community in improving training for future sex offender supervisors and treatment specialists (through criminology, counseling, and social work programs).

This is being handled by the House and Senate Judiciary Committees and the Sex Offender Network.
- Statewide review of docketing practices (Adjudication subcommittee #2, page 33) - Docketing and trial management practices statewide vary considerably, which is understandable given the diversity in the state. However, some practices result in wasted resources, both for the court and the participants. Task Force members believe a forum to identify and disseminate effective docketing and case management practices is urgently needed. **Advanced - see Adult Sentencing for status.**

Other Recommendations:

- Creation of mental-health step-down unit at DOC (*Post Sentencing subcommittee #2, pages 36 - 37*) - There should be units designed for those A2, A3 and DD inmates to receive mental health and psychological evaluation, and the means to live and learn in an environment with mental health staff direction. Staff teams would work with these inmates to create safe, follow-up treatment, and education for their well-being and as well as others affected by their behavior and thinking. **This did not advance.**

Elder Abuse Task Force

Legislative Recommendations:

- Provide additional protection for elders who have been the victim of financial exploitation, theft, or physical abuse. **This was done (SB 106)**
- Assist in the prosecution of sexual abuse against the elderly by including sex abuse as part of the statutory definition of elder abuse. **This was done (SB 106)**
- Enhance the mandatory reporting law to better protect vulnerable elders. **This was done (SB 106)**

Administrative Recommendations:

- Develop administrative rule to streamline criminal background checks.
- Develop an early warning system for individuals who have already been identified as abusers
- DHS, seniors and people with disabilities will convene a task force to make recommendations on developing a registry of individuals who have committed abuse against vulnerable individuals.
- Develop administrative rule for better identification of sex offenders as they age and need institutional care (outside of prison).
- Through administrative rule, allow for permissive language between MDT members to permit information sharing between MDT agencies.
- Oregon DHS and Oregon DOJ should work collaboratively to provide statewide multidisciplinary teams.
- The Department of Justice Victim Assistance Section should make services for elderly and disabled crime victims a priority in issuance of discretionary grants where the Department has the authority to do so.
- Develop caregiver training video on elder abuse with specific attention to the various types of caregivers.

Other Recommendations:

- The Governor should encourage the Oregon District Attorney's Association to hold regular training on elder abuse to hold offenders accountable.
- The Governor should direct appropriate state agencies to undertake a public awareness campaign to help educate Oregonians about elder abuse.
- The Governor should ask MDTs (Multi-Disciplinary Teams), in coordination with senior agencies such as senior citizen's centers to do outreach to postal carriers, newspaper delivery, meals-on-wheels -- individuals who come into contact with isolated seniors to help educate the community through a variety of means.
- Attorney General Myers' Task Force on Elder Abuse should work with the Department of Public Safety Standards and Training (DPSST) in a joint effort with the Oregon State Police, Oregon District Attorneys Association, Oregon Department of Justice, Oregon State Sheriffs Association and appropriate civilian protective services organizations should identify and

seek resources to execute a sustainable program of specialized training for prosecutors, investigators and judges.

- A joint letter should be issued from Tom Perrick, president of Oregon Banker's Association and the Governor to each bank branch encouraging managers to hold a bank training with the nationally recognized Bank Employee Training Kit developed in Oregon.
- The Governor should encourage county medical examiners to join abuse multidisciplinary teams to set up fatality reviews for suspicious deaths.

Juvenile Justice Summit

Legislative Recommendations:

- Recommend no statutory revisions are needed at this time per ODS 419.001C; the summit finds that the purposes and principles are still valid. **ORS 419C.001 was not amended by the 2005 Legislature.**

Administrative Recommendations:

- Restore the capacity of counties to operate county diversion programs for youth offenders at high risk of commitment to OYA, basic services for earlier intervention, and juvenile crime prevention programs for youth at imminent risk of entering the juvenile justice system. **Funding level for these services was retained at current levels (w/ relevant inflation adjustments), but was not restored to previous levels. OYA and OJDDA are working jointly to develop a forecast for some out-of-home, community-based services and to identify critical gaps created by the recent budget reductions, in order to develop potential budget packages in 2007-09. These processes should help identify areas of critical need.**
- Allow the OYA to have flexibility to contract with counties or regions of counties to plan for and/or provide county-wide or regional community resources for youth at high risk of re-offending and/or being committed to an OYA correctional facility who can be managed effectively at the community level. **OYA's budget did not contain any contracting restrictions that would impede its current authority for flexible contracting.**
- Support the revised recommendations for system improvement related to the management of sex offenders from the Criminal Justice Systems Task Force with the understanding that there are differences between adult and juvenile sex offenders. **Both interim Judiciary Committees held a hearing on sex offender issues on Feb. 7.**
- Enhance and further develop community treatment resources for juvenile sex offenders by expanding the number of OYA contracted residential beds, as well as expanding community intervention and transition services for lower risk youth. **OYA is re-configuring its community-based services for sex offenders, and is preparing to issue an RFP for additional community-based sex offender treatment beds.**
- The Governor should support DHS policy package to fund mental health services for youth exiting OYA close custody facilities. **This package was not funded.**
- The Governor should encourage DHS, OYA and other juvenile justice stakeholders to continue to identify critical mental health services to prevent youth from entering the juvenile justice system or assist in their transition from the system. **Oregon is participating in a federal policy institute to better coordinate mental health services affecting juvenile justice. The effort involves OYA, DHS, juvenile departments, families, and the Governor's office. Also, the Governor's office facilitated a meeting for affected agencies (DHS CAF and OMHAS, OYA, ODE, OCCF) to listen to families discuss barriers and inter-system issues. Gov's office will convene an agency meeting to continue this work.**
- Direct the Oregon Youth Authority to convene juvenile justice system stakeholders, including its advisory committee and the Oregon Juvenile Department Directors Association to develop recommendations for how policy reviews, system evaluations, and audits of the effectiveness of the juvenile justice system can be developed or accomplished as required in ORS 419C.001. **OYA and OJDDA have established a work group to develop these recommendations.**

Other recommendations:

- Utilize existing leadership groups and forums to identify ways to reduce barriers to services and reduce fragmentation of resources in the juvenile justice system. These groups should look for creative ways to eliminate duplication of services and maximize existing system resources. Whenever possible, funding streams should be consolidated to create more flexibility to achieve local and state outcomes, as well as reduce administrative costs. **See response to the 'Governor encourage stakeholders' item above.**
- The Governor's Office direct the Oregon Youth Authority, the Department of Human Services and the Oregon Juvenile Department Directors Association to develop a workgroup to work with the Department of Administrative Services to identify ways to reduce or eliminate traditional "funding stream silos" that work against best practice multi-systemic approaches and coordinated system approaches. **Has not occurred.**

Methamphetamine Task Force

Legislative recommendations:

- Draft legislation to create statewide Drug Courts for felony offenders who are currently going directly to probation (Treatment subcommittee #3, pages 71 - 78) – **This was done as part of SB 907, the legislature gave \$2.5 million to the CJC to administer a drug court grant program, about \$1 million directly to 4 drug courts to keep them running and an additional \$3 million in Byrne Grant funds was freed up for one-time drug court treatment funding.**
- The Legislature and the Governor should declare a statewide Methamphetamine epidemic **This was done**
- Pass SB 183 - Methamphetamine Precursor Regulation Legislation which : **The following were done as parts of SB 907, SB 912**
 - *Provides liability protection for retailers who report suspicious precursor transactions.*
 - *Makes selling items which the seller knows are used to make meth a felony.*
 - *Regulates lithium and sodium metal as precursors.*
 - *Clarifies precursor record keeping forms.*
 - *Makes theft of a precursor a felony.*
- Create Drug Endangered Children Legislation:
 - *Provides early intervention services for meth affected infants. – Part of SB 907, mandatory reporting of ‘abuse’ now includes drug exposure risk of harm.*
 - *Penalizes person who exposes, injures, or kills a child by exposure to a meth lab. – Not acted on*
 - *Address the impact of HIPAA on ability to access the medical records of a child who has been exposed to meth production. Not acted on.*
 - *Allow law enforcement use evidence that a child had been in a meth house to sustain a criminal neglect or mistreatment conviction without requiring the child is present at the time of law enforcement action. – Passed and expanded to include any dependent person as part of SB 907*
- Create legislation to place most types of pseudoephedrine behind-the-counter in pharmacies. – **This was done as part of SB 907**
- Create legislation to make clandestine lab operation a Class A felony - **This was done as part of SB 907 and HB 2485**
- Create legislation for Remediation of Drug Lab Sites – **This was done as part of HB 2485**
- Create legislation to make clandestine lab waste dumping a more serious offense – **This was done as part of HB 2485.**
- Pursue the Legislative ‘Opt-Out’ for drug manufacturing conviction; committee to further review reinstatement requirements. – **This was done by allowing the P.O. to pull food stamps in HB 2485.**
- Create legislation for "Possession by Voluntary Consumption" – **This did not advance.**
- Draft legislation creating and funding regional meth enforcement teams – **This was partially dealt with in the Drug Court funding bill (HB 5174) by funding additional OSP forensic lab.**
- Legislative actions regarding Drug Asset Forfeiture – **This was advanced as part of HB 3457.**

- Create legislation mandating a photo ID on Oregon Trail Card – **This did not advance.**
- Treatment Funding – **This was partially addressed as part of the drug court bill (HB 5174): \$2.5 million to the CJC to administer a drug court grant program, about \$1 million directly to 4 drug courts to keep them running and an additional \$3 million in Byrne Grant funds was freed up for one-time drug court treatment funding.**
- Drug Treatment Courts - **Advanced in HB 5174.**
- Evidence Based Treatment – **Advanced as part of Drug Court programs.**
- Penitentiary Treatment Programs – **did not advance.**

Administrative recommendations:

- Create Drug Endangered Children (DEC) Protocol - **This was done through the Oregon Association of Drug Endangered Children (OADEC)**
- Deliver regional DEC training - **This is an ongoing process. OADEC has provided 4 of these trainings.**
- DEC training for medical professionals – **This is being pursued as a part of the OADEC training and the OMA Meth Workgroup.**
- Guidelines for statewide CAMI and MDT protocols - **This is completed.**
- Oregon Board of Pharmacy to monitor pseudoephedrine sales regulations – **This was done as part of SB 907 and exceeded the recommendation by making pseudoephedrine a prescription-only drug.**

Other recommendations:

- The Governor should keep the Meth TF in operation – **This was done, the Meth Task Force continues to operate as a part of the Oregon Criminal Justice Commission.**
- Mobilize communities against Meth - **This is being done in conjunction with Oregon Partnership through a grant from the Criminal Justice Commission.**
- Increase community education & awareness regarding Methamphetamine - **This is being done in conjunction with Oregon Partnership through a grant from the Criminal Justice Commission.**
- Statewide anti-meth media campaign - **This is being done in conjunction with Oregon Partnership through a grant from the Criminal Justice Commission and work with the University of Oregon Journalism School.**
- Recommend that the Governor find adequate and appropriate funding for drug enforcement, treatment and drug lab clean up - **No progress has been made on this issue.**
- Ask the Chief Justice's Advisory Council to look at methods of increasing the collections of fines, special assessments and fees. **No progress has been made on this issue.**
- Coordinate data sharing - **This has been done.**
- Recommend statewide use of SSI rebate program - **This has been done**
- Stable treatment program funding - **No progress made on this issue**
- DHS to create incentives for use of evidence-based treatment - **This is part of an ongoing effort through SB 267 and through the Drug Court grant program.**

- DOC treatment programs should be increased and tailored to deal with Methamphetamine. - **This was not done and DOC treatment funding was reduced this past session.**
- Oregon's federal delegation should create bills for next session of the US Congress that will assist in Oregon's fight against Meth. – **Substantial progress has been made with the Oregon Narcotic Enforcement Association (ONEA) leading the effort.**