



**OREGON CRIMINAL JUSTICE COMMISSION**  
**Wednesday, September 15, 2009 ♦ 1:30 pm – 3:30 pm**  
**ARCHIVES CONFERENCE ROOM**  
**800 SUMMER STREET NE, SALEM**

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**MEMBERS PRESENT**

Darryl Larson, Chair  
Lee Ayers  
Walt Beglau  
Greg Hazarabedian  
Mark Eddy (phone)  
Eva Temple (phone)  
Rep. Barton

**STAFF PRESENT**

Craig Prins  
Liz Skinner  
Devarshi Bajpai  
Mark Werner  
Lorin Dunlop  
Mike Stafford  
Susan Schwartz

**MEMBERS ABSENT**

Floyd Prozanski  
Mike Burton

**GUESTS PRESENT**

Herbert Lovejoy  
Doug Wilson

**HANDOUTS:**

- 1) HB 3508 section 39 & 40 (assault 3 w/DUI Driver)
- 2) HB 3508 section 43 (Jessica's Law Kidnappings become Robbery 1)
- 3) HB 2498 (Endangering an Aircraft)

Craig introduced Representative Barton and a new staff member, Amber Kaatz who will be administering the Drug Court Grants. Susan Schwartz was hired from volunteer to permanent staff and will be working on a Parole and Probation study and working with Mike Wilson on stats.

Craig introduced the Commissioners and the CJC staff for the record. The meeting was called to order.

Devarshi presented an update on grants.

- The Law Enforcement grants go to drug task forces and multi-jurisdictional task and forces and have a year left on contract.
- Currently there are four Offender Re-entry grants. Just started in April 2009.
- Regarding drug court grants, the Judicial Department decided that they could not fund the drug coordinators after the last Commission meeting. The Governor vetoes the parts of HB 5054 which disappropriated funds from the Judicial Department allowing them to continue to fund the coordinators. This then allowed CJC to use the \$2 million that was set aside for the coordinators in a new RFP which is due September 30th. A vote on this RFP will need to be made at the next commission meeting.
- M57 treatment courts funds is \$11 million focused on anyone who is on felony supervision for a crime that is M57.

Walt briefed the DA's on the M57 RFP it has been sent to several different people and agencies for feedback. Walt's feedback from the DA's they were concerned most about the evaluation part and what it will entail. Devarshi stated that the evaluation part would be based on three to four counties with a random assignment evaluation.

Craig described the random assignment evaluation. Some offenders will be placed on probation and some will receive treatment court and others won't, this will be assigned randomly. Since there are more offenders than there are funds for the treatment court, we are not denying offender's treatment: there is a scarcity of resources for the treatment court. Greg stated that this is a sentencing piece not a conviction piece and the decisions would be made at the parole and probation level not at the court level. Devarshi stated the random assignment would be at post conviction not pre conviction.

Eva asked if the existing drug courts skew the research and does the treatment court put a higher responsibility on probationers that they have greater sanctions and longer probation than other people? Drug courts take longer than doing probation. Greg stated that some offenders are in drug courts as a condition of probation and are on a downward departure sentence where their probation would be 22 months and drug court success would be more of an incentive. If they fail the treatment program they would serve the remainder of their sentence which would be a longer term than the treatment program. Devarshi stated that there will be a comparison group so any skew that happens would apply to both groups. The drug court will be harder than regular probation and it might skew the population, we will need to look for that during the evaluation process. Craig stated that it may be harder but that there would be more treatment services and that it's a different program. Mark Eddy commented that the reason for the study would be to detect a difference between the groups and that there should be some degree of similarity. The idea of the study should be absolutely clear of what question needs to be answered with the study and what question is most important to answer for the state at large.

Devarshi explained that the randomization will continue until there are enough people in the group a minimum of 300 people in the evaluation pool then the randomization would be cut off.

Devarshi stated Multnomah County had identified a number of items that they would need funded in order to start the program. They would need funding for the judges time, deputy district attorney, defense bar and victims advocate. The county is estimating that it could cost them almost as much to start this program as it would cost to incarcerate offenders. Darryl commented that NPC Research's study was conducted on Multnomah Co. and should show what the actual costs are per day for various parts of the system. Use this to measure against what the county is asking for to start this program. Craig emphasized the need to figure the costs per offender per day and how to fund Multnomah since they will have the bulk of the offenders. Darryl commented that we should test if a judge is necessary for the success of the program. Devarshi thinks that will happen naturally with the DOC general funds that will be distributed to the counties which will set up intensive supervision programs and we can do quasi experimental studies on those. Greg commented that this program is being conducted in lieu of prison therefore the real question would be what is the recidivism rates for the people who go through this program versus those

who would have gone to prison for the similar crimes. Mark would like to see the study provide information on the mechanism of success in the drug court and not just focus only on recidivism.

Eva questioned the evaluation process and how does it relate to the M57 requirement to have treatment courts statewide. Craig stated that M57 as passed was not funded as proposed in November 2008 and as of February 15, 2010 to 2012 M57 is suspended for two years. Darryl states that this is in keeping with the legislative directive that creates the commission to develop public policies and create effective public safety policy.

Craig described to the commission two legislative bills that were passed that make or amend new felony crimes that have emergency clauses. HB 3508, Section 39 and 40 the legislature made an Assault 3 and on the sentencing guidelines it's a level 6 and would change to the crime seriousness of 8. This is people who commit Assault 3, which is a physical injury with a motor vehicle while they are DUII. Section 40 the commission shall classify an Assault in the third degree that is committed under the circumstances as described as a crime category 8 on the sentencing guidelines. Herb Lovejoy had prepared the Temporary Rules, Statement of Need and the Crime Seriousness Scale under 213-017-0004 Crime Category 8.

A motion to adopt the Temporary Administrative Rules of Assault in the Third Degree as a Crime Seriousness under the sentencing guidelines to be changed to a Crime Category 8.

Eva moved motion, Walt seconded, 6 ayes, no nays, no discussion.

Craig reviewed the second emergency clause in HB 2498, Endangering an Aircraft, he proposed not to rank the clause because it may not result in a felony conviction and may fall under federal law. If it is left unranked the judge can decide in each specific case what category to charge it.

A motion to not rank the clause in HB 2498 was passed unanimously.

Mike updated the Commissioner's on SB 77 the Timber County Public Safety Emergency Bill in which he has started to contact the Counties and LPSCC to make them aware of the Senate Bill. He has already scheduled nine counties to visit and discuss recommendations and their issues. Next year in March or April the Commission would meet with the LPSCC's to get feedback for the rule creation required by SB 77. The regional meetings would bring together the LPSCC's to also discuss the criteria that will be used since there are 36 counties who all have different and unique circumstances.

He is also discussing the Oregon National Incident Based Reporting System (ONIBRS) at these meetings. At this point only 30% of agencies in the state use ONIBRS. ONIBRS has more precise and in depth information than the LEDS system.

The Meth Task Force which was formed in 2003 had its last scheduled meeting the task force is officially closed. The Task Force is being merged into the Governor's Drug and Alcohol Commission with other groups from the state. There are no

members of the Meth Task Force on the Governor's new Drug and Alcohol Commission, but members will provide support when needed.

Craig stated that the new crime rate data will be in the next newsletter which showed that Oregon had the biggest drop in violent crimes as far as a percentage of the nation. Craig believes it is linked to the meth trade which is the underlying most of the property crime. The meth arrest trend is declining but the incarceration rate did not change in the last few years.

Craig also covered HB 3508 sentence change in Section 43 (e), reads: or attempted commission of any of the following crimes against the victim: (A) Rape in the first degree, as defined in ORS 163.375 (1) (b). This ORS is where the victim is under the age of 12. (B) Sodomy in the first degree- as defined in ORS is oral or anal sex with a child under 12. (C) Unlawful sexual penetration in the first degree - is also with a child under 12. These are known as the Jessica's Law which was passed by legislation and is a 300 month sentence if someone completes and is convicted of one of the crimes. The legislature wanted to change this currently if a person commits or attempts to commit this crime it should be enhanced from a Kidnapping 2, which is 70 months to Kidnapping 1, which is 90 months.

Craig recommended that since M11 is in place that there should not be any change to the guidelines, keep Kidnapping 1 as is. The crime itself is a kidnapping 1 which is already on the guidelines as a 10.

A motion to keep the clause as is in HB 3508, Section 43 (e) was passed unanimously.

Walt asked for clarification on the RFP that will be voted on. Devarshi stated the Commission will vote on the \$2 million RFP next month at the meeting and will vote on the M57 RFP the month after that.

July's Commission meeting minutes approved and will be posted to CJC website.

The next Commission meetings will be held on Thursday, October 15<sup>th</sup> at 1:30 - 3:30 and Thursday, November 19<sup>th</sup> at 1:30 -3:30.

Meeting adjourned.