# Criminal Justice Commission

## Report to the Legislature

January 2007

Criminal Justice Commission

State of Oregon

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## Executive Summary

Commission Members:

Tom Lininger, Chair, Lane County
Mike Burton, Vice Chair, Multnomah County
Frank Grace, Clackamas County
Dwight Holton, Multnomah County
Josh Marquis, Clatsop County
Anna Peterson, Marion County
Eva Temple, Umatilla County
Ginny Burdick, State Senator (ex officio)
Andy Olson, State Representative (ex officio)

Following the 2005 Legislative session, the Criminal Justice Commission refocused on long range planning for Oregon's criminal justice system. In the eleven years that the commission has existed, the focus on this primary function has been subsumed by important, individual taskforces and policy development assignments. While the statutory mission of the commission is to plan the forest, the commission and staff have been asked to tend the individual trees. This has meant the staff of the commission has administered programs, supported important taskforces, and helped develop policies regarding individual issues.

In order to provide long range planning, the Commission staff has been restructured, with a focus on staff possessing the analytical skills necessary to help the Governor and the Legislature make wise investments in the criminal justice system. This analysis required an economist who examined the effect our incarceration policies have had on crime in Oregon. The report "Incarceration, costs, and crime" represents a new type of study for the Commission: a report to help policymakers understand the costs and benefits of our current criminal justice plan. It focuses on incarceration because this is the method of crime intervention in which we invest the most funds, and the costs and benefits of that investment have never been analyzed.

Recognition for a blueprint for how to do this study goes to Steve Aos of the Washington State Institute for Public Policy. This cost-benefit report is a first step in the direction Steve has been going for twenty years, and it is hoped this type of evaluation will provide the basis for Oregon's long range plan.

A plan is a method devised to achieve an end or goal. Oregon's criminal justice system is a system with two goals: Punishing criminals and reducing crime. This two-pronged goal is found in Oregon's Constitution:

> "Laws for the punishment of crime shall be founded on these principles: protection of society, personal responsibility, accountability for one's actions and reformation."
>
> Article One, Section 15, Oregon Constitution

Without a single goal on which to focus, balancing our policies and efforts to meet both goals becomes our task. Sometimes both goals are served by a single action, sometimes the goals are complimentary, and sometimes they are competing. As an example, incarceration can serve both goals: it serves as punishment and incapacitates the offender, preventing them from committing crime in our communities while they are in prison. An example of the competing nature of the goals is that there is no evidence that incarceration alone reduces the likelihood an offender will commit crime when he or she is released from prison. In fact, some studies indicate a long prison stay makes it more likely the offender will commit crime when returned to society. A plan that includes incarceration and services designed to reduce the likelihood of future crime once the offender re-enters the community is a balanced plan. That type of balanced plan is the goal, and sentencing policy becomes the means to achieve it.

In the future, the cost-effectiveness of other investments in reducing crime can be compared and evaluated. SB 267 from 2003, codified as ORS 182.515 to 525, directs this inquiry into state investments in programs designed to reduce a person's propensity to commit crime. Providing the Governor and Legislature with a system-wide portfolio of programs designed to prevent and reduce crime, along with their expected effectiveness would be our next step in this endeavor. Making sure the programs are producing the expected results would also be part of the focus in the future.

This report is a hybrid of cost-effectiveness analysis and reports on the important policy development and grant administration work that the Criminal Justice Commission has completed over the interim. The Governor's Meth Task Force's report shows the tremendous reduction in meth labs in Oregon due to restrictions on pseudo-ephedrine. This, and other, work garnered the meth task force a certificate of recognition from the Office of National Drug Control Policy on National Methamphetamine Awareness Day, November 30, 2006. The report highlights the progress of the drug court grant program over the last year and a half. It also reviews the work of the Commission's Local Public Safety Planning Council (LPSCC) and SB 919 committees, the State-Issued ID Task Force, and the Justice System "Single ID" workgroup.

## Incarceration, Costs and Crime

Over the past 25 years, Oregon and the rest of the nation have increasingly turned to incarceration as a criminal justice policy. This is a review of how Oregon's system has changed, and specifically an examination of the relationship between increased incarceration and reduced crime in Oregon. Providing this overview constitutes the first step in planning for the future of Oregon's criminal justice system.

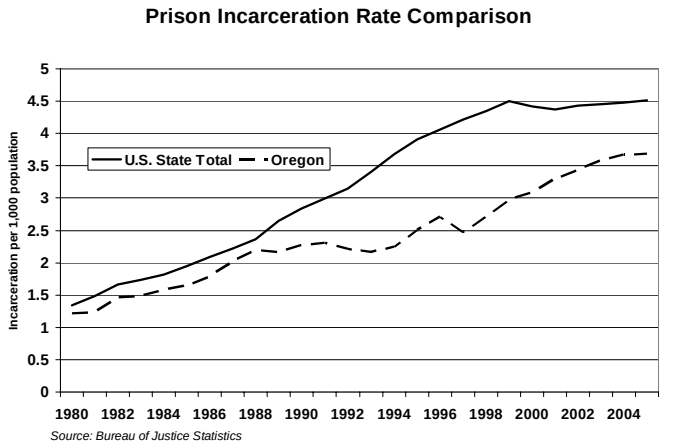
Oregon's first major shift in sentencing and incarceration policy in the past 25 years occurred in 1989, when Oregon switched from being a parole matrix state to a sentencing guidelines state. Prior to 1989, the sentencing judge had wide discretion over whether or not to impose a prison sentence and the length of the prison stay. In this "indeterminate" system, if the judge sentenced an offender to prison the board of parole decided when the offender would be released. Part of the parole board's release decision was based upon avoiding overcrowding the existing prisons.

The principal goal of the current sentencing guidelines system is to ensure that offenders who commit similar crimes and have similar criminal histories receive equivalent sentences. Sentences are determined by the seriousness of the offense and by the criminal record of the offender. The guidelines eliminated the parole board review of sentence length, and narrowed the discretion of judges. The Oregon Criminal Justice Commission recommends to the legislature amendments to the guidelines. This change in how offenders are sentenced to and released from prison increased the use of incarceration in Oregon.

The next major change in sentencing and use of incarceration occurred in 1994, when Oregonians voted to pass Measure 11. That vote had the greatest impact on the use of incarceration in the past 25 years. Measure 11 increased the length of sentence dramatically for violent and sexual offenses. This move was followed by the Repeat Property Offender Statute in 1997. Both of these statutory changes "overrode" the administrative rules of the guidelines, so that the longer sentence within the statutes controlled the offender's sentence. Each meant that more offenders would be sentenced to prison than was contemplated under the guidelines. This report analyzes these changes by looking at the following:

1) Oregon's use of incarceration
2) Taxpayer costs
3) Crime rates
4) The relationship between incarceration and crime.

**The use of incarceration**
Criminologists measure the size of prison populations over time with a statistic called an "incarceration rate." This straightforward indicator simply divides the total number of people in prison at any point in time by the total population. In 1980, 1.21 in every 1,000 people in Oregon was incarcerated. In the most recent year estimated, 2005, the rate per 1,000 had tripled to 3.68. In the U.S. as a whole, the incarceration rate more than tripled going from 1.34 to 4.52 persons incarcerated per 1,000.




Graph 1

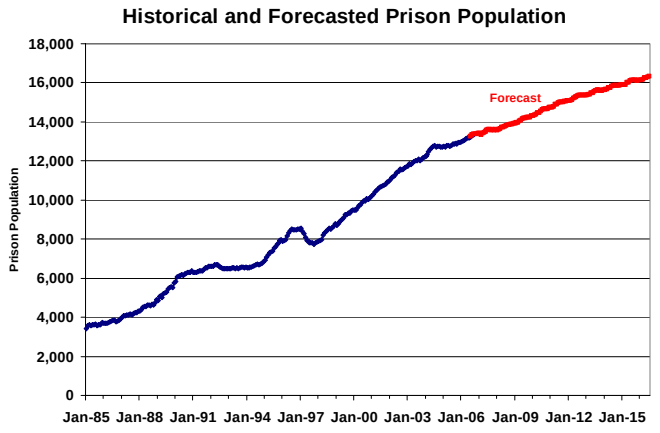
While Oregon's incarceration rate remains below the national average, it has recently grown much faster than the national average (Graph 1 and Table 1). In each year from 1995 to 2004, except 1997 and 1998, the incarceration rate in Oregon grew faster than the United State's rate. In 1997 the incarceration rate dropped because of Senate Bill 1145, which sent offenders sentenced to less than 12 months to the county jails.

**Oregon's Incarceration Rate has Grown Faster than the U.S. from 1995 to 2005**

| | Oregon | | | United States | |
|---|---|---|---|---|---|
| Year | Beds | Incarceration Rate | Annual Inc. Rate Growth | Incarceration Rate | Annual Inc. Rate Growth |
| 1995 | 7,411 | 2.4 | 9% | 3.9 | 6% |
| 1996 | 8,192 | 2.6 | 9% | 4.1 | 4% |
| 1997 | 7,866 | 2.4 | -5% | 4.2 | 4% |
| 1998 | 8,200 | 2.5 | 3% | 4.4 | 3% |
| 1999 | 9,108 | 2.7 | 10% | 4.5 | 4% |
| 2000 | 9,832 | 2.9 | 4% | 4.4 | -2% |
| 2001 | 10,595 | 3.1 | 6% | 4.4 | -1% |
| 2002 | 11,407 | 3.2 | 6% | 4.4 | 1% |
| 2003 | 11,989 | 3.4 | 4% | 4.5 | 0% |
| 2004 | 12,624 | 3.5 | 4% | 4.5 | 1% |
| 2005 | 12,841 | 3.5 | 0% | 4.5 | 1% |
| 2006 | 13,377 | 3.6 | 2% | n/a | n/a |
| Change, 95-05 | 5,430 | n/a | 49% | n/a | 16% |

Table 1

To put Oregon's use of incarceration in perspective, if in 2005, Oregon's incarceration rate equaled the average of the rest of the United States, there would be about 18,000 offenders incarcerated at the Department of Corrections (DOC). Using DOC's cost per day – including operating cost and debt service – housing an additional 5,000 inmates would cost the state more than $280 million per biennium. If Oregon's incarceration rate was the same as Delaware's, the highest in the nation, almost 30,000 offenders would be incarcerated in state prison. If Oregon's incarceration rate were the same as the lowest state, Maine, only 5,500 offenders would be incarcerated.



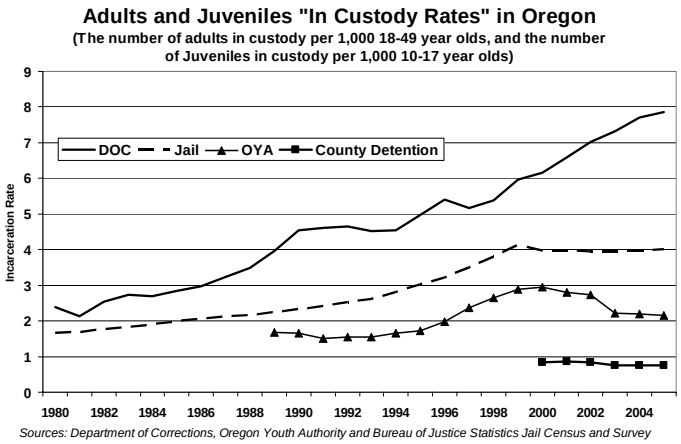

Graph 2

While Oregon's incarceration rate has grown, the state's population has grown as well. This means that the actual increase in prison beds has outpaced the incarceration rate. From 1987 to 1996 the number of offenders incarcerated doubled. From 1997 to 2006 the rate of growth slowed, but the number of offenders incarcerated still grew rapidly, at more than 65 percent for the 10 year period. This trend is expected to slow over the next 10 years. From 2007 to 2016 the projected number of beds is expected to increase by 22 percent, adding more than 2,700 beds (Graph 2).[1] This would increase state spending by an estimated $153 million dollars per biennium.

Oregon's state prisons hold most offenders who are in custody, but there are also offenders in county jails, the Oregon Youth Authority (OYA), and county youth detention. Graph 3 compares historic incarceration rates – the number incarcerated per 1,000 18 to 49 year olds for DOC and local jails and the number incarcerated per 1,000 10 to 17 year olds for OYA and county

[1] Prison population estimates are made by the Office of Economic Analysis. These estimates reflect current sentencing. Legislation to shorten or lengthen sentences will change this projection.

detention – for Oregon.[2] Since 1989 the rate has increased by nearly 100 percent at DOC, 80 percent at local jails, and 28 percent at OYA.[3] While incarceration rates are much higher at DOC, in 2005, the number of actual bookings at the state's jails was much higher – 190,000 annual jail bookings compared to less than 5,000 annual new admissions at DOC.

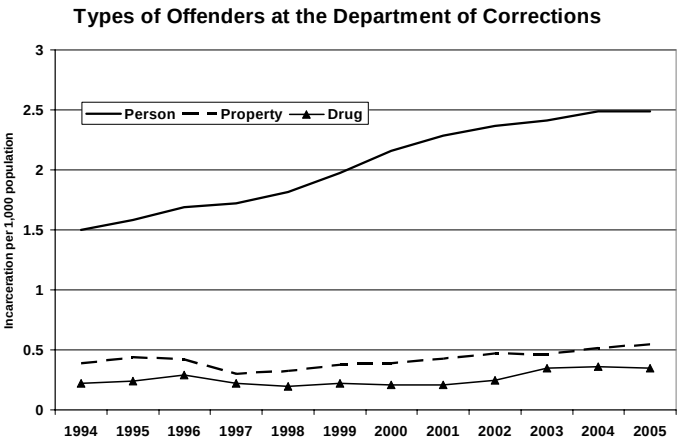


Graph 3

Since 2000, the incarceration rate at DOC has grown rapidly, while the incarceration rates in jails, OYA and county detention have either remained flat or fallen. This is because offenders at county facilities are released to avoid overcrowding when capacity is reached, while DOC has continued to build new prisons.

The growth in incarceration is due in large part to the increase in sentence length for crimes against persons (Graph 4). In 2005, at any given time about 70 percent of offenders in DOC custody are incarcerated for crimes against people. Property offenders made up 15 percent, drug offenders made up 10 percent and the remaining offenders were classified as statute or other. Although person crimes made up only 6 percent of total index crimes reported to police in 2005, those convicted of such crimes go to prison more often, and for a longer time than property or drug offenders. Oregon's incarceration rates for all three offender categories increased from 1994 to 2005, with the incarceration rate for violent offenders increasing the fastest at nearly 66 percent.

The incarceration rate for drug offenders also grew quickly, increasing 58 percent. However, relatively few drug offenders are incarcerated. Of felony drug convictions, only 4 percent went to DOC, 5 percent were under local control and the remainder were sentenced to probation. Drug offenders incarcerated at DOC are those convicted of drug manufacturing, delivery or possession of a substantial quantity – not simple drug possession.



Graph 4

**Costs of the criminal justice system**

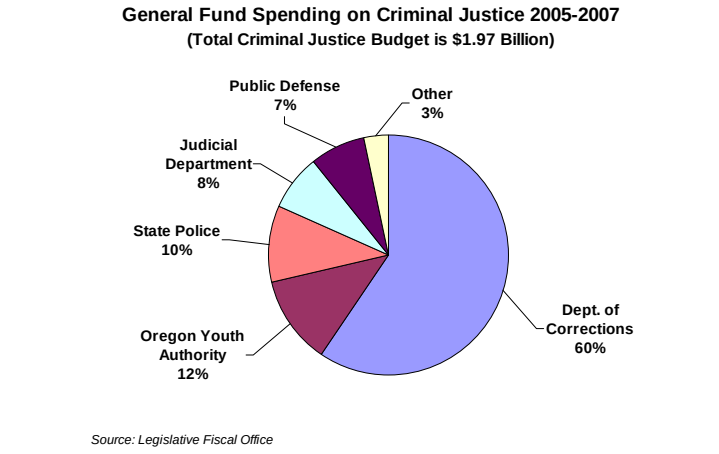
The criminal justice system is made up of many parts funded by state, county and local tax dollars. Reliable data are available only for state spending. Graph 5 shows state general fund

[2] The 10 to 17 and 18 to 49 year old population is used instead of the total population to compare youth and adult "in-custody" rates to one another.

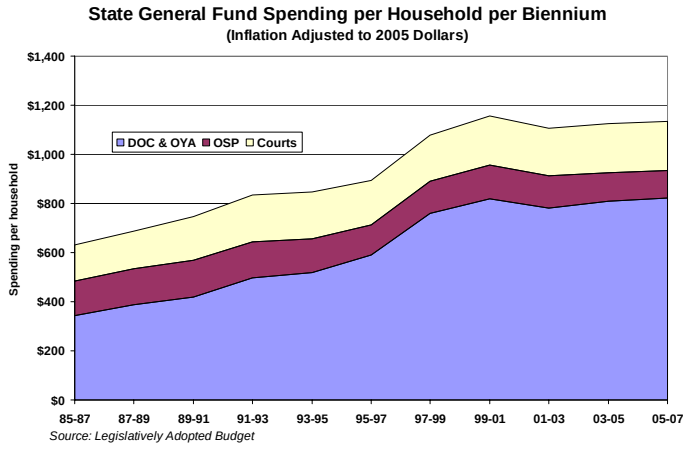
[3] Jail incarceration rates were imputed using the jail survey from the Bureau of Justice Statistics.

spending for the 2005-2007 biennium. DOC and OYA make up nearly three-fourths of the criminal justice budget. As the prison population has grown, DOC's portion of the criminal justice budget has also grown.

Increasing the incarceration rate in Oregon has come at a price. Over the past 20 years the costs of the criminal justice system increased substantially. During this time state general fund dollars spent per household on criminal justice have increased by more than 79 percent (Graph 6).[4] In the 1985-1987 biennium, in inflation adjusted dollars, more than $630 general fund dollars per household were spent on the criminal justice system. In the 2005-2007 biennium this is expected to rise to more than $1,130 per household.




Graph 5




Graph 6

**Per Household Criminal Justice Spending**

While state general fund spending per household on criminal justice has increased by 79 percent, breaking this down into greater detail will show where the largest increase has come. During this time period the spending per household on state police has fallen by about 19 percent (Table 2).

While spending per household on state police fell, spending on courts increased. The overall increase in the courts' budget was 35 percent. This was far less than the overall increase of 79 percent per household for general funds spent on criminal justice. This means the remaining component – DOC and OYA – must have accounted for most of the overall increase. This portion of criminal justice spending increased by nearly 140 percent. This can be broken down even further. Over the past 20 years, inflation adjusted spending per household increased by only 39 percent

**Inflation Adjusted per Household General Fund Spending**

| | 85-87 | 05-07 | 85-87 to 05-07 % Change |
|---|---|---|---|
| DOC | $245 | $684 | 179% |
| OYA | $98 | $137 | 39% |
| Courts | $148 | $199 | 35% |
| OSP | $140 | $114 | -19% |
| **Total** | **$632** | **$1,133** | **79%** |

*Source: Legislatively Adopted Budget*

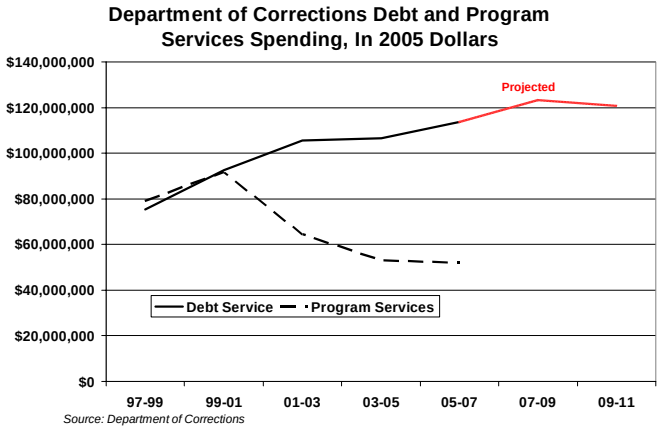
Table 2

[4] The courts portion of criminal justice costs include roughly 50 percent of the Oregon Judicial Department general fund legislatively adopted budget, 75 percent of Public Defense Services general fund legislatively adopted budget and the entire Department of Justice and District Attorney general fund legislatively adopted budget. The budget for the Judicial Department and Public Defense Services was broken out by their budget analysts to include only criminal expenses.

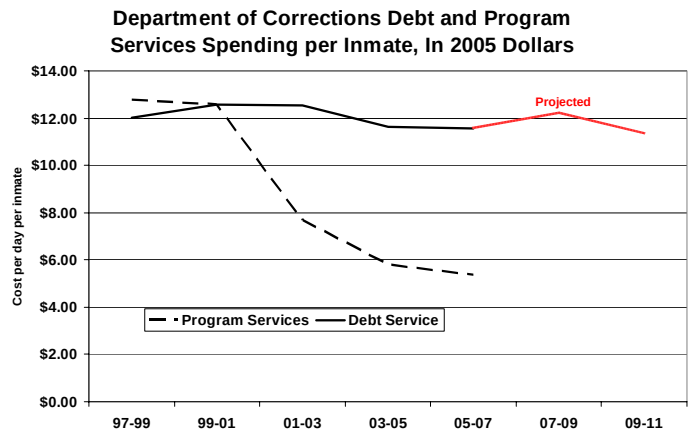
for OYA and 179 percent for DOC. If DOC were not included in the overall criminal justice spending, then per household state spending would have only increased by 16 percent. Clearly state spending on incarceration has been the main driver in increasing the state taxes spent per household on criminal justice.

**DOC Spending**

Spending at DOC has increased largely because of increased length of sentences. This has increased the number of inmates that need to be housed. Since 1995, three prisons have been built and four existing prisons have been expanded, adding more than 6,300 beds. In the next six years two more prisons are planned, adding another 3,500 beds. Since 1995, all of the new prisons and expansions have been largely funded through certificates of participation (COP's). This has created an increasing debt that is financed mainly through state general fund dollars. In the 1997-1999 biennium the debt service was $63 million. By 2005-2007 the debt service for DOC had jumped to $116 million. DOC is not the only public safety agency paying debt service, but in the 2005-2007 biennium, DOC's debt service made up about 90 percent of the total debt service for public safety.




Graph 7




Graph 8

In inflation adjusted dollars, the debt service increased by more than 50 percent from the 1997-1999 biennium to the 2005-2007 biennium (Graph 7). Over this same time, funding for program services aimed at reducing inmate recidivism saw a 34 percent decrease in inflation adjusted dollars.[5] While overall spending on program services decreased, the number of people incarcerated increased by 57 percent. So, on a per inmate cost per day bases the decrease was even greater. In inflation adjusted per inmate spending the debt service remained relatively flat, while program services fell by 58 percent (Graph 8).

**Local Government Spending**

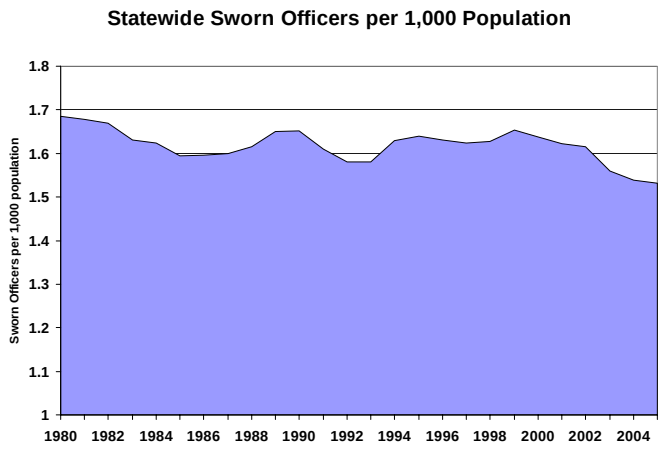
There are also significant local government costs for jails, prosecution and police. Although historical data are not available, a rough estimate can be made for local spending on criminal justice.[6] Estimated spending by local governments is nearly the same as state spending. The

[5] Program services include inmate work, education, alcohol and drug and all other mental health.

[6] This is a very rough estimate using local police budget data from the 2002 census of local governments, estimates from a 2005 jail survey and a District Attorney's survey from 2000. The budget amounts were adjusted for inflation to 2005 dollars.

cost per household for the 2005-2007 biennium for state and local spending on criminal justice was estimated to be $2,420. State and local spending on police and sanctions accounted for roughly $1,050 and $1,110 per household, respectively.

While police spending is one of the largest components of criminal justice spending, the number of sworn officers per 1,000 population in Oregon has declined since 1999 and is lower than any other state (Graph 9). The number of local law enforcement officers and sheriffs has kept pace with population growth since 1991, while the number of state police per 1,000 population has fallen by nearly 50 percent.

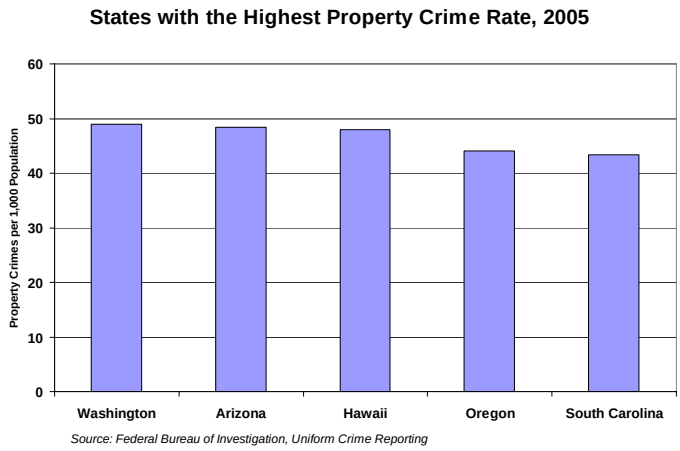



Graph 9

## Crime Rates[7]

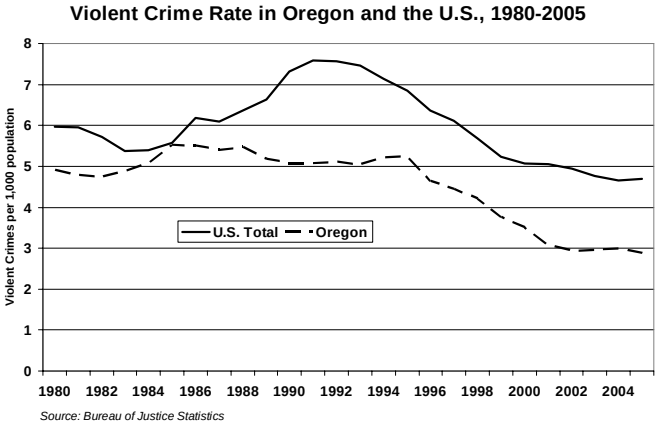
If increased taxpayer spending on the criminal justice system is the bad news, declining crime rates are the good news. Both violent and property crime rates are well below where they stood in 1980. The property crime rate has fallen by 25 percent in Oregon. Although this is a substantial decrease, it was not as large as the decrease in the United States as a whole, where the property crime rate fell by nearly 35 percent.

While falling crime rates are good news, Oregon's property crime rate is among the highest in the nation (Graph 10). In 2005, Oregon had the fourth highest property crime rate. The top four states were all in the West.




Graph 10

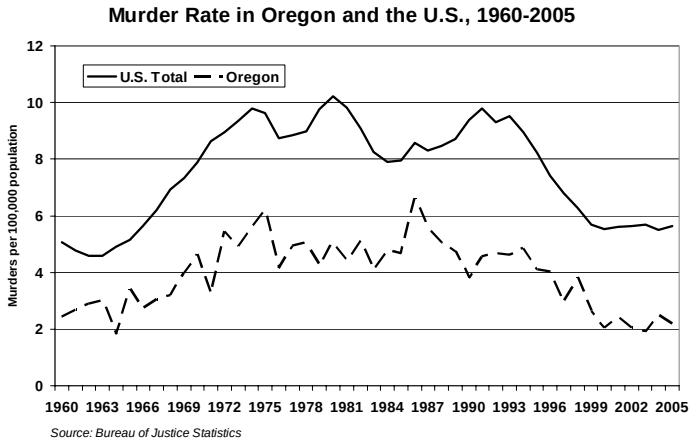
The violent crime rate in Oregon fell faster than the property crime rate (Graph 11). From 1980 to 1995, the violent crime rate was relatively flat in Oregon. Since 1995, Oregon's violent crime rate




Graph 11

[7] Crime rates are calculated using the uniform crime reporting index crimes gathered by the Federal Bureau of Investigation. This allows for a valid comparison across states.

has fallen by more than 45 percent, this was the third largest drop of all 50 states. Over this same time period, the violent crime rate has dropped throughout the United States by more than 30 percent. In 2005, Oregon's violent crime rate was the 18th lowest out of the 50 states.



Graph 12

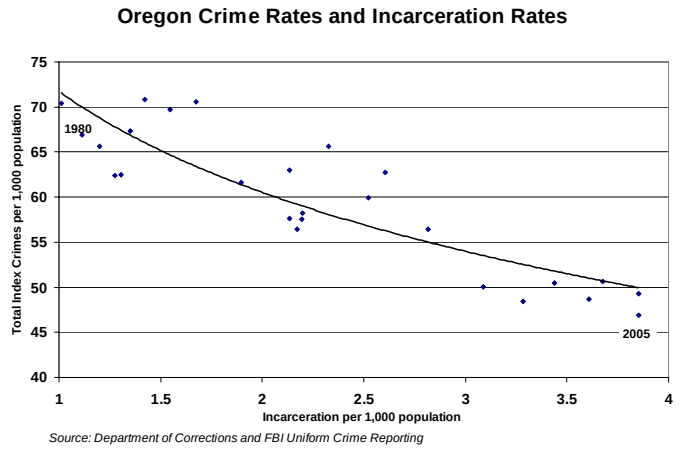
The murder rate has also dropped substantially from peaks in the 1970's and 1980's in both Oregon and the United States (Graph 12). Oregon's murder rate for the past five years has been around two per 100,000 population. This is more than 60 percent lower than the United States rate over this time period and about 67 percent lower than Oregon's peak in 1986.

There are clear differences between crime rates in the United States and in Oregon. Oregon's property crime rate is near the highest in the nation, and the violent crime rate is well below the national average (Graph 11). While crime rates in Oregon differ from the United States as a whole, the overall trends are similar. Both property and violent crime rates have fallen in the past 25 years, with the largest declines coming in the past 10 years.

**Effects of incarceration on crime**

During the past five years the incarceration rate in Oregon has been one of the fastest growing of any state. While the incarceration rate has increased the crime rate has fallen. What can be said about this relationship? Is there a causal relationship between the two? Can policy makers decrease crime rates by incarcerating offenders longer? This relationship has been debated by academics and scholars with some claiming there is little relationship between the two and others claiming there is a large and significant relationship.

Recent research indicates that incarceration significantly effects crime rates. National studies as well as a state study in Washington by the Washington Institute of Public Policy have found that a 10 percent increase in a state's incarceration rate leads to a two-to-four percent decline in the crime rate.[8] Similar results were found for Oregon and the methodology of this estimate is described below.



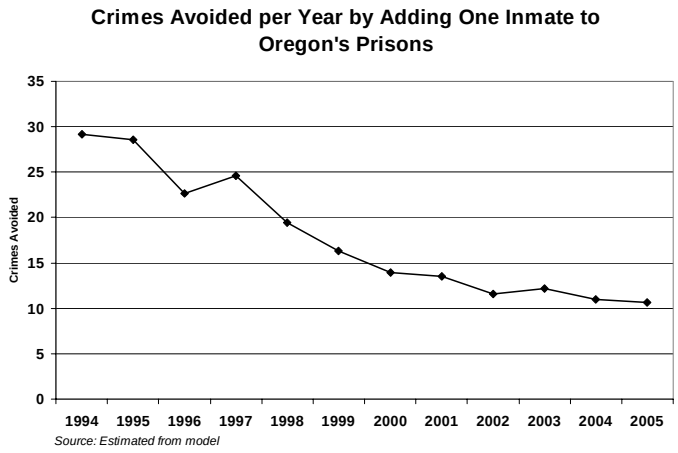
Graph 13

[8] W. Spelman, "What Recent Studies Do (and Don't) Tell Us about Imprisonment and Crime," in *Crime and Justice: A Review of Research*, Volume 27, ed. Michael Tonry (Chicago: University of Chicago Press, 2002). S. Aos, *The Criminal Justice System in Washington State: Incarceration Rates, Taxpayer Costs, Crime Rates, and Prison Economics.* Olympia: Washington State Institute of Public Policy. W. Spelman "Jobs or Jails? The Crime Drop in Texas", in *Journal of Policy Analysis and Management,* Volume 24, Wiley Periodical, Inc. 2005.

A higher incarceration rate can work to lower crime in two ways. The first is an incapacitation effect. People cannot commit crimes in our communities while they are behind bars. The second is a deterrent effect. Potential offenders may choose not to commit crimes because of tougher penalties. The studies do not indicate whether it is deterrence or incapacitation effecting crime. Since 1980, as Oregon's incarceration rate has increased the crime rate has decreased (Graph 13). In 1980, 1.11 individuals were incarcerated per 1,000 population.[9] By 2005 that number had grown to 3.85 per 1,000 population. Over this time period crime rates dropped from nearly 67 per 1,000 to fewer than 47 per 1,000 population. A simple plot of the incarceration rate and the crime rate shows a similar relationship to previous research. However, this simple correlation does not take into account other factors that might influence crime.

Using statistical methods similar to those used by William Spelman of the University of Texas and Steve Aos at the Washington State Institute of Public Policy, this relationship was examined for Oregon.[10] Factors that are thought to influence crime, such as the number of police officers, demographics and the local economy were controlled for in the analysis.[11] The results for Oregon were similar to other findings, with a 10 percent increase in the incarceration rate leading to a 2.6 percent decrease in the overall crime rate. This effect was larger for violent crime, with a 10 percent increase in the incarceration rate leading to a 3.4 percent decrease in the violent crime rate. These findings suggest that policy makers can influence crime by influencing the rate of incarceration.

What does a 2.6 percent decrease in the crime rate from a 10 percent increase in the incarceration rate mean? If in 2005, Oregon were to have increased its incarceration rate by 10 percent, this would have required an additional 1,284 beds, at an estimated cost of $73 million per biennium. This increase would have resulted in an estimated decrease of nearly 12,000 index crimes. What does this mean in terms of avoided crime by incarcerating one additional offender in Oregon? Graph 14 shows the number of crimes avoided per additional inmate and how that has changed over time.



Graph 14

In 1994, roughly 29 crimes were avoided by adding an additional inmate. As more offenders have been incarcerated this number has steadily decreased. By 2005, fewer than 11 crimes were avoided by incarcerating one more offender for one year. Economists call this the law of diminishing marginal returns. This law works in all industries. For example, as more Starbucks pop up on every corner, their return on investment will be lower. A new store will attract some new customers, but the most devoted customers were willing to drive the extra five minutes to the existing store. As more stores are built profits go down until it is no longer cost effective to build another store. This principle applies to prisons as well. As the most

[9] Incarceration rates listed earlier in this paper were taken from the Bureau of Justice Statistics to be comparable to other states. This incarceration rate is taken from DOC and is slightly different than the Bureau of Justice Statistics rate.
[10] This research closely follows previous work done by the Washington State Institute of Public Policy and William Spelman (see footnote 6).
[11] Please see the appendix for a technical explanation of the research methods.

prolific offenders are incarcerated, many crimes are avoided. As more offenders are incarcerated, those who are most likely to commit crimes are already behind bars. Therefore, newly incarcerated offenders are relatively less likely to commit crimes. This means fewer crimes are avoided by incarcerating them.

The final question to answer is the cost effectiveness of incarceration as a way of lowering the crime rate. The number of crimes avoided has been estimated above. If the cost of a crime and the cost of incarceration can be estimated, then a cost-benefit ratio can be easily calculated.

The costs of crime can be broken into two components, victimization costs and taxpayer costs. Victimization costs include lost property, lost productivity, required counseling and mental health services, social services, medical care and quality of life. For example if an assault occurs there are a number of costs that the victim may incur. An ambulance may be called to respond to the incident. If injuries are involved, the victim will incur medical bills and lose time at work.
The victim may need to seek counseling to deal with the assault. The victim may no longer feel safe in their neighborhood and move to a new area. Many costs accrue to the victim, some of which are easily measured and some that are nearly impossible to quantify. A prominent national study has conducted thorough research to estimate these costs.[12]

Taxpayer costs are more easily quantified. They include the cost of an arrest, conviction, incarceration, probation and post-prison supervision. However, these costs are difficult to estimate because of limited data and the complexity of the criminal justice system.[13] The Washington Sate Institute of Public Policy has developed a model for estimating these costs in their state.[14] Using a similar model, the cost of an arrest, conviction, incarceration, post-prison supervision and probation was estimated for Oregon.

With an estimate for victimization costs and taxpayer costs, the benefit of avoiding a crime can be estimated. Using the cost of incarceration and the benefit of avoiding a crime, a cost-benefit ratio can be calculated. Graph 14 shows that in 1995 incarcerating an additional offender led to 29 avoided crimes. By 2005 each additional incarcerated offender led to a decrease of less than 11 crimes. As the crimes avoided per additional inmate has decreased in Oregon, so has the cost-benefit ratio (Table 3). In 1995, incarcerating an additional offender had a cost-benefit ratio of $3.31.[15] This means that for every one dollar invested in incarceration, $3.31 in benefits was returned through avoided crime. As decreasing marginal returns set in, this number decreased. In 2000, the cost-benefit ratio was $1.22. In the most recent year estimated, 2005, the cost-benefit ratio was only

**Cost-Benefit Analysis of Incarceration**

| | Oregon | Washington | | |
|---|---|---|---|---|
| Year | All | Violent | Property | Drug |
| 1994 | **$3.31** | $9.57 | $2.36 | $0.37 |
| 1995 | **$2.89** | $8.20 | $2.40 | $0.37 |
| 1996 | **$2.37** | $7.06 | $2.23 | $0.34 |
| 1997 | **$2.31** | $6.58 | $2.22 | $0.36 |
| 1998 | **$1.99** | $5.85 | $1.94 | $0.36 |
| 1999 | **$1.62** | $5.37 | $1.74 | $0.32 |
| 2000 | **$1.22** | $5.24 | $1.61 | $0.31 |
| 2001 | **$1.21** | $4.87 | $1.46 | $0.28 |
| 2002 | **$1.04** | $4.46 | $1.20 | $0.26 |
| 2003 | **$1.10** | $4.82 | $1.26 | $0.29 |
| 2004 | **$1.09** | $4.33 | $1.18 | $0.32 |
| 2005 | **$1.03** | $4.35 | $1.10 | $0.35 |

Note: Washington numbers were provided by the Washington State Institute of Public Policy

Table 3

[12] T. Miller, M. Cohen, and B. Wiersema, *Victim Costs and Consequences: A New Look,* Research Report, Washington DC: National Institute of Justice, 1996. This study includes victims out-of-pocket expenses as well as pain and suffering.
[13] The cost of an arrest was estimated using Washington data since reliable data were not available for Oregon.
[14] S. Aos, P. Phipps, R. Barnoski, R. Leib, *The Comparative Costs and Benefits of Programs to Reduce Crime Version 4.0,* (Olympia: Washington State Institute of Public Policy, 2001).
[15] This does not include third party benefits of avoided crime or the social benefit of justice being served.

$1.03. This means that for each dollar invested in incarceration the return was only $1.03.

This estimate has also been done for Washington by the Washington State Institute of Public Policy. They examined the benefits of incarcerating violent offenders, property offenders and drug offenders. They found that it is much more cost-effective to incarcerate violent offenders. They estimated that in 2005, for every dollar the state invested in incarceration for violent offenders the return in tax payer and victimization benefits was $4.35. They also estimated that it was not cost-effective to incarcerate drug offenders, with every dollar invested returning only $0.35.

Due to data limitations, it was not possible to estimate a cost-benefit ratio for each type of offender for Oregon. However, there are many similarities between Oregon and Washington that make these estimates seem reasonable for Oregon.[16] Our population, crime rates, geography and use of incarceration are similar. Oregon does, however, incarcerate more violent offenders and fewer drug offenders. This may result in Washington's cost-benefit estimate for violent offenders being a little higher than Oregon's and their estimate for drug offenders being a little lower than Oregon's.

**Conclusion**

In Oregon, spending on criminal justice has increased over the past 25 years. The largest increase has been in the Department of Corrections. The prison population increased rapidly over this time period. Projections for the next 10 years predict the growth rate will slow substantially. While criminal justice spending and the incarceration rate have increased, the crime rate has fallen. Research has shown that as the incarceration rate increases by 10 percent, the crime rate falls by two-to-four percent. This finding is also true for Oregon, with a 10 percent increase in the incarceration rate leading to a 2.6 percent decrease in the crime rate. As more offenders have been incarcerated in Oregon, the return on investment has decreased. By 2005, the benefit to cost ratio had dropped to $1.03. This means that every dollar invested in incarceration returned $1.03.

Further research is necessary to determine the benefits and costs of programs designed to prevent crime and reduce recidivism. Research by the Washington State Institute of Public Policy (WSIPP) found that incarcerating violent offenders yields a cost-benefit ratio greater than $4.00. While incarcerating property offenders is very close to breaking even, and incarcerating drug offenders is not cost effective. WSIPP has also done research on the cost-benefit ratio of treatment programs to compare their return on investment to incarceration. Similar research needs to be done in Oregon to compare the cost effectiveness of different policies to reduce crime and to determine which offenders are the most efficient to incarcerate.

[16] Washington has a more complete data system which enabled them to break their estimate into finer detail. In Oregon reliable incarceration data by offender type only goes back to 1997, making it impossible to estimate the cost-benefit by incarceration type.

## Governor's Methamphetamine Task Force

Governor Kulongoski reauthorized the Methamphetamine Task Force to continue to meet following the end of the last legislative session. The Task Force has continued its efforts to "Crush Methamphetamine in Oregon" and has been able to track the successes created by the legislative efforts of last session (HB 2485 and SB 907). The successes are as follows:

1. Reducing the number of methamphetamine labs in the state by approximately 80% following the implementation of the Pharmacy Board's pseudo-ephedrine rules. This has allowed law enforcement to begin to shift to drug trafficking interdiction, instead of using the majority of their resources to deal with mom-and-pop meth labs.

Meth lab reduction cost avoidance

Based on 2004 and 2005 meth lab seizure numbers (473 and 448 respectively) we assumed 450 clandestine meth labs would have been seized per year into 2006 and 2007. CJC used the following methodology to create the cost avoidance figures:

Example: Using only the law enforcement cost of $5,000 per lab (estimated by the Oregon Narcotics Enforcement Association in 2005) we multiplied this cost by the actual reduction in the number of labs (265 fewer labs in '05) for a cost avoidance of $1,325,000 in 2005 and with 342 fewer methamphetamine labs through October 2006 (compared to Jan-Oct of 04, before the first precursor controls began, to Jan-Oct 06). That meant from January 2005 to November 1, 2006 there were 607 fewer labs seized than would have been without precursor controls which resulted in a cost avoidance of $1,710,000.

Breakdown:
1) Law enforcement: $5,000 per lab ($1,325,000, '05) + ($1,710,000, '06) **$3,035,000** combined
2) Court costs: $5,000 per lab ($1,325,000, '05) + ($1,710,000, '06) **$3,035,000** combined
3) Property damage per lab $17,000 ($4,505,000 '05) + ($5,814,000 in '06) **$10,319,000** combined
4) Toxic waste clean up: $3,500 ($927,500 in '05) + (1,197,000 in '06) **$2,124,500** combined
5) Corrections: $77.52/day = $28,294/yr per inmate. We are assuming 1.5 people arrested on average per lab. This offense is a Crime Seriousness level 8 (optional probation). Of those, because of the nature of the crime we assume that 2/3 (600 people) will receive prison time with an 18 month average, equaling an incarceration cost of $42,442 per person -- **$25,465,320** combined for incarceration . . . this does not include local jail or probation costs avoided.[17]

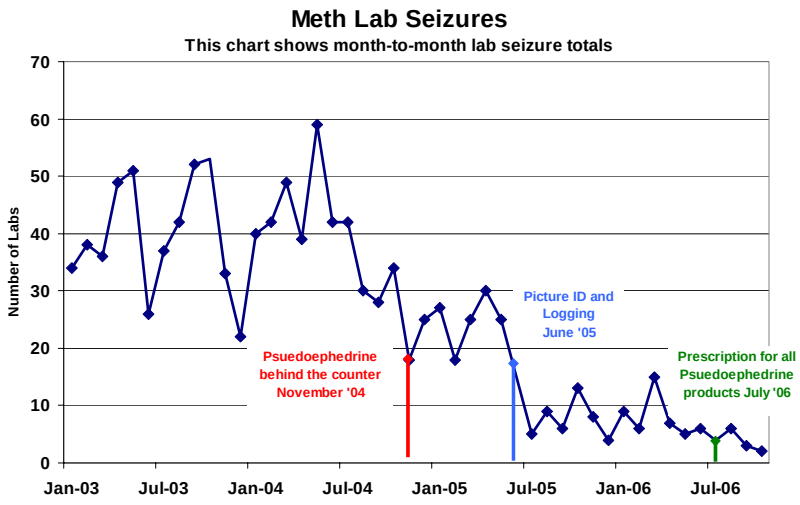
Cost Avoidance from Meth Lab Reduction
(January 1, 2004 – October 31, 2006)

| | |
|---|---|
| Law Enforcement: | $3,035,000 |
| Court Costs: | $3,035,000 |
| Toxic Waste Clean up: | $2,124,500 |
| Property Damage repair: | $10,319,000 |
| Corrections: | $25,465,320 |
| Total | **$44,978,820**** |

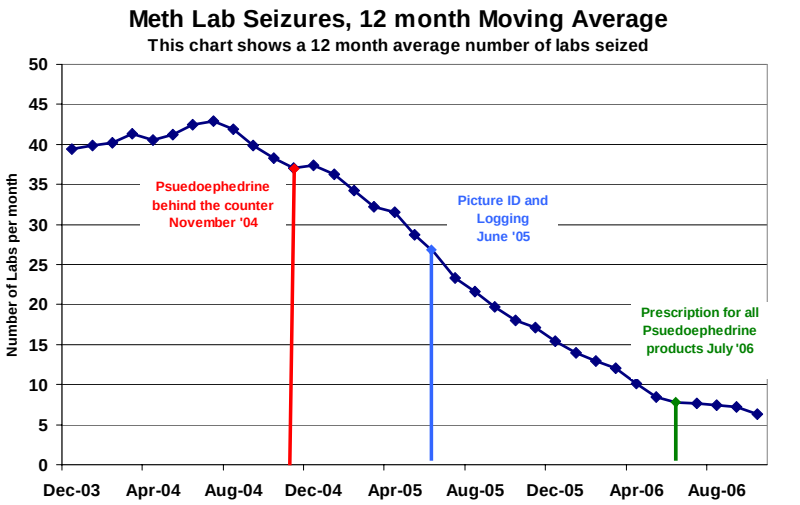
**(w/o local jail or probation costs)

Table 1

[17] Source: Costs outlined for Law Enforcement, Court, Property Damage and Toxic Waste Clean Up were provided by the Oregon Narcotics Enforcement Association. Corrections costs were provided by the Oregon Criminal Justice Commission.




Graph 1




Graph 2

| 2003 | | 2004 | | 2005 | | 2006 | |
|---|---|---|---|---|---|---|---|
| January | 34 | January | 40 | *January* | *27* | *January* | *9* |
| February | 38 | February | 42 | *February* | *18* | *February* | *6* |
| March | 36 | March | 49 | *March* | *25* | *March* | *15* |
| April | 49 | April | 39 | *April* | *30* | *April* | *7* |
| May | 51 | May | 59 | *May* | *25* | *May* | *5* |
| June | 26 | June | 42 | *June* | *15* | *June* | *6* |
| July | 37 | July | 42 | *July* | *5* | *July* | *4* |
| August | 42 | August | 30 | *August* | *9* | *August* | *6* |
| September | 52 | September | 28 | *September* | *6* | *September* | *3* |
| October | 53 | October | 34 | *October* | *13* | *October* | *2* |
| November | 33 | *November* | *18* | *November* | *8* | *November* | |
| December | 22 | *December* | *25* | *December* | *4* | *December* | |
| Total: | 473 | | 448 | | 185 | | |

On October 15, 2004, the Oregon Board of Pharmacy adopted a rule requiring pseudoephedrine (PSE) products, other than certain liquids and gel caps, be kept behind the counter (BTC) and requiring picture ID for each sale. The rule went into effect on November 15, 2004. On April 6, 2005, the Pharmacy Board adopted a rule requiring those PSE products be kept behind the *pharmacy* counter and requiring picture ID *and logging* for each sale. The rule went into effect on May 14, 2005. On April 5, 2006, the Pharmacy Board adopted a rule requiring a *prescription* for *all* PSE products. The rule went into effect on July 1, 2006. *See* NOTES on next page for further explanation.

For the 7 months the first rule was in place (November 2004 to May 2005), there were a total of 168 meth labs; an average of 24 per month. For the 7 equivalent months in the year prior to the first rule (November 2003 to May 2004), there were a total of 284 meth labs; an average of 41 per month. This reflects a 41% reduction.

For the 13 months the second rule was in place (June 2005 to June 2006), there were a total of 108 meth labs; an average of 8 per month. For the 13 equivalent months prior to a BTC pseudoephedrine rule (June 2004 to October 2004 and November 2003 to June 2004), there were a total of 502 meth labs; an average of 39 per month. This reflects a 78% reduction.

For the 4 months the third rule has been in place (July 2006 to October 2006), there were a total of 15 meth labs; an average of 4 per month. For the 4 equivalent months prior to a BTC pseudoephedrine rule (July 2004 to October 2004), there were a total of 134 meth labs; an average of 34 per month. This reflects an 89% reduction.

[18]

Table 2

List of Successes continued:

2. The increase in price and reduction in purity of methamphetamine as a result of precursor control in Oregon, the United States as a whole, and Mexico. Methamphetamine purity has dropped significantly throughout the Nation and in Oregon. National meth purity was 77% in the Spring of 2005, and 51% in the Spring of 2006. Oregon meth purity was 71.1% in 2005, and 40.3% in the first half of 2006[19].

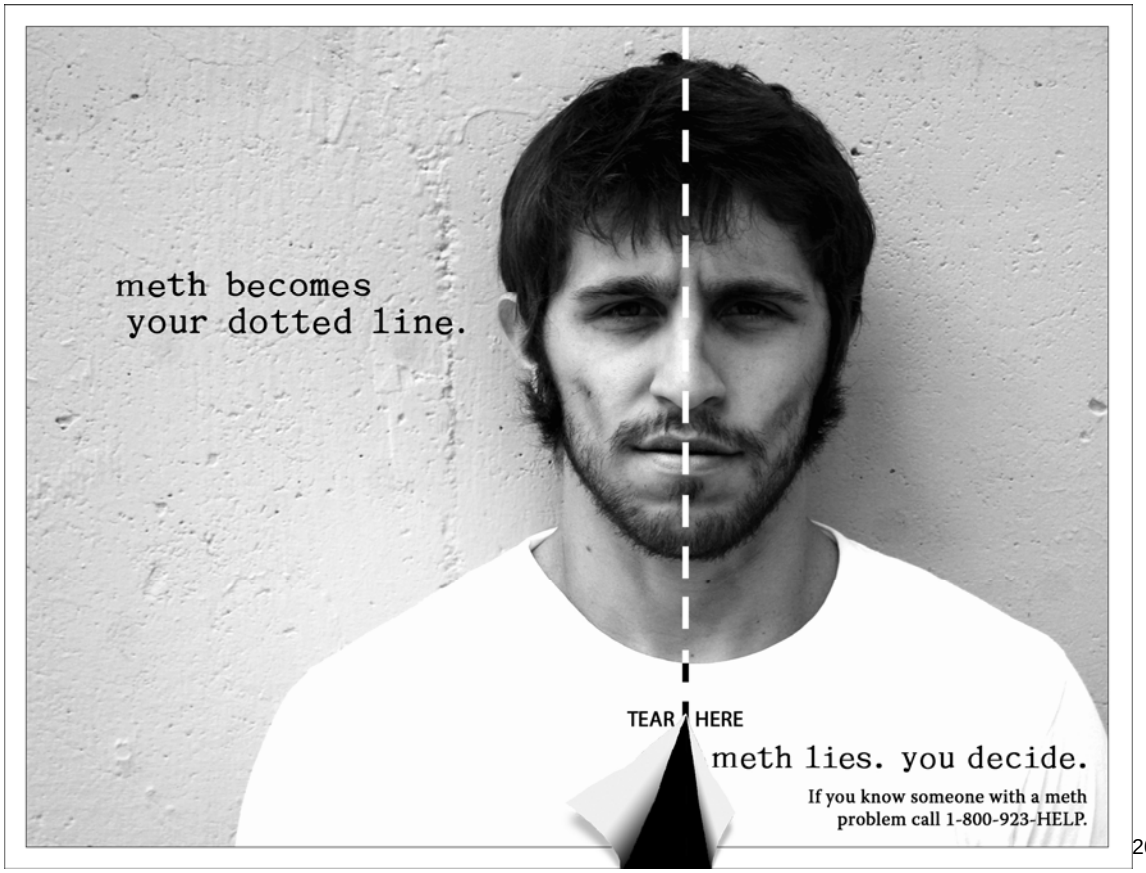
3. Effective tracking of drug arrests with the implementation of the new drug crimes sections in ORS.

[18] Source: Oregon State Police and Oregon Narcotics Enforcement Association.
[19] Sources: US Drug Enforcement Administration and Oregon Narcotics Enforcement Association

4. Effective support for federal methamphetamine legislation, including protecting Oregon's precursor rules.

5. Creation of the Community "Methamphetamine Kits," and conducting Methamphetamine Kit trainings throughout the state.

6. Creation of "Meth Lies – You Decide" Anti-Meth advertising by the University of Oregon's Allen Hall School of Journalism. This campaign was recommended by the meth task force, and made possible by use of a federal Byrne grant administered by the Oregon Criminal Justice Commission and with the assistance of the Oregon Partnership. This campaign was published in newspapers throughout the state. There was also a statewide television and radio advertising campaign that accompanied the newspaper effort.



[20]

Figure 1

7. Creation of Drug Endangered Children (DEC) protocols and completed DEC trainings throughout the state.
8. Creation of the Drug Court grant program. The full report on the Drug Courts Program, including cost avoidance estimates are found on page 53 of this report.

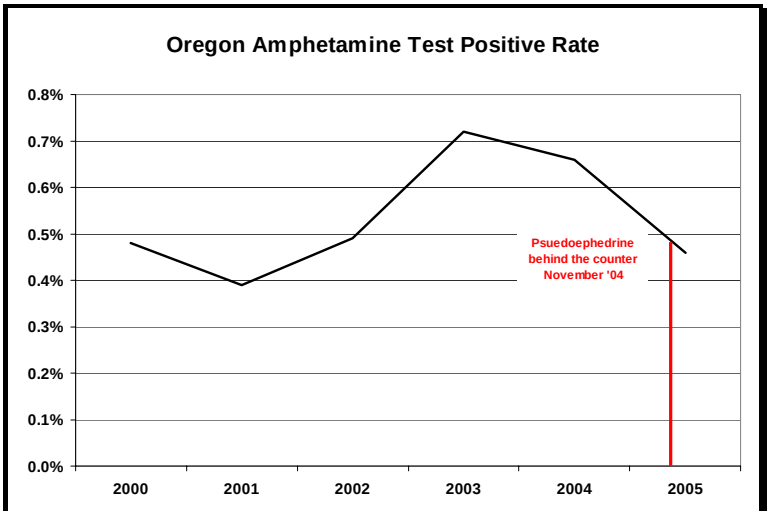
[20] Source: University of Oregon School of Journalism, Allen Hall Advertising (aHa) a student-run public relations business.

9. A 29% reduction in the percentage of positive workplace urine tests for amphetamine from 2003 and 2006 (see graph below).

Table 3

| State | Quest Amph Positives, 2000 (Jan-May) | Quest Amph Positives, 2001 (Jan-May) | Quest Amph Positives, 2002 (Jan-May) | Quest Amph Positives, 2003 (Jan-May) | Quest Amph Positives, 2004 (Jan-May) | Quest Amph Positives, 2005 (Jan-May) | Quest Amph Positives, 2006 (Jan-May) | % Change 2005-2006 |
|---|---|---|---|---|---|---|---|---|
| OR | 0.48% | 0.39% | 0.49% | 0.72% | 0.66% | 0.64% | 0.46% | -29.14% |

[21]



Graph 3

Methamphetamine Task Force restructuring for 2006 – 2007

Following the end of the 2005 Legislative session, the Methamphetamine Task Force met in June and September of 2005 while reviewing the initial results of HB 2485 and SB 907. Regular meetings began again in 2006, with meetings occurring in February, March, May, June, August, October and November. With the success of the pseudoephedrine rules at reducing methamphetamine labs in Oregon, the Task Force agreed that it would focus on prevention and treatment during 2006 and in preparing for the 2007 legislative session.

The membership of the Methamphetamine Task Force was changed to reflect the emphasis on prevention and treatment. More members from business, and the fields of prevention and treatment joined the Task Force. The Directors of the Department of Corrections (DOC), the Department of Human Services (DHS) and the Oregon Youth Authority (OYA) joined the Steering Committee of the task force. The Steering Committee coordinates the efforts of the subcommittees and also keeps the Task Force focused on the issue of resource allocation. As the agency directors are critically involved in the allocation of resources their assistance has been invaluable.

The Task Force continues to operate with Law Enforcement, Community Prevention & Education, and Treatment subcommittees. The Drug Endangered Children subcommittee has been

[21] Source: White House Office of National Drug Control Policy Report "Pushing Back Against Meth: A Progress Report on the Fight Against Methamphetamine in the United States": http://www.whitehousedrugpolicy.gov/publications/pdf/pushingback_against_meth.pdf

incorporated into a non-profit 501(c)(3) corporation, the Oregon Alliance for Drug Endangered Children. Because of the critical need for reliable data on methamphetamine related issues, the Steering Committee created a new Data Collection subcommittee.

2006 Prevention Efforts

The Community Methamphetamine Kits were completed in July of 2006. The Governor's Office brought together the Oregon Partnership, the Department of Justice, the Criminal Justice Commission, the Oregon Judicial Department, Oregon Prevention, Education, and Recovery Association (OPERA), Oregon Office of Mental Health and Addiction Services (formerly OHMAS, now AMHD), Oregon Commission on Children and Families, Oregon Department of Transportation, and the Governor's Methamphetamine Task force to develop a funding and distribution plan.

The Criminal Justice Commission used an existing Byrne Grant to fund the initial printing of 1000 Methamphetamine Kits. These "Kits" are for community education about methamphetamine and also to help communities form anti-methamphetamine community coalitions. The Oregon Department of Transportation and Serenity Lane contributed funds to help pay for six train-the-trainer sessions. The Oregon Bankers Association, Oregon Commission on Children and Families, the Oregon Judicial Department and AMHD have also committed to provide additional support.

The plan also called for OPERA to take the lead in identify 5 businesses willing to contribute $1,000 each, 10 businesses willing to contribute $500 each, and 25 businesses willing to contribute $250 each. This is an ongoing effort.

Community Colleges provided facilities for the six trainings which were held in Portland, Albany, Pendleton, Bend, Medford and Tillamook. Approximately 350 people have been trained. Oregon Partnership, Oregon State Police, and the Oregon Narcotics Enforcement Association provided the trainers, and those trained will deliver at least part of any upcoming training. More trainings will be held as requested and 500 more Methamphetamine kits have been ordered and printed by Oregon Correctional Enterprises (OCE).

Treatment Efforts

One of the biggest obstacles to obtaining treatment funding to combat methamphetamine addiction is the myth that people can not recover from addiction to the drug. The Governor's Methamphetamine Task Force has spent much of the past year providing a forum for experts on methamphetamine treatment and its effectiveness. Staff coordinated testimony to the House and Senate Judiciary Committees in October of 2006 by Dr. Michael Finnegan and NPC Research on the drug court model of methamphetamine treatment.

The Methamphetamine Task Force has also joined forces with the Oregon Medical Association's Methamphetamine Task Force to educate doctors on recognizing meth use, helping to utilize available treatment, exploring treatment needs and opportunities experienced in the health care system.

Methamphetamine Arrest Data

The change in drug arrest reporting initiated in SB 907 took effect in 2006 and good data began to be available in May of 2006. Delays in reporting mean that accurate data is generally available 4 months after the current month. That means that we have accurate data from May 2006 to August 2006. As an example the arrest averages for those months are:

| | |
|---|---|
| Methamphetamine Possession: | 656 arrests/mo. |
| Methamphetamine Delivery: | 130 arrests/mo. |
| Methamphetamine Manufacture: | 35 arrests/mo. |

Legislative and Other Proposals

The Governor's Methamphetamine Task Force reviewed 34 proposals which were either created by the Task Force or were brought to the Task Force for its support. At its December 2006 meeting, the Methamphetamine Task Force endorsed several legislative proposals for 2007. The supported proposals were prioritized in three categories. Those were:

1) "Strongly Support" where the Governor's Methamphetamine Task Force was directly proposing the recommendation.

2) "Strongly Endorse" where the recommendations were being put forth by other groups and the Task Force strongly endorsed those recommendations.

3) "Support" where the Task Force supported the recommendations but would take no direct action on them.

**Strongly Support**

1. Restoring and enhancing state general fund support for treatment programs, as recommended by the Department of Human Services.

2. Sustaining and enhancing existing drug court funding as recommended by the Criminal Justice Commission, plus increasing drug court funding by an additional $25 million.

3. Enacting a malt beverage cost recovery fee of $32 per 31 gallon barrel, with proceeds supporting prevention, treatment and enforcement.

4. Allocating ten percent of net OLCC liquor revenues to prevention, enforcement, and treatment.

5. Allocating two percent of above-the-line net OLCC liquor revenues to a school-based statewide prevention program.

6. Repealing the Uniform Policy and Provision Law (UPPL).

7. Making it illegal to knowingly install or possess a vehicle with a hidden compartment designed to hide contraband.

8. Providing an alternative bonding method for nonprofits rehabilitating former meth lab sites.

**Strongly Endorse**

1. Increasing sentences for large scale drug dealers that fall just below the federal threshold for adopting cases. (DOJ)

2. Supporting prescription drug monitoring program as recommended by the Oregon Board of Pharmacy.

3. Referring a ballot measure to voters to conform 2000 Measure 3 (Or Const, Art XV, Sec 10) to 2005 HB 3457 (current ORS Chapter 475A).

4. Enact any necessary legislation to ensure that all publicly funded treatment resources are cost-benefit prioritized and that standardized government-wide performance and outcome measures are instituted and made applicable to all entities receiving public treatment resources. To accomplish this requires the placement of Alcohol and Drug Treatment as a stand-alone agency or by utilizing the current governmental structure through DHS performance-based contracting.

5. Requiring documentation and record keeping of all scrap metal sales.

**Support**

1. Making a technical correction to the precursor statutes to limit precursor reporting to optical isomers.

2. Support the efforts of the Oregon Narcotics Enforcement Association (ONEA) to reopen Subtitle A (domestic precursor controls) of the federal Combat Methamphetamine Epidemic Act (CMEA) to move pseudoephedrine to full Schedule V or to Schedule III if small toxic meth labs rebound due to decreased meth purity and/or increased meth price.

3. Support the efforts of the Oregon Narcotics Enforcement Association (ONEA) to reopen Subtitle B (international precursor controls) of the federal Combat Methamphetamine Epidemic Act (CMEA) to further enhance international controls if the current international controls begin to fail in part or in whole.

4. Providing state funding for effective recovery support services.

5. Reprioritizing state treatment funding for those populations that can make the greatest impact.

6. Efforts to create drug free workplaces.

7. Allowing court discretion to impose a $500 assessment for conviction of certain drug crimes, with one-half of the proceeds prioritized first to support community corrections treatment programs and thereafter for interagency narcotics task forces.

8. Create pilot programs in several counties to allow Community Corrections officers to implement the “Drug Court” model within Post Prison supervision for high risk drug users coming out of state prison.

9. Restoring a level playing field among alcohol manufacturers, distributors, and retailers, by repealing certain trade practice statutes that unfairly favor distributors.

10. Requiring annual reporting of unclaimed deposits by alcohol distributors.

## Drug Courts

In 2005, the 73rd Legislative Assembly approved HB 2485 and SB 907. These bills, along with their companion funding bills (HB 5174 and SB 5630), addressed the burgeoning statewide methamphetamine problem. Along with several policies aimed at reducing the methamphetamine supply in Oregon, they established a grant program through the Criminal Justice Commission (CJC) to create new drug courts and expand existing drug courts.

The budget note to HB 5174 directed the Criminal Justice Commission to "formulate performance measures for evaluating the effectiveness and performance of drug courts," and to "provide the 2007 Joint Ways and Means Committee with a report on the effectiveness and performance of new and existing drug courts."

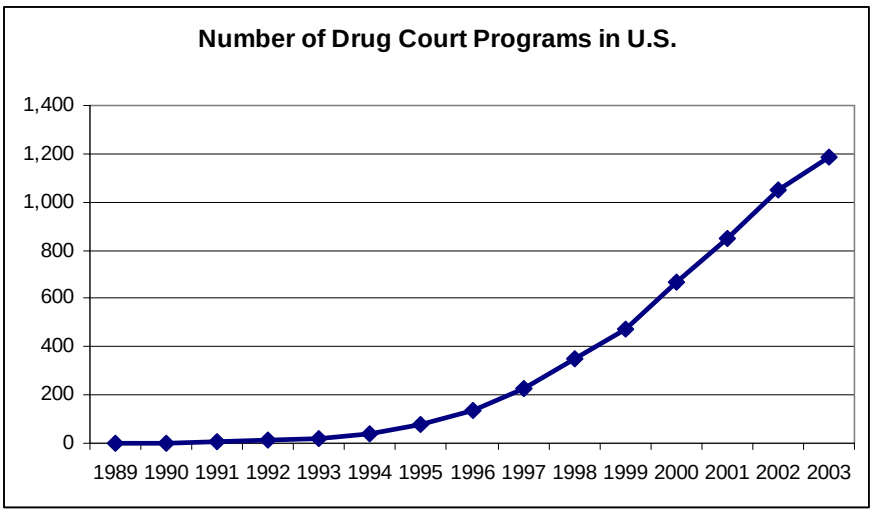
The Criminal Justice Commission worked with the Chief Justice's Treatment Court Advisory Committee to develop performance measures. The measures are included in Appendix G to this report. These measures are built in to the Oregon Treatment Court Management System (OTCMS), the drug court data system maintained by the Oregon Judicial Department. They also form the basis for evaluation of the Drug Court Implementation and Enhancement Grants administered by the Criminal Justice Commission.

***"We know that drug courts outperform virtually all other strategies that have been attempted for drug-involved offenders"***

***-Marlowe, DeMatteo, & Festinger, 2003***

This report will address the latter requirement in the budget note to HB 5174. It will review the research on Oregon drug courts and is aimed at arming policymakers with information about drug court outcomes.

A vast amount of national research has been conducted showing drug courts effectively reduce drug use and crime. In Steve Aos's "Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs, and Crime Rates" report he cites 57 well-researched studies on the topic of adult drug courts in concluding that such programs can be expected to reduce recidivism by 10.7% compared to "treatment as usual".[22] This report reviews the effectiveness of Oregon drug courts and the progress of the drug court grant program.




Graph 1

### Introduction

Since the founding of the first drug court in 1989, there has been a tremendous increase in the number of drug courts in the U.S (Graph 1). Drug courts offer offenders a chance to overcome addiction while offering public safety and promoting

[22] http://wsipp.wa.gov/pub.asp?docid=06-01-1201, page 4

accountability through intensive monitoring. The power of the court system to compel treatment attendance is used to ensure addicts stay in treatment and are tested for drug use. The court also makes sure the whole drug court team is invested in participants graduating and succeeding. In the past 17 years, drug courts have been studied intensively, and have repeatedly been found effective at reducing drug use, criminal activity, and delivering other societal outcomes (increased employment, wages, etc). Not only have they been shown to be effective, but they have also been shown to be more cost-effective than "business-as-usual" (i.e. probation, traditional court processing). This is not surprising, since business-as-usual often involves "case banking" non-violent offenders and limited access to treatment or other resources. A system that offers long wait lists before treatment is available, and where probation supervision is inadequate to promptly identify non-compliance costs Oregon's taxpayers more in crime, jail beds and repeated arrests.

**What is a drug court?**

There are several types of drug courts (see "Definitions of Problem Solving Courts"). Generally, drug courts are defined by their fidelity to the Ten Key Components. There does, however, tend to be wide variation in the application of the Key Components. In Oregon, for example, most drug courts developed organically through local efforts and with limited resources. Programs were designed with local needs in mind. Oregon drug courts standardized to some extent when applying for state and federal grants, which required fidelity to the Ten Key Components.

A recent NPC study of several drug court programs in California (Graph 2) offers an illustration of the importance of the 10 Key Components (Figure 1). In that study, all the drug court programs except for the Monterey program reported better outcomes than "business as usual."

**Key Components of Drug Courts:**

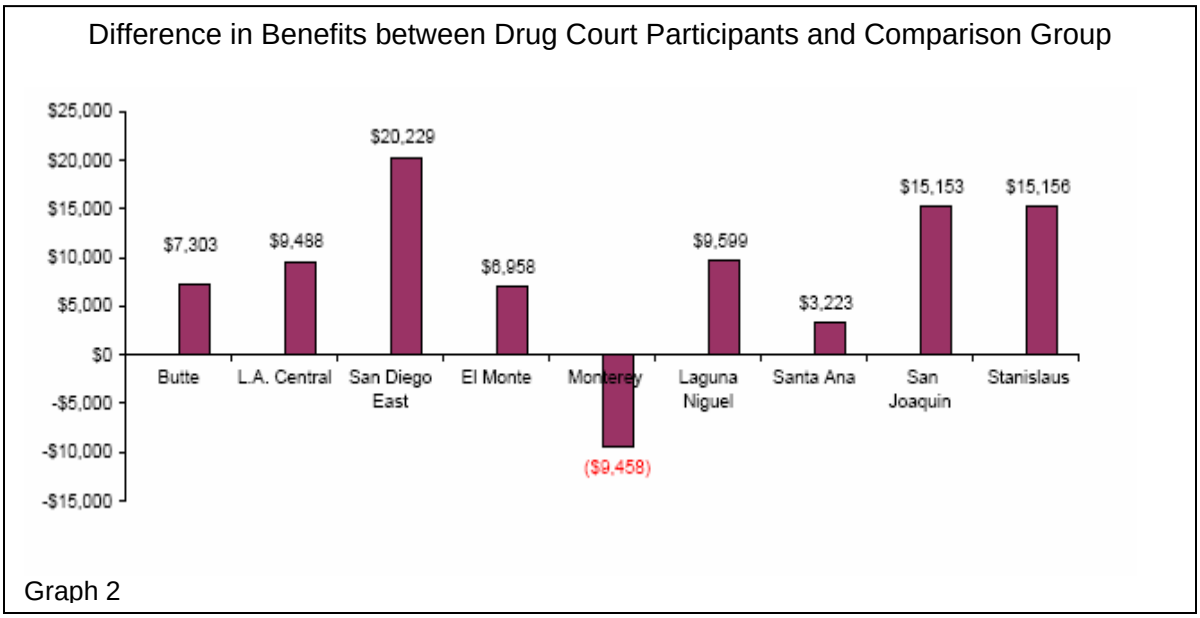
1. Drug courts integrate alcohol and other drug treatment services with justice system case processing
2. Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants due process rights
3. Eligible participants are identified early and promptly placed in the drug court program
4. Drug courts provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services
5. Abstinence is monitored by frequent alcohol and other drug testing
6. A coordinated strategy governs drug court responses to participants compliance
7. Ongoing judicial interaction with each drug court participant is essential
8. Monitoring and evaluation measure the achievement of program goals and gauge effectiveness
9. Continuing interdisciplinary education promotes effective drug court planning, implementation, and operations
10. Forging partnerships among drug courts, public agencies, and community-based organizations generates local support and enhances drug court effectiveness

***National Association of Drug Court Professionals, 1997***

Figure 1

The authors describe the following problems with the Monterey program:

- Lack of local agency support. (Key Component #10)
- Practice of rotating judges presiding over drug court, making it difficult for the judges to get to know participants. Not all judges were equally invested in the program. (Key Component #7)
- Over 20 treatment providers were involved with the drug court, making it difficult for the judge to receive timely information. (Key Component #1)



Graph 2

**History of Oregon Drug Courts**

One of the first drug courts in the country was founded in Multnomah County in 1991. The program, known as the Sanction Treatment Opportunity Progress (STOP) program became a national model for drug courts. Several evaluations of the STOP program have demonstrated significant impact on recidivism and drug use, while showing substantial cost-savings to other parts of the system.

In 1996, when there were only five drug courts in the state, the drug court judges and other team members established the Oregon Association of Drug Court Professionals (OADCP). The two primary purposes of the Association are: (1) promote and advocate for the establishment and sustainability of drug treatment courts in Oregon; and (2) provide technical assistance and support to its members.

In 2000, the Oregon Judicial Department, working with the OADCP, secured a Department of Justice Statewide Enhancement Grant to create a data collection system. Using this grant to leverage state resources, in April 2003, the Judicial Department launched the Oregon Drug Court Management System, since renamed as the Oregon Treatment Court Management System (OTCMS). The OTCMS serves the drug courts as both a case management and data depository tool.

In 2004, Oregon Supreme Court Chief Justice Wallace P. Carson, Jr. established the Chief Justice's Treatment Court Advisory Committee (TCAC). TCAC is comprised of judges, court staff, members of the Oregon State Bar, and Department of Human Services (DHS) representatives.

Currently, there are drug courts in 26 Oregon counties, with many counties running two or more programs (i.e. adult criminal, juvenile, family/dependency, DUII, or mental health). The majority are adult criminal programs. Counties that do not have drug courts are all in rural areas. Many of these counties have expressed interest in developing drug court programs, but lack resources to do so. In 2004, 831 adults, 96 juveniles, and 88 families were served in drug courts (Oregon Judicial Department). This number is expected to increase significantly in 2006 with the additional funding from state and federal drug court grants.

**Definitions of Problem Solving Courts**

The definitions of problem solving courts, as found in the scientific and scholastic literature, are included below.

**Adult Drug Court:** A specially designed court calendar or docket, the purposes of which are to achieve a reduction in recidivism and substance abuse among nonviolent substance abusing offenders and to increase the offender's likelihood of successful habilitation through early, continuous, and intense judicially supervised treatment, mandatory periodic drug testing, community supervision and use of appropriate sanctions and other habilitation services (BJA, 2003).

**Juvenile Drug Court:** A juvenile drug court is a docket within a juvenile court to which selected delinquency cases, and in some instances, status offenders, are referred for handling by a designated judge. The youth referred to this docket are identified as having problems with alcohol and/or other drugs. The juvenile drug court judge maintains close oversight of each case through regular status hearings with the parties involved. The judge both leads and works as a member of a team that comprises representatives from treatment, juvenile justice, social and mental health services, school and vocational training programs, law enforcement, probation, the prosecution, and the defense. Over the course of a year or more, the team meets frequently (often weekly), determining how best to address the substance abuse and related problems of the youth and his or her family that have brought the youth into contact with the justice system (BJA, 2003).

**Family Dependency Treatment Court:** A juvenile or family court docket of which selected abuse, neglect, and dependency cases are identified where parental substance abuse is a primary factor. Judges, attorneys, child protection services, and treatment personnel unite with the goal of providing safe, nurturing, and permanent homes for children while simultaneously providing parents the necessary support and services to become drug and alcohol abstinent. Family dependency treatment courts aid parents in regaining control of their lives and promote long term stabilized recovery to enhance the possibility of family reunification within mandatory legal timeframes (Wheeler & Siegerist, 2003).

**Drug Court Grant Programs**

The 2005 Oregon Legislature authorized $2,500,000 in funds for drug court grants under a process to be designed, implemented and administered by the CJC. The intent of the Oregon Legislature was to develop new drug courts and to expand existing drug court operations. These grants were intended to expand participant capacity and were not to be used to supplant or replace existing funds for drug court operations. Grant funds were to be primarily used to fund treatment capacity and court coordinators.

In October 2005, the CJC hired a Drug Court Grant Coordinator to administer the grants. The coordinator, Devarshi Bajpai, has worked in court-ordered addiction treatment as a counselor, supervisor, and program manager for 12 years. Mr. Bajpai holds advanced state and national certification as an addiction counselor, and serves on state and national counselor certification boards, and the Northwest Institute of Addiction Studies Board of Directors. Mr. Bajpai earned a Masters in Business Administration (MBA) from George Fox University in 2006. His knowledge and experience allow him to evaluate treatment practices of drug courts and to offer technical assistance.

Mr. Bajpai and CJC staff worked with the Oregon Judicial Department, Addictions and Mental Health Division, Criminal Justice Services Division (CJSD), treatment providers, members of the Governor's Meth Task Force, and the Chief Justice Treatment Court Advisory Committee to develop drug court performance measures and the grant application criteria. CJSD agreed to

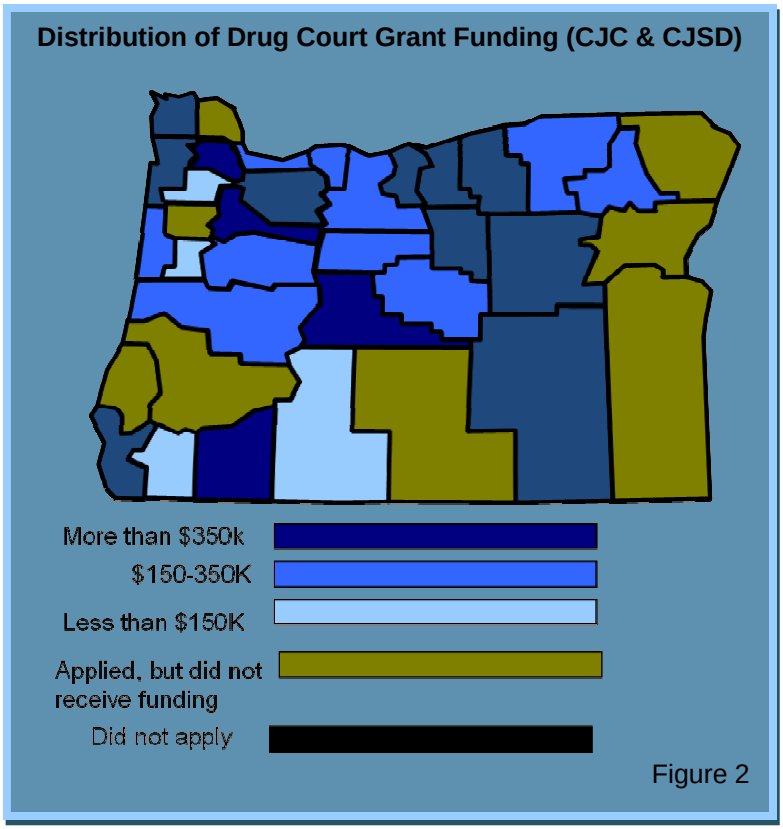


Figure 2

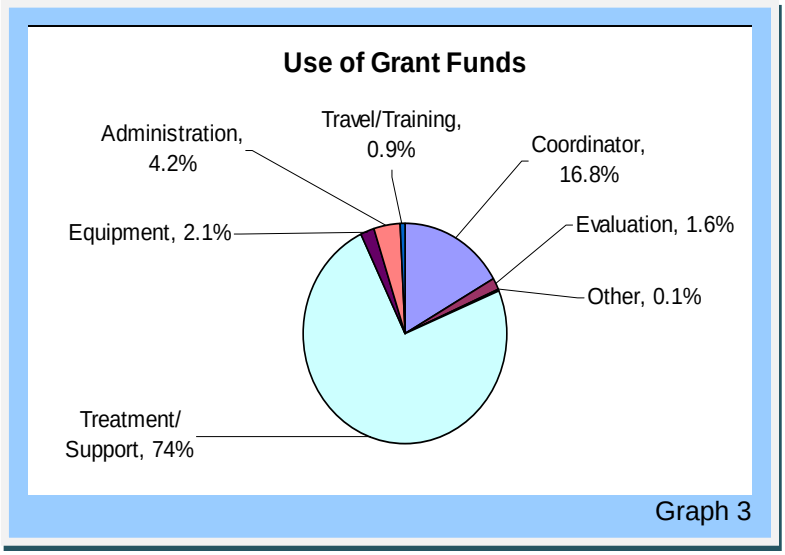
contribute $1.5 million in federal Byrne Memorial Grant funds for 2006 to drug courts that focus on women with children.

Grant requirements included cooperation among all members of the drug court team, including the judge, court administrator, district attorney, public defender, sheriff, community corrections agency (or juvenile department), and treatment provider. Additionally, the Local Alcohol and Drug Planning Council (LADPC) and Local Public Safety Coordinating Council (LPSCC) had to write letters of support for the program.

Applicants submitted a "logic model" for their programs, describing goals, inputs, outputs, and short and mid-term objectives. They described their evidence-based practices and adherence to the 10 Key Components of Drug Courts. Applicants had to demonstrate a compelling need for a drug court program and the ability to deliver the proposed services through qualified, certified staff.

The grant proposals were evaluated by a team of experts, including treatment experts and Legislative Fiscal Office staff. The grants were reviewed according to the following criteria:

- 60 points – Proposed Program Narrative
    - 25 points – Program Description
    - 15 points - Demonstration of Need for the Program
    - 15 points - Evidence of Collaboration in Planning and Implementation
    - 5 points - Evidence of Staff Competency
- 10 points – Plan for Assessing Program Implementation and Monitoring Participants
- 15 points – Proposed Budget Worksheet and Budget Narrative
- 15 points – Ability to Leverage Other Funds and Cost-Effectiveness of the Proposed Program



Graph 3

The Criminal Justice Commission received 30 grant applications from 26 counties, with the total request of

$6.7 million well exceeding the $2.5 million available. In addition, CJSD received 18 Byrne grant applications from 16 counties for a total request of over $2.6 million, exceeding the $1.5 million available. That means that an additional $5.3 million in single year funding was requested than the grant programs had available. So there were $10.6 million in unfunded requests for the biennium. Adding the unfunded requests to the existing grants of $4 million would require an additional $18.6 million for the biennium to continue current drug court funding and to meet unmet demand.

Grants were reviewed and allocated primarily on the basis of criteria outlined in the Request for Proposals, although geographical distribution was also considered in determining grant awards. The Criminal Justice Commission funded 17 programs and the Byrne grant (administered by CJSD) funded 11. In many cases, State General Fund grants provided the required matching funds for the Byrne grants. While 60 percent of applicants received funding, many applicants only received minimal funding. Between the two grant programs, approximately 41 percent of the amount requested was fulfilled.

**Grant Administration**

All 28 grants, including state and federal funds, are administered by Devarshi Bajpai and Diana Fleming (CJSD). The grant period started July 1, 2006, and the focus in the first quarterly reporting period was developing infrastructure and hiring staff. It appears drug court capacity has increased by 120 participants in the first quarter, with an increase in capacity of 500-700 expected in 2007 – 2008.

The current focus is on developing a reporting process that tracks performance measures and fidelity to evidence-based practices and the 10 Key Components of Drug Courts. Byrne Grants are required to have 10 percent of program budgets set aside for independent evaluation. CJSD staff are currently working with independent evaluators to develop specific performance measures and reporting mechanisms.

In the first two years, evaluation will focus largely on process evaluation as opposed to outcome evaluation. Outcomes are not expected during this time period because drug court programs last, on average, 18 months. Process evaluation is defined as:

> "A process evaluation focuses on what services were provided to whom and how. Its purpose is to describe how the program was implemented--who was involved and what problems were experienced. A process evaluation is useful for monitoring program implementation; for identifying changes to make the program operate as planned; and, generally, for program improvement."[23]

The results from the process evaluation will be used to develop performance-based contracts in the future. CJC staff are currently working with a team of researchers from Oregon Health Sciences University (OHSU) to develop a methodology for implementing and evaluating the impact of performance based contracting.

[23] http://www.ncrel.org/sdrs/areas/issues/envrnmnt/css/cs1lk55.htm

## Are Drug Courts Effective?

**National Studies:**

The US Government Accountability Office (GAO) published a review of 23 drug court evaluations in February 2005. The report was commissioned by the 21st Century Department of Justice Appropriations Authorization Act.

To meet this mandate, GAO conducted a systematic review of drug court program research, from which it selected 27 evaluations of 39 adult drug court programs that met its criteria for methodological soundness. The review describes the published evaluations of adult drug court programs, particularly relating to (1) recidivism outcomes, (2) substance use relapse, (3) program completion, and (4) the costs and benefits of drug court programs. The findings from the report are summarized below.

**Findings from the 2005 GAO Report: Adult Drug Courts- Evidence Indicates Recidivism Reductions and Mixed Results for Other Outcomes**

- Lower percentages of drug court program participants than comparison group members were rearrested or reconvicted.
- Recidivism reductions occurred for participants who had committed different types of offenses.
- There was inconclusive evidence that specific drug court components, such as the behavior of the judge or the amount of treatment received, affected participants' recidivism while in the program.
- Recidivism reductions occurred for some period of time after participants completed the drug court program.
- Evidence about the effectiveness of adult drug court programs in reducing participants' substance use reported mixed results.
- Taking reduced recidivism into account, two of seven programs were found to cost less than "business as usual".
- All of the programs evaluated yielded positive net benefits, primarily from reductions in recidivism affecting judicial system costs and avoided costs to potential victims.

**Oregon Drug Courts**

As mentioned above, Oregon started the second drug court in the country. Oregon drug courts also have the distinction of being among the most thoroughly evaluated programs in the country. One of the major reasons for this is that Dr. Michael Finigan of NPC Research is located in Portland. NPC Research is a national leader in evaluating drug courts for effectiveness and cost-effectiveness (the distinction between effectiveness and cost-effectiveness is noted because an expensive intervention may be effective, but not cost-effective). NPC has conducted numerous evaluations of Oregon drug courts, some more than once. Process, outcome, or cost-benefit evaluations have been conducted on Multnomah, Clackamas, Benton, Marion, and Malheur counties. This research is summarized in Appendix D.

Every outcome evaluation of Oregon drug courts has shown a positive effect in almost every domain. These outcomes include reduced alcohol and drug use, reduced criminal activity and recidivism, improved employment, relationships, income and housing. Many of these studies had small pools of participants and were not able to establish statistical significance, but the results have been consistent with each other and with national studies.

All cost-benefit evaluations have shown a positive net benefit for drug courts. Cost-benefit evaluations have included taxpayer and victimization costs. While most drug courts pay for their initial cost in avoided crime later, in one case (Multnomah County) the drug court was shown to cost less upfront and pay off in avoided costs due to successful treatment.

A statewide review of Department of Human Services, Addiction and Mental Health Division data offers further evidence of drug court effectiveness (see Table 1). Data from the Client Process Monitoring System (CPMS) shows that drug court participants were more likely to be retained in treatment, complete treatment, improve their employment status and not be arrested while in treatment. Perhaps most stunningly, the average length of stay in treatment for a drug court participant was 67% longer than a probationer (292 days vs. 175 days)! This is evidence of how effective court intervention is in keeping addicts engaged in treatment. Through incentives and sanctions, the court is able to increase regularity and duration of the participants' treatment, translating into better treatment outcomes.

Table 1

**DHS Addictions and Mental Health Division-Drug Court vs. Probation**

| | Drug Court (n=520) | Probation (n=2634) |
|---|---|---|
| Treatment Retention (90 days) | 91% | 79% |
| Treatment Completion | 53% | 47% |
| Employed at termination | 62% | 54% |
| Not arrested during treatment | 93% | 88% |
| Average Length of treatment (days) | 292 | 175 |

**Research Limitations**

There are several limitations to drug court evaluations that should be noted here. First, the vast majority of research reviewed for this report is focused on adult criminal drug courts. Only one juvenile court and no family dependency courts have been evaluated at this point in Oregon. This research is still in the early stages of development.

Finding an appropriate comparison group in drug court research is always difficult. It is difficult to mitigate the selection bias, i.e. that more motivated people choose to participate in drug court. Random assignment is not an option for legal reasons. Drug court evaluators have attempted to deal with this issue in a variety of ways, including looking at program drop-outs and similar probation populations.

For these reasons, it is difficult or impossible to compare drug court programs or evaluations with each other. The main conclusion we can take from the existing evaluations is that drug courts are more effective than business as usual and require an initial "up front" investment, but deliver worthwhile results.

**Drug Courts and Methamphetamine**

One of the major goals of the Criminal Justice Commission Drug Court Grant Program is treating methamphetamine addiction in the state. DHS Addiction and Mental Health (AMH) Division data shows that methamphetamine is the primary drug of choice among drug court participants. In FY 2004-05, 66.6 percent of drug court participants used methamphetamine. Based on this, we attempted to quantify the impact of the CJC Drug Court Grant Program on the demand for methamphetamine.

We estimated the impact of increasing drug court capacity on methamphetamine demand following the methodology used by the RAND Corporation in 1994. [24] The estimate is based on the following assumptions:

- Demand for methamphetamine is reduced by 90% among drug court participants while in a drug court, simply because of intensive monitoring. [25]
- In order to develop a conservative estimate, we assume there is NO post treatment/drug court effect. In other words, because it is difficult to measure the use of methamphetamine after graduation, this estimate only factors in avoided use during the program.
- The average use pattern for a methamphetamine addict is about 18 grams per month. [26] The average price is $50 per gram. [27]
- The CJC Drug Court Grant Program will increase drug court participants by about 500. Based on AMH data, 66.6% of drug court participants use methamphetamine. The average treatment length is 292 days.

Based on these assumptions, we estimate that methamphetamine demand will be reduced by approximately 118 pounds from July 1, 2006 to June 30, 2007 as a result of increasing drug court capacity. This amounts to a street value of almost $2.7 million, much of which would have been generated by crime. For comparison, Oregon High Intensity Drug Trafficking Area (HIDTA) programs removed 139 pounds of methamphetamine from the market in 2005.[28]

As noted above, this is based on extremely conservative estimates and most likely underestimates the effect of drug courts. This estimate doesn't address the impact on other illicit drugs which are also addressed in drug courts. The assumptions guiding this analysis are very simplistic, and more work is needed to improve this model. These figures should be used as a starting point, and need to be further developed before being used to develop policy.

## Findings

This report makes the following findings

1. **There is compelling evidence that Oregon Adult Drug Courts are effective.** Several local studies of drug courts have been completed. All of these studies have shown positive effects, but many have been too small to show statistical significance. Further research should be conducted on a statewide level, with a particular emphasis on juvenile and family drug courts, where research is less developed.

2. **Adult drug courts are more cost-effective than other interventions.** Three Oregon studies have demonstrated the cost-effectiveness of adult drug courts. The cost savings in the family and juvenile systems have the potential to be significant. More research on juvenile and family drug courts is needed.

3. **Oregon Drug Courts may be effective at substantially reducing methamphetamine and other drug demand.** Through greater treatment retention and better outcomes, drug court participants are removed from the market for illicit drugs, temporarily or permanently. The impact on the illicit drug market is similar to that caused by very large drug seizures by law enforcement agencies.

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[24] Rydell, C., Everingham, S. (1994). Controlling Cocaine: Supply Versus Demand Programs. RAND Drug Policy Research Center

[25] Judicial Department data shows that positive UA's average about 19.7% in the first three months and are reduced to 6.1% after six months. A single offender will frequently have multiple positive UA's.

[26] Based on an informal survey of Oregon meth users in treatment- August 2006.

[27] As reported by Rob Bovett, Oregon Narcotics Enforcement Association. Rob also pointed out that prices are increasing quickly due to the supply constraints created by limiting access to pseudoephedrine.

[28] Oregon HIDTA 2005 Report

## Senate Bill 919

### History of SB 919

In January of 2004, Governor Kulongoski asked the Oregon Criminal Justice Commission to oversee a comprehensive review of Oregon's public safety system. One of the individual task forces that comprised this review was the Adult Sentencing Task Force. The Governor charged the Adult Sentencing Task Force with the following:

> "take an in-depth look at the sentencing structure of Oregon so we can best gauge whether we are holding the right people accountable for their criminal activities, or if we are focusing on a particular criminal at the risk of allowing others to go on unchecked. It will be their responsibility to look at Oregon's sentencing laws, and parole and probation activities to determine if our system is in balance in holding criminals accountable and if we are doing all we should to prevent future crimes."

As part of carrying out this charge, the Adult Sentencing Task Force examined Oregon's sentencing guidelines. The task force pointed out that the guidelines are not organized around crime reduction or public safety, but rather arrive at a presumptive sentence based upon crime seriousness, the offender's criminal history, and available prison capacity. The current goal of the guidelines is "proportionate punishment." The task force recommended the Oregon Criminal Justice Commission:

> "…to conduct a study to determine whether it is possible to incorporate consideration of reducing criminal conduct and the crime rate into the commission's sentencing guidelines and, if it is possible, the means of doing so."

The Adult Sentencing Task Force forwarded this recommendation to the 2005 legislature as SB 919 (attached). The House Judiciary Committee received testimony on June 2, 2005. Judge Michael Marcus submitted written testimony in support of the measure, and excerpts are provided below:

> "In spite of constitutional and statutory law proclaiming that sentencing should largely be about crime reduction, in practice crime reduction is rarely discussed or argued in sentencing hearings (or in plea negotiations). . . This is a major disconnect between our proclamations and our actual sentencing behaviors. The proposed study would represent a modest step toward revising sentencing guidelines to encourage sentences that best reduce crime.
>
> The only sentencing guideline jurisdiction to attempt to bring crime reduction into its guidelines is Virginia. Virginia's legislature directed that its sentencing commission incorporate validated risk assessment procedures into its guidelines, initially to increase prison sentences for sex offenders most likely to reoffend; after three years, its commission recommended wider use of risk assessment.
>
> But risk assessment is but one possibility. The bill would have the Commission establish an advisory committee representing all interested groups to explore the possibility that sentencing guidelines might just encourage sentences responsibly aimed at crime reduction."

The legislature passed SB 919 and on July 7, 2005 the Governor signed it into law.

On December 9, 2005, the Criminal Justice Commission (CJC) held its planning session for 2006. The Commission made fulfilling the direction of SB 919 one of its main goals. On January 20th, 2006, Tom Lininger, Chair of the Criminal Justice Commission, appointed the following SB 919 advisory committee members to accomplish the study required in the measure:

Justice Wallace P. Carson, Jr., Oregon Supreme Court, Chair
Judge Richard Barron, Coos County Circuit Court
Mike Burton, Vice Provost, Portland State University
Steve Doell, President, Crime Victims United
Joanne Fuller, Director, Multnomah County Department of Community Justice
Judge Marco Hernandez, Washington County Circuit Court
Judge Michael Marcus, Multnomah County Circuit Court
Joshua Marquis, District Attorney, Clatsop County
Ginger Martin, Assistant Director, Department of Corrections
Peter Ozanne, Director, Office of Public Defense Services
Craig Prins, Criminal Justice Commission
Bridgette Sarabi, Western Prison Project

**Scope of the Study**

At the initial meeting, the advisory committee and the CJC discussed the goals and objectives outlined in SB 919. One of the most important decisions made at this meeting was the scope of the study. Because SB 919 asks the commission and the advisory committee to look specifically at *the commission's sentencing guidelines* the committee decided that misdemeanors and measure 11 sentencing, both governed outside the guidelines, would not be part of the study.

The advisory committee decided the focus must be on reducing future criminal conduct of the individual offender being sentenced. Providing judges and the parties a tool to determine the relative risk each offender posed to commit crimes in the future, and then making sure the guidelines allow judges to take account of that risk to public safety in crafting the sentence became the discrete focus of the study. The feasibility of using an empirically derived risk assessment tool to identify those offenders most likely to commit crimes in the future became the first objective of the advisory committee.

On February 24, 2006 the SB 919 advisory committee met to discuss risk assessment tools, and to hold a telephone conference with Rick Kern, Director of the Virginia Sentencing Commission. Dr. Kern discussed the use of risk assessment at sentencing in Virginia, and Ginger Martin discussed risk assessment tools used by corrections officers in Oregon. Paul Bellatty of Oregon's Department of Corrections (DOC) discussed the risk assessment tool he developed to identify those offenders incarcerated in Oregon most likely to re-offend. Dr. Bellatty's tool, known as ACRS, is used by DOC to identify which offenders are most likely to be convicted of a felony within three years of release.

Using data from past offenders to identify what characteristics are most predictive of who will commit new offenses is not new to Oregon's criminal justice system. Risk assessments are currently used in deciding which offenders are the best candidates to be "matrixed" out of jail when there is overcrowding, and risk assessments are used by probation officers to determine the best way to supervise offenders. Department of Corrections uses data from previously released offenders to decide which offenders should be offered scarce programming services to reduce recidivism and in what "dosage."

On March 31, 2006, the SB 919 advisory committee split into two subcommittees. One subcommittee focused on working with Dr. Bellatty to build a risk assessment tool for Oregon that could be used at sentencing. This tool would be a bridge between the Virginia Sentencing Commission's risk assessment, and DOC's ACRS risk assessment. The task of this subcommittee was determining what offender characteristics, available at the time of sentencing, are correlated with future crime. The other subcommittee would evaluate how the current

guidelines could be amended, if necessary, to allow judges to use the risk assessment tool in crafting a sentence.

As directed by SB 919, the advisory committee reported to the interim judiciary committees in June, 2006. Justice Carson, Judge Barron, and Craig Prins presented the work of the advisory committee. The advisory committee reported on the progress of the two subcommittees in developing the risk assessment model, and forwarded a plan for how to amend the guidelines to allow the risk assessment score to influence the sentence. Copies of the types of variables that were being considered for the risk assessment model were forwarded to the committee, as well as how the sentencing guidelines grid might be amended to allow for a risk assessment to be used.

In October, the advisory committee met with Dr. Bellatty to look at the first iteration of the risk assessment. Dr. Bellatty presented his methodology: How he collected data from OYA and DOC, and used LEDS arrest data to find which offenders were being re-arrested after sentencing. The advisory committee directed Dr. Bellatty to expand the juvenile data he included in his model, and also to analyze the likelihood that an offender will be re-arrested for a person crime, to predict which offenders are most likely to injure others.

Dr. Bellatty's analysis will be completed in January of 2006. Once it is complete the advisory committee will be able to answer the following questions:

1) Is a sentencing risk assessment tool feasible?
2) What type of demographic factors should not be part of the model?
3) How accurate is it?
4) Could it be focused on those most likely to commit person crimes?
5) How would the guidelines need to be changed to allow its use?

The largest question is one that the advisory committee will need to debate within itself, with the CJC, and then with the legislature. If an accurate risk assessment tool is available, do we want to shift the focus of the sentencing hearing from punishment for one's actions to reducing future crime?

## Criminal Justice Commission Local Public Safety Coordinating Council (LPSCC) Subcommittee

As a part of its policy development and planning function, Oregon statute directs the Oregon Criminal Justice Commission in ORS 137.656, to:

> (3) (c) provide technical assistance and support to local public safety coordinating councils.

To accomplish this task, the Chair of the Criminal Justice Commission appointed a Local Public Safety Coordinating Council (LPSCC) subcommittee. This subcommittee met throughout the state during 2006. Anna Peterson (Marion County) and Eva Temple (Umatilla County), both members of the Criminal Justice Commission, chaired this subcommittee. Members of the LPSCC subcommittee represent 9 LPSCCs (Benton, Curry, Jackson, Lane, Lincoln, Marion, Multnomah, Umatilla, and Washington). Meetings were held in conjunction with the meetings of local LPSCCs in Deschutes, Douglas, Lincoln, and Umatilla counties with one additional meeting in Salem. In October 2006, Ms. Peterson stepped down as co-chair of the subcommittee and Larry Jones of the Jackson County LPSCC was appointed to replace her.

The CJC coordinated state-wide LPSCC conferences in 2005 and 2006. In October of 2005 the state-wide conference was hosted by the Deschutes County LPSCC. In October of 2006 the CJC coordinated a state-wide LPSCC conference that was hosted by the Lane County LPSCC. Representatives of 21 LPSCCs attended the 2005 conference, and 14 LPSCCs attended the 2006 Conference. Stakeholders from state public safety agencies attended both meetings.

The need for state-wide conferences became apparent as CJC staff traveled the state visiting LPSCCs to discuss the upcoming drug court grants. Staffs were informed that each LPSCC felt isolated and wanted to know how other LPSCCs were dealing with problems they all faced. The conferences were held to foster communication and to give the CJC a window into policy issues that were developing at a local level that might not yet be apparent at the state level.

The goal of the 2005 conference was for the LPSCCs to connect and for the CJC to review the drug court grant program and the work of the meth task force. The 2006 conference agenda was created to address two major concerns:

1) the impact of the lack of mental health and A&D treatment on the local jail and justice system and the impact of incarceration on families and its cost to the system; and
2) evaluation of the status of local public safety using the Lane County LPSCC Public Safety Report Card.

To support increased communication between counties, the CJC hosts a LPSCC link on its website. This allows posting of public safety plans from several counties, Methamphetamine plans and Public Safety report cards as well as notes from subcommittee meetings and policy documents which were distributed at both CJC State-wide LPSCC Conferences.

Looking to the future, several LPSCCs have asked the Criminal Justice Commission (CJC) to work with Lane County to create a Public Safety Report Card template that could be used by other LPSCCs. The CJC LPSCC subcommittee is in the process of working with Lane County to coordinate a training for other LPSCCs to help them create their own Report Cards. The committee is already working on the planning for the 2007 conference.

## Governor's State-Issued ID Task Force

Background

In October of 2005, Governor Kulongoski created the State-Issued ID Task Force to determine what can be done to reduce the incidence of identity theft and identity fraud involving fraudulent Oregon ID cards and drivers licenses. The task force realized implementing recent state and federal legislation in this issue area would require a review of current practices.

The Task Force, representing all Oregon law enforcement agencies and the Oregon DMV, met to discuss current issuance procedures, necessary changes to implement the federal Real ID Act, and ways that law enforcement can cooperate with DMV on criminal investigations. The group focused on whether adequate safeguards are in place to curtail the growing use of Oregon Driver Licenses and ID cards to commit identity theft and identity fraud. Identity theft and credit card fraud are major problems within Oregon and elsewhere in the United States.

The members of the Task Force were:

Gerry Gregg, Oregon State Police, Chair
Jason Bledsoe, Oregon State Police
Brad Berry, Yamhill County District Attorney, ODAA Representative
Raul Ramirez, Sheriff, Marion County, OSSA Representative
Larry Kanzler, Chief, Milwaukie Police Dept., OACP Representative
Lorna Youngs, DMV Administrator
Michael Ward, DMV Field Services Manager
Thomas McClellan, DMV Program Services Manager
Robin Freeman, ODOT Legislative Liaison

The Task Force met from October 2005 through July 2006 to discuss the issues outlined below, DMV's current efforts to resolve the identified problems, DMV's efforts to implement the Real ID Act and to propose solutions to ongoing problems regarding state-issued identification and fraud.

History of Issues addressed by Task Force

Most other states require submission of three types of documents that must be approved before a drivers license is issued:

1) Resident Address;
2) Identity; and
3) Legal Status (or "legal presence").

However, Oregon law does not require proof of "legal presence" as part of the eligibility process. This causes Oregon's list of acceptable documents to be more expansive than other states because documentation isn't limited to papers available only to U.S. citizens and legal residents. Consequently, some documents that are more easily counterfeited (or more easily obtained fraudulently) are accepted in Oregon. This increases the risk that DMV will issue official identification based on fraudulent documents.

As the task force met, state prosecutors were seeking criminal convictions against three Hillsboro brothers accused of helping thousands of non-residents to fraudulently obtain Oregon Driver Licenses. In 2003, the brothers owned and operated a company that purported to provide 3rd-party testers/examiners for applicants seeking a Class C drivers license. Eight people had already pled guilty to charges surrounding fraudulent identifications issued by this company. An estimated 20,000 fraudulent documents were issued based on the scheme.

None of the brothers were convicted of the charges, and the case served as a backdrop for discussions about the ease with which non-residents can fraudulently obtain licenses. In this

case, several employees and associates admitted to making and selling postmarked envelopes to out-of-state customers who inserted their own names above the Oregon addresses. These envelopes were used as proof of residency in subsequent applications for Oregon DMV documents. The process abused in the case was discussed extensively during the initial meetings:

1. The ease with which applicants could present fraudulent residency documents to both the 3rd Party testers and DMV field offices and then be issued an Oregon Driver's License or ID.

2. The possibility of DMV employees assisting applicants by accepting fraudulent documents to get Oregon Driver's Licenses.

3. The problem of document "shopping" where an applicant who is refused an Oregon Driver's License at one field office because of concerns about the validity of documents merely goes and applies at another field office without a 'red flag' on the file.

4. The issues poised by the large number of possibly fraudulent Oregon Driver's Licenses in circulation, even though DMV may have been provided false evidence of residency.

DMV outlined the efforts it was taking to minimize the incidents of fraudulent ID, including:

1. Ending the "3rd Party Tester Program" in October, 2003.

2. Eliminating cancelled personal mail as evidence of Oregon residence address.

3. Expanding the background check program for people hired by DMV.

4. Creating a "Field Emergency Warning System" (FEWS) to deter ID applicants from 'shopping' their fraudulent documents between field offices.

5. Sending letters to approximately 11,000 people who received test completion certificates in 2003 to the company to obtain an Oregon Driver's License. DMV will require proof of present residency within 30 days or driving privileges will be cancelled.

6. Implementing procedural changes outlined in an audit conducted subsequent to discovery of the scheme.

7. Providing tools such as black lights, magnifying glasses, and Docutector to all field employees in 2004.

8. Providing fraudulent document recognition training to all field office employees in 2004 and 2006.

9. Establishing a Fraud Prevention Unit.

10. Strengthening policies and procedures for reporting suspected DMV-related fraud committed by employees and customers.

11. Partnering with the Marion County Sheriff's Office to create a procedure on the handling of confiscated DL/ID cards. This procedure was shared with law enforcement throughout the state.

Task Force Recommendations

1. The Governor should support the full implementation of SB 640, which creates 'biometric' standards for Oregon state-issued Identification. The Governor should also support Oregon's adoption of the Federal "Real ID Act", which changes the minimum document requirements and issuance standards for federal recognition of state-issued I.D. (See appendix D). The Governor should also provide support for DMV's 2007 – 2009 budget, which includes funding and staffing necessary to administer both measures.

2. In addition to the biometric requirements created in SB 640, other "best practices" to eliminate fraud should be explored, including fingerprinting during the application process.

3. Create legislation to allow DMV employees to hold suspected fraudulent documents for possible action by law enforcement agencies. This was introduced by DMV in the 2005 Legislative session as HB 2108 (Appendix "E") which failed to advance.

4. The ODAA, OSSA and OACP will join with DMV to help create a public education campaign to explain the need and benefits of the Real ID Act and SB 640 and to help explain the process to the public.

5. Law enforcement and DMV will establish a 'bridge' between local law enforcement and DMV offices to increase cooperation between these agencies and to explain the changing requirements that the Real ID Act and SB 640 will make in the licensing process. OSP will take the lead in facilitating this process.

6. Representatives of DMV and state level representatives of law enforcement (OSSA, OACP, ODAA, and OSP) should continue to meet on a regular basis to discuss and resolve statewide policy issues. The Governor's State-Issued ID Task Force should be dissolved.

## Implement Single ID for all arrestees

The Oregon Judicial Department (OJD), with the support of the Chief Justice, the Oregon District Attorney's Association (ODAA), the Oregon State Sheriffs Association (OSSA) and the Oregon Association of Chiefs of Police (OACP) have all agreed that in order to better track offender outcomes, criminal histories and Criminal Justice System Intervention Outcomes Oregon needs to implement as system-wide single identification (SID) number for all offenders. In order to do this the proposal is to utilize the State Identification Number (SID) as unique identifier to track offenders through the entire Criminal Justice System.

Currently all people who are fingerprinted following arrest receive a SID number from the Oregon State Police ID Bureau but OJD has not used this number to track cases through their system, using their docket number instead. Further not all arrestees receive a SID number because they are cite released in the field which means that many times they do not get a SID number until after their court date. Others do not get a SID prior to arraignment because of a delay in the ID Bureau's ability to process fingerprints and assign a SID. The initial goal is to provide a SID prior to arraignment.

Concept:
In order to implement a system-wide SID the proposal is to have <u>all</u> arrestees booked (including fingerprinting) at the earliest possible moment. The workgroup has agreed that this would optimally be at the time of arrest and would necessitate field booking for all arrests, including cite releases.

Rationale:
The Oregon Judicial Department (OJD) has agreed to switch from a case-based management system (by docket number) to a 'person-based' system based on the SID. To do this, all offenders would need a SID before the case can be heard in court. SIDs are only generated when a person is fingerprinted. This is an additional problem when cite released cases are brought before the judge, the person would need to be sent out of the courtroom for booking and fingerprinting which could lead to their failing to return to the court.

Actions needed:
This would be a phased implementation beginning with all felonies including a later deadline for misdemeanors. Legislation would be necessary to change the cite release statute to mandate booking before a cite release and to change the use of a letter in lieu of a court appearance for misdemeanants unless they had already been booked. To do this funding would need to be made available to local law enforcement for both the purchase of field booking equipment and training for line staff. Increased funding would also be necessary for the additional personnel in OSPs ID Bureau because of the increase in the number of fingerprints which would need to be processed.

Current Status:
The OACP and the OSSA have surveyed their members and while the vast majority of those surveyed believe that the concept is a good one and would be very helpful they are concerned about four major obstacles:

1) the technical challenges that field fingerprinting faces.
2) the problems OSP has processing the current volume of fingerprints as fingerprinting all arrestees would entail an increase in the number of fingerprints generated which would need to be processed.
3) the problem of staff time for local agencies, especially the smaller ones
4) the lack of funding to purchase the technology needed to allow field fingerprinting

Meetings are continuing with OJD, ODAA, OACP, OSSA and CJC to address these issues with the goal of at least starting the process of moving to a single SID and implementing the issuance of the SID as soon as is practical in the process.

## Appendix A - Technical Appendix to Incarceration, Costs and Crime Report

**Estimation of the effect of incarceration on crime**

The effect of incarceration on crime is estimated using statistical techniques suggested by William Spelman and used by Steve Aos.[29] Panel data for Oregon's 36 counties were gathered from 1997 to 2004.[30] Two regressions were estimated, with the violent crime rate and property crime rate as the dependent variables (equation 1).

(1) $\log C_{cto} = \beta_o \log IR_{ct} + \theta X_{ct} + \alpha_c D_c$

where,

$C_{cto}$ is the crime rate for county *c* in time period *t* for offender type *o*.

$IR_{ct}$ is the incarceration rate for county *c* in time period *t.*

$\mathbf{X}_{ct}$ is a vector of explanatory variables for county *c* in time period *t.*

$D_c$ is a county dummy variable for the fixed effects model.

The independent variable of interest is the incarceration rate. The incarceration rate is calculated by dividing the number incarcerated at the Department of Corrections (DOC) per 1,000 population in each of Oregon's 36 counties. The crime rates used were the seven Part I crimes for each county from the Federal Bureau of Investigation Uniform Crime Reporting program.[31] Other explanatory variables known to effect crime such as the unemployment rate, real retail wage, welfare payments, population density, the number of sworn police officers per 1,000 population and demographic characteristics were included to isolate the effect of incarceration on crime. Following previous research, a log-log functional form with county fixed effects was used. This provides a constant elasticity and assumes diminishing marginal returns. With this functional form the regression coefficient can be interpreted as an elasticity. For example, a $\beta$ of -0.3 would mean that a 10 percent increase in the incarceration rate is predicted to have a 3 percent decrease in the crime rate.

Once the elasticity is estimated, the number of crimes avoided by incarcerating an additional offender can be estimated using equation 2.

(2) $AC_{ot} = -\dfrac{Adj * E_o * (CRIME_{ot} / ADP_t)}{RR_{ot}}$

where,

$AC_{ot}$ is the avoided offense *o* in time period *t*.

*Adj* is an adjustment to account for simultaneity.[32]

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[29] W. Spelman, "What Recent Studies Do (and Don't) Tell Us about Imprisonment and Crime," in *Crime and Justice: A Review of Research*, Volume 27, ed. Michael Tonry (Chicago: University of Chicago Press, 2002) and S. Aos, *The Criminal Justice System in Washington State: Incarceration Rates, Taxpayer Costs, Crime Rates, and Prison Economics.* Olympia: Washington State Institute of Public Policy.

[30] Accurate county level incarceration data was not available prior to 1997.

[31] The Part I crimes include murder, rape, robbery, aggravated assault, burglary, larceny (theft), and auto theft.

[32] Equation 1 estimates the effect of the incarceration rate on the crime rate. However, as crime increases legislators may increase incarceration in response. This will downwardly bias the estimated effect of incarceration on crime. This problem of simultaneity cannot be easily corrected. This analysis follows the assumptions made by the Washington State Institute of Public Policy and assumes the adjustment factor is 1.25.

$E_o$ is the elasticity for offense *o*.

$CRIME_{ot}$ is the reported offenses *o* in time period *t*.

$ADP_t$ is the average daily population in state prisons in time period *t*.[33]

$RR_{ot}$ is the national report rate for offense *o* in time period *t*.[34]

Using equation 2 and the estimated elasticity for violent and property crimes, an estimate can be calculated for the number of avoided crimes by incarcerating an additional offender in the state prisons.

**Costs of crime**

The first step in estimating the benefit of avoiding a crime is to estimate the cost of crime. The costs of the crime avoided become the benefit. Any program that reduces crime provides benefits to taxpayers, victims and society. Below the methods used to calculate the costs of a crime or the benefits of reducing crime are described.

There are a number of tax payer costs that are incurred when a crime takes place. They include the cost of an arrest, conviction, incarceration, probation and post-prison supervision. Conceptually these costs are easy to understand, however not all of these are easy to estimate. Taxpayer costs are listed in Table 1.

**Taxpayer and Victimization Costs of Crime in 2005 Inflation Adjusted Dollars**

| | Taxpayer Costs | | | | | | |
|---|---|---|---|---|---|---|---|
| **Annual Cost** | Homicide | Rape | Robbery | Aggravated Assault | Burglary | Larceny | Auto Theft |
| Arrest | $36,298 | $8,694 | $8,694 | $8,694 | $6,377 | $1,036 | $5,400 |
| Conviction | $22,924 | $22,924 | $22,924 | $22,924 | $8,837 | $1,574 | $7,508 |
| Probation | $2,741 | $2,741 | $2,741 | $2,741 | $2,741 | $2,741 | $2,741 |
| Post-Prison Supervision | $4,146 | $4,146 | $4,146 | $4,146 | $4,146 | $4,146 | $4,146 |
| Dept. of Corrections | $28,295 | $28,295 | $28,295 | $28,295 | $28,295 | $28,295 | $28,295 |
| Jail | $37,632 | $37,632 | $37,632 | $37,632 | $37,632 | $37,632 | $37,632 |
| | Victimization Costs | | | | | | |
| Out of Pocket | $1,392,104 | $6,893 | $3,109 | $2,095 | $1,487 | $500 | $4,730 |
| Quality of Life | $2,581,474 | $110,017 | $7,704 | $10,542 | $405 | $0 | $405 |

Table 1

**Cost of an arrest**

The cost of an arrest is estimated by the Washington State Institute of Public Policy (WSIPP) for the state of Washington. They estimate this using a regression model for the operating costs of sheriffs' offices and local police departments in Washington counties from 1994 to 2003. For explanatory workload measures they use data on arrests for murder, violent felonies (rape, aggravated assault and robbery), non-violent felonies and misdemeanors. The arrest data do not include traffic operation so data on the number of traffic filings was also included.[35]

Using similar techniques an estimate for the cost of an arrest was also made using Oregon data. Data are available from the 2002 Census of Governments that can be used to estimate the cost of an arrest in Oregon. The number of arrests is easily available. However, it is difficult to gather good data on the number of traffic infractions in Oregon by local jurisdiction. This is necessary to

[33] This includes felons serving less than 12 months in a county jail.
[34] The report rate is taken from the Bureau of Justice Statistics, *Criminal Victimization in the United States.*
[35] For further detail on the cost of an arrest methodology see S. Aos, P. Phipps, R. Barnoski, R. Leib, *The Comparative Costs and Benefits of Programs to Reduce Crime Version 4.0,* (Olympia: Washington State Institute of Public Policy, 2001).

control for police time that is spent on traffic violations and not on arrests. It is also difficult to get data on the operating costs of the sheriffs' office and local police departments. Because of these limitations the estimate for the cost of an arrest for Oregon was not reliable.[36]

Oregon and Washington are similar in their crime rates and their number of police officers per 1,000 population. Washington has the second lowest number of police officers per 1,000 population of any state, only Oregon has fewer. Both states have very similar violent crime rates, both well below the national average. In 2005, Washington had the highest property crime rate in the nation. Oregon was fourth highest. Because of these similarities and the lack of good data for Oregon the cost of an arrest in Washington was used in the cost-benefit calculations for Oregon.[37]

**Cost of a conviction**

The cost of a conviction is estimated using the same model as the Washington State Institute of Public Policy. Expenditure data for court operating costs was obtained from the Oregon Judicial Department (OJD). A pooled cross-sectional regression analysis is performed for the 2001 to 2003 and 2003 to 2005 biennia. The dependent variable is the court costs for each county. Explanatory variables include violent felony convictions, non-violent felony convictions, misdemeanors filed, and all other non-criminal filings. These explanatory variables seem to capture the work performed by the courts. Felony convictions are calculated by adding felony convictions from DOC and the Oregon Youth Authority. Data for the number of court cases filed come from OJD. The model was estimated using a log-log form and the regression coefficients can be interpreted as elasticities.

Complete data on county district attorney costs were not available. An estimate of the total district attorney budget was made using data from 18 of the 36 counties. It is estimated that the county's district attorney's budget is about 25 percent of the total court operating expenditures. Adding this amount to state spending on courts provides an estimate for the cost of a conviction. [38]

**Cost of incarceration**

The cost used for incarceration is calculated from budget data obtained from DOC staff. The DOC budget for direct care costs and debt service for the 2005 to 2007 biennium was divided by the average daily population to compute an average cost per day. This cost per day is higher than the amount normally given by DOC because it includes the debt service. The cost of probation and post-prison supervision was also obtained from staff at DOC and is an average cost per day for the 2007 to 2009 biennium.

**Cost of local jail**

The cost of jail was obtained from the *OSSA Survey of SB 1145 Costs for FY 2005*. All 33 jails in Oregon received a survey asking for the total costs and the average daily population. Out of the 33 jails, 27 responded. Of the 27 jails that responded their total expenditures were added up and then divided by their average daily population to calculate an average cost.

**Victimization costs**

Taxpayer costs are not the only costs incurred from crime. Victimization costs are also a substantial cost and in some cases are much larger than taxpayer costs. Victimization costs

[36] The cost-benefit calculation was nearly the same using the cost of an arrest estimate with Oregon data and using the estimate from the Washington State Institute of Public Policy.

[37] The cost of an arrest for larceny and motor vehicle theft is a combination of the cost for a non-violent felony arrest and a misdemeanor, as some larcenies and motor vehicle thefts are felonies and some are misdemeanors.

[38] The cost of a conviction for larceny and motor vehicle theft is a combination of the cost for a non-violent felony conviction and a misdemeanor, as some larcenies and motor vehicle thefts are felonies and some are misdemeanors.

include lost property, lost productivity, mental health, social services, medical care and quality of life. A prominent national study has conducted thorough research to estimate these costs.[39]

This study breaks victimization costs into two parts, monetary and quality of life. Monetary costs include medical, mental health care, lost property expenses, and reduction in future earnings of crime victims. Quality of life costs place a dollar value on pain and suffering of crime victims using jury awards for pain and suffering and lost quality of life. An estimate of these costs is included in Table 1.

**Use of resources**

Now that tax payer costs and victimization costs have been estimated, the units used with each crime avoided needs to be calculated. For example, if a robbery takes place there is clearly a victim. The robbery will only involve the cost to the victim if the crime is not reported or if no arrest is made. The crime will involve taxpayer costs once an arrest is made. If an arrest is made but there is no conviction, only the taxpayer costs for an arrest are incurred. Table 2 estimates the probability of an arrest and conviction for each crime category.[40] This information can then be used to calculate for each avoided crime how much of each resource is used. For example if incarcerating an additional offender avoids one property crime, the benefit would be the victimization costs, plus 0.07 multiplied by the cost of an arrest, plus 0.04 multiplied by the cost of a conviction, plus 0.04 multiplied by the discounted cost of incarceration and post-prison supervision or the cost of probation, depending on the sentence. It is important to know the probability of each resource being used in order to calculate the cost to the system.

**Estimated Probability of Arrest and Conviction**

| | 2004 Offenses | 2004 Arrests | % of Reported Crime | Estimated Crime | Prob of Arrest | Estimated Convictions | Prob of Conviction |
|---|---|---|---|---|---|---|---|
| Homicide | 99 | 132 | 100% | 99 | 133% | 94 | 94% |
| Rape/Other Sex | 7,611 | 1,974 | 36% | 21,260 | 9% | 1,471 | 7% |
| Robbery | 2,802 | 1,433 | 61% | 4,586 | 31% | 633 | 14% |
| Aggravated Assault | 6,665 | 3,372 | 64% | 10,382 | 32% | 2,468 | 24% |
| Property Subtotal | 169,470 | 32,867 | 38% | 451,249 | 7% | 18,825 | 4% |
| Burglary | 30,501 | 3,977 | 53% | 57,549 | 7% | n/a | n/a |
| Larceny | 119,903 | 25,614 | 32% | 371,217 | 7% | n/a | n/a |
| Auto Theft | 19,066 | 3,276 | 85% | 22,483 | 15% | n/a | n/a |

Table 2[41]

It is also necessary to know what happens once an offender has been convicted. Table 3 shows what percent of felony offenders go to prison, local jails or probation and how long they are at each. Using the data in Tables 1 to 3 total cost avoidance for each additional incarcerated offender can be calculated.

[39] T. Miller, M. Cohen, and B. Wiersema, *Victim Costs and Consequences: A New Look,* Research Report, Washington DC: National Institute of Justice, 1996.
[40] The probability of a conviction is calculated using a mix of Oregon data and Washington data.
[41] The probability of an arrest for murder is greater than one because many murders are committed by conspiring offenders with a single victim.

| Felony Sentences in 2005 | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Sentence Type | | | Prison | | | Local Control | | | Probation |
| Crime | Prison | Local Control | Probation | Sentence Length (months) | Post-Pris. Supervision | Time Served Credit | Sentence Length (months) | Post-Pris. Supervision | Time Served Credit | Sentence Length (months) |
| Homicide | 99% | 0% | 1% | 181.0 | 26.1 | 12.2 | n/a | n/a | n/a | 14.3 |
| Rape | 50% | 3% | 46% | 81.4 | 23.6 | 3.6 | 5.1 | 23.6 | 1.0 | 22.4 |
| Robbery | 50% | 3% | 46% | 54.7 | 21.8 | 3.8 | 4.5 | 21.8 | 1.4 | 18.7 |
| Assault | 27% | 2% | 71% | 43.8 | 23.1 | 3.0 | 4.6 | 23.1 | 1.4 | 25.4 |
| Property | 15% | 3% | 82% | 19.8 | 17.2 | 1.5 | 4.0 | 17.2 | 1.1 | 19.3 |
| Drugs | 4% | 5% | 91% | 20.9 | 23.8 | 1.6 | 3.1 | 23.8 | 1.0 | 18.9 |

Table 3

**Benefit calculation**

To calculate the benefit of avoided crime the distribution of crimes must first be calculated. Table 4 shows the distribution of uniform crime reporting Type I crimes. Using the elasticites calculated in the regression analysis and the distribution of crime, each type of avoided crime can be estimated.

| Crime Distribution from the Uniform Crime Reporting | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | Violent Crime | | | | | Property Crime | | | |
| | Homicide | Rape | Robbery | Aggravated Assault | Violent Total | Burglary | Larceny | Auto Theft | Property Total |
| 1994 | 0.5% | 13.0% | 23.9% | 62.7% | 100.0% | 12.2% | 82.7% | 5.1% | 100.0% |
| 1995 | 0.4% | 12.9% | 25.1% | 61.6% | 100.0% | 11.4% | 83.7% | 4.9% | 100.0% |
| 1996 | 0.4% | 14.3% | 25.3% | 60.0% | 100.0% | 11.7% | 84.1% | 4.2% | 100.0% |
| 1997 | 0.4% | 15.7% | 25.4% | 58.5% | 100.0% | 11.2% | 84.5% | 4.3% | 100.0% |
| 1998 | 0.5% | 16.3% | 22.3% | 61.0% | 100.0% | 12.1% | 83.6% | 4.4% | 100.0% |
| 1999 | 0.4% | 17.9% | 19.7% | 62.1% | 100.0% | 11.1% | 85.5% | 3.4% | 100.0% |
| 2000 | 0.3% | 12.4% | 23.9% | 63.4% | 100.0% | 11.0% | 85.1% | 3.9% | 100.0% |
| 2001 | 0.5% | 16.3% | 23.9% | 59.3% | 100.0% | 10.3% | 85.8% | 3.9% | 100.0% |
| 2002 | 0.5% | 13.5% | 21.7% | 64.3% | 100.0% | 10.3% | 85.0% | 4.6% | 100.0% |
| 2003 | 0.4% | 17.3% | 24.7% | 57.6% | 100.0% | 11.4% | 83.2% | 5.4% | 100.0% |
| 2004 | 0.5% | 19.9% | 24.4% | 55.2% | 100.0% | 12.8% | 82.3% | 5.0% | 100.0% |
| 2005 | 0.4% | 20.1% | 22.5% | 57.0% | 100.0% | 11.9% | 82.7% | 5.3% | 100.0% |

Table 4

The final step in calculating the benefit of an avoided crime is to calculate the present value of benefits. The costs of crime, or the benefit of avoiding crime, are not all measured in the same time period. When a crime is committed the victimization costs happen immediately. However, if the offender is ultimately convicted and serves a prison sentence, the costs of incarceration and post-prison supervision occur in future years. The benefit can be calculated using equation 3.

$$(3)\quad PVBen_{ro} = \sum_{t=1}^{N_{ro}} \frac{Ben_{ro}}{(1+Dis)^{t-1}}$$

where,

$PVBen_{ro}$ is the present value benefit or avoided cost for resource *r* for offender type *o* for time periods 1 to the number of periods for resource *r* and offense *o*.

$Ben_{ro}$ is the benefit or avoided cost for resource *r* for offense *o* measured in 2005 inflation adjusted dollars.[42]
*Dis* is the discount rate. It is used to discount future benefits into the current time period. For this analysis it is assumed to be 0.03.

Putting all of the above steps together provides an estimate for the benefits of incarceration. Combining this with the cost of incarceration yields a cost-benefit estimate. This estimates the return of investing one dollar in incarceration in terms of benefits of avoiding victimization and taxpayer costs.

**Costs of incarceration**
The cost of incarceration is much easier to estimate than the benefit of avoiding a crime. However, there are still assumptions that need to be made. The estimate used for this analysis uses average costs from DOC. In the 2005 to 2007 biennium DOC estimated the average cost per day to be $67.53. This cost does not include administration costs, debt service, community corrections and some other small costs. For this analysis DOC's standard cost per day plus the average debt service cost per day gives an average cost per day of $79.58.

Another cost of incarceration, which is much more difficult to measure, is collateral costs. These costs include increased welfare payments to the inmate's family, reduced output for inmates who were employed, reduced future earning, foster care and other collateral costs. Following the WSIPP model, collateral costs are assumed to be the same as incarceration costs. This is a very rough estimate and is based on WSIPP analyst judgment. Previous studies have listed the collateral costs, but have not made a rigorous attempt to estimate them. It is uncertain if this is the correct amount for collateral cost, but leaving it out would underestimate the true costs of incarceration.

[42] All costs are converted to 2005 dollars using the consumer price index.

**Appendix B**

**Number of Convictions in Each Grid Block, 2005**

| | A | B | C | D | E | F | G | H | I | Total |
|---|---|---|---|---|---|---|---|---|---|---|
| 11 | 1 | 2 | 2 | 1 | 1 | 2 | 2 | 6 | 4 | 21 |
| 10 | 15 | 18 | 9 | 22 | 7 | 11 | 12 | 17 | 64 | 175 |
| 9 | 29 | 26 | 61 | 40 | 37 | 23 | 45 | 75 | 190 | 526 |
| 8 | 51 | 47 | 43 | 52 | 51 | 78 | 112 | 169 | 478 | 1081 |
| 7 | 30 | 41 | 57 | 64 | 46 | 54 | 88 | 118 | 287 | 785 |
| 6 | 99 | 128 | 154 | 153 | 74 | 158 | 230 | 281 | 673 | 1950 |
| 5 | 14 | 13 | 11 | 11 | 25 | 24 | 33 | 42 | 130 | 303 |
| 4 | 12 | 31 | 62 | 32 | 54 | 62 | 102 | 119 | 308 | 782 |
| 3 | 4 | 21 | 28 | 18 | 42 | 60 | 82 | 100 | 217 | 572 |
| 2 | 23 | 53 | 125 | 54 | 162 | 184 | 252 | 290 | 633 | 1776 |
| 1 | 33 | 85 | 166 | 83 | 255 | 338 | 557 | 545 | 1386 | 3448 |
| Total | 311 | 465 | 718 | 530 | 754 | 994 | 1515 | 1762 | 4370 | 11419 |

Note: There were 13218 felony convictions but not all of them contained the grid block.

Appendix C

the Portland MERCURY
We Know Where the Action Is!
Dec 7 - Dec 13, 2006

# Hired Gun

**Private Attorney Sues and Shuts Down Meth Houses**

BY MATT DAVIS

**In July, St. Johns** attorney Greg Abbott sat down at the Starbucks on N Lombard with Neighborhood District Attorney Jim Hayden and North Precinct Officer Barry Hosier, to talk about an ongoing problem the neighborhood had been having with a meth house nearby.

They were looking to Abbott to help them shut the place down, and five months later, he did just that—by suing the owners of the house. Now he's on the lookout for more meth house owners to sue.

"Drug houses are a plague," he says. "I will close down every drug house I can, anywhere in Oregon—and I am willing to take risks to do it."

The house in question, a 1920s two-bedroom bungalow at 8625 N Hurst, near N Chautauqua in the Portsmouth neighborhood, has been the subject of much police attention over the last three years. The cops' official log of cases associated with the address stretches up to two pages, listing multiple counts of possible amphetamine use, identity theft, and disorderly conduct.

"People were coming and going at all hours, parking in our driveway and looking suspicious," says neighbor Erin Germann.

"They were up all hours of the day and night, playing loud music or working on cars at 4 am," another neighbor told the *Mercury*, on condition of anonymity. "I was afraid to go there and complain because I didn't know if they'd fly off the handle."
Cops raided the house on March 15, finding counterfeit money, checks, drugs, and a stolen vehicle—enough for them to declare the property a "chronic nuisance" under the city's code and charter. Then, during a second raid on April 26, they found more drugs and arrested three people for possession and distribution of controlled substances.

Portland has no shortage of suspected meth houses like the one on N Hurst, and while the city attorney's office is technically able to close them down, it's a time-consuming, costly process for the over-stretched office. The process is seldom used:

The city's last successful closure of a house, in NE Portland, was two years ago and followed years of ongoing problems.

Abbott began talking to North Portland's Crime Prevention Coordinator Havilah Ferschweiler and some of the neighbors about filing a civil suit against the owner of the house, Nicolette Predko. Neighbors were too scared of possible retribution to put their name on the suit, Abbott says, so he

sued Predko personally, under Oregon Statute 105.550. That law states that anyone living in the same county as a meth house can sue its owners to stop the activity.

It is easier for Abbott, as a private citizen, to close meth houses than it is for the city, which has a great burden of proof. Abbott only needs to prove the nuisance status on "a preponderance of the evidence," while the city is held to a higher "beyond all reasonable doubt," standard. The city attorney's office was unavailable for comment.

On September 6, a circuit court judge ordered the N Hurst house closed and banned Predko from the property. Predko—who has been unavailable for comment, and is reportedly living out of a bus—was subsequently unable to keep up mortgage payments on it and the house was sold on November 9. The new owners are reportedly planning to flip the house.

Meanwhile, Multnomah County Neighborhood District Attorney Hayden is happy Abbott stepped in.

"I don't want to be critical of the city attorney's office," Hayden says. "But we need them to be a partner with us in the community to solve these problems. For some reason it is difficult to obtain closure through the city, but these private lawsuits help us immensely."

Abbott says he has now been getting calls from other crime prevention coordinators wanting his help with problem houses.

"News of this is spreading fast through the community and it's a tool I can mention," acknowledges Crime Prevention Coordinator Ferschweiler. That said, she doesn't "feel comfortable telling people to sue their neighbors."

"So excitement for this needs to be tempered with the fact that people can be upset with a drug house, but really—are they upset enough to put their names down in a lawsuit? I don't think Greg wants to go around suing everybody himself."

## Appendix D

# FY 2006-2007 Drug Court Implementation and Enhancement Grant Program
# DRUG COURT PERFORMANCE MEASURES

**The following performance measures were approved by the Chief Justice Advisory Committee on Treatment Courts on November 17, 2005.**

*Objective*: Reduce Crime
*Measure*: Recidivism
Percentage of program graduates charged with a felony or misdemeanor within 12 months of graduation

*Objective*: Sobriety / Reduce Dependency
*Measure*: Clean Alcohol and Drug Tests
Percentage of all drug or alcohol tests that are clean; computed per 90-day program participation interval; Percentage change across intervals

*Objective*: Drug-free parents
*Measure*: Graduation rate for parents
Percentage of participants with parent/guardian relationship who graduate

*Objective*: Accountability
*Measure*: Graduation Rate
Percentage of entrants who achieve graduate status

*Objective*: Accountability
*Measure*: Retention Rate
Percentage of entrants who stay in the program 90 days, 180 days, etc.

*Objective*: Accountability
*Measure*: Court attendance compliance
Percentage of court dates met

*Objective*: Accountability
*Measure*: AOD attendance compliance
Percentage of treatment dates met

Appendix E - 2005 CJC and Byrne Methamphetamine Drug Court Grants

| County | Agency | Contact Person | Purpose |
|---|---|---|---|
| **Benton** | **Benton County Sheriffs Office** | **Tracy Dusseau**<br>120 NW 4th St.<br>Corvallis, OR 97339 | Enhanced existing services to 60 "higher risk" drug addicted adults. Added Parenting, Relationship, and Relapse Prevention Services to existing population. Provides a mental health professional and childcare services as well.<br>**(CJC) $126,120** |
| **Deschutes** | **Deschutes County Mental Health Department** | **Scott Johnson, Director Mental Health Department**<br>2577 NE Courtney Drive<br>Bend, OR 97701 | Establishes a new Family Drug Court in Deschutes County and provides program services to 20 families/80 meth addicted women whose children have been removed from their custody. Services include intensive case management by child welfare, parole and probation, outpatient and residential addiction treatment services, co-occurring mental health treatment, medical and dental care, parenting education, job training, and wraparound services.<br>**(CJC) $252,747**<br>**(Byrne) $145,618** |
| **Jackson** | **Jackson County Health & Human Services** | **Carin Niebuhr**<br>1005 E. Main Street<br>Medford, OR 97504 | An existing Community Family Drug Court currently serves 50 custodial parents with children in the child welfare system. This program will add enhancement services to the existing population and add an additional 10 meth affected women and/or parenting women. Enhanced services include domestic violence assessment and intervention; housing specialist; independent living units will provide safe housing for the 10 meth affected women and therapeutic day care services.<br>**(Byrne) $209,776** |
| | | | A new Adult Drug Court designed to serve 75 medium to high risk offenders with a priority on methamphetamine users. 89% of grant funds go to treatment and case management.<br>**(CJC) $225,842** |
| **Jefferson/ Crook Counties** | **Lutheran Community Services NW** | **Karen Kramer**<br>203 NE Court St.<br>Prineville, OR 97754 | A combined program expanding the Crook County program from 6 to 15 and creating a Jefferson County program with 15 participants. Grant pays for treatment, drug court coordinator, and urinalysis.<br>**(CJC) $251,427** |

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|---|---|---|---|
| **Josephine** | **Choices Counseling Center** | **Rick Jones, Program Director**<br>109 NE Manzanita<br>Grants Pass, OR 97526 | Targets an estimated 30 children and youth (ages 0 – 17) of active drug court participants that are meth abusing women with prevention-oriented services designed to reduce risk factors and will encourage participation in healthy school and community based activities and will provide participating parents with role modeling and coaching to improve parenting skills.<br>**(CJC) $55,958**<br>**(Byrne) $81,721** |
| **Klamath** | **Klamath County Mental Health Department** | **Colette Fleck**<br>3314 Vandenberg Rd.<br>Klamath Falls, OR 97603 | Expands treatment capacity to an integrated adult, family, and juvenile court program. Provides treatment services for 20 adults and 6-10 juveniles.<br>**(CJC) $130,000** |
| **Lane** | **Relief Nursery** | **Sharri de Silva, Executive Director**<br>1720 West 25th Avenue<br>Eugene, OR 97405 | Service enhancements in an existing drug court for 28 – 44 adult clients and 30 – 60 children (low-income methamphetamine-using women with children who reside in Lane County).<br>**(Byrne) $150,000** |
| | **Lane County Health and Human Services** | **Peg Jenette**<br>125 E. 8th Ave.<br>Eugene, OR 97401 | Expands existing program by 34 slots for medium to high risk adult offenders charged with felony drug possession. The majority of the grant funds treatment services.<br>**(CJC) $147,080** |
| **Lincoln** | **Lincoln County** | **Rob Bovett**<br>Lincoln County<br>225 W Olive Street, Room 110<br>Newport, OR 97365 | Implements a new family drug treatment court with support services for 15 parenting/pregnant women using methamphetamine and their children in an effort to reduce the number of children being removed from their homes.<br>**(Byrne) $94,823**<br>**(CJC) $80,000** |
| **Linn** | **Linn County Department of Health Services** | **Frank Moore, Health Administrator**<br>P.O. Box 100<br>Albany, OR 97321 | Increase number of meth abusing women served (from 5 to 30) in an existing drug court along with enhanced services such as housing assistance and case management; pre-natal support group w/transportation; and parenting class tuition assistance.<br>**(Byrne) $107,151**<br>**(CJC) $80,000** |

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|---|---|---|---|
| **Marion** | **Family Building Blocks** | **Ginger Bensman**<br>2425 Lancaster Dr NE<br>Salem, OR 97305 | Developed new therapeutic early childhood services and drug treatment resources for 20 mothers whose children have been removed to foster care due to methamphetamine addiction and 36 children aged 0-5 years old.<br>**(CJC) $58,941**<br>**(Byrne) $149,991** |
| **Multnomah** | **St. Vincent de Paul Society of the Willamette Valley** | **Kimberly Alain**<br>3745 Portland Rd. NE<br>Salem, OR 97303 | Focused on adult offenders with drug endangered children. Provides for addiction and mental health treatment for participants who can otherwise not afford it. Effectively expands the size of the program.<br>**(CJC) $100,000** |
| **Wasco & Hood River Counties** | **Marion County Juvenile Department** | **Michael Maryanov**<br>3030 Center St.<br>Salem, OR 97301 | A juvenile drug court expansion from 15 to 30 youth and their families. Grant provides for treatment, drug testing, and a wellness program.<br>**(CJC) $57,086** |
| | **Multnomah County Department of Community Justice** | **John Turner**<br>501 SE Hawthorne Blvd.<br>Suite 250<br>Portland, OR 97214 | Increased and expanded services to existing adult criminal population, enabling the program to serve higher risk participants. Services include expanded access to Evidence-Based Practices for addiction and trauma, a Mental Health Nurse Practitioner, residential treatment, and transitional housing vouchers.<br>**(CJC) $283,658** |
| | **Mid-Columbia Center for Living)** | **Sharon Guidera, M.A.; Executive Director**<br>Wasco County Annex A, Rm 207<br>419 East Seventh St<br>The Dalles, OR 97058-2607 | Target 20 parenting/pregnant women using methamphetamine at high risk for recidivism in an existing drug/dependency court. Service enhancements include intensive case management, targeted crisis intervention, family psycho-education, Matrix Model Outpatient Treatment Services, along with increased service supports for housing, transportation, medication management, psychiatric assessments and parent training.<br>**(Byrne) $150,000** |
| **Umatilla** | **Umatilla County Community Corrections** | **Mark Royal**<br>4705 NW Pioneer Pl.<br>Pendleton, OR 97801 | A new adult drug court program designed to serve 72 medium and high risk offenders. Grant provides for a coordinator, drug testing, and treatment services.<br>**(CJC) $271,226** |

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|---|---|---|---|
| **Union** | **Center for Human Development** | **Dwight Dill, Program Director**<br>1006 K Avenue<br>La Grande, OR 97850 | Increase number of drug court participants from 16 to 40 by increasing number of meth abusing women served (from 10 to 24). In addition, hiring a new drug court team member provides treatment subsidies to meth abusing women and mothers and provides treatment for 12 children of meth abusing mothers.<br>**(Byrne) $132,935** |
| **Washington** | **Union County** | **Gail Hinshaw**<br>1006 K Avenue<br>La Grande, OR 97850 | Provides for drug court coordinator and drug testing equipment, including alcohol monitoring bracelets.<br>**(CJC) $61,092** |
| **Yamhill** | **Washington County Department of Health & Human Services** | **Susan Irwin, Program Director**<br>155 N. First Avenue; MS #4<br>Hillsboro, OR 97124 | Current drug court will expand (currently serving 20 participants) to 55 with 15 parenting/pregnant women using methamphetamine. These women will be integrated into the existing drug court treatment services and will also receive services addressing trauma issues. All children will have access to mental health evaluations and treatment as well as wraparound services.<br>**(Byrne) $148,290**<br>**(CJC) $197,424** |
| | **Washington County Juvenile Department** | **Laurie Rice**<br>222 N First Ave. MS-47<br>Hillsboro, OR 97124 | Expands existing juvenile drug court program focused on juvenile felony drug offenders. Offers services to 15-18 youth who would otherwise not qualify for the program.<br>**(CJC) $99,956** |
| | **Yamhill County Chemical Dependency Program** | **Chris Johnson, Program Director**<br>627 NE Evans Street<br>McMinnville, OR 97128 | Target 10 unduplicated cases of parenting/pregnant women using methamphetamine in a drug court with increased service enhancements (ie. RN case management, psychiatric medication management, trauma-informed mental health treatment, and program evaluation).<br>**(Byrne) $129,659** |

## Appendix F: Oregon Drug Court Outcome Studies

| Study | Outcomes |
|---|---|
| NPC<br>**Clackamas Juvenile Drug Court**<br>2006 | **Rearrested within 2 years of entry=**<br>Drug Court participants= 44%<br>Drug Court grads= 29%<br>Comparison Group= 82%<br>Reduction in a/d use<br>Improvement in family relationships |
| NPC<br>**Multnomah STOP Court**<br>2003 | **Fewer arrests**<br>Drug Court= 2.7 BAU= 3.3<br>**Court time**<br>Drug Court= 757 sec BAU= 925 sec<br>**Jail Time**<br>Drug Court= 51 days BAU= 67 days |
| Clean Court Outcome Study<br>**Multnomah Co Post-conviction Clean Court**<br>2004 | **More treatment engagement**<br>CC= 52% Comp= 43%<br>**Recidivism reduction (not stat significant)**<br>CC= -.58 Comp= -.32 (change scores)<br>**Longer Treatment (completers/incomplete)**<br>CC= 191/61 Comp= 114/19<br>**Significant improvement in:** Stable Housing; FT Employment;<br>Criminal Behavior/Drug using behavior |
| NPC<br>**Marion County Drug Court**<br>2005 | **Fewer participants arrested within 2 years of entry**<br>Drug Court= 13% Comp= 27%<br>**Drug use appeared to decrease (no stat sig due to small sample size)**<br>**Average time in program:**<br>15.6 months Comparison completers; 9.3 in Comparison Group |
| Oregon Judicial Department<br>**Benton County Drug Treatment Court**<br>2005 | Increase Adult Education- 5 of 7 got GED<br>Increase Employment- 71% obtained, maintained, or improved employment<br>Increase Wage Rate- 8 respondents from $280 to $1679/month<br>Increase Housing Stability- 69% reported their living conditions had improved<br>Reduce Recidivism- 87% reduction in criminal charges<br>Reduce Substance Abuse- 24 of 29 had no +UA's in the final phase of the program |
| NPC<br>**Malheur SAFE Court**<br>2005 | Rearrested within 2 years of entry = 16%<br>**Mixed results on substance use:** Substantial decrease<br>in drug related arrests, continued positive UA's (incomplete data on UA's) |
| NPC<br>**Clackamas Adult**<br>2004 | Drug Court participants had fewer arrests than the comparison group<br>Drug Court = 38.5% Comparison = 51.2%<br>Positive UA's decreased the longer participants were in the program |

## Appendix G: Oregon Drug Court Cost-Benefit Studies

| Study | Outcomes |
|---|---|
| NPC<br>**Clackamas Juvenile Drug Court**<br>2006 | **Cost high, but not out of line:**<br><br>Average cost per client: $23,656<br>**Average cost: $66.26/day**<br>Residential Treatment= $134/day<br>Detention= $184/day<br>Correctional facility= $171/day<br><br>**Outcome costs, i.e. costs of rearrests etc:**<br>all participants cost $961 less than Comparison Group<br>grads cost $10,958 less than Comparison Group |
| NPC<br>**Multnomah STOP Court**<br>2003 | **Drug Court cost LESS than BAU**<br>Drug Court= $5,927.80<br>BAU= $7369.32<br>Savings= $1,441.52<br>Main savings are in jail and probation costs<br><br>**Outcome costs, i.e. costs of rearrests etc**<br>Drug Court= 8,982.56<br>BAU= $11,311.45<br>Savings = $2,328.89<br><br>**Victimization costs**<br>Drug Court= $6675.69<br>BAU= $7976.85<br>Savings = $1,301.16 |
| NPC<br>**Malheur SAFE Court**<br>2005 | Reduced costs in arrests, bookings, and jail beds for women ($633 savings in 2 years)<br>Increased costs for men ($1,407), due mostly to terminated participants ($3,140) |

## Appendix G – Federal Real ID Act

H.R.418

**REAL ID Act of 2005 (Engrossed as Agreed to or Passed by House)**

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**TITLE II--IMPROVED SECURITY FOR DRIVERS' LICENSES AND PERSONAL IDENTIFICATION CARDS**

**SEC. 201. DEFINITIONS.**

In this title, the following definitions apply:

(1) DRIVER'S LICENSE- The term `driver's license' means a motor vehicle operator's license, as defined in section 30301 of title 49, United States Code.

(2) IDENTIFICATION CARD- The term `identification card' means a personal identification card, as defined in section 1028(d) of title 18, United States Code, issued by a State.

(3) SECRETARY- The term `Secretary' means the Secretary of Homeland Security.

(4) STATE- The term `State' means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

**SEC. 202. MINIMUM DOCUMENT REQUIREMENTS AND ISSUANCE STANDARDS FOR FEDERAL RECOGNITION.**

(a) Minimum Standards for Federal Use-

(1) IN GENERAL- Beginning 3 years after the date of the enactment of this Act, a Federal agency may not accept, for any official purpose, a driver's license or identification card issued by a State to any person unless the State is meeting the requirements of this section.

(2) STATE CERTIFICATIONS- The Secretary shall determine whether a State is meeting the requirements of this section based on certifications made by the State to the Secretary of Transportation. Such certifications shall be made at such times and in such manner as the Secretary of Transportation, in consultation with the Secretary of Homeland Security, may prescribe by regulation.

(b) Minimum Document Requirements- To meet the requirements of this section, a State shall include, at a minimum, the following information and features on each driver's license and identification card issued to a person by the State:

(1) The person's full legal name.

(2) The person's date of birth.

(3) The person's gender.

(4) The person's driver's license or identification card number.

(5) A digital photograph of the person.

(6) The person's address of principle residence.

(7) The person's signature.

(8) Physical security features designed to prevent tampering, counterfeiting, or duplication of the document for fraudulent purposes.

(9) A common machine-readable technology, with defined minimum data elements.

(c) Minimum Issuance Standards-

(1) IN GENERAL- To meet the requirements of this section, a State shall require, at a minimum, presentation and verification of the following information before issuing a driver's license or identification card to a person:

(A) A photo identity document, except that a non-photo identity document is acceptable if it includes both the person's full legal name and date of birth.
(B) Documentation showing the person's date of birth.
(C) Proof of the person's social security account number or verification that the person is not eligible for a social security account number.
(D) Documentation showing the person's name and address of principal residence.

(2) SPECIAL REQUIREMENTS-

(A) IN GENERAL- To meet the requirements of this section, a State shall comply with the minimum standards of this paragraph.
(B) EVIDENCE OF LAWFUL STATUS- A State shall require, before issuing a driver's license or identification card to a person, valid documentary evidence that the person--

(i) is a citizen of the United States;
(ii) is an alien lawfully admitted for permanent or temporary residence in the United States;
(iii) has conditional permanent resident status in the United States;
(iv) has an approved application for asylum in the United States or has entered into the United States in refugee status;
(v) has a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States;
(vi) has a pending application for asylum in the United States;
(vii) has a pending or approved application for temporary protected status in the United States;
(viii) has approved deferred action status; or
(ix) has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States.

(C) TEMPORARY DRIVERS' LICENSES AND IDENTIFICATION CARDS-

(i) IN GENERAL- If a person presents evidence under any of clauses (v) through (ix) of subparagraph (B), the State may only issue a temporary driver's license or temporary identification card to the person.
(ii) EXPIRATION DATE- A temporary driver's license or temporary identification card issued pursuant to this subparagraph shall be valid only during the period of time of the applicant's authorized stay in the United States or, if there is no definite end to the period of authorized stay, a period of one year.
(iii) DISPLAY OF EXPIRATION DATE- A temporary driver's license or temporary identification card issued pursuant to this subparagraph shall clearly indicate that it is temporary and shall state the date on which it expires.
(iv) RENEWAL- A temporary driver's license or temporary identification card issued pursuant to this subparagraph may be renewed only upon presentation of valid documentary evidence that the status by which the applicant qualified for the temporary driver's license or temporary identification card has been extended by the Secretary of Homeland Security.

(3) VERIFICATION OF DOCUMENTS- To meet the requirements of this section, a State shall implement the following procedures:

(A) Before issuing a driver's license or identification card to a person, the State shall verify, with the issuing agency, the issuance, validity, and completeness of each document required to be presented by the person under paragraph (1) or (2).
(B) The State shall not accept any foreign document, other than an official passport, to satisfy a requirement of paragraph (1) or (2).
(C) Not later than September 11, 2005, the State shall enter into a memorandum of understanding with the Secretary of Homeland Security to routinely utilize the automated system known as Systematic Alien Verification for Entitlements, as provided for by section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (110 Stat. 3009-664), to verify the legal presence status of a person, other than a United States citizen, applying for a driver's license or identification card.

(d) Other Requirements- To meet the requirements of this section, a State shall adopt the following practices in the issuance of drivers' licenses and identification cards:

(1) Employ technology to capture digital images of identity source documents so that the images can be retained in electronic storage in a transferable format.
(2) Retain paper copies of source documents for a minimum of 7 years or images of source documents presented for a minimum of 10 years.
(3) Subject each person applying for a driver's license or identification card to mandatory facial image capture.
(4) Establish an effective procedure to confirm or verify a renewing applicant's information.
(5) Confirm with the Social Security Administration a social security account number presented by a person using the full social security account number. In the event that a social security account number is already registered to or associated with another person to which any State has issued a driver's license or identification card, the State shall resolve the discrepancy and take appropriate action.
(6) Refuse to issue a driver's license or identification card to a person holding a driver's license issued by another State without confirmation that the person is terminating or has terminated the driver's license.
(7) Ensure the physical security of locations where drivers' licenses and identification cards are produced and the security of document materials and papers from which drivers' licenses and identification cards are produced.
(8) Subject all persons authorized to manufacture or produce drivers' licenses and identification cards to appropriate security clearance requirements.
(9) Establish fraudulent document recognition training programs for appropriate employees engaged in the issuance of drivers' licenses and identification cards.
(10) Limit the period of validity of all driver's licenses and identification cards that are not temporary to a period that does not exceed 8 years.

**SEC. 203. LINKING OF DATABASES.**

(a) In General- To be eligible to receive any grant or other type of financial assistance made available under this title, a State shall participate in the interstate compact regarding sharing of driver license data, known as the `Driver License Agreement', in order to provide electronic access by a State to information contained in the motor vehicle databases of all other States.

(b) Requirements for Information- A State motor vehicle database shall contain, at a minimum, the following information:

(1) All data fields printed on drivers' licenses and identification cards issued by the State.
(2) Motor vehicle drivers' histories, including motor vehicle violations, suspensions, and points on licenses.

**SEC. 204. TRAFFICKING IN AUTHENTICATION FEATURES FOR USE IN FALSE IDENTIFICATION DOCUMENTS.**

(a) Criminal Penalty- Section 1028(a)(8) of title 18, United States Code, is amended by striking `false authentication features' and inserting `false or actual authentication features'.

(b) Use of False Driver's License at Airports-

(1) IN GENERAL- The Secretary shall enter, into the appropriate aviation security screening database, appropriate information regarding any person convicted of using a false driver's license at an airport (as such term is defined in section 40102 of title 49, United States Code).

(2) FALSE DEFINED- In this subsection, the term `false' has the same meaning such term has under section 1028(d) of title 18, United States Code.

**SEC. 205. GRANTS TO STATES.**

(a) In General- The Secretary may make grants to a State to assist the State in conforming to the minimum standards set forth in this title.

(b) Authorization of Appropriations- There are authorized to be appropriated to the Secretary for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out this title.

**SEC. 206. AUTHORITY.**

(a) Participation of Secretary of Transportation and States- All authority to issue regulations, set standards, and issue grants under this title shall be carried out by the Secretary, in consultation with the Secretary of Transportation and the States.

(b) Compliance With Standards- All authority to certify compliance with standards under this title shall be carried out by the Secretary of Transportation, in consultation with the Secretary of Homeland Security and the States.

(c) Extensions of Deadlines- The Secretary may grant to a State an extension of time to meet the requirements of section 202(a)(1) if the State provides adequate justification for noncompliance.

**SEC. 207. REPEAL.**

Section 7212 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458) is repealed.

**SEC. 208. LIMITATION ON STATUTORY CONSTRUCTION.**

Nothing in this title shall be construed to affect the authorities or responsibilities of the Secretary of Transportation or the States under chapter 303 of title 49, United States Code.

## Appendix H – 2005 Legislative Session HB 2108

73rd OREGON LEGISLATIVE ASSEMBLY--2005 Regular Session

# House Bill 2108

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Presession filed (at the request of Governor Theodore R. Kulongoski for Department of Transportation)

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor¢s brief statement of the essential features of the measure **as introduced.**

Allows Department of Transportation to retain certain documents presented or submitted to department.

**A BILL FOR AN ACT**

Relating to retention of documents by Department of Transportation.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2005 Act is added to and made a part of the Oregon Vehicle Code.

SECTION 2.

(1) As used in this section, “document” means any:

(a) Information that is written or in a tangible medium and that is presented or submitted by a customer of the Department of Transportation at an office of the department in the course of the administration or enforcement of the vehicle code; or

(b) Item used for a financial transaction that is presented or submitted by a customer of the department at an office of the department in the course of the administration or enforcement of the vehicle code.

(2) The department may retain a document when the department has reason to believe that the document:

(a) Contains false or fictitious information;

(b) Is counterfeit;

(c) Has been altered;

(d) Was unlawfully or erroneously issued; or

(e) Is presented or submitted by a person who is not in lawful possession of the document.

(3) At the time a document is retained under subsection (2) of this section, the department shall provide the person who presented or submitted the document with:

(a) The reason the document was retained;

(b) The name, telephone number and address of the law enforcement agency to which the department will forward the document as provided under subsection (4) of this section;

(c) The time frame in which the person first will be able to contact the law enforcement Agency regarding the retained document; and

(d) Any other information required by the department by rule.

(4) Within two business days of retaining a document under subsection (2) of this section, the department shall forward the document to a law enforcement agency that has jurisdiction over an investigation involving the document.