

HOUSE JUDICIARY
SUBCOMMITTEE ON CIVIL LAW AND JUDICIAL ADMINISTRATION

Hearing Room 357
9:00 am Tapes - 10

MEMBERS PRESENT:

Rep. Del Parks, Chair
Rep. Bryan Johnston, Vice-Chair
Rep. Kate Brown
Rep. Chuck Carpenter
Rep. Lisa Naito
Rep. Eileen Qutub
Rep. Bob Tiernan

STAFF PRESENT:

Milt Jones, Committee Counsel
Sarah May, Committee Assistant

MEASURES HEARD:

Enforcement
Alcohol and Drug Treatment

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks

report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

TAPE , SIDE A

006 CHAIR PARKS: Calls the meeting to order at 9:04 am. Suggests that the committee go and see civil commitment proceedings at the court house.

029 CHAIR PARKS: Discusses the informational meeting on Drug and Alcohol Treatment with invited testimony only.

038 JIM STEVENSON, DIRECTOR OF PAROLE DIVISION - OREGON STATE POLICE: Hear to inform committee of police procedures, training, and techniques involved in enforcement. Explains his job and requirements.

049 CHARLES HAYES, OREGON STATE POLICE: Testifies and submits written testimony on DUII training and Drug Recognition Expert Training Program.
(EXHIBIT A)

- standard 8 hour and 24 hour testing
- discusses 3 tests done to determine probability of impairment
- explains Standardized Field Sobriety Testing
- 35 trainers

087 CHAIR PARKS: Could you show the committee some examples of the tests you do?

093 HAYES: Explains with Stevenson, the 3 tests they do on people when they

pull them over for a possible DUII . 1) Eye test 70 percent reliable - 2) Walk and turn test, if arms come away from body, tests divided attention -

3) Maintaining balance on one foot for 30 seconds, also tests divided attention

171 REP. TIERNAN: Asks about balancing tests with road side distractions. Are these elements taken into consideration?

180 HAYES: Yes. Explains how the tests are done so that they are the most efficient. It is possible to continue testing in some other area.

201 REP. TIERNAN: Are following the questions and directions part of the test?

202 HAYES: Yes, that is part of the divided attention, explains.

206 REP. TIERNAN: Do you inform the individual that following the directions are part of the test?

207 HAYES: Yes, we do.

208 REP. TIERNAN: When you were showing us examples of the tests and you told the captain to stop and he didn't, could he have failed the test?

209 HAYES: Those are things that the officer looks for. Explains how the officer gives the directions in a series so that the person will understand

and be able to perform the actions. We will repeat questions if necessary because part of the tests are how they follow directions.

219 REP. TIERNAN: How many times do people fail these field tests, but pass a breathalyzer test?

224 HAYES: These tests are designed to be done with other tests, gives examples. We try to avoid those situations but it happens. We have found that some of these people fail the field tests, but take the breathalyzer test and pass it. They could be impaired on a substance other than alcohol, i.e. a drug. The officers have to be aware of other signs of impairment that could be associated with drugs.

245 REP. TIERNAN: When someone is pulled over, it is never a perfect scenario. People that are taking these tests can have an increase in heart

rate, and in that type of environment it can lead to inaccurate field sobriety tests.

264 HAYES: The officers are trained in following procedure, but people do get nervous. The officer has a set of questions that they ask to try to get that person comfortable. If we see that it is obviously nerves, it shows, but usually we can see the difference. If it is nerves, we give them the opportunity to retake the tests. It would be better to have a breathalyzer test done on the roadside, but we don't have those laws in Oregon. Discusses that these tests were tested in Washington D.C., where 1,600 people were pulled over and tested. Discusses signs of alcohol.

302 CHAIR PARKS: There is a big issue about urinalysis. We also need to make sure we are getting the bad guy when we do the tests.

326 HARL HAAS, JUDGE IN MULTNOMAH COUNTY: Testifies and submits written testimony on the STOP program (Sanction - Treatment - Opportunity - Progress). (EXHIBIT B-1,-2,-3)

385 REP. JOHNSTON: Does this obviate the STOP issue as well?

387 HAAS: Yes, they waive their right to contest the STOP program and

search as well. Continues with testimony.

- discusses acupuncture for treatment
- judges get to know these people in the program very well, for the better
- don't want people in program that don't want to be there
- is up to judge to make decision if person completed program or not
- 60 percent rate of completion and graduation
- we get personal information about them and have concern about them

TAPE 10, SIDE A

035 REP. BROWN: How often do you see your clients?

038 HAAS: They are scheduled a minimum of every 30 days. If they fall out of treatment, they are seen every 2 weeks, gives examples. Recently the court is much more knowledgeable about the defendants and we have more of a

personal investment in these people. Discusses the Federal laws allocating

\$1 million for drug courts.

065 CHAIR PARKS: Gives example of burglar, who might be stealing to pay for drugs. Are they eligible for the program even if the burglary case is dismissed?

068 HAAS: Yes, explains. The only way to get into the program is an arrest for possession, their criminal history becomes irrelevant. What is questioned is their ability and availability to be treated. Ninety percent of the people said acupuncture has been effective.

077 CHAIR PARKS: If I'm a burglar and while I'm waiting for my trial I get a possession charge, I can't get into the program unless the DA will dismiss the burglary?

079 HAAS: You can get into the program as long as you're available to treat, gives example.

085 REP. CARPENTER: How do you define success on the 60 percent rate? Is it a success if someone completes the program, or is it if these people don't come back?

093 HAAS: I had to learn about conviction, gives example. If a person has a serious habit, they will relapse, but that is a part of the recovery process. I did a manual review of the people who graduated and the people

who graduated had a 6 percent rearrest rate, all of those were for drugs. The people who were terminated from the program had a 24 percent rearrest rate for all types of crimes. Cites examples of graduates and terminated clients. The judge has unbridled discretion. We require them to go to AA,

but it is a subjective call.

151 REP. BROWN: How do you use jail as a sanction or punishment? Do you think this same model would work for DUII?

154 ROOSEVELT ROBINSON, JUDGE: Testifies on STOP program. Generally, we try not to use jail as a sanction. We try other sanctions like the Forest Camp.

163 REP. BROWN: Could you explain the Forest Camp program?

164 ROBINSON: It is a state run program, where they work in the forest taking care of the trees. They are given a urinalysis (UA) regularly. We also have a work crew in local parks for women, since they cannot do the forest program. We try to stay away from jail sanction because our major

motive is treatment and so we try to encourage anything but jail. Gives example of pregnant mother. I think this model would work for DUII with certain modifications. We also have night court for people who are working with a DUII situation.

205 CHAIR PARKS: Are you the judge that is running the program?

206 ROBINSON: Yes. Judge Haas started the program, but we have kept it going even though we have different ways we run the program.

215 CHAIR PARKS: How much of your time is counseling?

218 ROBINSON: I encourage people to respond to the counseling, whatever it takes. I also do some probation matters, but the majority of my time is spent in the drug court.

230 HAAS: The case load per year is about 600 cases. About 400 will be in treatment at any one time, which is a full time job for one judge. Cites counties that are interested in starting STOP programs.

246 CHAIR PARKS: The judge sees each person once a day?

247 HAAS: Once a month. If they fall out of the program, within 48 hours they have a hearing.

252 ROBINSON: Continues with testimony and how he is running his STOP program.

- every 30 days is long time, maybe have to see them once every 2 weeks
- gives examples of mother who gave birth to drug free babies
- have 0 tolerance program, explains
- people will relapse, is process of recovery, but if they have dirty UA every time will be put on 0 tolerance program
- if don't show, presumptive that they are still using
- 0 tolerance for expectant mothers in program
- jobs play important part, if have job, more successful in program
- the graduation program is important for a success marker, to give encouragement -
- not just poor or homeless people who are in program - people who have completed program can be professionals, i.e. attorneys, doctors.

337 HAAS: We brought Governor Roberts into graduation program to speak. Two members of her family were in treatment program, which caught the attention of people.

358 ROBINSON: Gives example of man who was terminated from program and sent to the penitentiary. Because of that shock to his system, he became clean on his own.

376 REP. NAITO: Some of the treatment providers feel that one of the many factors that go into the STOP program is the quick turn around time. That is one of the issues we are trying to deal with in DUIIs. Do you think this fast turn around time makes a difference?

386 HAAS: Immediacy for treatment is very important for the program. Explains how the three day process works and why it is important. Explains how program has evolved and changed.

421 ROBINSON: If they are going to get into treatment and start immediately, their better the chance to start treating their problem.

TAPE 9, SIDE B

009 JIM HENNINGS, PUBLIC DEFENDER SERVICES: Testifies on the STOP program.

-this program can work with DUII
-treatment program works for the court, not independently
-judges have shared responsibility, meet on monthly basis to take care of problems
-make treatment permissive, but no rules
-have seen new cases of TB, poor people with health programs
-discusses cost transfers, people handling cases
-handling more cases, cost less, but have to work harder to do it
-worried that program could be terminated because lack of funding
-people are committed to program because they have to be, they want in even when they know it is going to be tough
-can get out of program after 14 days, but consequences, explains
-we have built in a commitment to them
-most people are A social who don't care, but their attitude changes

110 CHAIR PARKS: Do you have someone working on what you believe is the necessary corrective legislation?

113 HENNINGS: No, we have avoided it by making it a pre-trial release program. I'm suggesting that there is a drug diversion statute that is not being used anywhere in the state which can be done away with.

118 CHAIR PARKS: Contact Rep. Johnston to continue and have the opportunity to get a hearing on that.

124 REP. NAITO: Do you have people in the program on methadone?

126 HAAS: Yes, but I'm not a big fan of that. We have a video tape, if the committee would like to see.

131 CHAIR PARKS: Yes, I would like that.

141 JIM MILLS, DIRECTOR OF ALCOHOL/DRUG RESPONSIBILITY PROGRAM: Testifies about his program.(EXHIBIT C)
-discusses differences between the people and their problems.
-1/2 of people are not alcoholic, that is a concern, discusses and explains

180 REP. NAITO: It was my understanding that people were treated at different levels in your program?

186 MILLS: That is the theory, but not the practice. Discusses the different levels, problems, and education about problems.

204 REP. JOHNSTON: Are you a minority amongst your colleagues?

205 MILLS: Yes.

206 REP. JOHNSTON: Could you get the committee an explanation of that?

213 REP. TIERNAN: What is the difference between a drinking problem and an alcoholic?

216 MILLS: Explains difference between drinking problem and alcoholic, gives examples. Cites statistics of alcoholism in the community.

237 CHAIR PARKS: What is the availability of treatment in eastern Oregon?

240 MILLS: Not familiar with eastern Oregon. Cites his community, Coos Bay, which has three treatment programs.

248 CHAIR PARKS: Does the defendant pick the program, or are they placed?

253 MILLS: The evaluators in our community work with the client to pick the program.

254 CHAIR PARKS: Can the client get into the program immediately, or is there a waiting period?

256 MILLS: There is not a waiting period in Coos county.

258 CHAIR PARKS: So they can get into one the next day?

259 MILLS: The system makes it difficult in DUII, program, explains. There can be a delay, anywhere from a week to a month.

272 REP. QUTUB: Asks about repeat DUII offenders and if they are mostly alcoholics or problem drinkers.

281 MILLS: My experience is that the more they have been arrested, the more probable they are an alcoholic, but the reverse isn't true. Cites book written on alcoholism, and research.

311 CHAIR PARKS: Adjourns the hearing at 10:22 am.

Submitted by, Reviewed by,

Sarah May Debra Johnson
Committee Assistant Committee Coordinator

EXHIBIT SUMMARY:

- A. Testimony on Drug and Alcohol Enforcement - Charles Hayes - 6 pages
- B-1 Testimony on STOP Program - Harl Haas - 4 pages
- B-2 Testimony on STOP Program - Harl Haas - 2 pages
- B-3 Brochure on STOP Program - Harl Haas - 1 page
- C. Alcohol/Drug Responsibility Program - Jim Mills - 7 pages