

HOUSE JUDICIARY
SUBCOMMITTEE ON
JUVENILE JUSTICE

Hearing Room
Tapes - 22

MEMBERS PRESENT:

Rep. Del Parks, Chair
Rep. Lisa Naito, Vice-Chair
Rep. Kate Brown
Rep. Floyd Prozanski
Rep. Eileen Qutub
Rep. Veral Tarno

STAFF PRESENT:

Holly Robinson, Committee Counsel
Janet Ellingsworth, Committee Assistant

MEASURES HEARD: Public Hearing on SB 1

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 , A

004 CHAIR PARKS: Convenes meeting at 8:30 A.M.

OPENS the PUBLIC HEARING on SB 1

Witnesses:

REPRESENTATIVE AVEL GORDLY, Oregon House District 19
MARK MCDONNELL, Deputy District Attorney, Multnomah County
CRAIG CAMPBELL
RICK HILL, Assistant Administrator, Juvenile Corrections
MICHAEL LIVINGSTON, Attorney, Department of Justice
TIMOTHY TRAVIS, Juvenile Rights Project

006 REPRESENTATIVE AVEL GORDLY, DISTRICT 19: Testimony on SB 1 [EXHIBIT A, B & C].

Discusses amendments in that they are based on the recommendations of the Supreme Court Task Force on Racial and Ethnic Issues in the Judicial system.

015 REP. GORDLY: The findings indicate that minority youths were over represented and disproportionately confined in the juvenile justice system and that at every point of entry into the system, minority youths were treated more harshly. We have two systems of justice in the state of Oregon, one for white people and one for everyone else. This is not my conclusion, it was the conclusion of the Supreme Court Task Force on Racial and Ethnic Issues report.

105 CHAIR PARKS: I can assure you we will not "shine you on" here in this committee. I don't agree with the Supreme Court study. I realize that justice is not just to be done, but that it needs to appear to be done, and for many blacks there is only disBELIEF elief regarding the implementation of justice.

135 REP. NAITO: Have you discussed the amendments with the State Commission on Children and Families, and are they prepared to do the requirements proposed in the (-10) amendments?

138 REP. GORDLY: I have not had that conversation with the commission but it will take place.

140 REP. NAITO: I would be interested in merging some of your ideas in integrating the support system with the Children and Families Commission and with the Youth Authority.

146 REP. GORDLY: I look forward to working with you on that.

171 CHAIR PARKS: I think the issue is that a symptom or a cause? Is it because these people are colored or is it because of their economic status which they occupy in America today?

175 REP. BROWN: When you don't speak English and you don't have an interpreter, your excluded inadvertently from the process.

184 REP. NAITO: Any step of the way where discretion is involved, a person may make a decision not believing that there is any bias involved.

207 REP. TARNO: How do we pass legislation that does not create a dual standard, if a dual standard currently exists, how can we pass good meaningful legislation that takes away that dual standard and makes it an "even playing field" for everybody? How do we do this without giving preferential treatment for individuals for what ever reason?

217 REP. GORDLY: A step toward creating a system that is fair, is to take these recommendations seriously and to implement them.

228 CHAIR PARKS: One thing you can do is meet with Ms. Robinson and legislative fiscal and find out what the fiscal impact is of adding these interpreters proposed in the (-10) amendments.

255 REP. GORDLY: The video tape from the 2-25-95 hearing is very valuable to this committee.

[EXHIBIT A].

260 CHAIR PARKS: Explains procedure to witnesses regarding how the committee would like each witness to provide information and major issues on SB 1.

271 MICHAEL LIVINGSTON, ATTORNEY, DEPARTMENT OF JUSTICE: Testimony on SB 1.

282 RICK HILL, ASSISTANT ADMINISTRATOR, JUVENILE CORRECTIONS: Testimony on SB 1.

356 CHAIR PARKS: What is the fiscal implications of changing it to the Oregon Youth Authority?

364 HILL: Most of the positions that are being created by the Ways and Means Committee, would have been added anyway. The net difference in having a stand alone Youth Authority and having a division in the Department of Human Resources, is only \$523,000 dollars.

381 CHAIR PARKS: How many people does that involve? Other than the 250 to 300 people?

386 HILL: There are approximately 30 positions that will be transferring from Children Services Division to the Youth Authority.

396 CHAIR PARKS: Who do the corrections officers at MacLaren work for now?

400 HILL: They work for the office of Juvenile Corrections within Children's Services Division (CSD).

402 CHAIR PARKS: But they would be transferred to the Youth Authority?

405 HILL: Yes. All of the institutional staff as well as our field parole and probation people and anyone in CSD that has anything to do with supporting juvenile corrections will move to the Youth Authority. It is approximately 604 people.

411 REP. QUTUB: You mentioned juvenile corrections being different entities, can you tell me when it was a part of corrections, in what years, and how that system worked.

420 HILL: I believe the Department of Corrections managed MacLaren and Hillcrest in the late 1960's prior to the formation of the Department of Human Resources (DHR).

439 REP. TARNO: In creating a stand alone agency like the Youth Authority, is this going to mandate that all of the staff which works within the Youth

Authority be certified similar to the adult corrections staff through BPSST?

446 HILL: It does not require that. In the juvenile corrections system we have developed a juvenile corrections training academy. We are putting all of our staff through an 80 hour orientation training course that is specifically designed to train the juvenile corrections employees on how to deal with our system.

TAPE 22, A

030 REP. TARNO: What do you estimate the total corrections staff to be?

034 HILL: We estimate that at the end of the 1997 biennium, if the four regional facilities are approved and constructed, we will be operating with about 950 staff in the Youth Authority.

037 REP. QUTUB: Did you look at other successful states and compare there juvenile corrections systems?

044 HILL: Yes. About one third of the states have their juvenile corrections situated under their adult corrections "umbrella", and about one-third have it under their Human Resources area and the other third in an independent department.

058 REP. QUTUB: Both out of corrections and DHR, or would you say more of them have moved from a Human Resource to a autonomous entity?

061 HILL: I would say that more of them have moved from the Human Resource field.

063 REP. QUTUB: Do they have to fight for funds with the larger court systems?

070 HILL: I can't speak to the county level court system.

073 REP. PROZANSKI: Based on the model your proposing, it is similar to Texas law of having a separate Youth Authority?

077 HILL: Texas has a Youth Commission specifically to set policy on dealing with juvenile offenders.

079 REP. PROZANSKI: In reviewing the costs, that it is going to rise above and beyond this agency being autonomous, you gave us a difference of a little over \$500,000 dollars. I assume that this is not just salary.

084 HILL: That is all of the personnel, the salary as well as the other personnel expenses.

090 CHAIR PARKS: I've always worked on the figure that each state employee costs \$100,000 dollars. I don't understand why the figure is so much more.

Is it because they are highly paid administrators?

095 HILL: Yes. One of the things that didn't transfer from the Children Services Division to the Youth Authority was upper management with the exception of one deputy administrator position.

101 REP. PROZANSKI: Is the \$500,000 dollar figure on a biennium basis or per year?

105 HILL: It's a combination. We are phasing in the positions and one of the positions would start in July of 1996.

108 REP. PROZANSKI: What's the salary of the three people on an annual basis?

112 HILL: The salary of the Director of the Department would be on an annual basis, approximately \$70,000 to \$80,000 dollars. The assistant administrators would be approximately \$60,000 to \$65,000 dollars.

117 CHAIR PARKS: Maybe you had better give us the "performa" of these positions over this biennium. "Performa" means how much they are going to cost and what they are going to do.

119 HILL: For this biennium?

121 CHAIR PARKS: Yes, and how does that fit in with the executive department?

125 HILL: Would you like me to map that out and present it to you later?

127 CHAIR PARKS: I talked with Rep. Wyden about the requirement in the Federal Violent Offenders Act that people do 85% of their sentence and, I want to know how that plays with Measure 11.

135 REP. PROZANSKI: We also need to know if that 85 percent, is that per child that has been sentenced or if that has to be collectively reached.

139 REP. NAITO: Already we have a system with CSD. I think that the correctional part can get isolated from what is happening in the community.

The prevention efforts that we are doing in both the Child Protective Services and through the Commissions are important and I worry that the funding can be driven through the Youth Authority because the community tends to want to respond to the kids who are acting out and it leads to this kind of system that we have now where a young girl, for example, who wants some help, may not get it unless she commits a crime.

162 HILL: I think that the separation of the Youth Authority will enhance the working relationship between juvenile corrections and the Commission on Children and Families. I think that we need to try to complement one another rather than compete.

199 REP. BROWN: One of my concerns is, how are you going to coordinate service deliveries to families?

206 HILL: One of the difficult tasks we have is separating the victims from the perpetrators, for example in a sex abuse case. There are two big issues, one is how do you get the victims of that crime into treatment and keep the family together and how do you remove the offender so that the victim is no longer in harms way?

231 REP. TARNO: On page 13, line 17 of the bill, it makes reference to a "special master" being designated by a Supreme Court. It is my thought that a "special master" is one who is going to be one who oversees someone.

243 ROBINSON: The "special master" you are referring to on page 13, line

17, is contained within that special portion of the bill. It is not meant to be an oversight for the Youth Authority as a whole.

262 REP. NAITO: Starting with section 27, will that all be deleted?

266 ROBINSON: I believe that starting at page 9, line 20, through page 13, line 41 will be deleted.

283 CHAIR PARKS: We are going to have Rep. Meek come in next week to discuss this subject.

292 LIVINGSTON: The next component of this bill is the establishment of a multi tier system of facilities. It is not the finding or the intent of the governor's task force that locking up and incarcerating juveniles is the only complete answer. The multi-tier proposed system is only a piece of that system.

365 LIVINGSTON: Discusses specific programs and the need for detention institutions for juveniles prior to their adjudication.

-There are three types of facilities proposed; Maximum security, boot camp which is more of a work camp restitution program and the regional residential academy's.

375 CHAIR PARKS: The next issue is the siting for these facilities. It wasn't my intention to super site those facilities, is that what is being proposed?

388 HILL: It has not been our intention to include those in the super siting.

406 CHAIR PARKS: The policy decision here is on these other facilities, what part does the legislature play in that? What does the legislature contribute to the other levels of confinement?

425 HILL: I don't understand what it is that you mean?

430 REP. PROZANSKI: I think our duty is to decide what route to go.

440 CHAIR PARKS: I am trying to visualize this and I am having a hard time.

443 REP. QUTUB: The very best thing for these youths in some cases is to be removed from some of their surroundings and into a regional academy, for example. I see this as an opportunity for the legislative body to decide that.

TAPE 21, B

030 CHAIR PARKS: Measure 11 is simple. It states that if a crime is committed, this will be the result of what will happen to the offender. Is that what we are doing with what are called the regional restitution camps?

036 LIVINGSTON: The reason for the multi tier system, is that there is a need for a graduated series of meaningful sanctions, to juvenile law violation. Consistency is the core need.

050 CHAIR PARKS: Your saying your view of this is to make the places available.

058 ROBINSON: Under current law, the juvenile court has the option of committing a child to CSD, specifically for the placement of the child at MacLaren school. I think that one of the ways for this committee to approach this is to say that the legislature would like to give the juvenile court and the Youth Authority the option to place a child in a facility along the continuum from MacLaren or the equivalence down the sequential line of academy's. I don't think that we are talking about specifically setting up the perimeters for the court decide where to send the children.

075 CHAIR PARKS: If that's what we're doing, I don't think we should change policy because the
 judge has the authority already.

081 LIVINGSTON: Section 72 is the task force proposal for the revised policy statement for the juvenile delinquency code and for the juvenile justice system. Each of the tiers of the multi-tier system have the same core programs in response to those policies.

089 REP. BROWN: My understanding is that the theory behind the graduated sanctions is that there is a punishment immediately available and appropriately available in hopes of discouraging the youths from committing even greater crimes or more. Is that correct?

093 HILL: Yes, that is exactly correct.

095 REP. BROWN: Are setting this policy of graduated sanctions? There are no intentions to fund these programs, isn't that correct?

098 HILL: At the present time, you are correct. However, we feel it is important to set this plan as a blueprint so that we can "grow into it", if you will.

100 REP. QUTUB: Mr. Livingston said it would be possible to have these regional secure beds to have on site boot camps. If you are saying that it is not your intention to super site the other things, will we be able to have a site that is large enough to accommodate possibly combining one or the other?

107 CHAIR PARKS: What we passed is open ended. What we have doesn't have any size limit.

110 REP. QUTUB: Is it going to be in the discretion of the community as to whether they want it?

113 CHAIR PARKS: The bill says that community involvement is encouraged and if we get it that it may go to one of the communities which is involved. Contrary to what was previously discussed, I am real concerned that this is not going to work.

127 LIVINGSTON: I'm not sure I understand what your concerns are.

128 CHAIR PARKS: We aren't going to build the restitution centers for two years.

130 HILL: There will be a document prepared by legislative fiscal that will outline an option for the committee to include in the budget, which goes beyond the governor's recommendations, that includes funding for two of the restitution center camp programs. The option is based on the projections from the consultant who did the Measure 11 projections.

141 CHAIR PARKS: I think I was wrong in my thinking.

147 REP. BROWN: I think that this puts us back to where we were in 1985 and that we aren't really doing anything.

150 REP. TARNO: It will be a Ways and Means issue. The citing of those facilities has got to be a priority first and if we can "dove tail" in those camps even as a portion of those sites we will have at least started the process towards the boot camp training program and give the directions for expansion on that. This will keep the options open.

159 REP. QUTUB: SB 1 existed before Measure 11, it's just that Measure 11 is in SB 1.

177 LIVINGSTON: If we don't have more than maximum security in mind, then we will be back with more "Measure 11" type measures.

242 HILL: We're opening doors for state and county partnerships.

256 LIVINGSTON: The next major issue area affects the changes in the delinquency codes.

-Clarifies the right of appeal in the state, changes the policy statement applicable to the juvenile delinquency code.

291 REP. NAITO: Will the Youth Authority be making that decision?

298 LIVINGSTON: The decision as to whether the juvenile facility keeps a youth up to age 25; the jurisdiction stage is the judges call.

317 REP. NAITO: Some judges may have different standards, should we be concerned about that? Could the Youth Authority decide that the youth is doing well and the judge have the power to contradict the Youth Authorities assessment and send the youth to the adult court?

324 LIVINGSTON: There are only two ways that a child under 18 can get to adult court, that is by committing a measure 11 offense. The other is before an adjudication of delinquency in juvenile court, the court has a remand hearing or waiver. If the petition is filed in the juvenile court on an offense which the juvenile can be waived, a hearing can be held to decide where the juvenile will go.

342 REP. PROZANSKI: The Youth Authority can petition the court based on what they've observed. As compared to what the court might say.

349 LIVINGSTON: That is correct.

-Discusses juvenile court reports and recommended dispositions.

-Lists other provisions which amend the juvenile delinquency code.

394 REP. NAITO: Do you fingerprint these juveniles currently?

400 HILL: Juveniles are not fingerprinted or photographed at this time.

414 REP. NAITO: What kind of fiscal impact on the fingerprinting is there?

420 HILL: I believe that the state police came and testified to this in the neighborhood of \$700,000 dollars of a fiscal impact.

424 LIVINGSTON: Craig Campbell has those figures for the fiscal impacts.

427 REP. NAITO: Why do we need to take these fingerprints and photos?

438 LIVINGSTON: They will be destroyed in a year only if there is a report filed to keep the files.

TAPE 22, B

017 REP. NAITO: Why not take the fingerprints at the time the petition is filed?

020 CRAIG CAMPBELL, OREGON CHIEF of POLICE ASSOCIATION: Explains the process of fingerprinting and photographing of juveniles. This provision was added because of the impact in which the process has on youth in indicating that the offense is a serious one.

037 REP. NAITO: The \$700,000 dollar figure seems to be a large amount of money. I wonder what the amount would be if we did the fingerprinting just at the filing of the petition?

040 CAMPBELL: I don't have those figures because the state police did not delineate that cost.

042 REP. TARNO: When a juvenile is sentenced and then released at the age of 24, what happens to the fingerprint and photo records of this particular juvenile?

048 LIVINGSTON: If a juvenile is adjudicated then the records are maintained for 5 years and 30 days after the release of the juvenile.

051 CHAIR PARKS: From the end of the confinement?

053 LIVINGSTON: From the time which they are sent to the repository.

055 REP. TARNO: So that would mean that the person essentially could be doing time as an adult, age 18 years or older, and we would still destroy his fingerprints and photographs?

058 LIVINGSTON: My understanding is that the only thing that would be destroyed under this provision would be the arrest record card with the fingerprint and the photograph that was taken in. I don't know if there is a process of fingerprinting and photographing someone while they are in corrections or elsewhere.

064 REP. TARNO: My concern is we've sentenced someone as a juvenile, for a crime committed that if the person were an adult would do "hard time" for, we then have the fingerprints and the photographs for a 5 year period and upon a petition they can be destroyed. We would then lose the only photograph and fingerprint which we have of the individual.

074 LIVINGSTON: I don't think that is what this provides. I think there is another factor that enters in to that, and I will take a look at that and get back to you regarding this point.

080 MARK MCDONNELL, DEPUTY DISTRICT ATTORNEY, MULTNOMAH COUNTY: Helps to clarify the records which would be subject to the provisions of SB 1 and of those which would not be destroyed.

088 REP. TARNO: So they would be maintained from that point on under the adult provisions?

090 MCDONNELL: A court is required to make sure those individuals are fingerprinted and photographed and that the records are sent to the state police and kept in a repository.

095 CHAIR PARKS: So the five year obliteration are for those individuals who are juveniles.

097 MCDONNELL: What happens is that the individual is photographed and printed by the arresting agency and SB 1 requires the arresting agency to "mug" and "print" at the time of arrest.

108 REP. NAITO: How much of a problem is there going to be to have those records destroyed if there is no petition?

113 MCDONNELL: Its my understanding, that if the state police do not receive a copy of the petition in a year, it is their obligation to destroy the records. And the DA needs to inform the police that the petition has been filed.

135 REP. NAITO: Why not get that information and get it at the time the petition is filed?

139 MCDONNELL: It's more costly to go back and get it later.

158 REP. BROWN: One of the reasons you suggested the fingerprinting was because county's are doing different things in terms of informal dispositions. I am not clear on what the issues are or which cases have limitations as to the ability to perform an informal disposition on?

163 MCDONNELL: Different county's do different things. Part of the problem is the separate record keeping system.

169 REP. BROWN: If SB 1 limits one disposition to one felony, if a kid commits one felony in Klamath Falls and the next in Multnomah county, is there any way to track that?

173 MCDONNELL: Under SB 1, this information would be allowed to be tracked.

175 CHAIR PARKS: What's the objection to the provision in this bill?

183 TIMOTHY TRAVIS, JUVENILE RIGHTS PROJECT, INC.: Testimony on SB 1.
[EXHIBIT D]

198 CHAIR PARKS: Adjourns the meeting at 10:15 AM.

Submitted by, Reviewed by,

Janet Ellingsworth
Committee Assistant

Debra Johnson
Committee Coordinator

EXHIBIT SUMMARY:

A - Video tapes on SB 1 - Part A & B - Rep. Gordly - 2 tapes
B - Testimony on SB 1- Rep. Gordly - 9 pages
C - Testimony on SB 1 - Rep. Gordly - 159 pages
D - Testimony on SB 1 - Travis - 5 pages
E - Testimony on SB 1 - Goldman - 6 pages
F - Testimony on SB 1 - Stiegler - 3 pages
G - Testimony on SB 1 - McFadden - 4 pages
H - Testimony on SB 1 - Dennis - 2 pages
I - Testimony on SB 1 - Dennis - 7 pages
J - Testimony on SB 1 - Wright - 1 page
K - Testimony on SB 1 - Cheek - 2 pages
L - Testimony on SB 1 - Staff - 1 page
M - Chart - SB 1 - Staff - 1 page
N - Chart - SB 1 - Staff - 1 page