

SENATE COMMITTEE ON  
JUDICIARY

Hearing Room  
Tapes - 4

MEMBERS PRESENT:  
Sen. Neil Bryant, Chair  
Sen. Ken Baker  
Sen. Jeannette Hamby  
Sen. Randy Miller  
Sen. Peter Sorenson  
Sen. Dick Springer

Sen. Shirley Stull

VISITING MEMBERS: Rep. Del Parks  
Rep. Kate Brown  
Rep. Chuck Carpenter  
Rep. Peter Courtney  
Rep. Jerry Grisham  
Rep. Bryan Johnston  
Rep. Leslie Lewis  
Rep. Lisa Naito  
Rep. Floyd Prozanski  
Rep. Eileen Qutub  
Rep. Veral Tarno  
Rep. Bob Tiernan

STAFF PRESENT:  
Bill Taylor, Committee Counsel  
M. Max Williams II

Dar Woodrum, Support Staff

Diane Dussler, Support Staff

MEASURES HEARD: Organizational Hearing, Informational Meeting, Adoption of  
Rules, Bill Introduction-LC 2239, Overview from various agencies

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

ORGANIZATIONAL HEARING

03 CHAIR BRYANT: Brought the meeting to order. Introduction of staff

WORK SESSION

Adoption of Rules [EXHIBIT A] - Committee Rules  
29 MOTION: SENATOR SORENSON MOVES THE COMMITTEE ADOPT THE RULES. MOTION  
CARRIES UNANIMOUSLY. All members present.  
HEARING NO OBJECTION, THE COMMITTEE RULES ARE ADOPTED.  
All members present.

BILL INTRODUCTION

LC 1307  
LC 2239

33 BILL TAYLOR, COMMITTEE COUNSEL: Explains drafts.

38 MOTION: CHAIR BRYANT MOVES THE COMMITTEE INTRODUCE LC DRAFTS 1307 AND

2239. HEARING NO OBJECTION, MOTION CARRIES. All members present.

INFORMATIONAL HEARING

40 CHAIR BRYANT: Reviews agenda with committee members.

The Committee recessed awaiting the arrival of the Governor.

INVITED TESTIMONY

Governor John Kitzhaber  
Dale Penn, Marion County District Attorney  
Ted Kulongoski, Attorney General  
Rick Hill, Juvenile Corrections  
Larry OgleSB y, Oregon Juvenile Dept.  
Dennis Maloney, Dept. of Community Corrections, Deschutes County  
Marc McDonnell, Dep. District Attorney, Multnomah County  
Timothy Travis, Attorney, Juvenile Rights Project  
Wallace Carson, Jr., Chief Justice, Oregon Supreme Court  
Judge William Keyes, District Court Judge, Multnomah County  
Judge Pamela Abernathy, Marion County Circuit Court  
Kingsley Click, Asst. State Court Admin.  
Judge Tiktin, Presiding Judge, Deschutes County  
Ann Christian, Indigent Defense Director  
Ingrid Swensen, Oregon Criminal Defense Lawyer Assoc.  
Jim Arneson, Oregon Criminal Defense Lawyers Assoc.  
David Factor, Dir., Criminal Justice Council  
Stephen Willhite, Research Director, Oregon Criminal Justice Council

75 JOHN KITZHABER, GOVERNOR , STATE OF OREGON: General overview of implications of Ballot measure 11.

- Explains requirements of the measure. Expresses his commitment to fully implement the measure.  
- Explains requirements for implementation of the measure.  
- Explains current prison population and cost.  
- Explains total potential costs between now and '99 biennium  
- Recommendations for approach - logical approach is to reduction of number

coming into the system.  
- Efforts to rehabilitate career criminals has not been productive.  
- Over view of main points: better partnership between state, city and county governments

140 - Use state prison space for career criminals and those sentenced under measure 11  
- Finance construction of regional and local facilities

201 Conclusion - Explains long term strategies:  
- 1) put in place the institutional structure to manage this new system  
- 2) aggressive prevention strategy

211 CHAIR BRYANT: Question regarding amount of new beds and what programs will be involved in handling them.

213 KITZHABER: I believe the (1767) is in state correctional system.

211 DALE PENN, MARION COUNTY DISTRICT ATTORNEY: Responds regarding forecast with no policy change what-so-ever.

224 TED KULONGSKI, ATTORNEY GENERAL, STATE OF OREGON: Handout distributed [EXHIBIT B] - Governor's Task Force on Juvenile Justice Summary of Proposals

281 Begins presentation with brief history of the task force.  
- general principals involved;  
- comments regarding development of system to find data  
- It calls for creation of Department of Youth Authority

393 Mentions reasons why it is important that the program be independent and given its own status

- We are calling for multi tiered system to provide for different sanctions  
- Explains the tiers they are proposing. Comments regarding Youth Accountability Camps (Boot Camps)

TAPE 2-A

30 KULONGOSKI: Ted Kulongoski: continues with comments regarding Youth Accountability Camps

53 - Explains "Regional Residential Academy" and explains it is most expensive component of the system.

75 - Explains last tier - Community Based Programs - have no performance measures for treatment programs

91 - Will have supersiting bill in again to look at siting of local regional facilities

- Ballot Measure 11 - 16 crimes currently in the measure

- They are suggesting an additional 5 be included.

- Explains what they are proposing in the Task Force Report. (Not yet available)

137 - Most controversial issue - "second look"; explains issue

149 - Options for court to follow regarding the second look.

158 - What are the elements the courts will look at before making a decision

in second look.

- Explains elements

195 - Issue of data and public records; what they are proposing

- Explains expungement process and their proposals in this area

235 - Explains area of dispositions

247 - Parole and probation functions

260 - Closing comments - confusion regarding Governor's budget; explains part of the budget;

- We will be arguing with the Legislature that you should fund the establishment of this proposal

310 REP. COURTNEY: Questions 400 additional beds; where do MacClaren and Hillcrest fit in?

323 KULONGOSKI: It will be utilized as a facility in Upper Valley.

330 COURTNEY: Question regarding camps being a part of the original facilities.

334 KULONGOSKI: The intent is to have a structured system in which each maximum security facility will have within its facility, the other elements

of the graduated series of sanctions.

344 CHAIR BRYANT: When will report be released?

346 KULONGOSKI: Next week.

350 KEVIN MANNIX, OREGON STATE REPRESENTATIVE: Speaks in favor of Measure 11.

No prepared remarks. Issue of implimentation of measure 11. Points out other Chief Sponsors of the bill.

- Separate out non-measure 11 issues when you look at this measure.

- Encourages committee to look at this as a two phased process

- Urges committee to look at bill filed in the House.

TAPE 1-B

33 MANNIX: Continues discussion of Measure 11, other offenders.

94 - Difference - CSD intervention vs corrections, etc.

110 - Second look for Juvenile offenders and adding offenses to mandatory minimums

143 Conclusion

146 RICK HILL, ASST. ADMIN., OFFICE OF JUVENILE CORRECTIONS:

Handouts presented. [EXHIBIT C] - History of Major Recent Trends in Juvenile Corrections System

[EXHIBIT D] - Chart of Growth Comparison; number of beds) Begins presentation referencing exhibits.

268 REP. TIERNAN: Asks for comments regarding deterrent to violent crime.

282 HILL: Need to engage in an educational campaign to get new information  
out. Don't know about arrest patterns. Addresses several other "unknowns"

involved.

350 Conclusion

350 LARRY OGLESB Y, OREGON JUVENILE DEPT. DIRECTORS' ASSOC.: Handout given  
[EXHIBIT E] - Testimony in favor, with request to look at impact.

TAPE 2-B

30 OGLESB Y: Continues with testimony.

72 DENNIS MALONEY, DIR. DEPT. OF COMMUNITY CORRECTIONS, DESCHUTES COUNTY:  
Handout given. [EXHIBIT F] - Defensible Policy consideration for Juvenile  
and Adult Corrections - Testifies regarding Ballot Measure 11. Urges  
Committee to consider research party when deciding budgetary policy.  
- Suggests Corrections should be fee supported.

175 MALONEY: Responding to Rep. Parks regarding funding and where it will  
go.

218 - Comments regarding Powder River facility

258 - Comments regarding program in Florida

283 MARC MCDONNELL, DEPUTY DISTRICT ATTORNEY, MULTNOMAH COUNTY: Begins with

brief description of his department and his involvement with this issue.

- Testifies regarding violent crime; increase in juvenile; adult fairly  
level

- Comments regarding causes and how they are handling different situations.

380 - We need to create incentive for young people to engage in treatment  
programs; suggests need for hard beds

475 - Comments regarding "second look" issue

- Asking victims to be put on hold with "second look"

TAPE 3A

24 MCDONNELL: Continues with description of particular client and incidents  
in which he was involved.

35 TIMOTHY TRAVIS, ATTORNEY, JUVENILE RIGHTS PROJECT: Testifies in  
opposition. Begins presentation with brief description of his involvement  
with these issues.

100 - comments regarding previous testimony; are citizens of Oregon willing  
to pay for additional hard beds - says issue is "what goes with those hard  
beds."

- Does not agree with "simple punishment"

150 - Wants rehabilitation vs warehousing

175 - Also represents abused and neglected children; "...not putting  
resources into children who are victims and that is why they are becoming  
victimizers."

192 MCDONNELL: Brief rebuttal.

195 DALE PENN, MARION COUNTY DISTRICT ATTORNEY: Begins presentation  
regarding the Governor's plan.

- Says issue regarding the adult side of this is not the detail in the plan

rather that the criminal justice system is not a system. We need to have  
effective system involving cities, counties, state, courts, entire spectrum

of each jurisdiction that participates in provision of criminal justice.

Handout distributed. [EXHIBIT G] - Oregon State Bar Bulletin, Justice in  
the Year 2020

250 WALLACE CARSON, JR., CHIEF JUSTICE, OREGON SUPREME COURT: Begins  
presentation on "Visions 2020."

- Mentions workshop sponsored by National Center for State Courts and State

Justice Institute

- Committee chaired by Judge Keys and 4 questions they dealt with; where have we been; where are we now; where are we going; and, where do we want to be.

318 JUDGE WILLIAM KEYS, DISTRICT COURT JUDGE, MULTNOMAH COUNTY, CHAIR, FUTURE OF COURTS COMMITTEE: Handout given. [EXHIBIT H] - State Court Forecasts: Explains the process they went through to come to decisions for

vision for Oregon courts.

Shares 3 Positives in regards to major trends: growing use of new information technologies, new scanning to reduce data entry, and paperless court rooms

400 JUDGE KEYES: Continues, two negatives: increasing societal disintegration and growing inadequacy of funding.

TAPE 4-A

3 JUDGE KEYES: Continues presentation using graphs; Projected number of Judges needed between 1993 and 2020.

25 - Graph showing what happens if nothing is done at all.

62 JUDGE PAMELA ABERNATHY, MARION COUNTY CIRCUIT COURT: Highlights the Visions for Justice in 2020 (Exhibit G) We have tried to protect our core

values.

100 - Centerpiece of the vision is to establish Dispute Resolution System: Center for Dispute Resolution Centers (CDRC) problem solvers encouraging

resolution of disputes.

175 - Mentions case assessment triage process.

- Mentions approach to Juvenile Justice System

245 KINGSLEY CLICK, ASST. STATE COURT ADMIN.: The Visions 2020 is not a document that has been done and we've washed our hands of it.

- We have had an action plan committee of internal Judges and staff members working on plan and implementation.

- Introduces and gives background for Judge Tiktin.

278 JUDGE TIKTIN, PRESIDING JUDGE, DESCHUTES COUNTY: Begins presentation regarding indigent defense, how the Federal system operates and comparison

of Federal vs Oregon systems.

345 - Mentions statutes relating to this issue; mentions Stephenson vs Holtsman court case.

390 - Continues covering issue of entitlement to court appointment counsel in the state system.

- Federal system explained.

Handout given. [EXHIBIT I] - Report to the Nov. E. Bd. on the Right to Counsel at Government Expense

TAPE 3-B

10 CHAIR BRYANT: Discussing costs savings of going to Federal system vs state.

17 REP. PARKS: Asks what the total cost of indigent defense this year is.

20 ANN CHRISTIAN, INDIGENT DEFENSE DIRECTOR: On the current biennial basis, we are expecting the account to be \$89 million.

- Thought to be about \$2 million more than they originally expected.

- There are types of cases where there is on constitutional basis for appointment of counsel in terms of indigent defense.

79 INGRID SWENSEN, OREGON CRIMINAL DEFENSE LAWYERS ASSOC.: Brief presentation concurring with analysis done by Ann Christian on materials regarding Fed. and state constitutional statutory rights.

85 JIM ARNESON, OREGON CRIMINAL DEFENSE LAWYERS ASSOC.: Briefly comments

regarding someone who has not had an attorney appointed, no jail time imposed and whether or not a jail time can be given later for that conviction.

150 DAVID FACTOR, DIR., CRIMINAL JUSTICE COUNCIL: Handouts given. [EXHIBIT  
J] - Imprisonment Rate, Average Prison Term, etc.  
[EXHIBIT K] - Crime and Corrections Overview  
Comments regarding crime in Oregon, Adult and Juvenile. Exhibit shows  
current sentencing practices, prison population forecast and impact of  
Measure 11.  
- Caviat regarding Measure 11 - this data is based upon "current practices"

237 SEN. HAMBY: Question regarding the wait for certain data.

240 FACTOR: The measure doesn't take effect until 95. It will be difficult  
for you to monitor during this session.  
- Refers to Executive Summary (Exhibit ), speaking about data collected  
from Law Enforcement agencies.

267 STEPHEN WILLHITE, RESEARCH DIRECTOR, OREGON CRIMINAL JUSTICE COUNCIL:  
Refers to Exhibit , Overview of crime in Oregon- measure of reported  
incidents to the Uniform Crime Reporting Section of the Law Enforcement  
Data System.  
- There is not a crime wave going on in the state of Oregon. Crime rate  
is actually lower.  
- We plan to do a more thorough study of the "crime state" in the state  
- Comments on Juvenile Crime rate; reports on arrests for juveniles in the

state; they've grown substantially since 1986  
- Reports on rate growth of property, behavioral and other crimes  
357 - Refers to next section on current sentencing practices.  
- Developing sentencing guidelines and how they came to be  
- Refers to two charts in handout- imprisonment rate and change in mix of  
offenders, currently

TAPE 4B

33 FACTOR: Continues with presentation. Forecast (page 20) talking about the  
impact of Measure 11.

60 Conclusion of presentation.

61 CHAIR BRYANT: Meeting adjourned 4:40 p.m.

Submitted by, Reviewed by,

Dar Woodrum, Bill Taylor  
Committee Assistant Committee Counsel

#### EXHIBIT SUMMARY:

A -- Committee Rules -- Staff -- 2 pages  
B -- Governor's Task Force on Juvenile Justice Summary of Proposals -- Ted  
Kulongoski -- 2 pgs  
C -- History of Major Recent Trends in Juvenile Corrections System -- Rick  
Hill -- 2 pgs  
D -- Chart of Growth Comparison -- Rick Hill -- 1 pg  
E -- Oregon Juvenile Dept. Directors Assoc. Testimony - Larry OgleSB y -- 3  
pgs  
F -- Defensible Policy Considerations-Juvenile/Adult Corrections -- Dennis  
Maloney -- 1 pg  
G -- Ore. St. Bar Bulletin -- Bob Oleson -- 64 pgs.

H -- State Court Forecast -- Judge Keyes -- 6 pages  
I -- Report to the Nov. E. Bd./Right to Counsel at Gov't Expense -- 29 pgs  
J -- Imprisonment Rate, etc. -- Dave Factor -- 1 pg  
K -- Crime and Corrections Overview -- Dave Factor -- 24 pgs