

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.

Measures Heard Info. Hearing SB 232, PH

SENATE COMMITTEE ON JUDICIARY

March 8, 1991Hearing Room C 1:00 p.m.Tapes 54 - 56

MEMBERS PRESENT:Sen. Joyce Cohen, Chair Sen. Jim Bunn Sen. Dick Springer

MEMBERS EXCUSED:Sen. Jim Hill, Vice-Chair Sen. Peter Brockman Sen. Jeannette Hamby Sen. Bob Shoemaker

STAFF PRESENT: Ingrid Swenson, Committee Counsel Bill Taylor, Committee Counsel Kate Wrightson, Committee Assistant

WITNESSES: Elyse Clawson, Department of Corrections  
Billy Wasson, Marion County Corrections Department Ron Chase, Sponsors Inc. Fred Saporito, Mill Creek Associates Paul Snider, Association of Oregon Counties Tom Barkin, Public Utilities Commission Judge George Joseph, Chief Judge, Court of Appeals Philip Schradle, Department of Justice Denise McPhail, Portland General Electric Ginny Lang, US West Communications

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TAPE 54, SIDE A

002 CHAIR COHEN: Calls hearing to order at 1:37 as a sub-committee. -Work sessions will be rescheduled, due to absence of quorum.

COMMUNITY CORRECTIONS OVERVIEW (CONTINUED), INFORMATIONAL HEARING

026 ELYSE CLAWSON, DEPARTMENT OF CORRECTIONS: Submits written testimony from previous informational hearing (Exhibit A) and testimony for today's hearing (Exhibit B). -Reviews written testimony. -Reviews Case Bank System, a limited level of caseload monitoring by computer. -The complexity of our work has increased over the past few years.

049 CHAIR COHEN: The same people still need services, so what is the difference with the computer system? -If we are busy counting, and not providing services, then perhaps the corrections agencies are doing the wrong thing.

055 CLAWSON: This was not numbers. The cases themselves are very complex, with a variety of reports and other entries.

061 CHAIR COHEN: You have a great deal of paperwork.

062 CLAWSON: It is work that must be done, based on the multiple jurisdictions which each offender might come under.

067 CHAIR COHEN: If you have a uniform management system, then a person should only have to be entered once. -Are we doing anything to create a single casework file that can be submitted to a variety of jurisdictions?

074 CLAWSON: Yes. The case management system has helped us to streamline the process. -Impacts of budget cuts: 10% reduction of community corrections funding (\$2.3 million). That will reduce available slots in a number of treatment and sanction programs, and may eliminate some programs. -Misdemeanant funding will be reduced by 75% (\$4.4 million). Only sex offenders and person-to-person offenders will be served. Some misdemeanants under supervision now are higher risk cases than some felonies. -Field services will be cut by \$6 million. Parole services will be cut 20% (\$1.8 million). -By July of 1993, 74% of our caseload will be in the case management system. -If we could fund transition programs, we could reduce revocation numbers. With resources, we could impact recidivism. -Our budget requests are in submitted testimony. -Sen. Hamby asked where we were in relation to other states, in terms of contact standards. We have information from NCCD in testimony; we are in the middle of the states who use similar systems. -Sen. Springer asked about supervision level in Lane, Marion, and Multnomah Counties versus statewide. This is also included in testimony. Klamath County has one of the lowest averages, and Jefferson, Lincoln, and Tillamook Counties are high.

216 SEN. BUNN: You gave us a page in your testimony on field services workload and efficiency. -Is this what you would like to have available?

219 CLAWSON: Yes.

220 SEN. BUNN: It looks like support staff for parole and probation officers are about 1:1, and the supervisors are 3:1. -Are these the current ratios?

223 CLAWSON: No. These numbers reflect the ideal staff ratio determined by the case management system. -The current statewide ratio of clerical to staff and supervisors to staff is very high. -In several counties, the branch manager is the only supervisor for the entire county's workforce.

245 CHAIR COHEN: We should all know what the accepted ratio is, and what we need to do to get it. It is not clear here.

251 CLAWSON: The staff request ratio is 1:10 supervisors to staff, and 1:4 clerical workers to staff.

253 SEN. BUNN: It is important to know that, because many people say that there is plenty of room to cut this budget. -I look at this and wonder if these numbers are what you want, or what you have now.

260 CLAWSON: Our request is designed to get to these ratios. -Now, we have supervisory ratios of 1:12 up to 1:22 around the state, except in counties with little staff. -In every county except Multnomah and Lane, there is no one between me and the first-line supervisor, except for the two field management staff which serve the entire state.

283 CHAIR COHEN: Anything you try to do here should be prefaced by those numbers, to show why we shouldn't cut more from your budget.

288 CLAWSON: Yes. We have a very flat management structure.

293 SEN. SPRINGER: There has been some discussion that the Committee on Ways & Means will ask for full funding for the Ontario prison, as opposed to leasing out space. -Is there any sense that community corrections or field services might get some funds added back?

301 CLAWSON: I haven't heard anything except rumors. -We are not before Ways & Means now, and will not be there until April.

309 SEN. SPRINGER: I watched the Multnomah County Commissioners discuss their budget. Everything they do is based on what we do here, and I assume that they are not the only people looking at us. -Do you get the sense that other counties are reconsidering whether they will be Option One, Two, or Three, based on the resources that you have or will have?

327 CLAWSON: I don't know how many shifts in option level there will be, and I don't know what counties will do. It all depends on what happens with our own budgets.

357 SEN. SPRINGER: It's a tough job not made any easier by proposed cuts.

377 BILLY WASSON, MARION COUNTY CORRECTIONS DEPARTMENT: Submits written testimony (Exhibit C) and article (Exhibit D). -We are constantly asked "What works, and why aren't you doing it?" -"What works" is defined as an intervention which reduces arrests of the offender in a future time period. -Successful programs have: therapeutic integrity; a research program which can be documented; focuses on positive processes rather than on punishment; flexibility to be tailored to offenders' needs; adequate funding; and trained and committed staff. -Many things don't work: incarceration or community supervision alone, or shock programs such as boot camp or Scared Straight. -We are committing most of our funding to high-risk offenders.

TAPE 55, SIDE A

087 SEN. SPRINGER: Your information seems to contradict information accepted by others in the criminal justice system. -What do we do with this information? Who's right? -We need to set policies, and if your information is correct, we are misdirected.

102 WASSON: The answer centers around intended purposes. -What are our intended actions, and the purposes of those actions? -Oregon doesn't have a philosophically pure system.

158 SEN. BUNN: I have a question about treatment of high-risk cases. Where is that decision made? -In making the decision that low-risk cases will be punished and not rehabilitated, do we have evidence that high-risk offenders can actually be rehabilitated? -Isn't it easier to change the low-risk offenders, who are 93% of offenders, and keep them out of the system?

181 WASSON: I am saying the opposite.

184 CHAIR COHEN: Sen. Bunn, you seem to assume that everyone is out on the street. -I'm not sure that he's suggesting some people shouldn't be kept out of society for good.

191 WASSON: That's right. We want to put all the severe offenders away, and so we evaluate the risk level of each offender.

194 CHAIR COHEN: Many of these people are out, though. You don't necessarily have the choice of saying whether someone gets out or not. The Post-supervision Board puts them out, after they have served their term. -Sen. Bunn's question is a larger one, that we will have to deal with at some point. The resources need to be put somewhere.

202 SEN. BUNN: If 100% of resources go to deal with 7% of the caseload, are we missing the boat by not focusing on the 93% who might repeat their crimes?

208 CHAIR COHEN: Remember that his definition of risk is the risk of re-offending.

210 SEN. BUNN: I forgot that. That might make a difference.

214 CHAIR COHEN: We still need to think about these things.

219 WASSON: We are having the same discussion with the Marion County District Court. -Submits and reviews article concerning impact of Measure 5 on Department (Exhibit E).

287 SEN. SPRINGER: Do you have a county-by-county breakdown of parole and probation revocation?

294 CLAWSON: Submits testimony with that information (Exhibit F).

315 RON CHASE, SPONSORS INC.: Submits and reviews written testimony (Exhibits G & H). -Parolees often show up without the parole officers knowing about them at all.

344 CHAIR COHEN: I thought we did something about that.

346 CHASE: It doesn't happen all the time, but it happens too often. -Continues to review testimony.

TAPE 54, SIDE B

002 CHASE: Continues to review written testimony.

035 CHAIR COHEN: It seems that you take the most likely to re-offend, and that it is hard for you to get funding. -How long do these people stay with you?

041 CHASE: Up to 120 days. We have a Department of Labor subsidy for up to 120 days.

047 CHAIR COHEN: Where do you get your basic funding?

048 CHASE: We don't have any. -Lane County gives us \$14,000, and we raise \$15,000 ourselves. -Other than that, we get grants.

055 CHAIR COHEN: You don't get vouchers or transition fees?

057 CHASE: Most of our offenders have one month's voucher, which is \$350. -Our cost is \$750 per bed, per month.

063 CHAIR COHEN: How much does one client cost you per year?

067 CHASE: \$30 per night, \$10,000 a year per bed. -Our costs are low because we pay lower wages than the state.

085 FRED SAPORITO, MILL CREEK ASSOCIATES: Submits written testimony (Exhibit H). -Chase's program sounds good. -The state isn't up to date on allowing licensed mental health counselors to do their job. -You should trim administrative costs, and leave direct service providers. -Counties should approve a set of criteria which all sex offender treatment programs must follow. -Counties should be paid for short-term incarceration. That gives an interim solution between no accountability and prison. -Incarceration should be considered as a step of treatment.

238 CHAIR COHEN: You work with probationers, not parolees?

242 SAPORITO: Probationers. There is not enough time to work with parolees, since they usually come out with a year.

246 CHAIR COHEN: Sentencing guidelines provide three years.

247 SAPORITO: Three years would be great.

252 CHAIR COHEN: You want long-term involvement.

253 SAPORITO: Yes.

279 PAUL SNIDER, ASSOCIATION OF OREGON COUNTIES: Submits written testimony (Exhibit I). -Discusses dynamics of the parole and probation revocation process, and the probable effect of the proposed budget on that dynamic.

TAPE 55, SIDE B

019 CHAIR COHEN: Do these revocations bypass the jails, except for revocations on probation, so that there would be low impact on the jails?

022 SNIDER: There is an impact on the jails, because if local resources are cut for alternate services and sanctions, there will be more pressure on county jails as well as on prisons.

SB 232, TRANSFERS JURISDICTION OVER JUDICIAL REVIEW OF PUBLIC UTILITIES COMMISSION ORDERS FROM CIRCUIT COURT TO COURT OF APPEALS, PUBLIC HEARING

050 CHAIR COHEN: Requests witness to explain intended purpose of bill and -2 amendments (Exhibit J).

053 TOM BARKIN, PUBLIC UTILITIES COMMISSION: Reviews intended purpose of SB 232 and -2 amendments. -Submits written testimony (Exhibit K).

077 CHAIR COHEN: Who can be a party?

078 BARKIN: You must be a party at the Commission proceeding. When the Commission holds a contested case hearing, any member of the public can intervene, assuming that they have some sort of interest in the case. -In order to bring an action asking for review of the Commission's decision, that person must have been a party at the Commission level. -Review by circuit courts is an unnecessary step. It is particularly burdensome to individuals who don't have the same resources as the Commission and the utilities. -There have been seven appeals in the last four years, and twenty-four cases have been reviewed by the circuit courts during that period. -By eliminating circuit court review, we hope to make the process less costly and time-consuming.

146 SEN. SPRINGER: What kinds of cases are affected by this? -Who is appealing, and who is winning?

150 BARKIN: The Commission has jurisdiction over utilities, motor carriers, and railroads.

155 CHAIR COHEN: Clarifies Sen. Springer's question.

161 BARKIN: I will check my records.

165 JUDGE GEORGE JOSEPH, CHIEF JUDGE, COURT OF APPEALS: Testifies neither in favor of, nor in opposition to, SB 232. -Reviews purpose of -2 amendments, which may make SB 232 more attractive to the court.

234 PHILIP SCHRADLE, DEPARTMENT OF JUSTICE: The Department of Justice supports SB 232. -We see it as a cost-saving device for us, and for state government in general. -Under the Administrative Procedures Act, non-contested case orders will go to circuit court in any event.

279 BARKIN: Answers Sen. Springer's earlier question. -In the last four years, we have had twenty-four petitions for review by the circuit court: ten cases concerned motor carriers, four concerned electric utilities, nine concerned telecommunications, and one concerned railroads. -Seven of those cases had a subsequent review by the Court of Appeals, or are currently under review: two motor carrier cases, one electric utility case, and four telecommunications cases. -None of those are non-contested cases.

299 CHAIR COHEN: None of these cases would come before the circuit court under this bill?

300 BARKIN: No.

305 SEN. SPRINGER: In these Court of Appeals cases, who is the appellant?

308 BARKIN: I will check that for you.

316 SEN. SPRINGER: Is the standard of evidence the same at the circuit court?

318 BARKIN: Yes.

319 JOSEPH: Sen. Springer, were you asking about the present system, or that proposed by SB 232?

320 SEN. SPRINGER: The present system. -Does the circuit court apply the same sort of standards that the Court of Appeals applies to these reviews?

322 JOSEPH: Yes. It is exactly the same.

325 CHAIR COHEN: Would this increase the burden of your caseload?

326 JOSEPH: No. I am aware that the records in these cases tend to be very large, but most of these reviews do not involve the entire record.

347 SEN. SPRINGER: Will it take more time to get a decision from the Court of Appeals than it currently takes in circuit court?

355 SCHRADLE: The Court of Appeals has a panel of three judges, where there is only one judge in circuit court. That may lead to a faster decision, because of motion practice.

393 SEN. SPRINGER: It may cost less to bring a case in circuit court.

397 CHAIR COHEN: Cheaper for whom? It's a question of how much they pay for the records from the Commission.

408 SCHRADLE: The record from the Commission needs to be forwarded to the circuit court, just as it would if the case was being heard in the appellate court. -I'm not sure why it would be cheaper in circuit court.

419 SEN. SPRINGER: I'm thinking about costs associated with the preparation of briefs, but I have no experience in these sorts of cases.

427 JOSEPH: It's expensive either way, but the Court of Appeals will probably take less time to reach a verdict.

464 BARKIN: Answers Sen. Springer's earlier question. -Of the seven cases reviewed, the Commission was petitioner in four of them.

TAPE 56, SIDE A

032 DENISE MCPHAIL, PORTLAND GENERAL ELECTRIC: Testifies in opposition to SB 232 . -Submits and reviews written testimony (Exhibit L).

078 CHAIR COHEN: I think you would want to ask Mr. Gerard about his comments on the difference in the standards of review. That is something I would be interested to hear.

081 MCPHAIL: I do not want to dispute the experts who have already testified. I may have misinterpreted what he said.

085 TAYLOR: Do you know how many of these seven appeals have been brought by the utilities?

087 CHAIR COHEN: Mr. Barkin has those figures.

093 BARKIN: Of the three cases in which another party was the petitioner, that other party could be utilities, motor carriers or railroads. -I think that two of those were motor carriers.

104 GINNY LANG, US WEST COMMUNICATIONS: We generally support PGE in their opposition to SB 232. -We would like to review the -2 amendments and return to testify at another time.

109 CHAIR COHEN: Please submit any proposed amendments to committee counsel.

111 CHAIR COHEN: Adjourns hearing at 3:38 p.m.

Reviewed by: Reviewed by:

Bill Taylor Ingrid Swenson Counsel Counsel

Submitted by:

Kate Wrightson Assistant

EXHIBIT LOG:

A - Testimony for informational hearing - Elyse Clawson - 6 pages  
B - Testimony for informational hearing - Elyse Clawson - 8 pages  
C - Testimony for informational hearing - Billy Wasson - 14 pages  
D - Testimony for informational hearing - Billy Wasson - 2 pages  
E - Testimony for informational hearing - Elyse Clawson - 1 page  
F - Testimony for informational hearing - Ron Chase - 4 pages  
G - Testimony for informational hearing - Ron Chase - 2 pages  
H - Testimony for informational hearing - Fred Saporito - 2 pages  
I - Testimony for informational hearing - Paul Snider - 4 pages  
J - Amendments to SB 232 - Staff - 13 pages K - Testimony on  
SB 232 - Tom Barkin - 2 pages L - Testimony on SB 232 - Denise  
McPhail - 7 pages