

Testimony Concerning Recidivism in the Juvenile Criminal Justice System

by

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In the criminal justice system recidivism is an important measure of whether or not convicted criminals, both adult and juvenile, are repeating their criminal conduct. In the 2013 legislative session, the definition of adult recidivism was re-written because it did not effectively measure adult criminal conduct, was too limited in the kinds of criminal conduct it measured and was used in only one other state in the country, making it impossible to compare Oregon's adult recidivism rates with other states. Oregon's juvenile recidivism definition is also in need of reform for many of the same reasons.

Prior to the changes to Oregon's adult recidivism definitions in 2013 there were actually two definitions of juvenile recidivism in Oregon; one for juveniles handled by the Oregon Youth Authority (OYA) and one for youth handled by the county juvenile departments. It is our understanding the Oregon Youth Authority has already begun changing their definition of juvenile recidivism to be consistent with the new statewide adult definition. However, the county juvenile departments are continuing to define juvenile recidivism for youth in their charge in a very limited and rare manner.

There is vigorous national debate currently underway regarding the need for standardized recidivism measurements. A 2009 Council of Juvenile Correctional Administrators (CJCA) white paper recommended the standardization of juvenile recidivism using certain data it deemed to be the best practices in recidivism reporting. <http://cjca.net/attachments/article/55/CJCA-Recidivism-White-Paper.pdf>
An assessment of the Oregon Youth Authority concludes that Oregon's juvenile department measures meet none of the requirements outlined in this national white paper. http://www.oregon.gov/oya/docs/risk10_recidivismcomparison.pdf

Juvenile recidivism as defined by Oregon's county juvenile departments is unique. It is simply used by no other state, making immediate comparisons impossible. Oregon juvenile departments define "recidivism" for all juveniles as the number of juveniles who are referred to the juvenile system for a crime and who are then re-referred for a subsequent crime within 12 months of the initial referral. No attempt is made to track offense rates after juveniles turn 18 or to track out of state criminal behavior, even if

these occur during the 12-month tracking period. For instance, if a juvenile has a criminal referral shortly after their 17th birthday and then another much more serious criminal arrest as an adult shortly after their 18th birthday, the juvenile will be recorded as a non-recidivist simply because of the narrowness of the current definition.

The current juvenile recidivism definition by juvenile departments is a valuable tool to determine whether or not Oregon's juvenile departments are improving as measured by their own performance. However, it is not a valid yardstick of juvenile crime in the community or of the true re-offense rate of juvenile offenders. In fact as an indicator of how many delinquent youth actually re-offend the measure is deceptive and inaccurate. If you are interested in this particular aspect of the issue, we refer you to Page 28 of our report, *Juvenile Justice in Oregon*, copies of which we have provided to each of you.

We would like to specifically address the changes we have incorporated into Oregon's juvenile recidivism definition.

Oregon's 12-month tracking period is simply too short to accurately measure recidivism. It is not used in any other state. As recognized in most reputable publications, the most appropriate length of time to measure recidivism is three years.

Many jurisdictions use criminal arrests, rather than referrals, as the most accurate way of measuring recidivism. Not all juvenile arrests in Oregon result in referrals, meaning the use of re-referrals as recidivating events undercounts actual re-offenses and therefore artificially reduces actual recidivism rates.

In addition, the current recidivism definition excludes all criminal behavior that happens after a juvenile turns 18, even if those events are within the 12-month tracking period. A quick look at other states reveals that including all arrests, even those beyond the 18th birthday, if they occur within the tracking period can much more accurately reveal the true extent of repeat criminal behavior. For instance, North Carolina measures their juvenile recidivism for three years and includes arrests beyond the age of 18 and the impact of doing that added 8% to their overall juvenile recidivism rates. We anticipate the same kind of impact would occur in Oregon and again we refer you to our report for the details.

Finally, Oregon does not include out-of-state arrests. In a highly reputable national study of adult recidivism, the U.S. Bureau of Justice Statistics has calculated that including out-of-state arrests for adults adds about 10.7% to the overall recidivism rates. http://www.oregon.gov/oja/docs/risk10_recidivismcomparison.pdf We would expect that the juvenile recidivism numbers would experience a similar increase.

We recommend that Oregon's juvenile system should have one general definition of recidivism and it should be consistent with the national standards recommended by the Council of Juvenile Correctional Administrators in their 2009 white paper and with the new adult definition of recidivism in HB 3194, passed by the legislature in 2013. It is our

understanding that the OYA is already preparing to assemble recidivism figures that are largely consistent with this legislation, regardless of whether this legislation is adopted. This is being done because of the need to compile juvenile measures and statistics that are consistent with the adult recidivism measures that were adopted in 2014 in HB 3194. This is an apparent recognition of the need for a standard measure that is consistent with Oregon and national standards and expectations. We recommend that the legislature adopt these measures to formalize the move to bring Oregon's practices in line with national standards.

We specifically recommend:

- Recidivism is defined as any new referral, arrest or return to close custody.
- The tracking period should be for three years, starting when the original arrest or referral is resolved. Releases from close custody should be tracked for three years beginning when the youth is released.
- Tracking should include all arrests or referrals after the youth turns 18 years of age if it falls within the 3-year tracking period.

We also recommend that the Oregon Criminal Justice Commission (CJC) be charged with calculating the effect of out-of-state arrests on both adult and juvenile recidivism rates consistent with the calculations performed by the U.S. Bureau of Justice for adult recidivism.

Finally, in HB 2907 we initially proposed the omission of paragraph (1) under Section 2 of the bill. The paragraph is located on lines 20 through 24 of HB 2907. After discussions with the CJC and feedback from the OYA, we now propose adding back ORS 420A.012(1) to the bill. We believe this will answer at least some of the concerns of the OYA and perhaps positively affect their position on the substance of HB 2907.

Conclusion:

We believe that if we are serious about improving the performance of our criminal justice system, we must first make sure that our measurements for success are accurate and complete. Otherwise, any reports of subsequent success or failure will be saddled with poor data collection and poor data measurement. It is in this spirit that we have written HB 2907.