



John S. Foote, District Attorney for Clackamas County

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March 16, 2015

The Honorable Senator Richard Devlin, Co-Chair
The Honorable Representative Peter Buckley, Co-Chair
The Honorable Senator Chip Shields, Co-Chair of Public Safety Sub-Committee
The Honorable Representative Jennifer Williamson, Co-Chair of Public Safety Sub-Committee
Joint Committee on Ways and Means
State Capitol
900 Court Street NE
Room H-178
Salem, OR 97310-4048

Re: Information about the Implementation of HB 3194 in Clackamas County

To All Concerned Individuals,

We have been requested to provide information "regarding the role the District Attorneys have been playing within the public safety system to ensure that the anticipated avoided costs from the sentencing reforms enacted in 2013's HB 3194 are being achieved and where these changes in prosecution have been most effective geographically across the state."

The Clackamas County District Attorney's Office has fully implemented all of the sentence changes in HB 3194. We have met both the letter and the spirit of the new law. Clackamas County's justice system has historically used less prison bed space than the other large counties. This is due to many factors. One of the most important is what we would describe as our moderate approach to charging, plea negotiations and sentencing over the past 14 years. We have a constructive relationship with the Clackamas County defense bar and work hard to keep the doors of communication open. We believe this has resulted in a more modest historical use of state prison beds in Clackamas County, even before HB 3194.

A quick review of the latest Metro Regional Implementation (RIC) report from the Oregon Criminal Justice Council confirms that Clackamas County used fewer prison beds in 2014 than any of the five big counties. (Please see the attached individual slide from the January 2015 Criminal Justice Commission RIC presentation.) Also, according

to this report, Clackamas County reduced its total use of total prison months in 2014 and prison intakes from the county were virtually flat from the previous year. Although the report indicates the average length of sentence for Clackamas County cases in 2014 went up, a closer comparison shows that despite that increase, Clackamas County's average length of prison sentence for property crimes is the lowest of the five big counties. All of this data continues to demonstrate that Clackamas County is a careful steward of its use of prison sentences, reserving them for the most serious types of crimes and/or the defendants with the most serious criminal histories. This is clearly the overall intent of HB 3194.

The Clackamas County District Attorney's Office has not requested any of the 2013-15 Justice Reinvestment Fund (JRF) revenue. Instead, we chose to support funding for our local community corrections programs that had been rigorously tested and proven to reduce criminal conduct. These included:

- HOPE Court
- increased short term transitional beds (accompanied by a request to do a randomized controlled trial to test the very best reentry program available to see if it works, something that has not yet occurred) and
- cognitive-behavioral program beds for drug affected offenders on supervision.

Almost all of our current JRF revenue is dedicated to these programs and they have the full support of our office.

In addition to supporting these initiatives via the JRF, for many years this office has implemented many other programs that have been incorporated into our sentencing structures in Clackamas County. A few of these include:

- Mental Health Court to divert many mentally ill criminal defendants,
- a Community Court in the north part of the county,
- a Community Prosecution program in Overland Park to help neighborhoods reduce crime without necessarily increasing arrests,
- a Truancy Court to help young people who are drifting away from school (a sure pathway to criminal conduct) by influencing their parents to get their kids to school,
- Oregon's first HOPE court to help supervised felony offenders reduce their criminal conduct,
- a new conditional discharge program for some drug offenders who have no or minimal records.

All of these programs are part of our overall effort to be effective in reducing crime and holding offenders accountable.

As one of eleven original members of the Governor's 2012 Public Safety Commission, the Clackamas County District Attorney authored an Alternative Report to the Commission's main report, a copy of which is attached to this letter for reference. Most of the Alternative Report, originally contained in HB 3195, was eventually incorporated into HB 3194.

The final version of HB 3194 included three core components to control prison growth:

- modest sentence reductions in some drug and property offenses,
- an increase from 30 to 90 days for transitional leave and, perhaps most importantly,
- a much improved prison population forecasting process free from political or ideological influence.

The JRF was created to be a stimulus fund for community programs that had been rigorously tested (through randomized controlled trials) and proven to reduce criminal conduct, thereby improving the overall effectiveness of justice programs. Obviously, more effective programs would also further reduce criminal conduct and therefore potential future prison growth. However, the JRF was not originally designed to specifically control prison growth. That was the purpose of the rest of HB 3194.

This office has been a strong and consistent proponent of HB 3194 and the Justice Reinvestment Fund from its inception and believes it provides a balanced approach to public safety.

We hope that this information has been helpful and informative. Please let us know if you need any further information or need answers to any questions.

Sincerely,



John S. Foote

JS/KS

Attachment(s)

cc: Doug Harcleroad