

# Unlawful Use of a Vehicle

HB 4161 fix

Ryan Lufkin  
Deputy District Attorney  
Multnomah County

# The problem

- Court of Appeals in State v Korth 269 Or App 238 (2015) and State v Shipe 264 Or App 391 (2014) held that the State must prove, beyond a reasonable doubt, that the driver of a vehicle knew it was stolen
- However, the following was considered not enough proof of that (from Korth):
  - “Dave” the transient gave me the car
  - I have no idea of his last name or where he lives
  - “Jiggle” keys used to steal cars were located in vehicle
  - Drugs in the car
  - Defendant lied to police

# The problem

- Also found insufficient (in Shipe):
  - Defendant possessed meth
  - Got the vehicle from a guy named “Richey”
  - Bolt cutters, multiple keys, documents with other people’s names on them in the vehicle
  - Locked case labeled “Crime committing kit”
  - Stolen property in the vehicle
  - Considerable damage to the vehicle
  - Using the wrong key to operate the vehicle

# The problem

- Downstream consequences of these decisions:
  - Judges opine from the bench the difficulty in prosecuting these offenses:
    - Judge Kantor: “They have put a shackle on the State, as far as I can tell, in trying to prove these cases.”
    - Judge Bergstrom: “The state of UUMV law may be absurd to some of us, but it is the state of UUMV law.”

# The Solution: HB 4161

- A compromise bill with OCLDA to fix the problem
- Provides that a jury can consider cases where the defendant disregards a substantial risk that the vehicle is stolen
- Will solve the vast majority of cases we currently cannot prosecute successfully
- Should return to status quo that existed before these opinions