



CITY OF GRESHAM

March 11, 2019

The Honorable Jennifer Williamson, Chair
House Committee on Judiciary

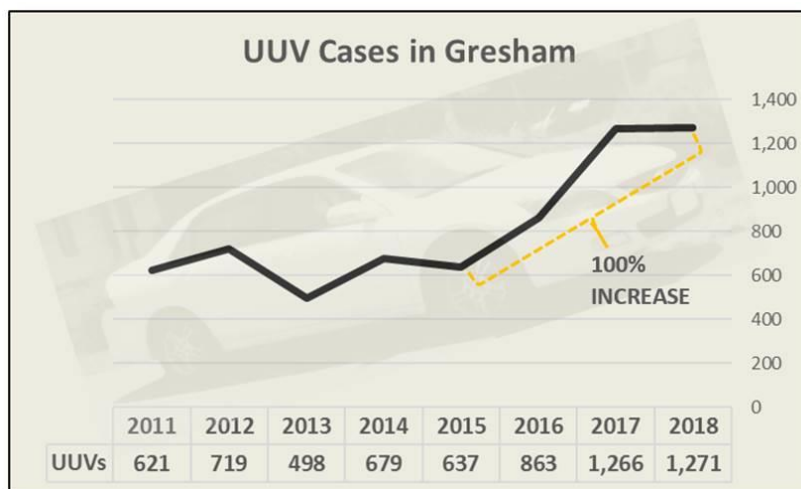
Re: Testimony on HB 2328

Dear Chair Williamson and Committee Members:

The City of Gresham strongly supports HB 2328, unamended, which would help address the increasing problem of vehicle theft in the City of Gresham and throughout Oregon. In 2014, the Oregon Court of Appeals in *State v. Shipe* established a legal precedent that, to convict a suspect of Unauthorized Use of a Vehicle (UUV), evidence must prove beyond a reasonable doubt that a defendant *knowingly* acted. *State v. Korth* of 2015 clarified and reinforced that precedent.

Stolen Vehicle Cases Double as a Result:

Because knowledge is difficult to prove, cities such as Gresham have seen dramatic increases in vehicle thefts since 2014 as offenders recognize they are unlikely to face prosecution. From 2015 to 2017 alone, annual UUV cases in Gresham doubled from 637 to 1,266.



HB 2328 would reduce the required mental state for a UUV conviction from knowledge of a lack of consent to the simpler threshold of knowledge of taking the vehicle, thereby returning to, and restoring, a more reasonable standard of proof.

Public Safety Caseload Increases, Convictions Decrease:

Prior to the court rulings, UUV cases in Gresham constituted 4-5% of Gresham’s total police caseload. Now, these cases represent around 9% of the Police Department’s caseload.

Our officers are telling us now that suspects know vehicles can be stolen in Oregon with impunity. Officers regularly encounter suspects in stolen cars who purport to be “borrowing” them from friends or relatives,

but cannot name a friend or relative from whom they “borrowed” them. As car thieves have become savvy to what to say when they encounter police, it has become increasingly difficult for officers to gather evidence that would lead to a conviction.

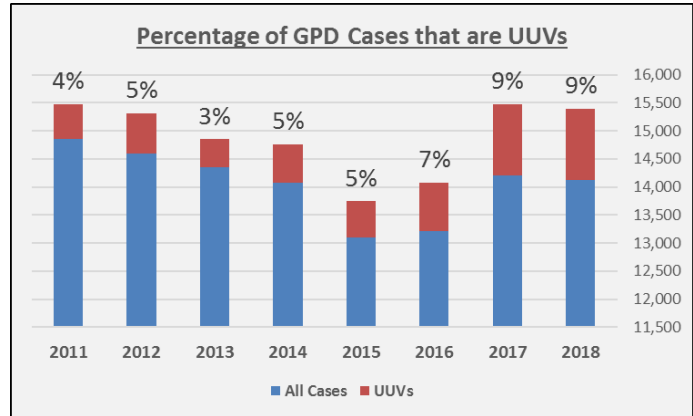
For example, Gresham officers responded to a welfare check on one suspect who was asleep behind the wheel of a stolen pickup, attached to a trailer towing two stolen motorcycles. When roused, the suspect told officers, “I’m on probation for UUV” but refused to give a statement. Although the suspect was arrested, the District Attorney’s Office declined the case because officers were unable to obtain a statement demonstrating that the suspect knew he lacked consent to use the vehicles.

When a Gresham officer lacks evidence about the mental state of a UUV suspect, the officer faces an unfortunate choice: make a resource-intensive arrest unlikely to lead to a successful prosecution or release the suspect. Even when an arrest is made, suspects are frequently released from jail days or even hours after the arrest due to what the D.A. deems to be insufficient evidence.

Substantial Impact on Hard-Working Residents:

The residents I represent are increasingly victimized by the exponential increase in vehicle thefts caused by these court cases. One Gresham resident has had her vehicle stolen four times in less than a year, not only presenting a series of huge disruptions, but incurring substantial costs and impound fees. In another instance, a Gresham family drove to the Mount Hood Medical Center for the birth of their third child when their only vehicle, equipped with a new car seat and baby supplies, was stolen from the hospital parking lot.

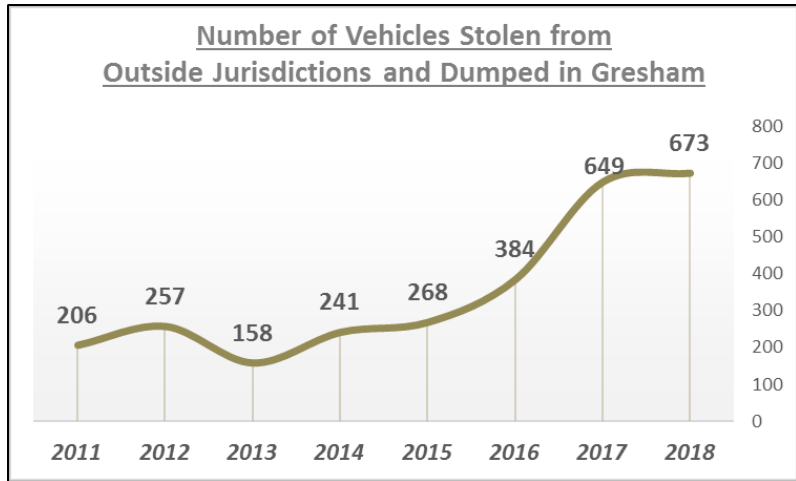
This is not an issue that is primarily impacting affluent individuals in luxury vehicles. In fact, the most common vehicles stolen in Oregon are [sedans from the mid-1990s](#), and according to



data from the Federal Bureau of Investigations, the average value of a stolen vehicle nationally is around \$7,680. To be blunt, Oregon's working poor are suffering the most, and are the least able to afford the disruption.

Stolen Vehicles are the New Ride-Share:

In the aftermath of these Court rulings, the consequences of stealing a vehicle are so minimal that stolen vehicles have become a growing transportation option for the region's criminal enterprises. Not only have stolen vehicle cases originating in Gresham doubled since the Court cases, but the number of vehicles stolen in other jurisdictions and dumped in Gresham has skyrocketed from 241 in 2014 to 649 in 2017.



The Real Fiscal Impact:

I have heard that the most significant obstacle to reestablishing sanity in our stolen vehicle statute is an estimated fiscal impact of \$4 million. First and foremost, estimating a fiscal impact is specious. There is a fundamental problem with having the court essentially “write-away” a law, have the state receive a positive fiscal impact from that occurring, and then claim that there would be a negative fiscal impact to the state to simply return to a version of the prior status quo.

More significantly, it is imperative that the Legislature consider the very real fiscal impact suffered by regular Oregonians getting their vehicles stolen. As I mentioned above, the average value of a stolen vehicle is around \$7,680. If you multiply that cost by the number of vehicles stolen in Gresham last year (1,271 vehicles), the property value in Gresham alone was nearly \$10 million. If you multiply the average value of a stolen vehicle by *just the increase* in vehicle theft cases we now receive annually due to the adverse Court rulings (629 vehicles) the property value for Gresham families alone approaches \$5 million each year. The impact statewide is much more.

When people lose their means of getting to work, wages are lost and businesses lose productivity. Too often, regular Oregonians, and often Oregonians struggling the most in our economy, are shouldering the real fiscal impact of the vehicle theft loophole.

The Legislature must not let a relatively modest fiscal impact estimate on the state budget result in much larger annual fiscal impacts on the household budgets of our residents. For \$4 million,

the Legislature could save Oregon families many times that amount every single year. That's the type of return-on-investment our residents want to see from their investments in public services.

Decreasing Sentences is not the Answer:

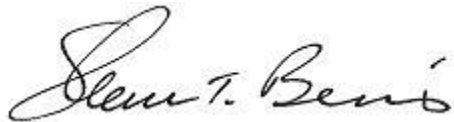
It is our understanding that the Committee will consider an amendment to reduce the sentences for these offenses as a way to decrease the fiscal impact, leaving presumptive probation on the table as a possible sentence unless a suspect has four prior felony convictions. Getting more lenient on this issue as a result of the Court's interpretation got Oregon into this problem, and getting more lenient with sentences won't get us out of it.

As the mayor of a property-tax funded city in the wake of Measures 5 and 50, I profoundly understand how tight public budgets are, and how many different priorities must be considered, from public health to education. However, I also understand that a \$4 million estimated impact in a \$32 billion all-funds budget represents a modest and necessary investment, and one that is worth making for Oregon families.

Solution:

HB 2328 will restore a sane burden of proof in stolen vehicle cases. Its passage, clean of amendments to take the deterrent power out of sentencing, will decrease stolen vehicle cases in Oregon, protecting valuable property for Oregon families, and ensuring that they retain their means of getting their kids to school and getting to work on time. These cases are wildly disruptive to the individuals and families victimized by them. While property crimes, these cases feel very personal in nature, and violate people's trust in our social contract, in the health of their communities, and in their perceptions of safety in their homes and neighborhoods. The Legislature must exercise the courage, and make the prudent investment to close the stolen vehicle loophole in this Legislative Session.

Sincerely,

A handwritten signature in black ink that reads "Shane T. Bemis". The signature is written in a cursive, flowing style.

Shane Bemis, Mayor