

# **REPORT & SYNOPSIS**

## ***What Works Conference 2010***

December 10, 2010

On December 10, 2010, legislators, public safety leaders and practitioners, national policy experts, and other stakeholders came together to discuss what works in public safety reinvestment. The day-long conference featured presentations from national experts, Oregon policy leaders, and a legislative panel. In the interest of promoting smart public policy in the area of public safety, the Multnomah County Local Public Safety Coordinating Council (LPSCC) has prepared this synopsis of the day's presentations. ([www.lpscc.org](http://www.lpscc.org)).

Featured presenters included two national experts in criminal justice policy-- Len Engel of the Crime and Justice Institute and Dr. Ed Latessa of the University of Cincinnati. Engel provided overviews of efforts to reform the public safety system in several other states in the face of escalating prison costs and diminishing state budgets. He shared lessons learned on cost saving measures and passing big reforms through state legislatures. Dr. Latessa followed with a review of cutting edge research on effective criminal justice programs. He also shared his experiences from around the country.

Three members of the Oregon Justice Commission presented on crime rates in Oregon, potential policy changes, and the latest data-based tools for effective sentencing and policy-making. Max Williams, director of the Oregon Department of Corrections discussed the extent of Oregon's budget problem and shared the conclusions of the Governor's Reset Cabinet Report. The Conference concluded with a five member legislative panel discussion moderated by Multnomah County District Attorney Mike Schrunk.

The conference was sponsored by Multnomah County Local Public Safety Coordinating Council, the Portland Citizens' Crime Commission, the Oregon Department of Corrections, and the Crime and Justice Institute.

The following is a synopsis of the conference presentations and question and answer session:

### **Justice Reinvestment & National Trends**

*Len Engel, Crime and Justice Institute*

"If you're locking up people you're afraid of rather than people you're mad at, then you've made the first step to distinguish between people who will perform better in the community and those who are violent and need to be off the street."

Len Engel

Len Engel presented information about national trends in crime and public safety policies, the work of the Pew Public Safety Performance Project in a variety of states, and his personal experiences as a consulting partner in several "Pew states." Since the

early 1980s, jail, prison, parole and probation populations have been growing across the country. Predictably, corrections expenditures have also grown, putting strains on state budgets. These trends belie a continuously dropping crime rate. Some states have chosen to address the rising cost of incarceration by closely examining the prison population and determining what sections of the population could be controlled. Kansas implemented a grant program that provided incentives to local community corrections to reduce revocations and restored earned time for non-violent inmates. Their changes led to a 46 percent reduction in parole revocations and a 28 percent reduction in probation revocations. The state was able to avert \$80 million in costs over five years.

Texas addressed its rising prison population and need for new dollars by expanding its network of residential, community diversion and treatment facilities. The state saw a 26 percent decline in probation revocations and realized actual savings of \$512 million in 2008 and 2009, with future savings projected to be higher. The 2009 legislature continued \$120 million in annual reinvestment in community corrections.

In South Carolina, a rising prison population and a high rate of recidivism prompted the legislators to reconsider its investments. The South Carolina Sentencing Reform Commission was established to analyze the state's sentencing and corrections data; identify the drivers of population and cost growth; and generate policy options to reduce recidivism and victimization, hold offenders accountable, and maximize limited financial resources in the state. After a year of planning, the state passed legislation in 2010 that restricted the use of mandatory minimum sentences and enabled greater use of alternatives; required supervision of all offenders returning to the community and allowed work release for offenders serving serious felony sentences; required the use of a validated risk-needs assessment in parole release decisions and supervision decisions; and reinvested savings in drug courts and community-based programs and eventually performance-incentive program. Arkansas is engaging in a similar legislative process.

### **Evidence Based Practices in Corrections**

*Dr. Ed Latessa, University of Cincinnati*

Dr. Ed Latessa began his presentation with an overview of "what doesn't work" in reducing recidivism, such as engaging offenders in art therapy, sending offenders to boot camp, or teaching male offenders to embrace their feminine side; some of these programs may actually increase recidivism. His second lesson was that programs need to be focused on offenders who are most likely to recidivate. Intensive treatment should be applied only to higher risk offenders. Low risk offenders tend to perform worse after receiving intensive treatment when they are grouped with high-risk offenders. Dr. Latessa also noted the importance of adequate dosage – it's not enough to enroll high-risk offenders in an evidence-based program; they must also participate in the program for long enough to make a difference. He concluded by noting that even when evidence-based practices are implemented, risk assessments are given and programs have high fidelity, we still will have recidivism. The offenders most likely to have violations have antisocial peers; lack stable, supportive relationships; use alcohol and drugs; and have poor stress management. They are also more likely to have multiple risk factors. Offenders who succeeded or failed parole did not differ in their ability to find a place to live or obtain a job. Finally, programs need to be constantly monitored and evaluated to ensure that they are matching the design.

## Q & A with Len Engel and Ed Latessa

**Q:** What are the attributes of programs that increase recidivism?

**Latessa:** Those programs that do not target, or target inappropriately, criminogenic risk factors.

**Q:** Is there congruence between medium and high risk offenders?

**Latessa:** Risk is a continuum. We use data to tell us where the cutoffs are, but in some ways it is a subjective decision. Depending upon the population, the ranges for the risk categories can be very different – such as a post-prison population versus minor offenders.

**Q:** In a state like Oregon that is not “pushing the envelope” in incarceration rates and where there are not “simple” solutions to reducing incarceration rates, where should we look for inefficiencies?

**Engel:** If you’re locking up people you’re afraid of rather than people you’re mad at, then you’ve made the first step to distinguish between people who will perform better in the community and those who are violent and need to be off the street. A first place to look for savings in corrections is to examine the length of time people are spending in prison, and to look if that time is preparing them for the community. The second place to look is to examine the recidivism rate: are they coming back for new crimes or for violations?

**Latessa:** A few things to focus on. First, examine re-entry services and the people who are coming out of prison. Failure at that level often fuels returns to prison. In terms of just saving money, take a look at geriatric offenders or offenders with serious medical conditions: are there ways of move them out of institutions? Second, look at investing in the juvenile system. It’s a long term investment. Spending time in the juvenile system is a large risk factor for future criminal activity.

**Q:** Law requires the courts to do many things that may not advance rehabilitation but that are necessary. Are there things that judges and lawyers should be doing that is within their roles and advances effective outcomes?

**Engel:** Involving judges more in the plea-bargaining process and giving them access to the data is a step towards making better sentencing decisions. However, the plea-bargaining process is designed to move offenders quickly through the system. Making better sentencing decisions requires that process to be slowed somewhat.

**Q:** Regarding overrepresentation of people of color in the criminal justice system, how can you explain this and what do you suggest to address it?

**Latessa:** system perspective is really required to address this, starting at the arrest stage. Almost every step in the criminal justice decision needs to be examined from the perspective of people of color. The problem also needs to be addressed from the legislative level, as some legislative mandates have a great affect on people of color than whites.

**Q:** Can you address the reality in Oregon of mandatory minimum sentencing schemes? The voters clearly like them. In the reality of mandatory minimum sentencing schemes, risk-based assessments are irrelevant.

**Engel:** In other states, we know who the decision makers are and we can target them and help educate them. Here, the target is the public. The education that has to go into

challenging one of these ballot measures is extraordinary and may be impossible. There's a broader population to educate and their bandwidth is narrower.

*Latessa*: It doesn't really affect the need for good risk assessment; it just reduces the role that it plays in sentencing. Risk and need assessment doesn't always make decisions even in situations where there is total judicial discretion. Seriousness of crime will always outweigh risk as a sentencing factor. It is only a tool to help judges or prosecutors make sentencing decisions.

### **Developments in Oregon Sentencing Policy and Practice; Cost-Benefit Analysis in Public Safety**

*Oregon Criminal Justice Commission Chair Judge Darryl Larson,  
Executive Director Craig Prins and Economist Michael Wilson*

#### **Oregon's Crime Rates**

Craig Prins, Executive Director of the Oregon Criminal Justice Commission, presented an analysis of crime trends in Oregon, including a discussion of their precipitous decline since the 1990s. Prins used data from the FBI's Uniform Crime Reports to provide an overview of crime in Oregon. Starting in the 1990s, crime rates in Oregon began to decline and have continued to the present.

Oregon is now ranked 40th in the nation for violent crime, the state's lowest ranking since 1965. Property crime rates in Oregon fell 29% from 2004 to 2008, the largest drop of any state in that period. Oregon now ranks 23rd on the nation for property crime rates; earlier this decade, it ranked in the top five. Both the violent and property crime drops in Oregon are driven by the crime drop in Portland.

The declines in crime seen in Oregon and across the country cannot be fully explained by the three "usual suspects" that criminologists traditionally turn to when examining changes in crime. Economic conditions and incarceration rates do not appear to explain the decrease in crime. Demographics trends appear to have contributed to the decrease in crime, particularly over the last ten years as the portion of the male population between the ages of 15 and 39 has decreased and juvenile arrests decrease, but cannot fully explain the decline in crime rates.

With none of the "usual suspects" satisfactorily explaining the decrease in crime over the past decade, experts conclude that there are unseen factors that impact crime. In Prins' view, Oregon's anti-meth legislation, community policing models, changes in probation and treatment programs, and the use of evidence based practices have contributed to the crime rate drop.

#### **Oregon's Incarceration and Public Safety Spending**

Oregon's incarceration rate is 28th in the nation. Inflation-adjusted criminal justice spending per capita has more than doubled since 1985-1987, mostly due to increases in incarceration and Department of Corrections expenditures. Meanwhile, as incarceration rates and public safety costs have increased over the last twenty years, crime rates in Oregon and the country have been declining beginning in the early 1990s.

#### **Oregon's Sentencing Structure**

Oregon's current sentencing structure began with the establishment of sentencing guidelines in 1989. They provided a "presumptive" sentence based on crime severity

and criminal history. While these guidelines remain in place today, there is also a system of mandatory minimum sentences which supersede the guidelines for certain offenses. The effect of these mandatory sentencing laws is to shift sentencing power away from judges and to district attorneys, through their discretion of which charges to bring against a defendant. These voter-enacted mandatory sentencing laws have had a significant impact on the prison population. A list of the top twenty crimes represented in the prison population reveals that eighteen of them are associated with mandatory minimum sentences. Fifty-one percent of all prison intakes in 2009 were the result of Measure 11 sentences.

### **Cost Benefit Analysis**

A cost benefit analysis of Oregon's public safety system is a way of measuring a ratio of expected crime avoided per dollar. Prisons reduce crime and provide a moral dimension to a sentence, but are expensive, costing about \$84 per day per inmate. Community Programs are less expensive and also have an impact on reducing crime, especially if they are designed and managed by experts. Given the declining state budget, it seems likely that Oregon should redirect some money from prisons to community programs. If this is done correctly, it can result in cost savings for taxpayers and reductions in crime.

### **Reset Subcommittee on Public Safety: Opportunities & Options for Oregon**

*Director of Department of Corrections Max Williams*

Max Williams explained the extent of Oregon's budget crisis and presented the conclusions of the governor's reset cabinet. State governments around the county are facing budget deficits. The proximate cause of these shortfalls is the recent recession, but the past decade has also seen rising public safety costs, driven by rising incarceration rates, which has contributed to states' budget problems. Oregon's financial situation follows this pattern. Since 1989, the Oregon Department of Corrections budget has increased 506 percent. The estimated "current service level" budget shortfall for the 2011-2013 biennium is \$3.5 billion, which is 20 percent of the 2009-2011 general fund. Forecasts show that this current service level shortfall will continue for the next decade. Additionally, the 2009-2011 legislature used many one-time-only sources of money to balance the budget that will not be available in the future. State fiscal projections lead to the unavoidable conclusion that current state government service levels are unsustainable.

In light of this problem, Governor Kulongoski created a "Reset Cabinet" to explore ways for the Oregon state government to continue to operate effectively in the new tighter fiscal environment. The Reset Cabinet created a list of "essential government services":

- keeping us safe in our homes and our communities;
- protecting children, the disabled and the elderly;
- helping families in crisis get back on their feet;
- preventing the cause and spread of disease;
- ensuring that families, seniors, and children have medical care;
- educating children through high school; and
- providing an affordable education beyond high school.

It found that currently 93 percent of the state's general fund is spent on those priorities. Therefore, a solution to the state's budget imbalance will require more than just the elimination of superfluous state programs. The committee proposed several statewide

initiatives: to reduce labor costs through modification to benefits and compensation to state and K-12 employees; to increase organization and efficiency; to increase revenue stability through kicker reform; and to reevaluate state and local partnerships. Major changes to statewide operations and structure will be required to produce a balanced budget over the next decade.

The Public Safety Subcommittee of the Reset Cabinet proposed a number of specific changes. The 1989 sentencing guidelines currently used by judges should be updated to include new evidence-based practices, which would help control future prison growth. The federal 15 percent “earned time” model should be implemented, along with the use of electronic monitoring and halfway houses in the final year of an inmate’s sentence. Selective adjustments should be made to Measure 11 sentences and the suspension of Measure 57 should continue. Shifting more functions from the state level to counties should be done as well. “Local control” programs should be expanded to include sentences up to 24 months. Financial structures should be adopted that provide incentives for counties to reduce their recidivism rates and adopt state-recommended sentencing practices. Ballot initiatives passed by voters have a significant impact on public safety budgets and should be targeted by the legislature as a source of savings. Over the next decade, the suspension of Measure 57 would save \$121 to \$360 million and the modifications of Measure 11 would save \$59 to \$127 million. Measure 73, which was passed by voters in November 2010, is estimated to cost the state \$1.4 million in its first year and increase to between \$18.1 and \$29.1 million a year in 2016 and beyond.

Controlling prison growth is essential to maintaining other public safety services in an environment of reduced budgets. Changes should be made soon, because corrections system cost saving are not realized in the short term. Following the current system trajectory, 2,400 prison beds would be added in the next decade at a cost of \$407 million. Debt service for construction costs would be \$955 million over the next decade. If the 2011-2013 public safety budget was cut 20 percent from the 2009-2011 budget and prison costs were allowed to grow as they have, devastating reductions in other budgets would be required:

- Community Corrections would be reduced to \$138 million from \$214 million;
- Oregon State Police would be reduced to \$160 million from \$249 million; and
- Oregon Youth Authority would be reduced to \$171 million from \$265 million.

Avoiding cuts of this magnitude requires changing the answers to the three questions of the corrections system: How big should the net be? How long should the offenders stay? How much should we pay the people who are supervising and providing services?

Relative to the cost of corrections, the rest of the public safety system is “loose change.”

“I don’t want a prison where the prisoners aren’t safe and I don’t want a prison where the prison guards are not safe. So if we’re spending a little more money to make it a little more civilized, I’m ok with that.”

Representative Jeff Barker (D-Aloha)

### **Legislative Panel**

*Moderated by Multnomah County District Attorney Mike Schrunk*

*Oregon State Representative Andy Olson (R-Albany)*

*Oregon State Senator Ginny Burdick (D-Portland)*

*Oregon State Senator Doug Whitsett (R-Klamath Falls)*  
*Oregon State Representative Jeff Barker (D-Aloha)*  
*Oregon State Senator Floyd Prozanski (D-Lane and North Douglas Counties)*

Mike Schrunk began the discussion by asking the panel to share their impressions of the conference and the upcoming legislative session. The legislature's responses emphasized the importance of bipartisan cooperation. Senator Burdick recalled the 2005 legislative session, when a split legislature passed the "Meth package" legislation that effectively and cheaply attacked the meth problem in Oregon through the innovation of drug courts and limiting access to pseudoephedrine. Senator Whitsett remarked that there are three options: the legislature must increase the efficiency of the public safety system and provide more services with less money, it must provide more resources to the system, or it must cut the level of public safety services.

Schrunk continued by asking the legislators if any "low hanging fruit" had become apparent through the day's presentations that would present a relatively easy improvement of Oregon public safety and budgetary situation. The legislators agreed that in the area of public safety, there are no easy answers, although they did have suggestions. Senator Prozanski suggested that the state should look into activating some of the prison beds around the state that are currently closed because of staffing shortages at the local level (including the Lane County Jail and the Wapato Jail in Multnomah County). These additional beds could be used to ensure that probation violations are punished swiftly with a short stay in jail, which could potentially reduce the number of probationers who end up with the Department of Corrections, and save the state money.

Other topics addressed by the panel included risk models, the long time scale of the projected deficit and savings from policy proposals, mandatory minimum sentences and treatment provisions, evidence based sentencing practices, and allowing bail bondsmen to return to Oregon.

## Advice to Policymakers and Conference Feedback

At the end of the conference, attendees were asked to fill out a comment card that asked, "What advice would you give to policymakers that could improve Oregon's criminal justice system?" Thirty-one respondents provided the following recommendations:

### **1. Educate and engage the public about issues facing the public safety system**

Attendees felt that public engagement and education represented a significant goal for the upcoming legislator and for public safety partners. They remarked on the need for a unified, accurate message about the issues facing the state and local public safety systems, noting that for the most part, leaders' goals are similar and in the best interest of the community. One attendee spoke to the need to "develop a sense of urgency that will be embraced by public and other policymakers" and "market the reason for change in an easily-remembered sentence." Another attendee echoed the need to get the message to the public quickly, noting that "the state will have to engage in an aggressive public relations campaign with citizens to help them understand the choices and impacts." Finally, one attendee added that legislators must do "what is needed without un-due focus on election and popularity." Attendees also remarked on the effectiveness of Dr. Ed Latessa's presentation and suggested that he be invited to speak to the legislature about "what works" in public safety. One attendee added that while public education about mandatory minimum sentences is critical, there also must be a push to educate prosecutors, defense attorneys and judges about the impact of these sentences on a balanced and effective public safety system.

One issue in particular need of citizen education is the fiscal and public safety impacts of ballot initiatives. Many of those who commented on this issue believed that drafters of bills should be required to document the expected impact of an initiative on the state's budget and to identify a revenue source for any proposed initiative. One respondent suggested the inclusion of comparison costs for incarceration versus treatment and programming. One respondent also recommended that legislators consider the context under which bills were voted, noting that when voters are presented with only one solution to a complex problem (e.g., harsher sentences for repeat DUII offenders), they will usually vote "yes." However, when those same voters are presented with multiple solutions (e.g., Measure 60 versus Measure 57), they will typically prefer the option that emphasizes flexibility and treatment.

### **2. Invest in evidence-based practices that produce short- and long-term results**

"Many of the ideas advanced by the speakers, especially Dr. Latessa, were eye-opening. I thought the conference was particularly effective in underscoring the need for risk assessment and the focus on the high-risk offenders. The cost-benefit analysis by Max Williams was exceptional." - Jean Maurer, Presiding Judge, Multnomah County Circuit Court

The conference's focus on reinvesting in evidence-based practices in a time of fiscal crisis resonated with many attendees. One respondent felt that "policymakers should be data driven in their decision-making and look at longer term institutional 'fixes' or at least approaches that will help Oregon minimize future problems and that maximizes future benefits be it public safety, education or human services." Several attendees were impressed by the Cost-Benefit Analysis presented by the Oregon Criminal Justice Commission and saw the value in using this tool to make more cost effective decisions throughout the criminal justice system. One respondent suggested one way to incentivize the use of evidence-based practices (other than the current state mandate): create a prize for innovation in public safety and make all agencies (including non-governmental) eligible to win. Attendees also remarked on the importance of continuously monitoring results to ensure that program implementation remains faithful to the original design.

Attendees offered several specific suggestions on how the use of evidence-based practices might lead to improvements in multiple parts of the public safety system.

**Pre-Trial:** One attendee was adamant that bail bondsmen not be allowed into the state.

**Sentencing:** Attendees remarked on the need for more judicial discretion at sentencing; for updated sentencing guidelines to reflect ballot initiatives (such as measures 11 and 73), for a reset of mandatory minimums, and for the incorporation of risk assessments and cost-benefit analysis into sentencing policy and practice. One attendee suggested that judges receive a fiscal impact statement or total projected sentence cost at the time of sentencing for felony convictions; another felt that prison sentences should be set at a level the state can afford. One attendee called for the complete elimination of measures 57 and 11. Another advocated for the continuation of SB 3508, which suspended implementation of measure 57.

**Corrections:** Despite an apparent forced choice between "buying beds" or "buying treatment and services," several attendees articulated the need for treatment and services while an offender is still in custody. One attendee was disappointed that the conference contained almost no discussion about correctional treatment programming within the Department of Corrections, adding that treatment dramatically impacts success upon re-entry. Attendees who recommended a focus on reentry from prison into the community emphasized the need for coordination between in-custody services and community services, suggesting that community-based providers who employ evidence-based practices be given funding to work inside the prison. Another attendee suggested that a policy be created to fund pre-post release together (not in separate budgets).

**Community Corrections:** Several attendees remarked on the wisdom of reducing the size of the prison population by reducing intake levels or lengths of stay, and then reinvesting that money into effective programming in the community. One respondent advocated for the expansion of local control to two years, a recommendation included in the Governor's Public Safety Reset Report. Another attendee felt that community corrections should be more integrated with community policing. Others suggested changing the funding formula to send more public safety dollars to the local community. Attendees felt that more mental health and addiction treatment was needed, but there should also be services that address other criminogenic risk factors, such as Cognitive Behavioral Therapy, criminal thinking and behavior modification. One respondent

remarked on the need for *affordable* treatment at low / no cost to the offender. Another suggested the use of restorative justice models of rehabilitation.

**Juvenile Justice System:** Although the conference did not specifically address evidence-based practices within the juvenile justice system, several attendees commented on the need to reform this system, including improving transition services and allocating more money to juvenile crime prevention. One attendee suggested that legislators consider consolidation of certain state level services like the Oregon Youth Authority and Department of Corrections.

### **3. Encourage collaboration and the involvement of multiple stakeholders**

In order to address the current budget crisis, meaningful collaboration is needed. Several respondents spoke to the need for unity – of message and of purpose – across agencies. Some attendees called for the formation of “broad spectrum” work groups and oversight committees. Work groups should include stakeholders who can “put forth concrete ideas that really address the current and pending problems in public safety” and who recognize that “competition only wastes time and resources.” Efforts should be made to include a balanced voice from crime victims in order to help the political process (legislative) of reinvesting money from incarceration into evidence-based strategies; one attendee noted that the current voice of victims is represented in a way that focuses on long-term incarceration. Another attendee remarked on the need to include line staff in discussions about effective use of public safety resources. Focus should also be placed on suggestions made by the Reset Cabinet.

Another attendee felt that leaders should consider “strategic collaboration” techniques (exchanging information, sharing resources and enhancing the capacity of partner agencies for the mutual benefit of a collective purpose) and offered to speak to legislators about how these techniques might be applied to different public safety issues. One attendee said that the three leading sections of the budget (public safety, education and human services) each need to give part of their dollars to joint causes.

### **4. Look for savings in other systems**

Although the What Works conference focused on smart investments in public safety at the state level, many attendees remarked on the need for more accountability in *other* systems, such as education and human resources. One attendee called for more attention placed on the schools and how they use funds, and recommended cutting principals and superintendents in order to balance the budget. Another attendee felt that the legislature should be asking how the counties and cities they can make cuts. Other cost-saving recommendations included slowing or reducing salary growth of public employees; cutting managers and non-direct service providers; and kicker reform.

### **\*\* General Comments about the Conference \*\***

Attendees who chose to comment on the conference were united in their praise for the event. Dr. Ed Latessa’s presentation was particularly well-received. Suggestions for next time include:

- Offering cross-discipline breakout sessions
- Eliminating introductions and “fluff” at the beginning of the program

- Clarifying some statistics (one attendee remarked that population growth needed to be compared to prison growth)
- Ensuring greater ethnic and gender diversity among presenters
- Involving clients and former offenders to talk about “what worked” for them
- Offering more opportunities for networking, preferably during scheduled breaks

“There was a good balance of “pointy head” research and entertainment. This conference was thought provoking and challenged our reliance on anecdotal evidence to support criminal justice programs and services.” - Richard Moellmer, Trial Court Administrator, Washington County