

# Prison use: 'I think we could sit down and find some common ground'

Continued from Page 1A

histories. But some have questioned whether sentencing orders are too severe, particularly for felons who receive probation, making it more likely they will fail to meet the conditions and get sent to prison.

"I think what our county needs to do is the players need to sit down together in a room and make some negotiations on what can we do," said Lt. Kristen Hanthorn, who leads the Sheriff's Office Parole and Probation Division. "Are we identifying the right people? Are we placing the right people on probation or should these people be going to prison on a first sentence?"

"Are we sending people to prison because they're still using drugs, when they're a drug addict and they haven't been able to get into good treatment?"

Judge Paula Brownhill, the presiding judge of the Circuit Court, hopes to meet soon with Marquis, Hanthorn and others on whether sentencing and probation can — or should — be improved.

"I think we could sit down and find some common ground," the judge said. "I hope we can, because we're going to try that."

## Justice reinvestment

Over the past decade, 33 states have experimented with justice reinvestment to contain the explosive growth in spending on corrections and confront the troubling number of felons who commit new crimes after they get out of prison.

States spent \$53 billion on corrections in 2012, according to the Council of State Governments, and an estimated 40 percent of people released from prison wind up returning within three years.

In Oregon, the prison population swelled by nearly 50 percent between 2000 and 2010, the Oregon Criminal Justice Commission found, and the state's two-year corrections budget has grown to \$1.6 billion.

Justice reinvestment can help states better control the prison population and, ideally, take the money saved by reducing prison use to help counties identify felons who can be supervised locally.

## Oregon law

The justice reinvestment law approved by the state Legislature in 2013 made sentencing changes for drug and property crimes and authorized grants to counties to devise ways to divert offenders from prison. Felons on probation are eligible for earned discharge, where they can shave up to 50 percent off their supervision if they pay any restitution owed and complete treatment or other terms. The law also encouraged the state Department of Corrections to select more inmates for short-term transitional leave, enabling inmates to get out of prison 90 days early — up from 30 days — to smooth their re-entry into the community.

The goals of the law are to reduce prison use, lower recidivism, increase public safety and hold offenders accountable.

At the time the law was passed, Oregon planned to open a new prison at Junction City for men by this year and a new prison for women at the former Oregon State Penitentiary minimum security facility in Salem.

Over the past few years, the growth in the prison population for men has stabilized. The state had to expand the Deer Ridge Correctional Institution in Madras last year to handle more prisoners, but there is no new prison in Junction City.

"That's huge, right? I mean we avoided building a prison and having it up and running," Michael Schmidt, the executive director of the Oregon Criminal Justice Commission, said in a speech at the Justice Reinvestment summit in Salem in February.

The women's prison population is more complicated. During the past



Joshua Bessex/The Daily Astorian

**District Attorney Josh Marquis holds up case files from his office on Phillip Ferry — who shot and killed Seaside Police Sgt. Jason Goodding — during a press conference on the shooting last year.**

two decades, the women's population has nearly tripled and the only women's prison — Coffee Creek Correctional Facility in Wilsonville — is overcrowded. Gov. Kate Brown has placed \$17.5 million in her proposed budget for a second women's prison.

Long term, though, the trend is promising.

The latest forecast by the state Office of Economic Analysis estimated the prison population will increase 4 percent over the next decade, from 14,684 last September to 15,273 in September 2026. Oregon's population is pegged to rise by 12.2 percent over the same time, so the incarceration rate is projected to fall by 7.7 percent.

## County grants

The state has awarded nearly \$54 million in grants to counties for justice reinvestment over the past two budget cycles. Gov. Brown has recommended \$32 million more in her budget.

Local public safety coordinating councils in each county decide how to spend the grants.

Some of the grants have been used for better pretrial assessments to determine whether defendants need mental health or substance abuse treatment. Money has been used to improve probation so offenders diverted from prison are well supervised. Grants have also been spent to help offenders find drug or alcohol treatment and transitional housing.

Clatsop County has received more than \$600,000 in grants and has used some of the money to hire a new probation officer. The county has also spent money on substance abuse and sex offender treatment and housing assistance.

Ross Caldwell, the justice reinvestment liaison at the Oregon Criminal Justice Commission, said each county has unique issues. Criminal justice decisions filter through police and prosecutors to judges and probation officers, and some counties have higher crime rates, more serious crimes and more prosecutions than others.

One woman in Seaside who received a 30-year prison sentence last year for embezzling more than \$214,000 from local businesses pushed Clatsop County's prison use higher, for example, although the county remains high even with that stiff sentence factored out.

"We're not trying to vilify anybody with this stuff," said Caldwell, a former deputy district attorney in Multnomah County. "We're just trying to track it as best we can."

State lawmakers, however, are looking for results.

"This is an investment," Caldwell said of the attitude in Salem. "What is our return on our investment, because if you're just going to



Joshua Bessex/The Daily Astorian  
**Judge Paula Brownhill listens to arguments from a defense lawyer in 2015.**



Lt. Kristen Hanthorn

use more prison, why should we give you money?"

"You could do that with no money."

## Chances

Fed up with a criminal justice system that often appears to give felons a break, Oregon voters have taken sentencing reform into their own hands.

Measure 11, approved by voters in 1994, set mandatory minimum prison sentences for violent crimes like murder, rape, robbery and assault. Measure 57, which passed in 2008, applied tougher sentences to drug and property crimes.

Worried about the cost — and wisdom — of sending more people to prison, state lawmakers used the justice reinvestment law to soften sentences for Measure 57 crimes.

Marquis, a veteran prosecutor who is an influential voice on criminal justice issues, has been skeptical of justice reinvestment from the start.

In 2015, the District Attorney's Office went to Circuit Court to challenge the earned-discharge provision

of the law, arguing that it gives probation officers more discretion over sentences than prosecutors or judges. Judge Philip Nelson worked out a compromise that requires felons to complete their time on probation, but not necessarily under the close supervision of the probation office.

Marquis said many defendants in Clatsop County who go to prison for drug and property crimes have a string of prior felonies.

"I'm very leery of what they consider a 'success,'" Marquis said in an email. "By their definition, any time someone does not go to prison it's a success."

Policy experts warn against criminal justice reform by anecdote, but individual, high-profile crimes can shape public perception. The trail of blame for why a convicted felon is not in prison is often long and unforgiving.

State Sen. Betsy Johnson, D-Scappoose, and Clatsop County Sheriff Tom Bergin were critical of justice reinvestment last year after the fatal shooting of Seaside Police Sgt. Jason Goodding. Phillip Ferry, who had 17 felony convictions and was on parole, shot Goodding in a struggle during an arrest. Ferry, a chronic drug abuser who was well-known among law enforcement, was shot and killed by another police officer.

Marquis does not measure success by convictions or the amount of time felons spend in prison, but wonders how many chances people should get. He believes the felons who are going to prison for drug and property crimes belong in prison.

"My office doesn't look at data. We look at people. The defendant, the victim, the crime," Marquis said in an email. "How egregious was the original crime? What was the harm to the victim, the community? What was the defendant's attitude? What was the defendant's previous criminal record?"

"Each of these cases need to be taken very much individually."

## Downward departure

The probation officer hired in Clatsop County with justice reinvestment grant money helps provide more intensive supervision for offenders who are on what are known as downward-departure sentences.

Under Oregon sentencing guidelines, departure sentences are outside the typical range given the severity of the crime and the defendant's criminal history. A downward departure means a lesser sentence.

But downward-departure sentences stem from agreements between prosecutors and defense attorneys — and executed by judges — that can set offenders up for failure. Prosecutors in Marquis' office do not agree to structured sanctions for probation violations — like a few

days in the county jail for a urine sample that tests positive for drugs. Instead, violations come back before the judge for review.

Prosecutors almost always expect these defendants to waive earned discharge, one of the tools offered by justice reinvestment. The agreements may also require that if probation is revoked, the offender is not eligible for an alternative incarceration program that could result in an early release from prison.

"When the court directs us to bring them back before the judge every time we find that they've done something wrong, it really wears people out," Lt. Hanthorn of the Parole and Probation Division said. "It wears out the offender. It wears out the court. It wears out the DA's office. It wears out the POs."

"And I think we're setting ourselves up to fail those offenders."

Last year, Clatsop County had significantly more cases with downward-departure sentences than neighboring Columbia and Tillamook counties. State justice reinvestment data shows that Clatsop County also has a high level of prison use for probation revocations, especially for property crimes.

"So we have to constantly fight a battle — a tug of war — over whether somebody could be treated in the community or whether it's time for them to go to prison," Hanthorn said.

## Pretrial release

Even if Marquis were to agree to more sentences with structured sanctions, overcrowding at the county jail could prevent probation officers from using short stints behind bars to control offenders' behavior and reduce probation revocations that lead to prison. The 60-bed jail is often at or over capacity.

Hanthorn has spoken with Judge Brownhill and Lt. Matt Phillips, the jail commander, about adding a pretrial release officer who would assess whether defendants have ties — like a job, home or family — that make them less likely to miss court dates if they are released from custody pending trial.

Typically, about 70 percent of inmates at the county jail are awaiting trial, a figure many believe is too high.

"We would be identifying those subjects that could be monitored — not in custody during their pretrial — without creating a risk to the community," Phillips said.

Releasing more defendants before trial could free up beds at the jail for probation officers to sanction the felons at risk of violating probation and going to prison.

Pretrial assessments would also give judges more information about defendants earlier in the process, which could eventually lead to more effective screening for behavioral or substance abuse problems.

"The more information that judges have, the better decisions we make," Brownhill said.

## Alternative incarceration programs

Hanthorn is critical of prison sentences where offenders are not eligible for an alternative incarceration program, which provides treatment in prison and a path to early release.

Prosecutors want to ensure inmates are held accountable and serve their sentences, a standard that can be undermined by generous time off.

But Hanthorn believes such orders can hurt the community in the long run, since offenders will likely return to the county on parole and will need extra help if they did not get counseling or treatment in prison. Clatsop County, like other rural counties, has struggled with gaps in the mental health safety net and the lack of drug and alcohol treatment options for people who do not have private insurance.

"They're going to come back here," Hanthorn said.

# Port: Hellberg has commercially fished for more than 50 years

Continued from Page 1A

Campbell, the owner of Campbell Marine Towing & Construction who filed last month, said he has a great deal of enthusiasm for the Port. "I think we're moving ahead a little bit, in spite of the micromanagement that goes on with those two people," he said, referring to Fulton and Hunsinger.

Fulton, elected in in 2013, painted a bleaker picture of the Port, saying the agency has disregarded long-term maintenance and regulatory compliance.

## Hellberg vs. Rohne

Hellberg, who served three terms on the Warrenton City Commission before stepping down in 2014, said part of what galvanized him to run were comments by Port Commission Chairman

Robert Mushen last year advising the Port Commission not to take sides in the Columbia River gillnetting issue. Hellberg has commercially fished for more than 50 years on the Columbia River and in Alaska.

"The first job is to help create jobs in our area, not to put them down, and certainly (to) support our traditional industries," Hellberg said.

Along with fishing, Hellberg is a marine surveyor, served in the U.S. Marine Corps, taught in Knappa and Warrenton-Hammond school districts, served as principal of Fort Stevens Junior High School until 1980 and later served on the Warrenton-Hammond School Board.

In his youth, Hellberg worked on Port property in a flour mill, in canneries and as a longshoreman. He said

the Port needs to capitalize on its position at the mouth of the Columbia and promote living-wage jobs beyond the tourist industry, which he added result in high employment but low pay and workers struggling to make ends meet.

Asked why he applied for the same position as Rohne, Hellberg said he had to oppose someone.

"I know he was on the County Commission," Hellberg said of Rohne. "I can't say I'm a fan of what the County Commission has done over the last few years."

Rohne, who owns and operates Brownsmead Island Farm, filed last month for the election, saying his hope is to bring an intelligent and independent approach that will help the Port build stability, public trust and positive

working relationships with local, state and national partners.

## O'Grady vs. Spence

O'Grady, an auto mechanic, farmer in Cornelius and a local longshoreman for the past several years, said he filed for the Port to improve transparency at the agency and to make sure the Port better follows the bylaws.

"The bylaws have not been followed," he said, echoing a common argument by Fulton.

Spence, who moved to Astoria in 2013, said his newness could help avoid the friction that has plagued the Port Commission. A city manager for about 45 years at six different cities in Florida, Spence said he has experience with multimillion-dollar budgets and interfacing with elected boards.



Dick Hellberg



Dirk Rohne