

Sentencing reforms seek to reduce incarceration rate, racial profiling

By **PARIS ACHEN**
Capital Bureau

SALEM — Hillsboro resident Beth Hacker could have served nearly three years in prison for petty theft crimes she committed during her struggle with addiction to prescription opioid, oxycodone.

Hacker, a mother of four, was convicted of multiple identity theft counts for forging two checks for \$8 and \$30 and giving false information on a rental assistance application.

Measure 57, passed by voters in 2008, set mandatory minimum sentences for drug and property crimes.

A legislative effort in 2015 to keep families together spared Hacker that fate.

She spent nine months in prison before being allowed to participate in a work-release program called the Family Sentencing Alternative Program and designed by state lawmakers in 2015 to keep offenders with their children.

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— **Bobbin Singh**, Oregon Justice Resource Center executive director

“Had I not had the program at all, I would have been in prison for 30 months,” Hacker said.

During this year’s legislative session, state lawmakers continued to reform sentences and expand prison alternative programs in an effort to reduce incarceration and curtail disproportionate felony drug convictions of people of color.

“This was a step in the right direction,” said Bobbin Singh, executive director of the Oregon Justice Resource Center. “We are beginning to see a public health approach to criminal justice that makes more sense, but it should be considered only an initial step. We need to move further.”

Oregon House Bill 3078

expanded the eligibility criteria for the Family Sentencing Alternative Pilot Program so more parents can participate.

The legislation decreased sentences for Measure 57 crimes first-degree theft and identity theft from 18 to 13 months, but added more community supervision.

Lawmakers targeted those two crimes to try to reduce the women’s prison population and avoid opening a second state women’s prison. Women are statistically more likely to commit property crimes than violent crimes.

The bill also increases the limit for a supportive early-release program, known as short-term transitional leave, from 90 to 120 days.

House Bill 2355, crafted as an anti-racial profiling bill, reduces sentences for possession of six controlled substances by downgrading the crimes from felonies to misdemeanors.

People of color are disproportionately charged with drug crimes, even though they use drugs at the same rate as people who appear Caucasian, Singh said.

Opposition to the changes prompted lawmakers to include previous convictions as a disqualifying factor.

Singh said the disqualifying factor still discriminates against people of color, because they have a greater rate of conviction.

“If the whole point of enacting the law is to begin thinking about addiction and substance abuse as a public health issue but you put in a disqualification for repeated behavior, the law is not working fully to do what it is purported to do,” Singh said.

“We are talking about behavior that by definition is repetitive.”

The bill requires the Oregon Criminal Justice Commission to examine the effects of the changes on people of color.

Rep. Andy Olson, R-Albany, who said he was “100 percent behind” the anti-racial profiling measures nevertheless voted against the bill.

“Measure 57 was driven because people understand that the property crimes that exist today 85 percent of the time are done because of drug use,” Olson said. “My concern is ... you are going to see property crime go up at the same time.”

The United States has the highest rate of incarceration in the world, according to the Institute for Criminal Policy Research at Birkbeck University of London. The nation represents about 4.4 percent of the world population and 22 percent of prisoners around the world.

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A pair of combines harvest soft white wheat Tuesday in a field north of Helix.

Staff photo by E.J. Harris

WHEAT: More than half the state’s wheat is grown in Umatilla and Morrow counties

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head on a swivel, maintaining the right speed and direction so none of the grain winds up spilled. Bracher remembers last year when he accidentally overloaded his wagon, and was forced to collect the spillage with a shovel and 5-gallon bucket.

Now, Bracher says he feels perfectly comfortable operating the wagon’s high-tech controls.

“After a while, it just comes to you,” he said.

Wheat harvest is playing out on farms across Umatilla and Morrow counties, and by most accounts local growers are seeing average to above-average yields thanks to heavy spring rains that finally put the kibosh on a multi-year drought.

The hours may be long, but Bracher — who is preparing to enter seventh grade at Helix School — said he enjoys spending his summers on the farm.

“It’s fun,” he said. “It’s not an ordinary job.”

‘North country’

Bracher’s grandfather, Cliff Bracher, is intimately familiar with the area in and around Helix. He calls it the “north country,” a catch-all name for the sprawling dryland wheat ground north of Pendleton.

Behind the wheel of his pickup, Cliff cruises the gravel roads that lead from one bucolic farmhouse to the next, reciting names of landowners without missing a beat. The north country is a pretty tight-knit group of family farms, he said, and come harvest time it is not unusual to see three generations out working the fields.

“The most grueling part of the whole harvest is just the long hours,” Cliff said. “We start harvesting at about 7:30 a.m., and we’ll call it quits at about 8:30 p.m.”

At that pace, Cliff said they can usually cut about 125 acres of wheat per



A mound of soft white wheat grows in a pile managed by United Grain Corporation outside of Helix.

Staff photo by E.J. Harris

day, per combine — and that’s only if the weather conditions don’t turn sour, like they did last Thursday when 40-mph wind gusts blew down Juniper Canyon. Windy conditions not only increase the risk of field fires, but can even blow wheat right out of the truck.

Yields are so far looking good, Cliff said, with some fields likely producing between 80-100 bushels per acre. Combined with soft white wheat prices that have finally clawed their way back above \$5 out of Portland, he said most growers will likely wind up breaking even or doing better.

“This is a decent wheat crop right here,” he said. “It could have been a crop insurance year.”

Back in Helix, Cliff stops to chat with his son, Randy Bracher, who began his day at 5:30 a.m. spraying fallow fields. Though harvest can be stressful, Randy said it is the culmination of a year’s worth of hard work.

“Personally, this is my vacation,” he said. “If you make sure you have a good crew ... it makes it fun.”

John Thompson, another

north country wheat grower who farms around Kings Corner Road, agreed that harvest time is the highlight of their year.

“That’s how we get our bread and butter,” he said.

Improved yields

It certainly helps that this year’s crop was bolstered by favorable weather.

According to the U.S. Department of Agriculture’s National Agricultural Statistics Service, Oregon wheat production is expected to come in at 43.3 million bushels, which is up 22 percent over 2016. A little more than half the state’s wheat is grown in Umatilla and Morrow counties.

Jason Middleton, region manager for United Grain Corporation in Pendleton, said the combination of increased moisture and cooler temperatures benefited wheat earlier in the growing season as the plants were still filling in their kernels.

Since October of last year, the National Weather Service has recorded 16.82 inches of precipitation in the Pendleton area, which is about 5 inches more

than usual.

“Yields have been pretty good,” Middleton said. “It’s been a better crop than it was last year.”

Conditions also helped to delay the start of harvest until about July 10, Middleton said, which is generally a good thing.

“Typically, the later the start, the better yields you’ll have,” he explained.

Protein levels are mostly lower than they were last year, Middleton added. That’s good news for growers who sell overseas to countries like Japan, where customers prefer low-protein wheat to make products like cakes and noodles.

Randy Bracher said farmers are always at the mercy of Mother Nature, but this year things have turned out well across the Pacific Northwest.

“This year, we’ve been blessed,” he said. “Agriculture in general has been pretty dang favorable for growing conditions.”

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New York eyes textalyzer to bust drivers using cellphones

ALBANY, N.Y. (AP) — Police in New York state may soon have a high-tech way of catching texting drivers: a device known as a textalyzer that allows an officer to quickly check if a cellphone has been in use before a crash.

Democratic Gov. Andrew Cuomo on Wednesday directed the Governor’s Traffic Safety Committee to examine the technology and the questions about privacy and civil liberties its use would raise.

“Despite laws to ban cellphone use while driving, some motorists still continue to insist on texting behind the wheel — placing themselves and others at substantial risk,” Cuomo said in a statement first reported by The Associated Press. “This review will examine the effectiveness of using this new emerging technology to crack down on this reckless behavior and thoroughly evaluate its implications to ensure we protect the safety and privacy of New Yorkers.”

The device is called the textalyzer because of its similarity to the Breathalyzer, which is used to identify drunken drivers. Once plugged into a person’s phone for about a minute, it will indicate whether a motorist was texting, emailing, surfing the web or otherwise using his or her cellphone before a serious crash.

Supporters of the technology say the officer would not be able to access personal information on the phone, such as pictures, emails or web browsing history.

The technology is still some months away from being ready, according to Cellebrite, the Israel-based tech company developing the device.

Digital privacy and civil liberties groups already have questioned whether the technology’s use would violate personal privacy, noting that police can already obtain search warrants if they believe information on a private phone could be useful in a prosecution.

Many security experts are skeptical when it comes to promises that the textalyzer would only access

information about phone usage, and not personal material, according to Rainey Reitman, of the Electronic Frontier Foundation, a nonprofit organization that advocates for civil liberties when it comes to digital technology.

“I am extremely nervous about handing a cellphone to a law enforcement officer and allowing them in any way to forensically analyze it,” she said. “This is a technology that is incredibly problematic and at the same time is unnecessary. There are already legal avenues for a police officer.”

Westchester County resident Ben Lieberman lost his 19-year-old son Evan Lieberman to a fatal car crash in 2011 and later discovered the driver of the car his son was in had been texting while driving. He’s now a leading advocate for the textalyzer and has worked with Cellebrite on the project. He said he understands concerns about privacy but they’re unfounded, noting the device would only tell police whether a driver had been breaking the law.

“A Breathalyzer doesn’t tell you where you were drinking, or whether it was vodka or Jack Daniels, just that you were drinking,” he said. “This is the right balance between public safety and privacy.”

County Emily Boedigheimer as a supporter of the idea. The Albany area resident said she’s fine with police using a textalyzer, as long as there are rules about what police would be able to see.

“If you’re texting and driving you’re breaking the law and you’re risking people’s lives,” she said during a lunchtime walk in downtown Albany on Wednesday. “Why can’t you wait, or pull over, to make that one call or read your texts?”

The committee will hear from supporters and opponents of the technology, law enforcement officials and legal experts before issuing a report, Cuomo’s office said. Particular areas of focus will include the effectiveness of the technology, constitutional and legal issues and how the device would be used in practice.

MAIL: Street size also plays a factor in cluster box placement

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Dog bites, however, aren’t the only reason the post office might install a cluster box in a neighborhood.

Schwartz said the post office received a few dozen reports of package thefts last Christmas season and the problem was especially prevalent in the North Main Street area. The post office installed a cluster box near the top of North Main so packages were automatically put under lock-and-key when they were delivered.

Street size also plays

a factor in cluster box placement.

Schwartz said the post office plans to install a new cluster box in the Riverside area to serve the residents of Anvidon Street, which is too narrow for USPS vehicles.

Although she anticipates the postal service will eventually deliver all of its mail to cluster boxes, the scope and cost of transitioning to that system requires action on a larger scale.

“It would take an act of Congress,” she said.

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