

# Grand jury proceedings soon to be recorded

New state law likely to change how local prosecutors seek indictments

By JACK HEFFERNAN  
EO Media Group

A new state law that requires grand jury proceedings to be recorded will likely alter how the Clatsop County District Attorney’s Office seeks many felony indictments.

The law will take effect in Clatsop County in July after it was signed into law by Gov. Kate Brown last year. While prosecutors typically seek secretive grand jury indictments in felony cases, many have said preliminary hearings, which are open to the public, will become more common.

“It’s a pretty big change in the statute,” Clatsop County District Attorney Josh Marquis said.

During grand jury hearings, a prosecutor calls witnesses to testify in front of seven jurors. They testify under oath, but a defense attorney is not present and witnesses are not subject to cross-examination. If

five of the jurors find probable cause — a 50 percent or greater chance that the alleged crimes occurred — the case moves forward with an indictment.

Preliminary hearings, on the other hand, involve defense attorneys in the process. Instead of a jury, a judge rules on probable cause.

These hearings are useful for prosecutors when they believe a witness may change their statements or otherwise not be available later in the case, Deputy District Attorney Ron Brown said. Otherwise, they largely benefit defense attorneys, who have the ability to cross-examine witnesses.

During grand jury proceedings, one juror is designated to keep handwritten notes. When the new state law takes effect, prosecutors will need to either train a juror to record the proceeding using audio equipment or hire a certified shorthand reporter.

In more than 30 years as a prosecutor, Marquis recalls just a handful of times he’s pursued a preliminary hearing rather than a grand jury in felony cases. Now, both the district attorney and Brown, who will



Colin Murphey/The Daily Astorian

Grand jury proceedings will soon be recorded in Clatsop County.

succeed Marquis in January, expect that preliminary hearings will be requested more regularly.

“It’s a bad idea, but it’s the law now,” Marquis said.

### Other states do it

The requirements seek to address a perceived lack of transparency in the judicial system, especially with grand juries. Every other state in the country, with the exception of Louisiana, requires grand juries to

be recorded. Civil rights groups have expressed support for the law.

“This is doable. It’s done in a lot of places,” said Kirk Wintermute, an Astoria criminal defense attorney. “There are a lot of issues with the justice system, and this is one of them.”

The recordings will also give defense attorneys more ammunition when cross-examining the same witnesses later in cases.

“People often make very different statements in grand jury than they do in trial,” Wintermute said. “Getting that extra statement under oath is really important.”

Prosecutors, however, have raised alarms. Law enforcement groups have joined them, as well as state Sen. Betsy Johnson, D-Scappoose, and

state Rep. Deborah Boone, D-Cannon Beach.

Victims may be less willing to make recorded allegations without a guarantee of charges being filed, especially in sex abuse cases where victims are more reluctant to come forward against people they typically know well.

Adding to the complexity is the cost of implementing the system. Three counties — Multnomah, Deschutes and Jackson — have had the law in place since March as part of a pilot program.

The counties recently requested \$924,837 from the state to help offset the costs of reviewing transcripts, drafting protective orders to limit who can access the recordings and managing equipment, among other things.

“What we’re really doing is, literally, creating another courtroom. I think it’s kind of absurd to say you have to operate this as if you were making \$30,000, \$40,000 a year,” Marquis said of having to train volunteer jurors to use the equipment.

### New costs

Instead, the district attorney’s office will likely opt for preliminary hearings in about half of felony cases, Brown said. The incoming district attorney will likely still pursue grand jury indictments in sensitive cases, such as sex abuse.

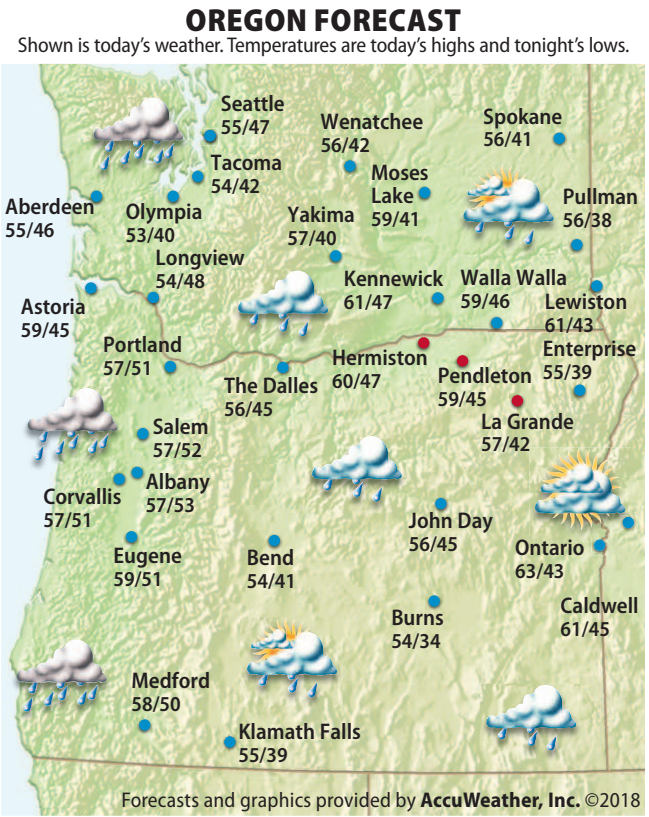
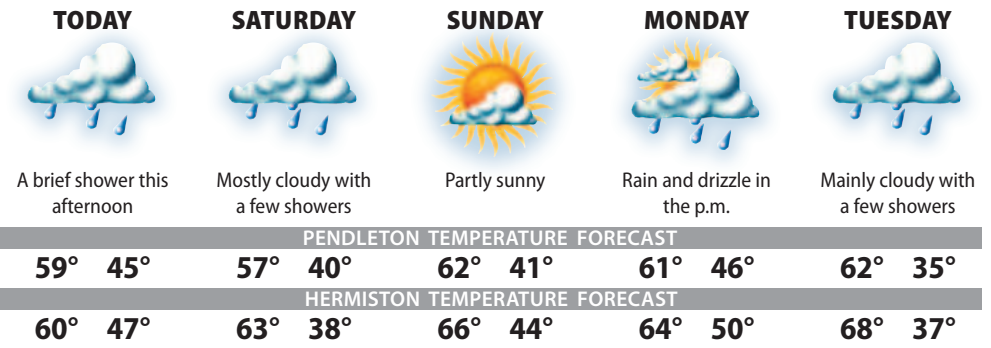
Due to the inclusion of defense attorneys in the process, the hearings could lengthen the proceedings and create scheduling conflicts in an already heavy caseload for the county.

“Any kind of workload that is going to affect the caseload is a concern,” said Phillip Lemman, spokesman for the state Judicial Department. “If the district attorneys are going to create preliminary hearings, we need to be prepared to respond to those things.”

The three counties that have been part of the pilot program have used preliminary hearings to varying degrees so far, and will offer reports about their progress over the next few months. Counties not currently subject to the law, like Clatsop, will be watching.

“It really hasn’t been used widely enough to know if there are any efficiencies or qualitative differences,” Lemman said. “We’re kind of in a state of flux.”

## Forecast for Pendleton Area

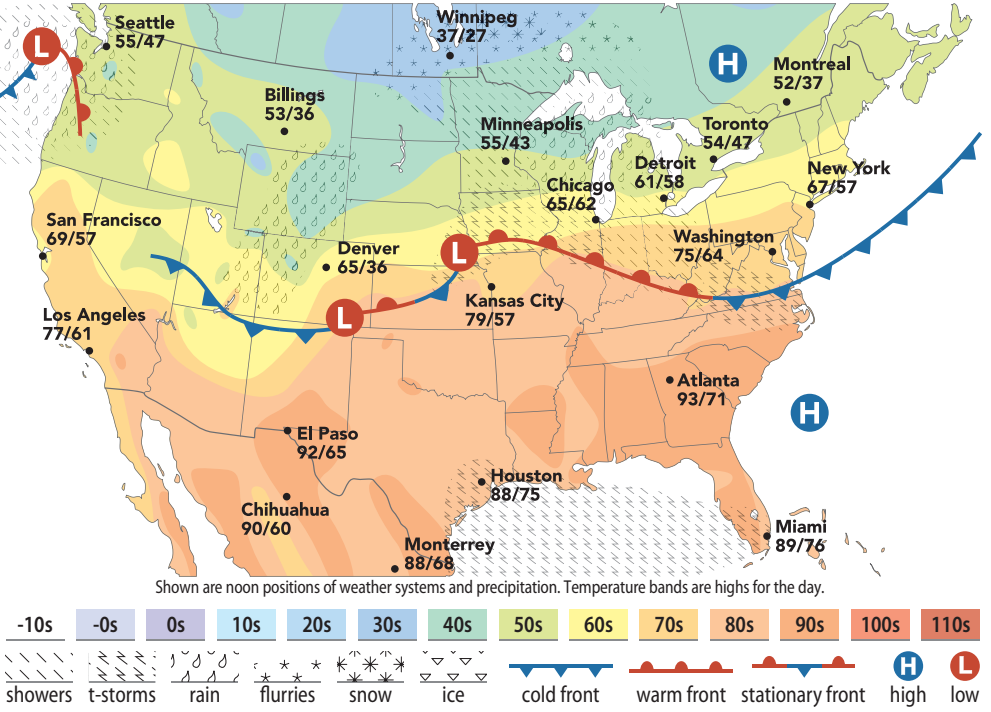


### NATIONAL EXTREMES

Yesterday's National Extremes: (for the 48 contiguous states)

High 99° in Jasper, Ala. Low 12° in Ashley, N.D.

### NATIONAL WEATHER TODAY



# PSU board faces pressure to disarm campus officers

By ERICKA CRUZ GUEVARRA  
Oregon Public Broadcasting

One after the other, Portland State University students, faculty and staff stood before the university’s board of trustees while echoing demands to immediately disarm campus officers.

In the second row of the university’s Lincoln Performance Hall sat the family of Jason Washington, a black Navy veteran whose death marked the first fatal shooting by armed campus officers at the school.

The shooting reopened old wounds over the university board’s controversial 2014 decision to arm campus officers despite protest from students and faculty at the time. Washington’s death was fodder for a told-you-so argument for members of the university community who feared arming campus officers would only make the university less safe, especially for people of color on campus.

“Why’d it take somebody dying for you to wrestle with this issue again?” said PSU Student Union member Olivia Pace. “Saying the community has spoken is an understatement.”

Thursday’s board meeting marked the first since campus police officers James Dewey and Shawn McKenzie shot and killed Washington seconds after arriving to the scene of a drunken brawl outside the Cheerful Tortoise Bar the morning of June 29.

Black Lives Matter signs were placed on stage in front of board members. Students filtered in and out between classes. Faculty came with their expertise in public health, conflict resolution and urban planning in support of calls to disarm.

Several faculty members sought to dispel any idea that students are alone in their demands for the university to disarm campus officers. Ben Anderson-Nathe, associate professor of child and family studies at PSU, said during the open comment period that faculty have stood with students since protests against arming campus officers first began.

“We have marched, we have testified, we have stood with students,” Anderson-Nathe said. “Jason Washington was killed on your watch, and faculty have watched. We are watching to see how you respond.”

# ICE union calls for criminal investigation of Portland mayor

PORTLAND (AP) — The union representing U.S. Immigration and Customs Enforcement employees has asked Oregon and federal officials to conduct a criminal investigation of the Portland mayor over his response to immigration protests.

The *Oregonian*/OregonLive reports the National ICE Council claims in letters sent Wednesday to officials that Ted Wheeler committed official misconduct or violated the U.S. Constitution by directing Portland police not to respond to some calls for service during a protest this summer at the ICE office.

Attorney Sean Riddell, who penned the

letters, claims the mayor’s actions were “to advance his own personal political agenda, advance his political career and punish citizens he perceived to hold alternative political beliefs.”

Wheeler says the letters make misrepresentations of what occurred, and the claims by Riddell will fall apart if investigated.

## Corrections

The *East Oregonian* works hard to be accurate and sincerely regrets any errors. If you notice a mistake in the paper, please call 541-966-0818.

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