

ANNOTATED MINUTES

Tuesday, October 12, 1999 - 9:30 AM
Multnomah County Courthouse, Boardroom 602
1021 SW Fourth Avenue, Portland

BOARD BRIEFING

Chair Beverly Stein convened the meeting at 9:32 a.m., with Vice-Chair Diane Linn, Commissioners Sharron Kelley, Lisa Naito and Serena Cruz present.

- B-1 Continuation of Facilities Briefings: Public Safety Bond Projects (Rivergate Corrections and Alcohol and Drug Facility and Justice Center Booking Remodel) and Certificate of Participation Financial Update and Projects (East County Sheriff's Patrol Operations, Columbia River Patrol Facility, and Sheriff's Records Office. Presented by Larry Nicholas, Mike Oswald and MCSO Staff.

MIKE OSWALD, DAN NOELLE, BOBBI LUNA, BOB NILSEN, GINGER MARTIN, JIM CARLSON, RON BISHOP, DAVE BOYER, CURT HANSON, DAN OLDHAM, PIETER VANDYKE, BOB OBERST, PRESENTATION AND RESPONSE TO BOARD QUESTIONS AND DISCUSSION. CONSENSUS DIRECTION GIVEN FOR STAFF TO COME BACK TO BOARD FOR DECISION ON NUMBER OF BEDS FOR NEW JAIL AND ALCOHOL AND DRUG FACILITY IN DECEMBER OR JANUARY; BOARD CONSENSUS DIRECTION FOR STAFF TO PROVIDE MORE FINANCIAL DETAIL PRIOR TO MOVING FORWARD ON JUSTICE CENTER BOOKING REMODEL; CONSENSUS THAT BOARD REVISIT STRATEGIC SPACE PLAN POLICY ISSUES IN THE NEAR FUTURE; BOARD CONSENSUS TO DISCUSS JOINT SITING WITH GRESHAM BEFORE LOOKING FOR A STAND ALONE FACILITY AND TO LOOK AT INTERIM LOCATION AS WELL AS CUSTOMER SERVICE ISSUES AND FINDING A MORE CENTRAL LOCATION FOR THE ALARM UNIT AND GUN

REGISTRATION UNIT REGARDING THE EAST COUNTY SHERIFF'S PATROL OPERATIONS; BOARD CONSENSUS THAT MOVING FORWARD WITH COLUMBIA RIVER PATROL FACILITY IS A LOW PRIORITY AT THIS TIME; BOARD CONSENSUS FOR STAFF TO PROCEED WITH NEGOTIATIONS CONCERNING POSSIBLE COUNTY PURCHASE OF JUSTICE FACILITY CONDOMINIUM SPACE.

There being no further business, the meeting was adjourned at 11:35 a.m.

Tuesday, October 12, 1999 - 11:45 AM
Multnomah County Courthouse, Boardroom 602
1021 SW Fourth Avenue, Portland

EXECUTIVE SESSION

Chair Beverly Stein convened the meeting at 11:37 a.m., with Vice-Chair Diane Linn, Commissioners Sharron Kelley, Lisa Naito and Serena Cruz present.

- E-1 The Multnomah County Board Of Commissioners Will Meet in Executive Session Pursuant to ORS 192.660(1)(e) to Deliberate with Persons Designated to Negotiate Real Property Transactions. Only Representatives of the News Media and Designated Staff are allowed to Attend. Representatives of the News Media and All Other Attendees are Specifically Directed Not to Disclose Information that is the Subject of the Executive Session Presented by Bob Oberst.

EXECUTIVE SESSION HELD.

There being no further business, the meeting was adjourned at 12:07 p.m.

Wednesday, October 13, 1999 - 9:30 AM
Portland City Hall, Third Floor Rose Room
1221 SW Fourth Avenue, Portland

TSCC PUBLIC HEARING

TSCC convened the meeting at 9:40 a.m. with TSCC Commissioners Richard Anderson, Charles Rosenthal, Nancy Conrath and Anthony Jankans, TSCC staff Linda Burglehaus and Tony Barnes, Multnomah County Vice-Chair Diane Linn and Commissioners Lisa Naito and Serena Cruz and Multnomah County staff Carol Ford and Dave Boyer present, and Chair Beverly Stein and Commissioner Sharron Kelley excused.

PH-1 The Tax Supervising and Conservation Commission Will Meet to Conduct a Public Hearing on the 1999-00 Multnomah County Supplemental Budget. A Quorum of the Multnomah County Board and County Financial Staff Will Attend to Respond to TSCC Questions.

CAROL FORD PRESENTED OVERVIEW OF THE SUPPLEMENTAL BUDGET WHICH IS RECORD PERS BONDS TO PAY THE PERS LIABILITY. DAVE BOYER EXPLAINED THE COUNTY WILL GO FOR A COMPETITIVE SALE IN NOVEMBER AND THEY ARE ESTIMATING THE LIABILITY IS APPROXIMATELY \$175 MILLION, AND THAT THEY WILL CHECK IT JUST BEFORE THE SALE. COMMISSIONER ANDERSON ASKED IF THE COUNTY HAS AN ESTIMATE ON THE PRESENT VALUE SAVINGS FROM ISSUING THE PENSION BOND VERSUS FUNDING THE LIABILITY USING PERS? DAVE BOYER EXPLAINED THEY ARE ESTIMATING APPROXIMATELY \$30 MILLION, AND THAT THIS WILL BE DEPENDANT UPON WHAT INTEREST RATES DO. MR. BOYER ADDED THEY HAVE TRIED TO ESTIMATE CONSERVATIVELY. COMMISSIONER ANDERSON ASKED THAT IF THE BONDS ARE ISSUED AND THE FUNDS ARE DEPOSITED WITH PERS PRIOR TO 12-31-99, WILL INTEREST BE CREDITED ON THE DEPOSIT USING CURRENT PERS RULES THAT CREDIT A FULL YEAR OF INTEREST TO

ALL FUNDS IN THE ACCOUNT AS OF THE LAST DAY OF THE YEAR? DAVE BOYER ADVISED THAT AT THIS POINT THEY DO NOT KNOW, THAT ORIGINALLY THAT WAS HOW IT WAS TO BE DONE BUT NOW PERS IS WAFFLING ON CREDITING THE INTEREST, ADDING THAT IT WILL BE A POINT OF FURTHER DISCUSSIONS. AS A FOLLOW-UP TO A DISCUSSION FROM THE CITY OF PORTLAND SUPPLEMENTAL HEARING, COMMISSIONER LINN EXPLAINED THE AGREEMENT THAT THE COUNTY IS ENTERING INTO WITH PORTLAND PUBLIC SCHOOLS FOR USE OF THE FACILITIES AT PPS ADMINISTRATION BUILDING.

There being no further business, the meeting was adjourned at 9:55 a.m.

Thursday, October 14, 1999 - 9:00 AM
Multnomah County Courthouse, Boardroom 602
1021 SW Fourth Avenue, Portland

REGULAR MEETING

Chair Beverly Stein convened the meeting at 9:04 a.m., with Vice-Chair Diane Linn, Commissioners Sharron Kelley, Lisa Naito and Serena Cruz present.

CONSENT CALENDAR

UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER LINN, THE CONSENT CALENDAR (ITEMS C-1 THROUGH C-2) WAS UNANIMOUSLY APPROVED.

DEPARTMENT OF HEALTH

- C-1 Budget Modification HD 3 Approving a Net Reduction of .2 FTE in Various Job Classes in the North Portland Primary Care Clinic and an Increase of \$13,791 in Supplies Funded within the Current Budget

DEPARTMENT OF ENVIRONMENTAL SERVICES

C-2 RESOLUTION Authorizing Private Sale of Certain Tax Foreclosed Property to Robert Schlichting, Michele Miller, Chris Cooksy, Carolyn Holzman, Stanley Ezenhus, Jr. and Nancy Ezenhus, Including Direction to Tax Title for Publication of Notice Pursuant to ORS 275.225

RESOLUTION 99-199.

REGULAR AGENDA

PUBLIC COMMENT

R-1 Opportunity for Public Comment on Non-Agenda Matters. Testimony Limited to Three Minutes Per Person.

NO ONE WISHED TO COMMENT.

DEPARTMENT OF SUPPORT SERVICES

R-2 RESOLUTION Adopting Increases to Multnomah County Sheriff's Office Command Staff Pay Ranges and Adopting Pay Schedule. Presented by Vickie Gates with Fernando Conill, Jennifer Huntsman and Dan Noelle.

COMMISSIONER KELLEY MOVED AND COMMISSIONER LINN SECONDED, APPROVAL OF R-2. VICKIE GATES INTRODUCED SHERIFF NOELLE, JENNIFER HUNTSMAN AND FERNANDO CONILL. VICKIE GATES AND DAN NOELLE, EXPLANATION AND RESPONSE TO BOARD QUESTIONS AND DISCUSSION REGARDING RETROACTIVITY AND NEED TO DEVELOP STRATEGIES FOR COUNTYWIDE CLASSIFICATION/COMPENSATION STUDY. TOM SPONSLER RESPONSE TO BOARD QUESTION CONCERNING JULY 1, 1999 RETROACTIVITY. BOARD COMMENTS IN SUPPORT. RESOLUTION 99-200 UNANIMOUSLY APPROVED. SHERIFF NOELLE THANKED AND ACKNOWLEDGED SUPPORT SERVICES AND SHERIFF'S OFFICE STAFF, INCLUDING TIM MOORE, AS WELL AS THE BOARD.

R-3 Results from RESULTS: Community Banking Investment Program Presentation by Harry Morton and Tom Landye

TO BE RESCHEDULED.

PUBLIC CONTRACT REVIEW BOARD

R-4 ORDER Exempting from the Formal Competitive Bid Process a Contract for a Construction Manager/General Contractor for the Construction of a New Correctional Facility

COMMISSIONER KELLEY MOVED AND COMMISSIONER LINN SECONDED, APPROVAL OF R-4. FRANNA HATHAWAY PRESENTATION AND EXPLANATION OF THE PROCESS IN RESPONSE TO A QUESTION OF COMMISSIONER NAITO. ORDER 99-201 UNANIMOUSLY APPROVED.

DEPARTMENT OF JUVENILE AND ADULT COMMUNITY JUSTICE

R-5 Budget Modification DCJ00_02 Adding \$41,501 Federal Title V Juvenile Delinquency Prevention Program Grant Revenue to the Counseling/Court Services Division Budget to Fund Program for At-Risk Girls

COMMISSIONER KELLEY MOVED AND COMMISSIONER LINN SECONDED, APPROVAL OF R-5. JOANNE FULLER EXPLANATION AND RESPONSE TO BOARD QUESTIONS AND COMMENTS IN SUPPORT. BUDGET MODIFICATION UNANIMOUSLY APPROVED.

NON-DEPARTMENTAL

R-6 PROCLAIMING the Week of October 10 through 16, 1999 as OREGON FOOD BANK WEEK and NATIONAL FOOD BANK WEEK in Multnomah County, Oregon

COMMISSIONER KELLEY MOVED AND COMMISSIONER LINN SECONDED, APPROVAL OF R-6. RACHEL BRISTOL VIDEO PRESENTATION, EXPLANATION AND READING.

**COMMISSIONER CRUZ COMMENTS IN SUPPORT.
PROCLAMATION 99-202 UNANIMOUSLY
APPROVED.**

R-7 Second Reading of an ORDINANCE Amending County Forfeiture Law (MCC 15.350, et seq.) [Vehicle Forfeiture for Repeat Driving Under the Influence or Driving While Suspended or Revoked]

**UPON MOTION OF COMMISSIONER NAITO,
SECONDED BY COMMISSIONER LINN, THE
ORDINANCE WAS UNANIMOUSLY POSTPONED
INDEFINITELY.**

**UPON MOTION OF COMMISSIONER NAITO,
SECONDED BY COMMISSIONER LINN,
CONSIDERATION OF THE FOLLOWING ITEM
WAS UNANIMOUSLY APPROVED.**

NON-DEPARTMENTAL

UC-1 RESOLUTION Affirming Continued Support of Efforts to Deal with Intoxicated Drivers in Collaboration with Local Jurisdictions within the Parameters of HB 3304 Authorizing Seizure and Forfeiture of Vehicles Operated by Drunk Drivers Convicted of Certain Crimes

**COMMISSIONER NAITO MOVED AND
COMMISSIONER LINN SECONDED, APPROVAL
OF UC-1. COMMISSIONER NAITO EXPLANATION
AND COMMENTS IN SUPPORT, ADVISING SHE
WILL BE WORKING WITH LEGISLATORS
REGARDING CHANGES TO HB. TIANA TOZER
TESTIMONY IN SUPPORT. COMMISSIONER
LINN COMMENTS IN SUPPORT. IN RESPONSE
TO A QUESTION OF CHAIR STEIN, SHERIFF DAN
NOELLE ADVISED THAT DISTRICT ATTORNEY
MIKE SCHRUNK, SIX POLICE CHIEFS AND
HIMSELF WILL BE SPENDING THE NEXT THREE
WEEKS EXPLORING WAYS TO DEAL WITH
INTOXICATED DRIVERS WITHIN THE
PARAMETERS OF HB 3304 AND OTHER STATE
LEGISLATION, AND IDENTIFYING A SELF-
SUPPORTING PROPOSAL. CHAIR STEIN**

REQUESTED THAT THE BOARD BE KEPT INFORMED OF THE GROUP'S PROGRESS. COMMISSIONERS CRUZ, KELLEY AND NAITO COMMENTS IN SUPPORT. RESOLUTION 99-203 UNANIMOUSLY APPROVED. SHERIFF NOELLE COMMENTS IN SUPPORT.

DEPARTMENT OF ENVIRONMENTAL SERVICES

R-9 RESOLUTION Authorizing Execution of Amendment 4 to Lease Agreement 301615-8 with American Property Management for Children and Family Services Space at the Commonwealth Building

COMMISSIONER KELLEY MOVED AND COMMISSIONER LINN SECONDED, APPROVAL OF R-9. ROBERT OBERST AND IRIS BELL EXPLANATION AND RESPONSE TO BOARD QUESTIONS. COMMISSIONER CRUZ MOVED AND COMMISSIONER LINN SECONDED, AMENDMENT CORRECTING THE SQUARE FOOTAGE FROM 800 TO 2,323. AMENDMENT UNANIMOUSLY APPROVED. RESOLUTION 99-204 UNANIMOUSLY APPROVED, AS AMENDED.

COMMISSIONER COMMENT/LEGISLATIVE ISSUES

R-8 Opportunity (as Time Allows) for Commissioners to Comment on Non-Agenda Items or to Discuss Legislative Issues.

NO ONE WISHED TO COMMENT.

The regular meeting was adjourned at 10:35 a.m.

Thursday, October 14, 1999 - 11:00 AM
(OR IMMEDIATELY FOLLOWING REGULAR MEETING)
Multnomah County Courthouse, Boardroom 602
1021 SW Fourth Avenue, Portland

BOARD BRIEFING

Chair Beverly Stein convened the briefing at 10:37 a.m., with Vice-Chair Serena Cruz, Commissioners Sharron Kelley, Diane Linn and Lisa Naito present.

B-2 Recommendations for Inclusion of Domestic Violence Funding in the Year 2000 Community Safety Levy. Presented by Chiquita Rollins and Invited Others.

CHIQUITA ROLLINS, GARY OXMAN, JOANNE FULLER, JUDY PHELAN AND LANA MCKAY PRESENTATION AND RESPONSE TO BOARD QUESTIONS AND DISCUSSION. BOARD CONSENSUS TO DISCUSS STRATEGIC APPROACH TO LEVY PRIOR TO MAKING LEVY DECISIONS.

Chair Stein was excused at 11:22 a.m.

There being no further business, the meeting was adjourned at 11:35 a.m.

OFFICE OF THE BOARD CLERK
FOR MULTNOMAH COUNTY, OREGON

Deborah L. Bogstad

Deborah L. Bogstad



Multnomah County Oregon

Board of Commissioners & Agenda

connecting citizens with information and services

BOARD OF COMMISSIONERS

Beverly Stein, Chair

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Phone: (503) 248-3308 FAX (503) 248-3093
Email: mult.chair@co.multnomah.or.us

Diane Linn, Commission Dist. 1

1120 SW Fifth Avenue, Suite 1500
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Lisa Naito, Commission Dist. 3

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Sharron Kelley, Commission Dist. 4

1120 SW Fifth Avenue, Suite 1500
Portland, Or 97204-1914
Phone: (503) 248-5213 FAX (503) 248-5262
Email: sharron.e.kelley@co.multnomah.or.us

ANY QUESTIONS? CALL BOARD CLERK DEB BOGSTAD @ 248-3277

Email: deborah.l.bogstad@co.multnomah.or.us

INDIVIDUALS WITH DISABILITIES PLEASE CALL THE BOARD CLERK AT 248-3277, OR MULTNOMAH COUNTY TDD PHONE 248-5040, FOR INFORMATION ON AVAILABLE SERVICES AND ACCESSIBILITY.

OCTOBER 12-14, 1999

BOARD MEETINGS

FASTLOOK AGENDA ITEMS OF INTEREST

Pg. 2	9:30 a.m. Tuesday Facilities Briefing
Pg. 2	11:45 a.m. Tuesday Executive Session
Pg. 2	9:30 a.m. Wednesday TSCC Hearing
Pg. 3	9:00 a.m. Thursday MCSO Command Staff Class/Comp Study Implementation
Pg. 3	9:30 a.m. Thursday DSS RESULTS Presentation
Pg. 4	10:00 a.m. Thursday 2nd Reading Impoundment and Vehicle Forfeiture Law
Pg. 5	11:00 a.m. Thursday Recommendations for FY 2000 Domestic Violence Funding
Pg. 6	Board Meeting Cancellation Notice
*	Check the County Web Site: http://www.co.multnomah.or.us/

Thursday meetings of the Multnomah County Board of Commissioners are cable-cast live and taped and may be seen by Cable subscribers in Multnomah County at the following times:

Thursday, 9:30 AM, (LIVE) Channel 30
Friday, 10:00 PM, Channel 30
Sunday, 1:00 PM, Channel 30
Produced through Multnomah Community Television

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BOARD BRIEFING

- B-1 Continuation of Facilities Briefings: Public Safety Bond Projects (Rivergate Corrections and Alcohol and Drug Facility and Justice Center Booking Remodel) and Certificate of Participation Financial Update and Projects (East County Sheriff's Patrol Operations, Columbia River Patrol Facility, and Sheriff's Records Office. Presented by Larry Nicholas, Mike Oswald and MCSO Staff. 2 HOURS, 15 MINUTES REQUESTED.
-

Tuesday, October 12, 1999 - 11:45 AM
Multnomah County Courthouse, Boardroom 602
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EXECUTIVE SESSION

- E-1 The Multnomah County Board Of Commissioners Will Meet in Executive Session Pursuant to ORS 192.660(1)(e) to Deliberate with Persons Designated to Negotiate Real Property Transactions. Only Representatives of the News Media and Designated Staff are allowed to Attend. Representatives of the News Media and All Other Attendees are Specifically Directed Not to Disclose Information that is the Subject of the Executive Session Presented by Bob Oberst. 30 MINUTES REQUESTED.
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Wednesday, October 13, 1999 - 9:30 AM
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TSCC PUBLIC HEARING

- PH-1 The Tax Supervising and Conservation Commission Will Meet to Conduct a Public Hearing on the 1999-00 Multnomah County Supplemental Budget. A Quorum of the Multnomah County Board and County Financial Staff Will Attend to Respond to TSCC Questions. 30 MINUTES REQUESTED.

Thursday, October 14, 1999 - 9:00 AM
Multnomah County Courthouse, Boardroom 602
1021 SW Fourth Avenue, Portland

REGULAR MEETING

CONSENT CALENDAR - 9:00 AM

DEPARTMENT OF HEALTH

- C-1 Budget Modification HD 3 Approving a Net Reduction of .2 FTE in Various Job Classes in the North Portland Primary Care Clinic and an Increase of \$13,791 in Supplies Funded within the Current Budget

DEPARTMENT OF ENVIRONMENTAL SERVICES

- C-2 RESOLUTION Authorizing Private Sale of Certain Tax Foreclosed Property to Robert Schlichting, Michele Miller, Chris Cooksy, Carolyn Holzman, Stanley Ezenhus, Jr. and Nancy Ezenhus, Including Direction to Tax Title for Publication of Notice Pursuant to ORS 275.225

REGULAR AGENDA - 9:00 AM

PUBLIC COMMENT - 9:00 AM

- R-1 Opportunity for Public Comment on Non-Agenda Matters. Testimony Limited to Three Minutes Per Person.

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- R-3 Results from RESULTS: Community Banking Investment Program Presentation by Harry Morton and Tom Landye. 10 MINUTES REQUESTED.

PUBLIC CONTRACT REVIEW BOARD - 9:40 AM

R-4 ORDER Exempting from the Formal Competitive Bid Process a Contract for a Construction Manager/General Contractor for the Construction of a New Correctional Facility

DEPARTMENT OF JUVENILE AND ADULT COMMUNITY JUSTICE - 9:45 AM

R-5 Budget Modification DCJ00_02 Adding \$41,501 Federal Title V Juvenile Delinquency Prevention Program Grant Revenue to the Counseling/Court Services Division Budget to Fund Program for At-Risk Girls

NON-DEPARTMENTAL - 9:50 AM

R-6 PROCLAIMING the Week of October 10 through 16, 1999 as OREGON FOOD BANK WEEK and NATIONAL FOOD BANK WEEK in Multnomah County, Oregon

R-7 Second Reading of an ORDINANCE Amending County Forfeiture Law (MCC 15.350, et seq.) [Vehicle Forfeiture for Repeat Driving Under the Influence or Driving While Suspended or Revoked]

COMMISSIONER COMMENT/LEGISLATIVE ISSUES - 11:00 AM

R-8 Opportunity (as Time Allows) for Commissioners to Comment on Non-Agenda Items or to Discuss Legislative Issues.

DEPARTMENT OF ENVIRONMENTAL SERVICES

R-9 RESOLUTION Authorizing Execution of Amendment 4 to Lease Agreement 301615-8 with American Property Management for Children and Family Services Space at the Commonwealth Building

Thursday, October 14, 1999 - 11:00 AM
(OR IMMEDIATELY FOLLOWING REGULAR MEETING)

Multnomah County Courthouse, Boardroom 602
1021 SW Fourth Avenue, Portland

BOARD BRIEFING

B-2 Recommendations for Inclusion of Domestic Violence Funding in the Year 2000 Community Safety Levy. Presented by Chiquita Rollins and Invited Others. 1 HOUR REQUESTED.



MULTNOMAH COUNTY COMMISSIONERS **BOARD MEETING CANCELLATION NOTICE**

Thursday, November 11, 1999	Veterans Day - Offices Closed
Thursday, November 18, 1999	Annual AOC Conference
Thursday, November 25, 1999	Thanksgiving - Offices Closed
Tuesday, December 21, 1999	Briefing Meeting Cancelled
Thursday, December 23, 1999	Regular Meeting Cancelled
Tuesday, December 28, 1999	No Meeting Scheduled
Thursday, December 30, 1999	Regular Meeting Cancelled

Any Questions, please call Deb Bogstad @ (503) 248-3277

BUDGET MODIFICATION NO.

HD 3

(For Clerk's Use) Meeting Date

OCT 14 1999

Agenda No.

C-1

1. REQUEST FOR PLACEMENT ON THE AGENDA FOR

DEPARTMENT

Health

(Date)

DIVISION Primary Care

CONTACT

Kathy Innes

TELEPHONE 248-3056 x27027

* NAME(S) OF PERSON MAKING PRESENTATION TO BOARD

Kathy Innes

SUGGESTED

AGENDA TITLE

(to assist in preparing a description for the printed agenda)

Approve a net reduction of .2 FTE in various job classes in the North Portland Primary Care Clinic and an increase of \$13,791 in supplies. Changes are funded within the current budget.

(Estimated Time Needed on the Agenda)

2. DESCRIPTION OF MODIFICATION

(Explain the changes this Bud Mod makes. What budget does it increase? What do changes accomplish? Where does the money come from? What budget is reduced? Attach additional information if you need more space.)

Personnel changes are shown in detail on the attached sheet

This action cuts .5 Fiscal Assistant, cuts .9 Licensed Community Health Nurse, adds 1 Health Assistant, and adds .2 Community Health Nurse.

3. REVENUE IMPACT

(Explain revenues being changed and reason for the change)

NA

MULTI-STATE COUNTY BOARD OF COMMISSIONERS
99 OCT - 4 AM 9:44
OREGON

4. CONTINGENCY STATUS

(to be completed by Budget & Quality)

Fund Contingency before this modification

Date

After this modification

Originated By

Sharon Armstrong

Date

9/27/99

Department Director

Kellian Jewell

Date

9/29/99

Plan/Budget Analyst

Chris King

Date

10-4-99

Employee Services

Melissa Dailen

Date

9/21/99

Board Approval

Wendy C. Gustafson

Date

10/14/99

PERSONNEL DETAIL FOR BUDGET MODIFICATION NO.

HD 3

5. ANNUALIZED PERSONNEL CHANGES HD 3 (Compute on a full-year basis even though this action affects only a part of the fiscal year (FY).)

Permanent Positions, Temporary, Overtime, or Premium	JCN	Org	Explanation of Change	BASE PAY Increase (Decrease)	ANNUALIZED Increase/(Decrease)		TOTAL Increase (Decrease)
					Fringe	Ins.	
-0.50	6028	0735	Fiscal Assistant	(11278)	(2844)	(2831)	(16953)
0.50	6294	0735	Health Assistant	11278	2844	2831	16953
-0.90	6303	0735	LCPN	(31088)	(7491)	(3761)	(42340)
1.00	6294	0735	Health Assistant	23118	2914	2774	28806
0.20	6315	0735	Community Health Nurs	8040	2027	1235	11302
							0
0.30	TOTAL CHANGE (ANNUALIZED)			\$70	(\$2,550)	\$248	(\$2,232)

6. YEAR PERSONNEL DOLLAR CHANGES 0 (Calculate costs/savings that will take place this FY; these should explain the actual dollar amounts changed by this BudMod.)

Permanent Positions, Temporary, Overtime, or Premium	JCN	Org	Explanation of Change	BASE PAY Increase (Decrease)	CURRENT FY Increase/(Decrease)		TOTAL Increase (Decrease)
					Fringe	Ins.	
-0.50	6028	0735	Fiscal Assistant	(11278)	(2844)	(2831)	(16953)
0.50	6294	0735	Health Assistant	11278	2844	2831	16953
-0.90	6303	0735	LCPN	(31088)	(7491)	(3761)	(42340)
0.50	6294	0735	Health Assistant	11559	2914	2774	17247
0.20	6315	0735	Community Health Nurs	8040	2027	1235	11302
-0.20							
TOTAL CURRENT FISCAL YEAR CHANGES				(\$11,489)	(\$2,550)	\$248	(\$13,791)



MULTNOMAH COUNTY, OREGON

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN
DIANE LINN
SERENA CRUZ
LISA NAITO
SHARRON KELLEY

HEALTH DEPARTMENT
BUSINESS SERVICES
426 SW STARK
PORTLAND, OR 97204
PHONE (503) 248-3056

TO: Board of County Commissioners
FROM: Lillian Shirley 
TODAY'S DATE: Sept. 21, 1999
REQUESTED PLACEMENT DATE: Sept. 30, 1999
SUBJECT: Health Budget Modification Number 3

I. Recommendation / Action Requested:

Approve increases and decreases in various job classes in the North Portland Primary Care Clinic budget for an overall decrease of .2 FTE. All changes are funded from within the current budget.

II. Background / Analysis:

This action cuts .5 Fiscal Assistant, cuts .9 Licensed Community Health Nurse, adds 1 Health Assistant, and adds .2 Community Health Nurse.

III. Financial Impact: NA

IV. Legal Issues: NA

V. Controversial Issues: NA

VI. Link to Current County Policies: NA

VII. Citizen Participation: NA

VIII. Other Government Participation: NA

MEETING DATE: OCT 14 1999
AGENDA NO: C-2
ESTIMATED START TIME: 9:00

(Above Space for Board Clerk's use only)

AGENDA PLACEMENT FORM

SUBJECT: Request Approval of Private Sale

BOARD BRIEFING: Date Requested: _____
Requested by: _____
Amount of Time Needed: _____

REGULAR MEETING: Date Requested: Consent Calendar
Amount of Time Needed: _____

DEPARTMENT: Environmental Services DIVISION: Assessment & Taxation

CONTACT: Gary Thomas TELEPHONE #: 248-3380 x22591
BLDG/ROOM #: 166/300/Tax Title

PERSON(S) MAKING PRESENTATION: Consent Calendar

ACTION REQUESTED:

{ } INFORMATION ONLY { } POLICY DIRECTION {X} APPROVAL { } OTHER

Request approval of Private Sale of tax foreclosed property under ORS 275.225 to ROBERT SCHLICHTING, MICHELE MILLER, CHRIS COOKSY, CAROLYN HOLZMAN, STANLEY EZENHUS JR. and NANCY EZENHUS

- a) The property is assessed at less than \$5,000 on the current assessment roll and has been shown to be unbuildable "AS IS" per a letter from the City of Portland and the pending sale is to be advertised as provided by ORS 275.225.

The price of sale is \$551

Staff Report, Board Resolution, Deed D001661, and Notice of Sale attached.

10/14/99 ORIGINAL DEED & COPIES
OF ALL TO TAX TITLE

SIGNATURES REQUIRED:

ELECTED OFFICIAL: _____
OR
DEPARTMENT MANAGER: kt [Signature]

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES
Any Questions: Call the Board Clerk @ 248-3277

BOARD OF
COUNTY COMMISSIONERS
MULTNOMAH COUNTY
OREGON
99 OCT 14 11 8 56

BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM BRIEFING
STAFF REPORT SUPPLEMENT

TO: BOARD OF COUNTY COMMISSIONERS
FROM: Gary Thomas
TODAY'S DATE: September 13, 1999
REQUESTED PLACEMENT DATE: Consent Calendar
RE: Request approval to sell a Tax Foreclosed Property at Private Sale.

I. Recommendation/Action Requested:

Approval to sell a tax foreclosed property by Private Sale

II. Background/Analysis:

This property was deeded to the County on June 4, 1975, through foreclosure for non-payment of property taxes. This property was made available to Government Agencies and Non-Profit Housing Developers of Multnomah County during fiscal year 96/97, in accordance with Ordinance 895. There were no requests for this property. The Private Sale parcel is a strip of land in Multnomah County (see area map of property). The County Tax Title Division conducted a sealed bid auction limited to only adjacent property owners. The individuals named in this proposed sale were the successful bidders. They acted jointly.

III. Financial Impact:

Private Sale will allow for recovery of delinquent taxes, interest, fees, and costs. The sale will also reinstate the property on the tax roll (see exhibit "B").

IV. Legal Issues:

No legal issues are expected, and Private Sales are provided for in ORS 275.225. This parcel would be sold "AS IS" without guarantee of clear title.

V. Controversial Issues:

Under ORS 275.225 Private Sales are available on property that is unsuitable for construction and is assessed at less than \$5,000. The current assessed value is \$94.

VI. Link to Current County Policies:

This property has been through all the processes provided for in Ordinance 895.

VII. Citizen Participation:

Once the Board of County Commissioners approves the action to sell, a notice will be placed in the Daily Journal of Commerce to advertise the Private Sale.

VIII. Other Government Participation:

Properties sold at Multnomah County Public or Private Sale are subject to ORS 275.275. There are no liens recorded against the parcel at this time.

EXHIBIT "B"

**PROPOSED PROPERTY LISTED FOR PRIVATE SALE
FISCAL YEAR 1999/00**

LEGAL DESCRIPTION: A tract of land in the Southwest ¼ of Section 35, Township 1 North, Range 2 East, Willamette Meridian, described as follows:

Beginning at the Southwest corner of Lot 54, Melrose; thence Westerly, on an extension of the South line of said Lot 54 to the East line of Curry's Mount Tabor Addition; thence Northerly along said West line 150 feet more or less to intersection with the Westerly extension of the North line of said Lot 54; thence Easterly along said extension to the Northwest corner of said Lot 54; thence South along the West line of said Lot 54, 150 feet more or less to the point of beginning.

ADJACENT PROPERTY ADDRESS: East of 136 SE 50th Ave

TAX ACCOUNT NUMBER: R-94231-2610

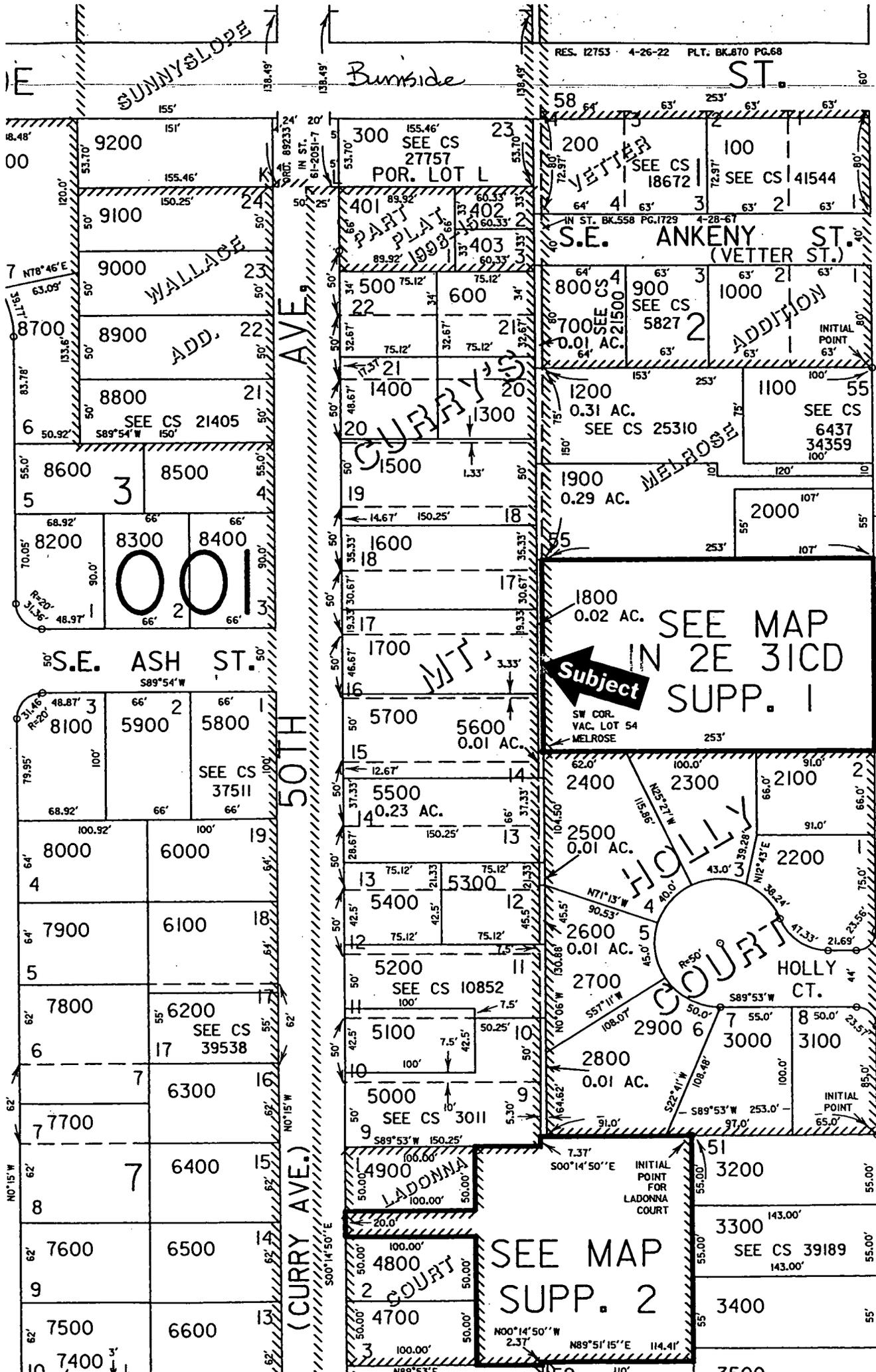
GREENSPACE DESIGNATION: ---P-, Park Deficient Area

SIZE OF PARCEL: Approximately 3.8' x 150' strip

ITEMIZED EXPENSES FOR TOTAL PRICE OF PRIVATE SALE:

ASSESSED VALUE:	\$ 94.00
BACK TAXES & INTEREST:	35.70
TAX TITLE MAINTENANCE COST & EXPENSES:	124.00
ADVERTISING COST:	90.00
RECORDING FEE:	35.00
CITY LIENS:	<u>0.00</u>
SUB-TOTAL	378.70
MINIMUM PRICE REQUEST OF PRIVATE SALE	\$ 380.00

APPROX. 1/16 COR.



SEE MAP IN 2E 31CD

BEFORE THE BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY

RESOLUTION NO. 99-199

Authorizing Private Sale of Certain Tax Foreclosed Property to ROBERT SCHLICHTING, MICHELE MILLER, CHRIS COOKSY, CAROLYN HOLZMAN, STANLEY EZENHUS JR. and NANCY EZENHUS, Including direction to Tax Title for Publication of Notice Pursuant to ORS 275.225

The Multnomah County Board of Commissioners Finds:

- a) Multnomah County acquired the real property hereinafter described through the foreclosure of liens for delinquent taxes.
- b) The property is assessed at \$94 in value on the County's current tax roll.
- c) The property is unsuitable for construction or placement of structures thereon, as provided under ORS 275.225(2), as provided in the attached zoning confirmation letter from the City of Portland dated March 2, 1998, hereby incorporated by this reference and identified as Exhibit "C".
- d) ROBERT SCHLICHTING, MICHELE MILLER, CHRIS COOKSY, CAROLYN HOLZMAN, STANLEY EZENHUS JR. and NANCY EZENHUS have agreed to pay \$551, an amount the Board hereby finds to be a reasonable price for the property in conformity with ORS 275.225.
- e) ROBERT SCHLICHTING, MICHELE MILLER, CHRIS COOKSY, CAROLYN HOLZMAN, STANLEY EZENHUS JR. and NANCY EZENHUS has agreed to reimburse the County for the cost of publishing notice of this sale.

The Multnomah County Board of Commissioners Resolves:

1. That Multnomah County Tax Title Division is directed to publish notice of this sale in a newspaper of general circulation as provided under ORS 275.225(2).

2. That not earlier than 15 days after publication of the notice and upon Tax Title's receipt of the payment of \$551, the Chair on behalf of Multnomah County, is hereby authorized to execute a deed conveying to ROBERT SCHLICHTING, MICHELE MILLER, CHRIS COOKSY, CAROLYN HOLZMAN, STANLEY EZENHUS JR. and NANCY EZENHUS the following real property:

A tract of land in the Southwest ¼ of Section 35, Township 1 North, Range 2 East, Willamette Meridian, described as follows:

Beginning at the Southwest corner of Lot 54, Melrose; thence Westerly, on an extension of the South line of said Lot 54 to the East line of Curry's Mount Tabor Addition; thence Northerly along said West line 150 feet more or less to intersection with the Westerly extension of the North line of said Lot 54; thence Easterly along said extension to the Northwest corner of said Lot 54; thence South along the West line of said Lot 54, 150 feet more of less to the point of beginning.

Adopted this 14th day of October, 1999.



BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON

By *Beverly Stein*
Beverly Stein, Chair

REVIEWED:
THOMAS SPONSLER, COUNTY COUNSEL
For Multnomah County, Oregon

By *Mathew O. Ryan*
Mathew O. Ryan, Assistant County Counsel



CITY OF
PORTLAND, OREGON
BUREAU OF PLANNING

Charlie Hales, Commissioner
David C. Knowles, Director
1120 S.W. 5th, Room 1002
Portland, Oregon 97204-1966
Telephone: (503) 823-7700
FAX (503) 823-7800

March 2, 1998

Michele Miller
116 S.E. 50th Avenue
Portland, OR 97215

RE: Zoning Confirmation for property located behind 116 S.E. 50th, legally described as Tax Lot 1800, State Identification # 1N2E31CD 1800, Quarter Section Map 3035, Tax Identification # R94231-2610.

Dear Ms. Miller,

You have requested zoning information for the above-referenced property. The site is located in an R5 zone, Single-dwelling Residential (Portland Zoning Code Chapter 33.110). The single-dwelling zones are intended to preserve land for housing. The regulations are intended to create, maintain and promote single-dwelling neighborhoods. The site development standards allow for flexibility of development while maintaining compatibility within the City's various neighborhoods.

There are dimensional requirements for the creation of lots in this zone. Lots must be a minimum of 50 feet wide, 80 feet deep, and 5,000 square feet in area, with a minimum 25 feet of frontage on a right-of-way. This site is .02 acres with no right-of-way frontage and does not meet the dimensional requirements for legal lots. It can only be aggregated with and sold to adjacent property owners. The enclosed Zoning Code chapter contain a full description of these regulations.

There are no building permits or land use cases associated with this site.

This confirmation is based on information provided by you, as well as our review of zoning regulations, building permits, and land use case history. No site visit was conducted as part of this confirmation. The above information is current, but zoning regulations change over time; these changes may affect the use and/or development of the property. Please contact me if you have additional questions.

Sincerely,

Christina Scarzello, City Planner
Portland Planning Bureau, Permit Center

NOTICE OF PRIVATE SALE
PURSUANT TO ORS 275.225

Multnomah County Department of Environmental Services, Division of Assessment and Taxation, Tax Title Unit, 421 SW 6th Ave., Rm. 300, Portland, Oregon 97204, will sell the following property:

A tract of land in the Southwest $\frac{1}{4}$ of Section 35, Township 1 North, Range 2 East, Willamette Meridian, described as follows:

Beginning at the Southwest corner of Lot 54, Melrose; thence Westerly, on an extension of the South line of said Lot 54 to the East line of Curry's Mount Tabor Addition; thence Northerly along said West line 150 feet more or less to intersection with the Westerly extension of the North line of said Lot 54; thence Easterly along said extension to the Northwest corner of said Lot 54; thence South along the West line of said Lot 54, 150 feet more or less to the point of beginning. Also known as tax account number R-94231-2610.

A parcel of non-buildable land in the proximity of strip east of 136 SE 50th Ave, Multnomah County, Oregon. Assessed value of \$94.

Deed D001661

MULTNOMAH COUNTY, a political subdivision of the State of Oregon, Grantor, conveys to ROBERT SCHLICHTING, MICHELE MILLER, CHRIS COOKSY, CAROLYN HOLZMAN, STANLEY EZENHUS JR. and NANCY EZENHUS, Grantees, the following described real property, situated in the County of Multnomah, State of Oregon:

AS DESCRIBED IN ATTACHED EXHIBIT "A"

The true and actual consideration paid for this transfer; stated in the terms of dollars is \$551

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

Until a change is requested, all tax statements shall be sent to the following address:

Michele Miller
116 SE 50th Ave
Portland OR 97215

IN WITNESS WHEREOF, MULTNOMAH COUNTY has caused these presents to be executed by the Chair of the Multnomah County Board of Commissioners the 14th day of October, 1999, by authority of a Resolution of the Board of County Commissioners heretofore entered of record.



BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON

By *Beverly Stein*
Beverly Stein, Chair

REVIEWED:

Thomas Sponsler, County Counsel
Multnomah County, Oregon

By *Matthew O. Ryan*
Matthew O. Ryan, Assistant County Counsel

DEED APPROVED:

Kathleen A. Tuneberg, Director
Tax Collections/Records Management

By *K. A. Tuneberg*
Kathleen A. Tuneberg, Director

After recording, return to 166/300/Multnomah County Tax Title

EXHIBIT "A"

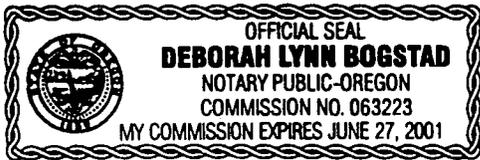
**D001661
R-94231-2610
R-319378**

A tract of land in the Southwest $\frac{1}{4}$ of Section 35, Township 1 North, Range 2 East, Willamette Meridian, described as follows:

Beginning at the Southwest corner of Lot 54, Melrose; thence Westerly, on an extension of the South line of said Lot 54 to the East line of Curry's Mount Tabor Addition; thence Northerly along said West line 150 feet more or less to intersection with the Westerly extension of the North line of said Lot 54; thence Easterly along said extension to the Northwest corner of said Lot 54; thence South along the West line of said Lot 54, 150 feet more or less to the point of beginning.

STATE OF OREGON)
) ss
COUNTY OF MULTNOMAH)

The foregoing instrument was acknowledged before me this 14th day of October, 1999, by Beverly Stein, to me personally known, as Chair of the Multnomah County Board of Commissioners, on behalf of the County by authority of the Multnomah County Board of Commissioners.



Deborah Lynn Bogstad
Notary Public for Oregon
My Commission expires: 6/27/01

MEETING DATE: OCT 14 1999
AGENDA NO: R-2
ESTIMATED START TIME: 9:00

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: MCSO Command Staff Classification/Compensation Study Implementation and Exempt Pay Range Plan effective July 1, 1999

BOARD BRIEFING: DATE REQUESTED: _____
REQUESTED BY: _____
AMOUNT OF TIME NEEDED: _____

REGULAR MEETING: DATE REQUESTED: October 14, 1999
AMOUNT OF TIME NEEDED: 30 minutes

DEPARTMENT: Support Services DIVISION: Employee Services
CONTACT: Vickie Gates TELEPHONE #: 65880
BLDG/ROOM #: 106/1405

PERSON(S) MAKING PRESENTATION: Vickie Gates with Fernando Conill, Jennifer Huntsman and Dan Noelle

ACTION REQUESTED:

INFORMATIONAL ONLY POLICY DIRECTION APPROVAL OTHER

SUGGESTED AGENDA TITLE:

Adoption of MCSO Command Staff Classification/Compensation Study Recommendations and Exempt Pay Range Plan

*10/14/99 copies to Fernando Conill, Vickie Gates,
Jennifer Huntsman & Dan Noelle*

CLERK OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY
OREGON
99 OCT -6 PM 4:26

SIGNATURES REQUIRED:

ELECTED OFFICIAL
(OR)
DEPARTMENT
MANAGER: Vickie L. Gates

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES



MULTNOMAH COUNTY OREGON

VICKIE S. GATES, DIRECTOR
DEPARTMENT OF SUPPORT SERVICES

PORTLAND BUILDING
1120 S.W. FIFTH AVENUE, SUITE 1400
P.O. BOX 14700
PORTLAND, OREGON 97293-0700

PHONE (503) 306-5881
FAX (503) 248-3292

AFFIRMATIVE ACTION
BUDGET AND QUALITY
EMERGENCY MANAGEMENT SERVICES
EMPLOYEE SERVICES
FINANCE
INFORMATION SERVICES
LABOR RELATIONS
RISK MANAGEMENT

M E M O R A N D U M

TO: Board of County Commissioners

FROM: Vickie Gates, Director, Department of Support Services *V.G.*
Fernando Conill, Manager, Employee Services *F.C.*

DATE: October 6, 1999

SUBJECT: Supplemental Staff Report – Adoption of MCSO Exempt Command Staff Classification/Compensation Study Recommendations

1. **Recommendation/Action Requested:** Adopt the resolution establishing new job titles and pay ranges for MCSO Command Staff and the rest of the Exempt Compensation Plan effective 7/1/99.

2. **Background/Analysis:**

A. Relevant History:

On June 26, 1998, Sheriff Dan Noelle requested that the Department of Support Services (DSS) conduct a classification and compensation study of the Sheriff's Office's twenty-one command staff (management), which included the classifications of Commanders, Captains, and Lieutenants.

The last county-wide classification & compensation study of management staff was conducted in 1990. For reasons beyond the scope of this document, the Sheriff at that time did not choose to have their command staff reviewed as part of that study. Consequently, there has been no classification & compensation study of the Sheriff's Office command staff in at least fifteen years. Conversely, Sheriff's Office's public safety, represented staff have had their wages systematically analyzed and reviewed through regular negotiation cycles between the County and the Multnomah County Corrections Officers Association, and the Deputy Sheriff's Association (with relevant market data used as a key indicator in the negotiation process to establish wages and benefits).

B. Purpose and Deliverables of the Classification & Compensation Study:

The purpose of the study was to develop a classification system and compensation plan for the MCSO Command Staff that would mitigate the pay compression issues noted below, while creating internal relationships within MCSO's command/management structure that are reflective of the current operational realities and organizational needs of the Sheriff's Office. Three primary needs were driving the request for this study:

- 1) Enhanced flexibility in the management structure—In a large and increasingly complex department and an ever-changing public safety environment, flexibility of his management staff is of paramount importance to the Sheriff. He is looking to create a strong unified management team with roles that can span the boundary between law enforcement and corrections. He also needs a tool to address the sometimes rapid changes in levels of work that are associated with 24 hour facility command responsibility and other major MCSO projects of substantial but limited duration, such as facility construction project-management.
- 2) Establish Equality in Pay and Educational requirements for Command staff— There has been a growing concern regarding equality in both pay and educational requirements between Corrections management and Law enforcement management for several years. A Corrections Lt. has had a salary 8.1% below that of a Law Enforcement Lt., while (with the increase in sophistication inherent in managing today's corrections facilities and operations) having a similar scope of duties and responsibilities to their Law Enforcement management peers. In addition, Law Enforcement Lts. have historically required a baccalaureate degree while Corrections Lts. have not. Increasingly, Bachelors degrees are being established as minimum educational requirements for management personnel, including in correctional facilities. Forty-percent of Corrections Lieutenants already have Bachelors degrees in the MCSO.
- 3) Address Pay Compression Issues— Unique compression issues have existed between Sergeants and Lieutenants due to the extra pay increments Sgts. have negotiated under their bargaining agreements, including longevity pay and incentive pay. Lieutenants are not eligible for these pay items, thus actually creating a disincentive for Sgts. to test for vacant Lt. Positions--as they would actually lose pay and benefits by "promoting" to Lt.

The deliverables/outcomes expected from the study were:

- ◆ Development of a classification system within the MCSO Command structure based on an analysis of knowledge, skills and abilities as described in completed job analysis questionnaires and followed up with individual onsite interviews.
- ◆ Comparison of the salaries of the studied command staff classifications with similar positions in comparable public agencies selected by the consultant, with feedback from ESD and MCSO.
- ◆ Development of a compensation plan that reflects comparable labor market data and addresses internal MCSO equity concerns in the command structure.

C. Consultant Selection/Others involved in the Study:

In February of 1999, the Employee Services Division procured, via a competitive bid process, the services of *HR Northwest*, a Portland-based human resources consulting firm, in order to have the classification and compensation study conducted. *HR Northwest* was selected based on their extensive experience in classification and compensation, with specific experience in conducting such studies in the public safety arena. Mr. Mike Brock, MPA, SPHR, and Senior Consultant with *HR Northwest*, was selected to conduct the study by Employee Services Division. A selection panel, which included Sheriff's Office command staff, participated in the selection process, with the final decision that of Employee Services Division. Mr. Brock has more than eleven years of professional level human resources experience in the Oregon public sector including significant experience in classification, compensation and a total of 15 years of public sector labor relations experience.

Additionally, Ms. Jennifer Hunstman, Senior Classification and Compensation Analyst, Employee Services Division, coordinated the study on behalf of the County. Ms. Susan Ayers, Senior Human Resources Analyst with the Sheriff's Office, interfaced with both Mr. Brock and Ms. Hunstman in executing the study's effective completion.

An Advisory Committee, chaired by *HR Northwest* and Jennifer Hunstman, was formed to provide a formal link and feedback mechanism between the consultant/ESD and the Sheriff's Office staff impacted by the study. Six members of the Sheriff's Office Command Officers Association (an organization in the MCSO representing command officers' issues/concerns—not a bargaining unit) were part of the Advisory Committee. The roles and functions of the committee were clearly defined in a Charter developed by ESD prior to the study's initiation, with the committee having no authority or input as to the final outcome of the study and ESD's recommendations to the Board of County Commissioners. Ms. Susan Ayers also served on this committee. On July 1, 1999, *HR Northwest* completed the Classification & Compensation Study and submitted their analysis and recommendations to Employee Services Division, Department of Support Services.

D. Study Recommendations:

Below, are the recommendations of the Department of Support Services' Employee Services Division specific to the MCSO Classification & Compensation Study intended to achieve those objectives noted in 2B above. It should be noted that minor revisions to the consultant's recommendations have been done by DSS and the Employee Services Division in order to meet the original objectives of the study--while also ensuring that any County-wide fiscal, labor and human resources implications are responsibly addressed within the context of the County's existing classification and compensation system and our duty as a public employer. Sheriff Noelle is aware of these recommendations and accepts them.

D1. Classification Structure Recommendation:

- ◆ Elevate Corrections Lts. to the same level as Law Enforcement Lts.--each with their own class specifications, creating a separate but equal command structure.

- ◆ Add a baccalaureate degree requirement to the classification of Corrections Lieutenant given that jobs of equal value (validated by the consultant's job analysis), which are compensated equally (recommended by the consultant) should also have equal minimum educational requirements. Rather than restricting the County's access to a qualified pool of existing internal candidates, the recommendation includes applying the degree requirement only to those Corrections Sgts. appointed after 7/1/99. Thus anyone that is a Corrections Sergeant prior to July 1, 1999 does not have to have a Bachelors degree in order to qualify for Corrections Lieutenant promotional testing. Forty-percent of Corrections Sergeants have a Bachelors degree already.

- ◆ Establish a separate Captain classification with the pay set 5% above the Lieutenant pay (rather than a 5% Special Assignment pay as the consultant recommended, still within a Lieutenant classification). Consistent with the Chief Deputy classification, the Captain classification also qualifies for unclassified status and would be set up as a single classification for both law enforcement and corrections combined. By establishing an unclassified Captain classification, the Sheriff has the latitude to make temporary, at-will appointments from his Lieutenant ranks according to his operational needs, thus providing the Sheriff with the desired flexibility--without setting a precedent for some form of "Special Assignment" pay for bargaining unit members—something which is not in practice, appropriate or recommended with bargaining unit members. There is precedent for some form of Special Assignment pay in a few other County Departments where justification has been established and approved by ESD because of an exceptional recruitment or retention rationale. In a memo from the Sheriff's to Vickie Gates dated 7/30/99, he expressed the desire to establish the new position of Undersheriff (which was not anticipated or requested when the Study was initiated). ESD and HR Northwest reviewed this request within the context of the existing class/comp study and both recommend that the same methodology of creating a separate classification for Captain should be utilized with the Undersheriff classification (pay would be set at 5% above Chief Deputy pay, comparable to paying the Captain 5% above the Lieutenant classification). The Undersheriff would be also unclassified, at-will.

Discussion:

As stated earlier, a four-year degree requirement for management level positions is becoming a standard practice in large, complex public safety organizations and industries. The consultant agrees this constitutes best practice. Employers are looking for a broader perspective from their managers, along with good communication and problem-solving skills. By "grandfathering" existing Sergeants (as of 7/1/99), adverse impact on recruitments and promotions into the management ranks should be minimal. More and more individuals in public safety careers are pursuing bachelor's degrees; approximately 40% of MCCOA have bachelor's degrees already. In

fact, out of 49 current Corrections Sergeants, at least 22 of them have completed a four-year degree. The Bachelors degree would not be established as a minimum educational requirement for Corrections Deputies (or Corrections Sergeants). Current educational requirement for a Corrections Deputy and Sergeant, is a high school degree with two years experience in some form of public safety employment or, an Associate Degree—this will not change.

D2. Compensation Recommendations:

After comparing four benchmark classifications within the MCSO to eleven other comparable agencies in the labor market, as well as adjusting for economic factors specific to the geographic region selected for a comparable (if different), AND eliminating from the data the highest and lowest wage-comparables (standard practice) to ensure a true market analysis, the following recommendations related to compensation were made:

- a) Increase the 1999-00 rate for the Chief Deputy classification by 11.2% to reflect parity with the comparable labor market.
- b) Increase Lieutenant pay by the same 11.2% increment as Chief Deputy, so that Lieutenant maintains its same relative position with Chief Deputy.
- c) Set the pay rate for the Captain classification at 5% above Lieutenant.
- d) Adjust the current rate for Corrections Lieutenant to be at parity with Law Enforcement Lieutenant.

The above recommendations (consistent with the market data) result in:

- ◆ Elimination of the 8.1% compensation gap between Corrections and Law Enforcement Lieutenants' pay.
- ◆ Maintenance of the 10.2% relationship between Lt. and Chief Deputy pay.
- ◆ Reduction of the gap between Chief Deputy and Sheriff pay from 19.1% to 8.9%.
- ◆ Reduction in the severity of the compression issue between Sergeants and Lieutenants by increasing the differential between Sgts. in the bargaining units and Lts. This brings the differential in line with the market differential for comparable agencies.

Discussion:

While the consultant was not charged with looking at internal relationships across the County departments, Employee Services has conducted an analysis. Both the MCSO's unique bargaining agreements and the mechanism for establishing the Sheriff's pay, as an elected official, have historically affected the pay setting practices within the command staff. The salary ranges of MCSO command staff already had significant overlap with those of the other Department's

Directors and Deputy Directors prior to the initiation of this study. The study recommendation brings the pay relationship between the Sheriff and his Chief Deputies more in line with the existing 15.3% differential between Department Directors and their Deputy Directors.

It should be noted that MCSO Chief Deputies, Captains or Lieutenants receive no extra compensation. Many other public safety jurisdictions provide additional benefits to their managers at the command staff level, i.e. longevity pay, training incentive pay, tuition reimbursement, company vehicles, and sometimes, even overtime pay.

3. Financial Impact:

Total cost of the Study's implementation is \$340,544. 02. A phased-in approach, over time, is recommended by DSS/ESD. The cost of bringing the Command staff's compensation into equal status is \$168, 986. 75. This deals with the compression issue between Corrections Lieutenants and Corrections Sergeants, as well as addressing the historical difference in compensation internally in the MCSO Command structure between Law Enforcement and Corrections Lieutenants. Again in the latter, the elimination of this difference is recommended by the consultant based on confirmation, via job analysis, that comparable duties, levels of decision-making and responsibility are being executed by both management-level professional disciplines (Law enforcement and Corrections), AND because we would be creating the same minimum educational requirement for command staff professionals to support a higher requisite educational standard in the MCSO command.

The cost of bringing the command structure in alignment with the existing market, is an additional \$171, 647. 27. Given no market analysis has been conducted in over fifteen years of MCSO command staff positions, this figure was not much of a surprise to the consultant.

To mitigate costs, a phased-in implementation is proposed--with yearly costs documented below, over a five-year phase in.

First Year Phase-In:

The recommendation for implementation includes addressing the internal equity between Corrections Lieutenant and Law Enforcement Lieutenants FIRST. Then spreading the cost, over time, of bringing the command staff's compensation in line with the market. As documented below, this would be a five-year process. Notwithstanding possible future cost implications associated with the bargaining units, and assuming no changes in staffing levels for the MCSO Command Staff, FY99-00 costs arising from study implementation are roughly as follows:

First Year:

Item	Additional FY 99-00 Cost
Base	\$129,178.62
Fringe	\$ 27,596.91
Insurance	\$ 6,588.11
Indirect	\$ 5,533.12
TOTAL (1st Year)	\$168,896.75

Second through Fifth Year Phase-in:

Second Year Phase-In Cost (including fringe): \$50,212.00
Third Year Phase-In Cost (including fringe): \$49,039.00
Fourth Year Phase-In Cost (including fringe): \$43,421.00
Fifth Year Phase-In Cost (including fringe): \$28,975.27
Total Phase-in Cost after 1st year cost: \$171,647.27

TOTAL Implementation Cost: \$340,544. 02

4. Legal Issues: None.

5. **Controversial Issues:** MCSO command Staff receiving a market increase while other non-sworn Exempt employees within MCSO as well as Exempt employees across the County do not may generate perceptual and inter-departmental stressors. At the current time, most of our classifications warrant study, including the exempt classifications. An organization should conduct market and classification analysis of it's positions an average of every five years—maximum. While the bargaining units have been negotiating on behalf of their constituents, there has been no overall classification/compensation study since 1990. Exempt positions all over the County continue to fall further and further behind market. This particular group, the MCSO Command Staff, has gone longer without any compensation or classification adjustments, given they were not included in the 1990 overall study, for reasons stated earlier. In the last six months, the Class/Comp unit (2.5 f.t.e.) of Employee Services, in coordination with Departmental Human Resources Managers, the Labor Relations Division, the Operating Council and AFSCME--Local 88 has begun the process of systematically identifying classifications for study and moving through them in order to bring the County's classifications and compensation plans up-to-date. Several countywide Exempt classifications are slated for study this year, including Research & Evaluation positions, Administrative Analysts, and Fiscal positions--but it will take several years to study all of the Exempt classifications utilizing existing resources.

Board direction, established in May of 1995, set the goal of maintaining a labor market policy of moving over time--and consistent with the County's ability to pay--the midpoints of our exempt pay ranges towards the midpoints of equivalent salaries paid in the comparable labor market. Recent examples of this are the compensation for District Attorneys as well as the Chair and Commissioners' salaries (established by an independent body) which have been moved to market, but phased in over time. The compensation recommendations from this MCSO study are consistent with this philosophy.

6. Link to Current County Policies:

- ◆ **Parity** - How parity is implemented will affect the argumentation and potential costs at the rank and file level. If corrections managers are required to obtain a degree before they receive pay equal to that of their degreed law enforcement counterparts, the short term cost of parity at the rank and file level – if it were imposed in the same manner – would drop by about half.

There are, of course, other alternatives that limit short term cost exposure. It is doubtful that it is feasible for most corrections managers to go back to school to obtain a degree. Some of our corrections managers are nearing retirement age. Others have family obligations. Most have financial responsibilities and would be placed under financial stress by the cost of attaining a college degree at this juncture. To not "grandfather Corrections Sergeants" at this stage would run counter to the precedent established by Sheriff Don Clark for law enforcement deputies when he established a Bachelors degree as a requirement in 1968. Thus the consultant and ESD's recommendation to "grandfather" those individuals who are Sergeants as of 7/1/99.

- ◆ Captain Classification - The MCCOA bargaining unit includes approximately 45 to 50 "special assignments." Incumbents in these jobs perform such tasks as internal affairs investigations, facility planning team participation, close street supervision, work crew leadership, etc. If the Captain class is adopted and receives the subsequent compensation, with explicit provision that it will be used only for temporary appointments, the rank and file may begin to agitate for a similar arrangement when they perform their Special Assignments. However, we believe this risk is remote and to a large degree inherent in any classification plan. Therefore, there is little negative risk associated with adoption of the Captain classification for use as described.
- ◆ Market Adjustment - The County does not have a formal compensation policy. Instead, the County's compensation practices for bargaining unit members have been guided largely by the criteria governing interest arbitration and fact finding by neutral third parties under the state bargaining law. Until the passage of SB 750, comparability of compensation among similarly situated employers in the labor market was usually the single most influential criterion. It remains a very important factor. Obviously, if an employer does not pay competitive compensation, high quality employees won't apply for jobs with that employer. Therefore, to the extent the MCSO management compensation study continues to give weight to market considerations, properly ascertained, its implementation is consistent with past County compensation decision-making.

A secondary question relates to the size of any market adjustment, and the schedule on which it is implemented. In bargaining, the general rule of thumb followed by Labor Relations has been that generalized "catch up" increases would be phased in over time. A typical formula would be 2% or 3% a year on top of normal cost of living increases, until the adjustment was made. A recent example of this was the phase-in of catch up increases for Deputy Prosecuting Attorneys (1.5% to 2.5% per year). Therefore, to the extent that the MCSO management compensation study is phased in over time in increments of approximately 3% above the normal cost of living increase, it will be consistent with past County bargaining practice.

7. Citizen Participation: N/A.
8. Other Government Participation: N/A.

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 99-200

Increases MCSO Command Staff Pay Ranges and Adopts Pay Schedule

The Board of County Commissioners Finds:

- a. The County employs individuals not covered by a collective bargaining agreement (exempt employees).
- b. On July 9, 1998, the Board as authorized by MCC 9.202 adopted Resolution 98-94 that approved compensation for exempt employees.
- c. On March 18, 1999, the Board adopted Resolution 99-40 that adjusted salaries and health benefits for exempt employees.
- d. The former Commander position has been renamed Chief Deputy.
- e. A new position of Undersheriff has been created.
- f. The former Captain/Corrections position has been merged with Captain (Law Enforcement) to create one Captain classification.
- g. The Chair recommends pay range increases effective July 1, 1999 for MCSO command staff as follows:

<u>Job Title</u>	<u>Min</u>	<u>Mid</u>	<u>Max</u>
Undersheriff*	\$96,298	\$96,298	\$96,298
Chief Deputy*	\$91,713	\$91,713	\$91,173
Captain*	\$72,822	\$80,108	\$87,393
Lieutenant	\$69,354	\$76,293	\$83,231
Lieutenant / Corrections	\$69,354	\$76,293	\$83,231

* Unclassified Position

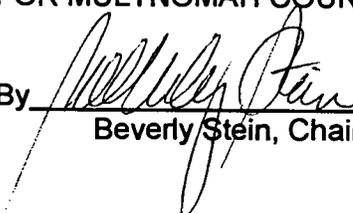
The Board of County Commissioners Resolves:

The compensation plan pay ranges, including increases effective July 1, 1999 for MCSO Command Staff, are adopted as shown on the revised pay schedule attached as Exhibit A.

ADOPTED this 14th day of October, 1999.



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

By 
Beverly Stein, Chair

REVIEWED:
Thomas Sponsler, County Counsel
For Multnomah County, Oregon

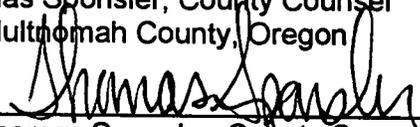
By 
Thomas Sponsler, County Counsel

EXHIBIT A

EXEMPT PAY RANGES - Effective: July 1, 1999

JCN	OC	JOB TITLE	SR NO	SEMI-MONTHLY RANGE			ANNUAL RANGE		
				MIN	MID	MAX	MIN	MID	MAX
9603	01	AA/EEO OFFICER*	129	2,120.95	2,545.15	2,969.31	50,902.80	61,083.60	71,263.44
9604	01	ACCOUNTS PAYABLE SUPERVISOR	125	1,745.50	2,094.60	2,443.70	41,892.00	50,270.40	58,648.80
9006	02	ADMINISTRATIVE ANALYST	121	1,435.88	1,723.04	2,010.25	34,461.12	41,352.96	48,246.00
9005	02	ADMINISTRATIVE ANALYST/SENIOR	123	1,583.46	1,900.17	2,216.84	38,003.04	45,604.08	53,204.16
9607	01	ADMINISTRATIVE SERV OFFICER	126	1,832.16	2,198.61	2,565.04	43,971.84	52,766.64	61,560.96
9608	01	ADULT HOUSING ADMINISTRATOR	125	1,745.50	2,094.60	2,443.70	41,892.00	50,270.40	58,648.80
9609	01	AGING SERVICES BRANCH ADMIN	125	1,745.50	2,094.60	2,443.70	41,892.00	50,270.40	58,648.80
9611	01	AGING SERVICES PROGRAM MANAGER*	130	2,227.63	2,673.16	3,118.67	53,463.12	64,155.84	74,848.08
9027	01	ALARM ORDINANCE UNIT ADMIN	123	1,583.46	1,900.17	2,216.84	38,003.04	45,604.08	53,204.16
9616	01	ANIMAL CONTROL MANAGER*	130	2,227.63	2,673.16	3,118.67	53,463.12	64,155.84	74,848.08
9614	01	ANIMAL CONTROL PUB REL SUPV	119	1,302.71	1,563.27	1,823.80	31,265.04	37,518.48	43,771.20
9637	01	APPRAISAL SUPR/COMMERCIAL	123	1,583.46	1,900.17	2,216.84	38,003.04	45,604.08	53,204.16
9726	01	APPRAISAL SUPR/PERSONAL PROP	123	1,583.46	1,900.17	2,216.84	38,003.04	45,604.08	53,204.16
9739	01	APPRAISAL SUPR/RESIDENTIAL	123	1,583.46	1,900.17	2,216.84	38,003.04	45,604.08	53,204.16
9763	01	ASSESSMENT MANAGER/SENIOR*	132	2,455.43	2,946.52	3,437.59	58,930.32	70,716.48	82,502.16
9804	01	ASSOCIATE DIRECTOR/CENTRAL	130	2,227.63	2,673.16	3,118.67	53,463.12	64,155.84	74,848.08
9060	02	ASST COUNTY COUNSEL 1*	124	1,662.12	1,994.52	2,326.96	39,890.88	47,868.48	55,847.04
9190	02	ASST COUNTY COUNSEL 2*	126	1,832.16	2,198.61	2,565.04	43,971.84	52,766.64	61,560.96
9631	01	ASST COUNTY COUNSEL/CHIEF*	132	2,455.43	2,946.52	3,437.59	58,930.32	70,716.48	82,502.16
9440	02	ASST COUNTY COUNSEL/SENIOR*	129	2,120.95	2,545.15	2,969.31	50,902.80	61,083.60	71,263.44
9673	01	AUXILIARY SERVICES ADMIN	127	1,923.57	2,308.28	2,693.01	46,165.68	55,398.72	64,632.24
9011	14	BACKGROUND INVESTIGATOR(OLD)	118	1,240.96	1,674.21	1,737.34	29,783.04	40,181.04	41,696.16
9621	01	BENEFITS ADMINISTRATOR	127	1,923.57	2,308.28	2,693.01	46,165.68	55,398.72	64,632.24
9623	01	BRIDGE MAINTENANCE SUPERVISOR	124	1,662.12	1,994.52	2,326.96	39,890.88	47,868.48	55,847.04
9023	01	BRIDGE OPERATIONS SUPERVISOR	119	1,302.71	1,563.27	1,823.80	31,265.04	37,518.48	43,771.20
9624	01	BRIDGE SERVICES MANAGER*	130	2,227.63	2,673.16	3,118.67	53,463.12	64,155.84	74,848.08
9730	02	BUDGET ANALYST	123	1,583.46	1,900.17	2,216.84	38,003.04	45,604.08	53,204.16
9734	02	BUDGET ANALYST/PRINCIPAL	127	1,923.57	2,308.28	2,693.01	46,165.68	55,398.72	64,632.24
9729	01	BUDGET MANAGER*	130	2,227.63	2,673.16	3,118.67	53,463.12	64,155.84	74,848.08
9627	01	CAPTAIN*	#	3,034.25	3,337.84	3,641.38	72,822.00	80,108.16	87,393.12
9628	01	CARTOGRAPHY SUPERVISOR	121	1,435.88	1,723.04	2,010.25	34,461.12	41,352.96	48,246.00
9210	01	CASE MANAGEMENT SUPERVISOR	123	1,583.46	1,900.17	2,216.84	38,003.04	45,604.08	53,204.16
9773	01	CATALOGING ADMINISTRATOR	128	2,019.83	2,423.84	2,827.78	48,475.92	58,172.16	67,866.72
9799	01	CENTRAL LIBRARY COORDINATOR	128	2,019.83	2,423.84	2,827.78	48,475.92	58,172.16	67,866.72
9222	01	CENTRAL STORES SUPERVISOR	125	1,745.50	2,094.60	2,443.70	41,892.00	50,270.40	58,648.80
9745	01	CFS ADMINISTRATOR	128	2,019.83	2,423.84	2,827.78	48,475.92	58,172.16	67,866.72

EXEMPT PAY RANGES - Effective: July 1, 1999

JCN	OC	JOB TITLE	SR NO	SEMI-MONTHLY RANGE			ANNUAL RANGE		
				MIN	MID	MAX	MIN	MID	MAX
9661	01	CFS MANAGER*	130	2,227.63	2,673.16	3,118.67	53,463.12	64,155.84	74,848.08
9612	01	CFS MANAGER/SENIOR*	133	2,578.17	3,093.80	3,609.44	61,876.08	74,251.20	86,626.56
9012	02	CFS SPECIALIST (OLD)	122	1,508.07	1,809.65	2,111.30	36,193.68	43,431.60	50,671.20
9008	01	CFS SUPERVISOR	125	1,745.50	2,094.60	2,443.70	41,892.00	50,270.40	58,648.80
9007	02	CHAPLAIN*	120	1,367.68	1,641.20	1,914.73	32,824.32	39,388.80	45,953.52
9629	01	CHIEF APPRAISER/COMMERCIAL	128	2,019.83	2,423.84	2,827.78	48,475.92	58,172.16	67,866.72
9630	01	CHIEF APPRAISER/RESIDENTIAL	127	1,923.57	2,308.28	2,693.01	46,165.68	55,398.72	64,632.24
	01	CHIEF DEPUTY	#	3,821.38	3,821.38	3,821.38	91,713.12	91,713.12	91,713.12
9455	01	CHIEF INFORMATION OFFICER*	134	2,707.30	3,248.77	3,790.23	64,975.20	77,970.48	90,965.52
9774	01	CIRCULATION ADMINISTRATOR	123	1,583.46	1,900.17	2,216.84	38,003.04	45,604.08	53,204.16
9356	02	CLINICAL PROGRAM PHARMACIST	#	2,308.28	2,500.65	2,693.01	55,398.72	60,015.60	64,632.24
9391	01	CLINICAL SUPERVISOR	124	1,662.12	1,994.52	2,326.96	39,890.88	47,868.48	55,847.04
9772	01	COMM CORRECTIONS PROGRAM ADMIN	126	1,832.16	2,198.61	2,565.04	43,971.84	52,766.64	61,560.96
9625	01	COMMANDER*	#	2,863.82	3,150.14	3,436.46	68,731.68	75,603.36	82,475.04
9642	01	COMMUNITY SERVICES ADMIN	126	1,832.16	2,198.61	2,565.04	43,971.84	52,766.64	61,560.96
9643	01	CONSTRUCTION PROJECTS ADMIN	128	2,019.83	2,423.84	2,827.78	48,475.92	58,172.16	67,866.72
9644	01	CONTRACTS ADMINISTRATOR	127	1,923.57	2,308.28	2,693.01	46,165.68	55,398.72	64,632.24
9510	00	COUNTY COUNSEL*	136	2,972.02	3,566.41	4,160.82	71,328.48	85,593.84	99,859.68
9649	01	COUNTY SURVEYOR*	127	1,923.57	2,308.28	2,693.01	46,165.68	55,398.72	64,632.24
9445	14	D A INVESTIGATOR/CHIEF	122	1,508.07	1,809.65	2,111.30	36,193.68	43,431.60	50,671.20
9664	01	D A OPERATIONS MANAGER*	127	1,923.57	2,308.28	2,693.01	46,165.68	55,398.72	64,632.24
9747	02	DATA ANALYST/SENIOR	123	1,583.46	1,900.17	2,216.84	38,003.04	45,604.08	53,204.16
9500	01	DENTAL HEALTH OFFICER*	#	3,411.44	3,695.71	3,980.00	81,874.56	88,697.04	95,520.00
9390	02	DENTIST**	#	2,673.16	2,895.95	3,118.71	64,155.84	69,502.80	74,849.04
9430	01	DENTIST/SENIOR	#	2,946.52	3,192.05	3,437.59	70,716.48	76,609.20	82,502.16
9750	01	DEP PUBLIC GUARDIAN/SENIOR	124	1,662.12	1,994.52	2,326.96	39,890.88	47,868.48	55,847.04
9610	01	DEPARTMENT DIRECTOR*	136	2,972.02	3,566.41	4,160.82	71,328.48	85,593.84	99,859.68
9619	01	DEPUTY DIRECTOR/CFS*	133	2,578.17	3,093.80	3,609.44	61,876.08	74,251.20	86,626.56
9713	01	DEPUTY DIRECTOR/DCC*	130	2,227.63	2,673.16	3,118.67	53,463.12	64,155.84	74,848.08
9658	01	DEPUTY DIRECTOR/DES*	131	2,339.11	2,806.92	3,274.73	56,138.64	67,366.08	78,593.52
9223	01	DEPUTY DIRECTOR/JJD*	133	2,578.17	3,093.80	3,609.44	61,876.08	74,251.20	86,626.56
9775	01	DEPUTY DIRECTOR/LIBRARY*	133	2,578.17	3,093.80	3,609.44	61,876.08	74,251.20	86,626.56
9465	00	DEPUTY DIST ATTY/FIRST ASST***	#	0.00	0.00	0.00	0.00	0.00	0.00
9663	01	DISTRIBUTION SUPERVISOR	120	1,367.68	1,641.20	1,914.73	32,824.32	39,388.80	45,953.52
9641	01	DISTRICT MANAGER/DCC*	129	2,120.95	2,545.15	2,969.31	50,902.80	61,083.60	71,263.44
9665	01	ELECTIONS ADMINISTRATOR	124	1,662.12	1,994.52	2,326.96	39,890.88	47,868.48	55,847.04
9666	01	ELECTIONS MANAGER*	130	2,227.63	2,673.16	3,118.67	53,463.12	64,155.84	74,848.08
9667	01	EMERGENCY MANAGEMENT ADMIN	126	1,832.16	2,198.61	2,565.04	43,971.84	52,766.64	61,560.96

EXEMPT PAY RANGES - Effective: July 1, 1999

JCN	OC	JOB TITLE	SR NO	SEMI-MONTHLY RANGE			ANNUAL RANGE		
				MIN	MID	MAX	MIN	MID	MAX
9669	01	EMPLOYEE SERVICES MANAGER*	130	2,227.63	2,673.16	3,118.67	53,463.12	64,155.84	74,848.08
9748	02	EMPLOYEE SERVICES SPEC/SENIOR	124	1,662.12	1,994.52	2,326.96	39,890.88	47,868.48	55,847.04
9080	02	EMPLOYEE SERVICES SPECIALIST 1	120	1,367.68	1,641.20	1,914.73	32,824.32	39,388.80	45,953.52
9670	02	EMPLOYEE SERVICES SPECIALIST 2	123	1,583.46	1,900.17	2,216.84	38,003.04	45,604.08	53,204.16
9530	01	EMS MEDICAL DIRECTOR*	#	4,352.24	5,103.67	5,855.11	104,453.76	122,488.08	140,522.64
9671	01	ENGINEERING SERVICES ADMIN	125	1,745.50	2,094.60	2,443.70	41,892.00	50,270.40	58,648.80
9672	01	ENGINEERING SERVICES MANAGER*	130	2,227.63	2,673.16	3,118.67	53,463.12	64,155.84	74,848.08
9687	01	FACILITIES OPERATIONS MANAGER	131	2,339.11	2,806.92	3,274.73	56,138.64	67,366.08	78,593.52
9686	01	FACILITIES DEV & SERVICES MANAGER	129	2,120.95	2,545.15	2,969.31	50,902.80	61,083.60	71,263.44
9150	01	FACILITIES MAINTENANCE ADMIN	126	1,832.16	2,198.61	2,565.04	43,971.84	52,766.64	61,560.96
9678	01	FACILITIES MAINTENANCE MANAGER*	129	2,120.95	2,545.15	2,969.31	50,902.80	61,083.60	71,263.44
9680	01	FACILITIES MAINTENANCE SUPR	124	1,662.12	1,994.52	2,326.96	39,890.88	47,868.48	55,847.04
9681	01	FACILITIES MANAGER/SENIOR*	133	2,578.17	3,093.80	3,609.44	61,876.08	74,251.20	86,626.56
9682	01	FACILITIES REFURBISHMENT ADMIN	127	1,923.57	2,308.28	2,693.01	46,165.68	55,398.72	64,632.24
9151	01	FACILITIES SERVICES SUPERVISOR	124	1,662.12	1,994.52	2,326.96	39,890.88	47,868.48	55,847.04
9684	01	FAMILY SERVICES MANAGER*	129	2,120.95	2,545.15	2,969.31	50,902.80	61,083.60	71,263.44
9685	01	FINANCE MANAGER/SENIOR*	132	2,455.43	2,946.52	3,437.59	58,930.32	70,716.48	82,502.16
9716	01	FISCAL OFFICER/SHERIFF'S OFF	130	2,227.63	2,673.16	3,118.67	53,463.12	64,155.84	74,848.08
9335	01	FISCAL SPECIALIST SUPERVISOR	125	1,745.50	2,094.60	2,443.70	41,892.00	50,270.40	58,648.80
9340	02	FISCAL SPECIALIST/SENIOR	123	1,583.46	1,900.17	2,216.84	38,003.04	45,604.08	53,204.16
9689	01	FLEET MAINTENANCE SUPERVISOR	124	1,662.12	1,994.52	2,326.96	39,890.88	47,868.48	55,847.04
9688	01	FLEET/SUPPORT SERV MANAGER*	130	2,227.63	2,673.16	3,118.67	53,463.12	64,155.84	74,848.08
9009	01	FORECLOSED PROPERTY COORDINATOR	122	1,508.07	1,809.65	2,111.30	36,193.68	43,431.60	50,671.20
9690	01	GENERAL ACCOUNTING ADMIN	127	1,923.57	2,308.28	2,693.01	46,165.68	55,398.72	64,632.24
9026	01	HEALTH INFORMATION SUPERVISOR	119	1,302.71	1,563.27	1,823.80	31,265.04	37,518.48	43,771.20
9550	00	HEALTH OFFICER*	#	3,932.27	4,621.49	5,310.71	94,374.48	110,915.76	127,457.04
9692	01	HEALTH OPERATIONS SUPERVISOR	119	1,302.71	1,563.27	1,823.80	31,265.04	37,518.48	43,771.20
9693	01	HEALTH SERVICES ADMINISTRATOR	128	2,019.83	2,423.84	2,827.78	48,475.92	58,172.16	67,866.72
9694	01	HEALTH SERVICES MANAGER*	130	2,227.63	2,673.16	3,118.67	53,463.12	64,155.84	74,848.08
9695	01	HEALTH SERVICES MANAGER/SENIOR*	133	2,578.17	3,093.80	3,609.44	61,876.08	74,251.20	86,626.56
9696	02	HEALTH SERVICES SPECIALIST	122	1,508.07	1,809.65	2,111.30	36,193.68	43,431.60	50,671.20
9651	01	INFO SYSTEMS COORDINATOR	126	1,832.16	2,198.61	2,565.04	43,971.84	52,766.64	61,560.96
9653	01	INFO SYSTEMS MANAGER*	129	2,120.95	2,545.15	2,969.31	50,902.80	61,083.60	71,263.44
9657	01	INFO SYSTEMS MANAGER/SENIOR*	132	2,455.43	2,946.52	3,437.59	58,930.32	70,716.48	82,502.16
9652	01	INFO SYSTEMS SUPERVISOR	127	1,923.57	2,308.28	2,693.01	46,165.68	55,398.72	64,632.24
9457	01	ISD ADMINISTRATOR	129	2,120.95	2,545.15	2,969.31	50,902.80	61,083.60	71,263.44
9794	01	JUVENILE JUSTICE ADMINISTRATOR	128	2,019.83	2,423.84	2,827.78	48,475.92	58,172.16	67,866.72
9701	01	JUVENILE JUSTICE MANAGER*	130	2,227.63	2,673.16	3,118.67	53,463.12	64,155.84	74,848.08
9702	01	JUVENILE JUSTICE MGR/SENIOR*	133	2,578.17	3,093.80	3,609.44	61,876.08	74,251.20	86,626.56

EXEMPT PAY RANGES - Effective: July 1, 1999

JCN	OC	JOB TITLE	SR NO	SEMI-MONTHLY RANGE			ANNUAL RANGE		
				MIN	MID	MAX	MIN	MID	MAX
9013	02	JUVENILE JUSTICE SPECIALIST	122	1,508.07	1,809.65	2,111.30	36,193.68	43,431.60	50,671.20
9220	02	JUVENILE JUSTICE SUPERVISOR	125	1,745.50	2,094.60	2,443.70	41,892.00	50,270.40	58,648.80
9435	01	LABOR RELATIONS MANAGER*	129	2,120.95	2,545.15	2,969.31	50,902.80	61,083.60	71,263.44
9659	02	LABOR RELATIONS MANAGER/DEPUTY*	128	2,019.83	2,423.84	2,827.78	48,475.92	58,172.16	67,866.72
9081	02	LABOR RELATIONS SPECIALIST	122	1,508.07	1,809.65	2,111.30	36,193.68	43,431.60	50,671.20
9024	01	LAUNDRY SUPERVISOR	119	1,302.71	1,563.27	1,823.80	31,265.04	37,518.48	43,771.20
9055	02	LAW CLERK*	120	1,367.68	1,641.20	1,914.73	32,824.32	39,388.80	45,953.52
9776	01	LIBRARY ADMINISTRATOR/BRANCH	127	1,923.57	2,308.28	2,693.01	46,165.68	55,398.72	64,632.24
9779	00	LIBRARY DIRECTOR*	136	2,972.02	3,566.41	4,160.82	71,328.48	85,593.84	99,859.68
9800	01	LIBRARY ENTREPRENEURIAL ACTIV*	127	1,923.57	2,308.28	2,693.01	46,165.68	55,398.72	64,632.24
9780	01	LIBRARY MANAGER/BRANCH	129	2,120.95	2,545.15	2,969.31	50,902.80	61,083.60	71,263.44
9782	01	LIBRARY MANAGER/SENIOR*	131	2,339.11	2,806.92	3,274.73	56,138.64	67,366.08	78,593.52
9784	01	LIBRARY SUPERVISOR/BRANCH	123	1,583.46	1,900.17	2,216.84	38,003.04	45,604.08	53,204.16
9785	01	LIBRARY SUPERVISOR/CENTRAL	123	1,583.46	1,900.17	2,216.84	38,003.04	45,604.08	53,204.16
9786	01	LIBRARY SUPPORT SERVICES ADMIN*	130	2,227.63	2,673.16	3,118.67	53,463.12	64,155.84	74,848.08
9787	01	LIBRARY TECHNICAL SUPERVISOR	120	1,367.68	1,641.20	1,914.73	32,824.32	39,388.80	45,953.52
9788	01	LIBRARY YOUTH SERVICES COORD*	131	2,339.11	2,806.92	3,274.73	56,138.64	67,366.08	78,593.52
9705	01	LIEUTENANT	#	2,889.75	3,178.88	3,467.96	69,354.00	76,293.12	83,231.04
9647	01	LIEUTENANT/CORRECTIONS	#	2,889.75	3,178.88	3,467.96	69,354.00	76,293.12	83,231.04
9706	02	LITIGATION COUNSEL*	131	2,339.11	2,806.92	3,274.73	56,138.64	67,366.08	78,593.52
9708	02	LOSS CONTROL SPECIALIST	122	1,508.07	1,809.65	2,111.30	36,193.68	43,431.60	50,671.20
9710	01	MANAGEMENT ASSISTANT*	127	1,923.57	2,308.28	2,693.01	46,165.68	55,398.72	64,632.24
9202	02	MCSO CORRECTIONS PROGRAM ADMIN	126	1,832.16	2,198.61	2,565.04	43,971.84	52,766.64	61,560.96
9204	01	MCSO HUMAN RESOURCES MANAGER*	128	2,019.83	2,423.84	2,827.78	48,475.92	58,172.16	67,866.72
9712	01	MCSO PAYROLL UNIT ADMIN	125	1,745.50	2,094.60	2,443.70	41,892.00	50,270.40	58,648.80
9715	01	MCSO PERSONNEL ADMINISTRATOR	127	1,923.57	2,308.28	2,693.01	46,165.68	55,398.72	64,632.24
9719	01	MCSO PLAN/RESEARCH UNIT ADMIN	127	1,923.57	2,308.28	2,693.01	46,165.68	55,398.72	64,632.24
9646	01	MCSO RECORDS UNIT PROG ADMIN	127	1,923.57	2,308.28	2,693.01	46,165.68	55,398.72	64,632.24
9520	01	MEDICAL DIRECTOR**	#	3,932.27	4,621.49	5,310.71	94,374.48	110,915.76	127,457.04
9720	01	OPERATIONS ADMINISTRATOR	123	1,583.46	1,900.17	2,216.84	38,003.04	45,604.08	53,204.16
9025	01	OPERATIONS SUPERVISOR	119	1,302.71	1,563.27	1,823.80	31,265.04	37,518.48	43,771.20
9725	01	PAYROLL SUPERVISOR	126	1,832.16	2,198.61	2,565.04	43,971.84	52,766.64	61,560.96
9355	02	PHARMACIST**	#	2,094.60	2,269.10	2,443.70	50,270.40	54,458.40	58,648.80
9490	02	PHYSICIAN**	#	3,566.41	4,191.68	4,816.97	85,593.84	100,600.32	115,607.28
9146	01	PLANNER/PRINCIPAL	126	1,832.16	2,198.61	2,565.04	43,971.84	52,766.64	61,560.96

EXEMPT PAY RANGES - Effective: July 1, 1999

JCN	OC	JOB TITLE	SR NO	SEMI-MONTHLY RANGE			ANNUAL RANGE		
				MIN	MID	MAX	MIN	MID	MAX
9727	01	PLANNING MANAGER*	130	2,227.63	2,673.16	3,118.67	53,463.12	64,155.84	74,848.08
9798	02	PRINCIPAL INVESTIGATOR	132	2,455.43	2,946.52	3,437.59	58,930.32	70,716.48	82,502.16
9115	02	PROGRAM DEVELOPMENT SPEC/SR	124	1,662.12	1,994.52	2,326.96	39,890.88	47,868.48	55,847.04
9733	01	PROPERTY MANAGEMENT SUPERVISOR	123	1,583.46	1,900.17	2,216.84	38,003.04	45,604.08	53,204.16
9116	02	PUBLIC AFFAIRS COORDINATOR	124	1,662.12	1,994.52	2,326.96	39,890.88	47,868.48	55,847.04
9735	01	PUBLIC GUARDIAN	126	1,832.16	2,198.61	2,565.04	43,971.84	52,766.64	61,560.96
9790	01	PUBLIC RELATIONS COORDINATOR*	129	2,120.95	2,545.15	2,969.31	50,902.80	61,083.60	71,263.44
9738	01	PURCHASING ADMINISTRATOR	127	1,923.57	2,308.28	2,693.01	46,165.68	55,398.72	64,632.24
9737	01	PURCHASING SUPERVISOR	125	1,745.50	2,094.60	2,443.70	41,892.00	50,270.40	58,648.80
9732	01	RECORDS ADMINISTRATOR	126	1,832.16	2,198.61	2,565.04	43,971.84	52,766.64	61,560.96
9740	01	RISK MANAGER*	128	2,019.83	2,423.84	2,827.78	48,475.92	58,172.16	67,866.72
9145	01	ROAD MAINT SYSTEMS ADMIN	125	1,745.50	2,094.60	2,443.70	41,892.00	50,270.40	58,648.80
9741	01	ROAD MAINTENANCE MANAGER*	129	2,120.95	2,545.15	2,969.31	50,902.80	61,083.60	71,263.44
9140	01	ROAD MAINTENANCE SUPERVISOR	122	1,508.07	1,809.65	2,111.30	36,193.68	43,431.60	50,671.20
9742	02	SAFETY SPEC/TRANSPORTATION	122	1,508.07	1,809.65	2,111.30	36,193.68	43,431.60	50,671.20
9743	01	SHERIFF'S OPERATIONS ADMIN	123	1,583.46	1,900.17	2,216.84	38,003.04	45,604.08	53,204.16
9792	01	STACK SERVICES SUPERVISOR	120	1,367.68	1,641.20	1,914.73	32,824.32	39,388.80	45,953.52
9674	01	SURVEY SUPERVISOR	124	1,662.12	1,994.52	2,326.96	39,890.88	47,868.48	55,847.04
9752	01	TAX COLL/RECORD MANAGER/SENIOR*	132	2,455.43	2,946.52	3,437.59	58,930.32	70,716.48	82,502.16
9691	01	TAX COLLECTION/RECORDS ADMIN	127	1,923.57	2,308.28	2,693.01	46,165.68	55,398.72	64,632.24
9789	01	TEAM DEVELOPER, LIBRARY	127	1,923.57	2,308.28	2,693.01	46,165.68	55,398.72	64,632.24
9755	01	TRAFFIC AIDS ADMINISTRATOR	126	1,832.16	2,198.61	2,565.04	43,971.84	52,766.64	61,560.96
9756	01	TRAFFIC AIDS SUPERVISOR	123	1,583.46	1,900.17	2,216.84	38,003.04	45,604.08	53,204.16
9606	01	TRAINING ADMINISTRATOR	127	1,923.57	2,308.28	2,693.01	46,165.68	55,398.72	64,632.24
9759	01	TRANS PLANNING ADMIN	126	1,832.16	2,198.61	2,565.04	43,971.84	52,766.64	61,560.96
9757	01	TRANSPORTATION MANAGER/SENIOR*	133	2,578.17	3,093.80	3,609.44	61,876.08	74,251.20	86,626.56
9758	01	TRANSPORTATION SUPPORT SVC MGR*	128	2,019.83	2,423.84	2,827.78	48,475.92	58,172.16	67,866.72
9761	01	TREASURY ADMINISTRATOR	127	1,923.57	2,308.28	2,693.01	46,165.68	55,398.72	64,632.24
	01	UNDERSHERIFF*	#	4,012.42	4,012.42	4,012.42	96,298.08	96,298.08	96,298.08
9793	01	VOLUNTEER PROG/BOOKSTORE ADMIN	127	1,923.57	2,308.28	2,693.01	46,165.68	55,398.72	64,632.24
9766	02	WORKER'S COMPENSATION SPEC	122	1,508.07	1,809.65	2,111.30	36,193.68	43,431.60	50,671.20

* Unclassified, non-Civil Service position.

**Premium pay up to 10% over base pay when Physician or Medical director is assigned extra responsibility for medical program or for in-patient hospital care; premium pay up to 10% when Physician or Dentist assigned to one of the correctional facilities; premium pay up to 10% over base pay for each day when Pharmacist assigned extra administrative responsibilities.

***Pay for elected officials staff to be determined by respective elected official.

MEETING DATE: OCT 14 1999
AGENDA #: R-3
ESTIMATED START TIME: 9:30

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Results from RESULTS Presentation – Community Bank Investment Program

BOARD BRIEFING: DATE REQUESTED: _____
REQUESTED BY: _____
AMOUNT OF TIME NEEDED: _____

REGULAR MEETING: DATE REQUESTED: October/ 14, 1999
AMOUNT OF TIME NEEDED: 10 to 15 minutes

DEPARTMENT: DSS DIVISION: Finance

CONTACT: Harry Morton TELEPHONE #: x-83290
BLDG/ROOM #: 106/1430

PERSON(S) MAKING PRESENTATION: Harry Morton and Tom Landye

ACTION REQUESTED:

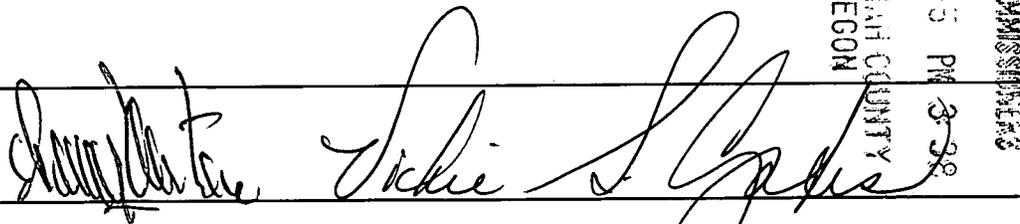
INFORMATIONAL ONLY POLICY DIRECTION APPROVAL OTHER

SUMMARY (Statement of rationale for action requested, personnel and fiscal/budgetary impacts, if applicable):

Informational presentation of Community Banking Investment Program results.

SIGNATURES REQUIRED:

ELECTED
OFFICIAL:
(OR)
DEPARTMENT
MANAGER:



BOARD OF
COUNTY COMMISSIONERS
MULTNOMAH COUNTY
OREGON
99 OCT - 5 PM 3:30

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Office of the Board Clerk 248-3277

MEETING DATE: OCT 14 1999
AGENDA NO: R-4
ESTIMATED START TIME: 9:40

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: PCRB EXEMPTION REQUEST FOR CM/GC FOR CONSTRUCTION OF NEW CORRECTIONAL FACILITY

BOARD BRIEFING: DATE REQUESTED: _____
REQUESTED BY: _____
AMOUNT OF TIME NEEDED: _____

REGULAR MEETING: DATE REQUESTED: October 14, 1999
AMOUNT OF TIME NEEDED: 5 minutes

DEPARTMENT: DSS DIVISION: Finance/Purchasing
CONTACT: Franna Hathaway TELEPHONE #: 248-5111 X22651
BLDG/ROOM #: 431/1st floor

PERSON(S) MAKING PRESENTATION: Franna Hathaway/Bob Nilsen

ACTION REQUESTED:

INFORMATIONAL ONLY POLICY DIRECTION APPROVAL OTHER

SUGGESTED AGENDA TITLE:

REQUEST FOR EXEMPTION TO USE THE CONSTRUCTION MANAGER/GENERAL CONTRACTOR PROCESS FOR THE CONSTRUCTION OF A NEW CORRECTIONAL FACILITY

10/14/99 copies to FRANNA HATHAWAY & BOB NILSEN

SIGNATURES REQUIRED:

ELECTED OFFICIAL: _____
(OR)
DEPARTMENT
MANAGER: Dave Boyer

BOARD OF
COUNTY COMMISSIONERS
99 OCT - 6 AM 8:34
MULTI-NOYAH COUNTY
OREGON

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Board Clerk @ 248-3277

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM BRIEFING
STAFF REPORT SUPPLEMENT**

TO: BOARD OF COUNTY COMMISSIONERS

FROM:  Franna Hathaway, Administrator
Purchasing Section

TODAY'S DATE: October 5, 1999

REQUESTED PLACEMENT DATE: October 14, 1999

RE: Request for Exemption from the formal competitive bid process to Purchase Construction Manager/General Contractor services for the construction of a new Correctional Facility

I. Recommendation/Action Requested:

The Department of Environmental Services, Facilities Management Division has requested an exemption from the formal competitive bid process to purchase Construction Manager/General Contractor (CM/GC) services for the construction of a new Correctional Facility. They will acquire these services through the Request for Proposal (RFP) process.

II. Background/Analysis:

Multnomah County began the search for a new correctional facility site through a Citizens Involvement Process in the spring of 1996, after voters approved Ballot Measure 26-45. This measure, in part, authorized the County to issue general obligation bonds for the construction of 210 jail beds and 150 alcohol and drug treatment beds with related infrastructure. The State of Oregon through SB 1145 authorized and provided funds to the County to build 150 alcohol and drug treatment beds with related infrastructure.

The County has now completed the siting process and is ready to move forward with the construction of both the jail beds and the alcohol and drug beds and related infrastructure to be constructed at the Rivergate site.

III. Financial Impact:

The total project cost is \$58,842,075. which includes hard construction costs and soft costs such as the public involvement process, architectural and engineering fees, permits, inspections, quality control, furnishings, etc..

IV. Legal Issues:

Oregon Revised Statute 279.015, allows for the use of the CM/GC contracting process authorized by the local contract review board in cases where it will not diminish competition or promote favoritism and will provide for cost savings.

V. Controversial Issues:

N/A

VI. Link to Current County Policies:

Public Contract Review Board Rule 10.086 states that County agencies may request an exemption from the Public Contract Review Board to use the Request for Proposal process for the selection of a CM/GC and states the process to be followed in that selection process.

VII. Citizen Participation

A Citizens Involvement Committee was involved in the siting of this facility.

VIII. Other Government Participation:

The State of Oregon is participating through funding for 150 alcohol and drug treatment beds with related infrastructure.

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON
ACTING AS THE PUBLIC CONTRACT REVIEW BOARD
ORDER NO. _____

Exempting from the Formal Competitive Bid Process a Contract for a Construction Manager/General Contractor for the construction of a new Correctional Facility.

The Multnomah County Board of Commissioners Finds:

- a. The Oregon Revised Statute (ORS) 279.015, provides means of contracting other than competitive low bid process to public agencies through the exemption process, upon satisfaction of certain requirements. The requirements for justifying an exemption are stated below with their corresponding findings:

- b. 279.015 (2)(a) "It is unlikely that such exemption will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts."

In using the CM/GC approach, the County will assure that:

The CM/GC will be selected through the County's RFP process to encourage competitiveness and fairness.

The selection of the CM/GC will be a public process, using quality, schedule, County objectives of using M/W/ESB, and price criteria.

Competition will not be impaired in that 90% of the project, through sub contractors, would be competitively bid.

- c. 279.15 (2)(b) "The awarding of public contracts pursuant to the exemption will result in substantial cost saving to the public contracting agency."

In using the CM/GC approach, the County expects to save costs due to these factors:

The CM/GC will be a participant during the design and documentation phases, and will be able to assist the architects and engineers in finding the most economical design solutions and address issues related to building systems.

The CM/GC will be familiar with the site before bidding occurs and will be able to assist subcontract bidders in their knowledge of the project.

With the CM/GC on board the County can make purchasing of some items early on and avoid the negative impact of inflation.

This process establishes a maximum price early. The CM/GC should obtain a complete understanding of the County's needs, and the various special and diverse types of construction and site work for a more accurate total project scope.

Using the CM/GC process will allow the County to start the construction process faster by allowing smaller front end bid package work that is necessary to gain access to, and onto the project site. The site access road will tie into various construction access and staging areas for phases of construction. Starting the construction process earlier will allow the overall project to finish earlier by several months.

d. Additional findings to those listed above are:

The project needs to be phased. In order to start work quickly as possible a number of bid packages will be required, starting with road and utility work, then foundation systems work, site buffering work and the main building complex. Using the CM/GC method in this instance will assign a single source of responsibility and accountability for sequencing, phasing and staging issues in a unique environmentally sensitive area.

The Multnomah County Board of Commissioners, acting as the Public Contract Review Board Orders:

That the contract for a CM/GC for the construction of a new correctional facility be exempted from the requirements of public bidding.

APPROVED this ____ day of October, 1999.

BOARD OF COUNTY COMMISSIONERS FOR
MULTNOMAH COUNTY, OREGON, ACTING
AS THE PUBLIC CONTRACT REVIEW BOARD

Beverly Stein, Chair

REVIEWED:

Thomas Sponsler, County Counsel
For Multnomah County, Oregon

By



John Thomas, Assistant County Counsel

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON
ACTING AS THE PUBLIC CONTRACT REVIEW BOARD

ORDER NO. 99-201

Exempting from the Formal Competitive Bid Process a Contract for a Construction Manager/General Contractor for the construction of a new Correctional Facility.

The Multnomah County Board of Commissioners Finds:

- a. The Oregon Revised Statute (ORS) 279.015, provides means of contracting other than competitive low bid process to public agencies through the exemption process, upon satisfaction of certain requirements. The requirements for justifying an exemption are stated below with their corresponding findings:
- b. 279.015 (2)(a) "It is unlikely that such exemption will encourage favoritism in the awarding of public contracts or substantially diminish competition for public contracts: "In using the CM/GC approach, the County will assure that:

The CM/GC will be selected through the County's RFP process to encourage competitiveness and fairness.

The selection of the CM/GC will be a public process, using quality, schedule, County objectives of using M/W/ESB, and price criteria.

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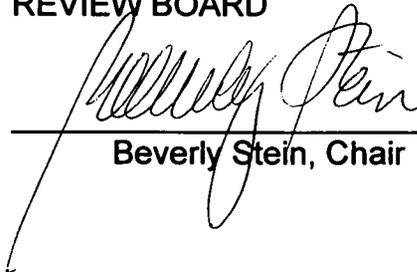
The Multnomah County Board of Commissioners, acting as the Public Contract Review Board Orders:

That the contract for a CM/GC for the construction of a new correctional facility be exempted from the requirements of public bidding.

APPROVED this 14th day of October, 1999.



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON,
ACTING AS THE PUBLIC CONTRACT
REVIEW BOARD



Beverly Stein, Chair

REVIEWED:

Thomas Sponsler, County Counsel
For Multnomah County, Oregon

By 

John Thomas, Assistant County Counsel

[For Clerk's Use] Meeting Date

OCT 14 1999

Agenda #

R-5

1. REQUEST FOR PLACEMENT ON THE AGENDA FOR:

DEPARTMENT: Community Justice
CONTACT: Meganne Steele

DIVISION: Counseling Svcs
TELEPHONE: 248-3961

*NAME[S] OF PERSON MAKING PRESENTATION TO BOARD: Bill Morris

SUGGESTED AGENDA TITLE [To assist in preparing a description for the printed agenda]

The Department of Community Justice Budget Modification # DCJ00_02 Adds \$41,501 In Federal Title V Grant Revenue To The Department's Counseling/Court Services Division.

ESTIMATED TIME NEEDED ON THE AGENDA: N/A

2. DESCRIPTION OF MODIFICATION [Explain the changes this Bud Mod makes. What budget does it increase? What do the changes accomplish? Where does the money come from? What budget is increased or reduced? Attach additional information if you need more space].
Personnel changes are shown in detail on the attached. Yes

This budget modification adds a full-time Juvenile Counselor position and Temporary personnel coverage for the period of September 1, 1999 through June 30, 2000. The Juv Counselor expense is covered by Federal Title V grant revenue and the Temporary personnel coverage by the Department's 46% share of the grant's Indirect Cost support. The remaining 54%, related to County support services, increases General fund Contingency by \$1,104.

3. REVENUE IMPACT [Explain revenues being changed and the reason for the change]

- Increases Rev Code 2032 by \$41,501.
- Increases Insurance Services Reimbursement by \$3,359.
- Increases general fund Contingency by \$1,104 Indirect Cost support.

99 OCT -6 AM 11:44
MULTNOMAH COUNTY
OREGON
BOARD OF
COUNTY COMMISSIONERS

4. CONTINGENCY STATUS [to be completed by Finance/Budget]

Contingency before this modification [as of _____ \$ _____
[Specify Fund] [Date]

After this modification \$ _____

Chas. H. Eggen 9-6-99 M. H. [Signature] 9-17-99
[Originated By] [Date] [Department Manager] [Date]

[Signature] 10/5/99
[Finance/Budget] [Date] [Employee Relations] [Date]

[Signature] 10-14-99
[Board Approval] [Date]



MULTNOMAH COUNTY OREGON

DEPARTMENT OF JUVENILE AND ADULT COMMUNITY JUSTICE
JUVENILE COMMUNITY JUSTICE
1401 N.E. 68TH
PORTLAND, OREGON 97213
(503) 248-3460
TDD 248-3561

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DIANE LINN • DISTRICT 1 COMMISSIONER
SERENA CRUZ • DISTRICT 2 COMMISSIONER
LISA NAITO • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

MEMORANDUM

TO: BOARD OF COUNTY COMMISSIONERS

FROM: Meganne Steele *MS*
Department of Community Justice

DATE: September 7, 1999

RE: REQUEST FOR DCJ00_02 BUDGET MODIFICATION APPROVAL

- I. **RECOMMENDATION/ACTION REQUESTED:** Approve budget modification DCJ00_02 to add \$41,501 federal Title V grant revenue to the Department of Community Justice.
- II. **BACKGROUND/ANALYSIS:** The Oregon Justice Commission for Title V Delinquency Prevention Programs passes this grant revenue to the Department from the federal Office of Juvenile Justice and Delinquency Prevention. The grant focuses upon gender specific (female) juvenile delinquency prevention and provides funding for one Juvenile Counselor, who will:
- ◆ Identify girls with risk factors that, without intervention, could lead to their involvement or increased involvement in the juvenile justice system;
 - ◆ Access, track and supervise at-risk girls; and
 - ◆ Use existing and new resources to involve teachers, families, communities and community agencies in addressing risk factors and strengthening protective factors for at-risk girls.
- III. **FINANCIAL IMPACT:** The grant, totaling \$50,000, covers a 12-month period, September 1, 1999 through August 31, 2000. Eighty-three percent of the revenue is added to this fiscal year by this budget modification. The remaining 17% will cover FY01's July 1 through August 31, 2000. The grant award carries the potential of two years' additional funding for this gender specific program. The budget modification accompanies the intergovernmental agreement with the Oregon Justice Commission.
- IV. **LEGAL ISSUES:** N/A

- V. **CONTROVERSIAL ISSUES:** N/A
- VI. **LINK TO CURRENT COUNTY POLICIES:** Through prevention and direct intervention, this grant will address female delinquency behaviors.
- VII. **CITIZEN PARTICIPATION:** N/A
- VIII. **OTHER GOVERNMENT PARTICIPATION:** This program includes collaboration with the Schools Uniting Neighborhoods (SUN) initiative to support local agencies in building partnerships with schools to meet the needs of at-risk girls.

MEETING DATE: OCT 14 1999
AGENDA NO: R-6
ESTIMATED START TIME: 9:50

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Proclamation declaring the week of October 10 - 16, 1999 to be Oregon Food Bank Week and National Food Bank Week in Multnomah County, Oregon

BOARD BRIEFING: DATE REQUESTED: _____
REQUESTED BY: _____
AMOUNT OF TIME NEEDED: _____

REGULAR MEETING: DATE REQUESTED: October 14, 1999
AMOUNT OF TIME NEEDED: 10 minutes

DEPARTMENT: Non-Departmental DIVISION: Commissioner Sharron Kelley

CONTACT: Robert Trachtenberg TELEPHONE #: 248-5213
BLDG/ROOM #: 106/1500

PERSON(S) MAKING PRESENTATION: Rachel Bristol, Oregon Food Bank

ACTION REQUESTED:

INFORMATIONAL ONLY POLICY DIRECTION APPROVAL OTHER

SUGGESTED AGENDA TITLE:

Proclamation declaring the week of October 10 - 16, 1999 to be
"Oregon Food Bank Week and National Food Bank Week"
in Multnomah County, Oregon

10/14/99 ORIGINAL to RACHEL Bristol,
COPY to Sharron Kelley

SIGNATURES REQUIRED:

ELECTED OFFICIAL: Sharron Kelley
(OR)
DEPARTMENT
MANAGER: _____

BOARD OF
COUNTY COMMISSIONERS
MULTNOMAH COUNTY
OREGON
99 OCT - 5 PM 3:38

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Board Clerk @ 248-3277

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM BRIEFING
STAFF REPORT SUPPLEMENT**

TO: Board of County Commissioners
FROM: Commissioner Sharron Kelley
RE: Proclamation declaring the week of October 10 - 16, 1999 to be "Oregon Food Bank Week and National Food Bank Week" in Multnomah County, Oregon
Today's Date: October 6, 1999
Requested Placement Date: October 14, 1999

I. Recommendation / Action Requested

Approve proclamation declaring the week of October 10 - 16, 1999 to be "Oregon Food Bank Week and National Food Bank Week" in Multnomah County, Oregon

II. Background / Analysis

Oregon Food Bank provides food to a network of regional food banks around the state, which in turn provide food to the food pantries, soup kitchens, shelters, and other helping programs that serve low-income people. In Clackamas, Multnomah, Washington, and Clark counties, Oregon Food Bank provides food directly to 250 local direct-service agencies. The network of agencies distributed 33 million pounds of food last year, mainly by recovering food that would otherwise be wasted.

III. Financial Impact - N/A

IV. Legal Issues - None

V. Controversial Issues - None

VI. Link to Current County Policies

Relates to benchmarks of reducing number of families in poverty.

VII. Citizen Participation

Citizens are encouraged to wear Harvest Orange ribbons symbolizing hunger awareness throughout the week.

VIII. Other Government Participation

Governor Kitzhaber has signed a similar proclamation.

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

PROCLAMATION NO. _____

Proclaiming the week of October 10 - 16, 1999 as "Oregon Food Bank Week and National Food Bank Week" in Multnomah County, Oregon

The Multnomah County Board of Commissioners Finds:

- a. One in eight Oregonians receives emergency food each year.
- b. Nearly half of the Oregonians receiving emergency food each year are children.
- c. No one is immune to hunger: under its influence, adults cannot work well or safely, senior citizens' bodies deteriorate more quickly, and the entire community is affected.
- d. Lack of adequate food and nutrition has an impact on children's physical, mental, and social development, leading to serious problems that can last into adulthood.
- e. Community support for hunger relief in the past year enabled 33 million pounds of food to go to hungry people from farmers' fields, processing plants, wholesalers, retail grocery stores, backyard gardens, restaurants and cafeterias, and elsewhere.
- f. Oregon's statewide hunger-relief system is unique in the nation and a pioneer in recovering food that would otherwise be wasted.

The Multnomah County Board of Commissioners Proclaims:

The Multnomah County Board of Commissioners hereby proclaims the week of October 10 - 16, 1999 as "Oregon Food Bank Week and National Food Bank Week".

Adopted this 14th day of October, 1999.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Beverly Stein, Chair

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

PROCLAMATION NO. 99-202

Proclaiming the week of October 10 through 16, 1999 as "Oregon Food Bank Week and National Food Bank Week" in Multnomah County, Oregon

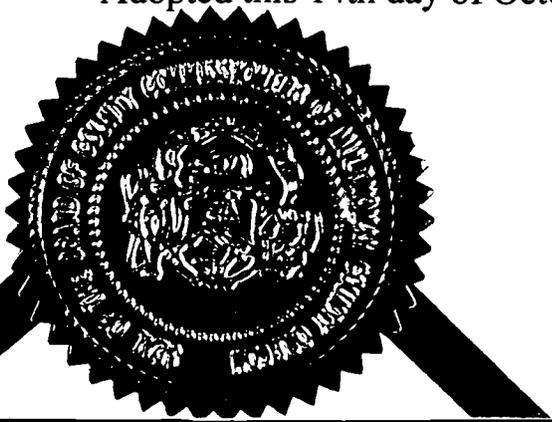
The Multnomah County Board of Commissioners Finds:

- a. One in eight Oregonians receives emergency food each year.
- b. Nearly half of the Oregonians receiving emergency food each year are children.
- c. No one is immune to hunger: under its influence, adults cannot work well or safely, senior citizens are impacted more quickly, and the entire community is affected.
- d. Lack of adequate food and nutrition has an impact on children's physical, mental, and social development, leading to serious problems that can last into adulthood.
- e. Community support for hunger relief in the past year enabled 33 million pounds of food to go to hungry people from farmers' fields, processing plants, wholesalers, retail grocery stores, backyard gardens, restaurants and cafeterias, and elsewhere.
- f. Oregon's statewide hunger-relief system is unique in the nation, and a pioneer in recovering food that would otherwise be wasted.

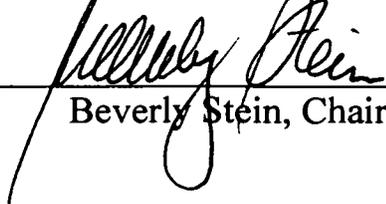
The Multnomah County Board of Commissioners Proclaims:

The week of October 10 through 16, 1999 as "Oregon Food Bank Week and National Food Bank Week".

Adopted this 14th day of October, 1999.



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON


Beverly Stein, Chair

#1

SPEAKER SIGN UP CARDS

DATE 10/14/99

NAME TIANA G. TOZER

ADDRESS 1500 SW Forest St. Ste 1005
Portland OR 97201

PHONE (503) 228-2782

SPEAKING ON AGENDA ITEM NUMBER OR
TOPIC R-7/LC-1

GIVE TO BOARD CLERK

OCT 14 1999

MEETING DATE: AUG 12 1999 R-7
AGENDA NO: R-5
ESTIMATED START TIME: 10:00
10:00

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Ordinance for Vehicle Forfeiture of Drunk and Suspended Drivers

BOARD BRIEFING: DATE REQUESTED _____
REQUESTED BY: _____
AMOUNT OF TIME NEEDED: _____

REGULAR MEETING: DATE REQUESTED: 8-12-99
AMOUNT OF TIME NEEDED: 45 Min.

DEPARTMENT: Non-Dept. DIVISION: District 3

CONTACT: Charlotte Comito/ Dan Oldham TELEPHONE #: 248-5217
BLDG/ROOM #: 106/1500

PERSON(S) MAKING PRESENTATION: Commissioner Lisa Naito, Rep. Earl Blumenauer, Sheriff Dan Noelle, Judge Dorothy Baker, ADA Chris Carey, Gresham Police Chief Bernie Giusto, Troutdale City Councilor Jim Kight, Captain Jim Ferraris (City of Portland) and invited others

ACTION REQUESTED:

INFORMATIONAL ONLY POLICY DIRECTION APPROVAL OTHER

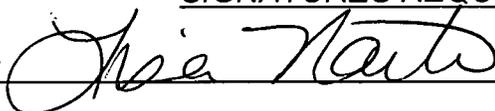
SUGGESTED AGENDA TITLE:

Ordinance Providing for Vehicle Forfeiture for Repeat Driving Under the Influence or Driving While Suspended or Revoked.

10/14/99 copies of Resolution to Co Naito & Sheriff Noelle & David Mc Donald

SIGNATURES REQUIRED:

ELECTED OFFICIAL: _____
(OR)
DEPARTMENT
MANAGER: _____



BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY
OREGON
99 AUG -11 AM 11:25

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Board Clerk @ 248-3277



LISA H. NAITO
Multnomah County Commissioner, District 3
1120 SW Fifth Avenue, Suite 1500
Portland, Oregon 97204-1914
Phone (503) 248-5217 Fax (503) 248-5262

MULTNOMAH COUNTY OREGON

SUPPLEMENTAL STAFF REPORT

TO: Board of County Commissioners

FROM: Commissioner Lisa Naito

DATE: August 4, 1999

RE: Amending Ordinance 15.350 Providing for Forfeiture of Vehicle for Repeat Driving Under the Influence and Driving While Suspended or Revoked.

1. Recommendation/Action Requested:

Approval of Ordinance to Reduce Driving Under the Influence and Driving While Suspended or Revoked, and Declaring Vehicles a Nuisance and Providing for the Forfeiture of Those Vehicles.

2. Background/Analysis:

The rate of recidivism for driving under the influence can be reduced by half when vehicles are seized. Other jurisdictions throughout the County will adopt this ordinance to reduce recidivism, which will result in fewer traffic accidents and fatalities.

3. Financial Impact:

If such a Forfeiture Ordinance is adopted there will be some startup capital costs associated with its operation, but the program is designed to be self-sustaining and revenue neutral. The Sheriff will create administrative rules for the

operation of the program and negotiate with involved jurisdictions as to day to day operations.

4. Legal Issues:

The ordinance is consistent with ORS 475A.001 et seq., the forfeiture statute.

5. Controversial Issues:

Some of the vehicles seized are co-owned. Innocent owner's exceptions are included.

6. Link to Current County Policies:

This resolution is linked to Multnomah County's long term benchmark, *Reduce Crime*. It is further linked to the Public Safety Urgent Benchmarks, *Reduce Violent Crime, and Reduce Recidivism*.

7. Citizen Participation:

The Ordinance was discussed by representatives of all jurisdictions within Multnomah County and members of Mothers Against Drunk Driving and other interested citizens.

8. Other Government Participation:

Representatives from law enforcement from each of the jurisdictions within Multnomah County participated in the committee. The DUII Advisory Committee and A & D work group of the Local Public Safety Coordinating Council.

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 98-207

Establishing a Committee to Reduce Drunk Driving and Driving While Suspended or Revoked, and Recommending an Ordinance Declaring Their Vehicles a Nuisance and Providing for the Forfeiture of Those Vehicles.

The Multnomah County Board of Commissioners Finds:

- a. Many drivers who are convicted of driving under the influence of drugs or alcohol are not effectively deterred from re-offending.
- b. Repeat offenders continue to drive their vehicles drunk or under the influence of drugs and constitute a serious threat to themselves and the citizens of Multnomah County.
- c. Offenders who have had their vehicles forfeited re-offend at a rate which is half that of offenders who have not had their vehicles seized.
- d. Seizure of vehicles from offenders driving under the influence or while suspended or revoked can reduce re-offenses and protect the public.

The Multnomah County Board of Commissioners Resolves:

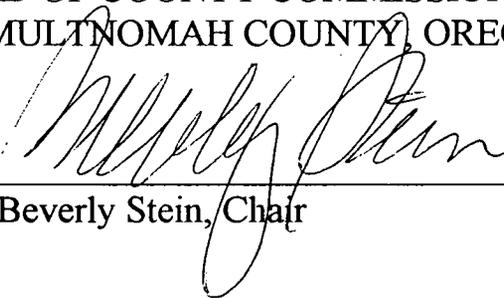
1. To authorize the Sheriff to convene a committee, with representatives of the other local jurisdictions in Multnomah County, and others with an interest in promoting the public safety through forfeiture of cars of drivers convicted of driving under the influence, felony driving while suspended, or related crimes, and recommending a Forfeiture Ordinance which would be adopted by all the jurisdictions within the County.

2. The Sheriff shall include on the committee nominees forwarded to him by individual members of the Board of County Commissioners.
3. Prior to returning to the Board of County Commissioners, the Committee shall forward and discuss its recommendations with the DUII Advisory Committee as well as the Alcohol and Criminal Justice Working Group of the Local Public Safety Coordinating Council.
4. The Sheriff and committee are further charged with developing recommendations regarding the administration of such a Forfeiture Ordinance.

Approved this 17th day of December, 1998.



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON



Beverly Stein, Chair

REVIEWED:

Thomas Sponsler, County Counsel
For Multnomah County, Oregon

By 

Thomas Sponsler, County Counsel

MULTNOMAH COUNTY DUII COMMUNITY ADVISORY BOARD

421 SW 6th Avenue, Suite 600 Portland, Oregon 97204-1619 (503) 248-5464 x 26370

July 15, 1999

Commissioner Lisa Naito
1120 SW 5th RM 1500
Portland, OR 97230

Dear Commissioner Naito:

The Multnomah County DUII Advisory Board voted at their June 1, 1999 to support the County Forfeiture Ordinance.

We are appreciative of your interest in the DUII Board issues and are particularly grateful to Charlotte's regular attendance at our meetings.

Sincerely,


Richard Drandoff
Board Chair

cc: Deb Bogstad

BOARD OF
COUNTY COMMISSIONERS
MULTNOMAH COUNTY
OREGON
99 JUL 16 AM 9:42

**HANDBOOK FOR EFFECTIVE
AUTO FORFEITURE PROGRAMS**
by Congressman Earl Blumenauer

WARNING!



**DRIVE DRUNK -
LOSE YOUR CAR**

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DESCHUTES COUNTY, OREGONTab 4

SANTA BARBARA, CALIFORNIATab 5

CONTACTSTab 6



Congress of the United States
House of Representatives
Washington, DC 20515-3703

Dear Friend:

People across America are frustrated. They see repeat drunk drivers receiving punishments which are not effective deterrents. They are dismayed as these chronic offenders continue to drive drunk until they eventually kill themselves or others. And while they know more needs to be done, many in our communities are at a loss for how to effectively combat this epidemic.

As a City Commissioner, I initiated Portland, Oregon's auto forfeiture program and have witnessed firsthand the powerful effect forfeiture has at lowering the recidivism rate among repeat drunk drivers. In the past, many of these motorists ignored fines and kept driving even after we suspended their licenses. In the words of Jeanne Canfield, from the Oregon Chapter of Mothers Against Drunk Driving, "taking away the car gets their attention and gets them off the road."

Because of my strong belief in the merits of forfeiting repeat drunk drivers' cars, I have introduced a bill in Congress to provide an incentive for states, cities and counties to adopt auto forfeiture laws. This booklet was created to provide interested communities with the resources they need to establish programs of their own.

The booklet includes information on Portland's auto forfeiture program -- including the only statistical analysis of auto forfeiture's deterrent effect. This booklet also highlights three other auto forfeiture programs, confirming that forfeiture is a cost effective, litigation proof tool which can be used successfully in any community.

The last section has contact information for the various forfeiture programs -- feel free to contact them, or my office, for assistance.

Sincerely,

Earl Blumenauer
Member of Congress

The Oregonian

9/22/96

Targeting drunk drivers

Blumenauer offers a Portland tool to others who want to get drunk drivers off their streets

It's not too surprising, but the first bill introduced by Oregon's newest congressman, Earl Blumenauer, is modeled after a successful program he initiated in Portland as a city councilor: seizing the cars of repeat drunk drivers.

In the hands of such drivers, cars are deadly weapons against law-abiding citizens. That terrible reality and the success of Portland's seizure and forfeiture law are reasons why Congress ought to look favorably on Blumenauer's proposal to give other states and local governments another way to get those drivers off the streets.

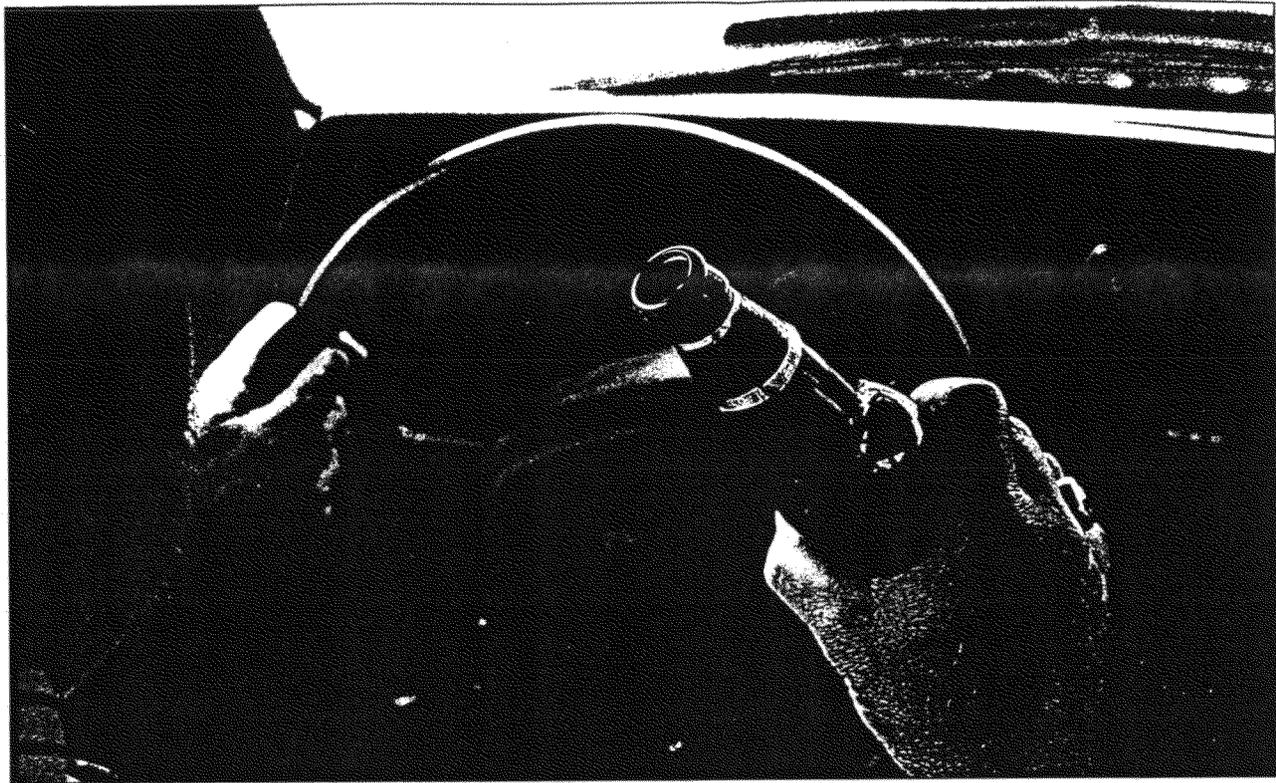
Analyses in the first year of the Portland program and a new study this year by the Reed College Public Policy Workshop confirms that the ordinance works: Over the program's seven years, only 4 percent of the repeat drunk drivers who had their cars seized by police repeated the offense again. That compares to about 50 per-

cent where cars are not seized.

The federal government long ago acknowledged a national interest in transportation safety, but Blumenauer isn't proposing more government. His measure simply would make forfeiture and seizure one of the options available to states that want to qualify for the \$25 million federal anti-drunk-driving grant program.

Gresham Police Chief Bernie Giusto, a former Oregon State Police commander, is among the measure's supporters. He pointed out that drunk drivers often ignore fines and keep driving even after their licenses are suspended. "Seizing their cars gives law enforcement an important tool and leaves a lasting imprint on the life of the offender."

Congress ought to encourage other states to add this weapon to their arsenal for fighting drunk drivers and the deadly national toll they take.



Portland forfeiture program on national agenda

By Ian B. Crosby '95

A Reed study suggests that deterring drunk driving and protecting civil liberties are not exclusive goals

• **A**n innovative program to curb drunk driving by seizing the vehicles of repeat offenders has made its way from the streets of Portland to the national agenda in legislation proposed by Oregon congressman Earl Blumenauer.

• The congressman wants to establish a vehicle forfeiture system as a qualifying program for federal anti-drunk-driving grants. Backing Blumenauer's proposal is a study conducted by the Reed College Public Policy Workshop that found that vehicle seizure substantially reduced re-arrest among repeat drunk drivers under the Portland program. Most importantly, the study found that unusual steps taken to assure civil liberties did not have an adverse effect on the effectiveness of the program.

• The Portland forfeiture program's origins lie in Blumenauer's days in the Oregon State Legislature. Blumenauer was concerned with the difference in treatment of drunk drivers and other less serious offenders. "A hunter could

kill a deer out of season, and he would lose his rig, his guns, and other equipment and would spend significant time in jail, while the drunk driver who killed a little girl a block from my house could be out of jail and driving again in a week," Blumenauer commented. Blumenauer was struck by the logic of depriving offenders of the instrument of their offense. While recalcitrant drunk drivers could disregard license suspensions and insurance requirements, they could not pose a threat to highway safety without their automobiles. Blumenauer attempted to pass a statewide vehicle forfeiture bill in the legislature, but was stymied by bank lien holders, civil libertarians, and indifference.

Later, as a Portland city councilman, Blumenauer had more success. Opposition was softened by involving concerned parties in the process and drafting an ordinance that met their concerns. Blumenauer also simply had fewer people to convince on the City Council. Portland's forfeiture ordinance was passed by a unanimous vote and went into effect in 1989. The Portland ordinance subjected to forfeiture vehicles of offenders arrested for driving with a license suspended as a result of driving while intoxicated, or those arrested as habitual offenders who have committed three or more serious traffic offenses, at least one of which was driving while intoxicated. Concerns of banking interests and civil libertarians were addressed through provisions allowing the return of vehicles to lien holders or other innocent owners not implicated in the offense. According to Blumenauer, the program was an immediate political success. "It was simple, direct, and cost effective, and the logical linkage between the sanction and the offense resonated with the public," he recalled.

Despite such claims, others were more skeptical about the untried program. No other jurisdiction appeared to have operated a similar program, and no data existed concerning the effectiveness of

such a program in keeping drunk drivers off the streets. Noting that many of the vehicles seized were inexpensive and uninsured "junkers," some, including Reed political science professor Stefan Kapsch, speculated that many offenders might simply purchase other "disposable" vehicles, fail to register or insure them, and continue driving.

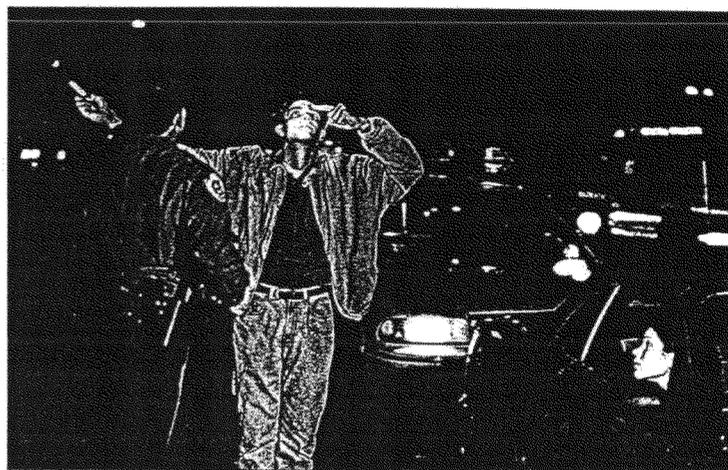
Reed policy workshop tests program

Professor Kapsch and a group of his students set out to empirically test the putative success of the program in research funded by the Rose E. Tucker Charitable Trust. A literature review discovered many anecdotal claims about the effectiveness of forfeiture in depriving offenders of the instrumentality of their offenses, but no hard data actually linking forfeiture to reductions in recidivism. The Reed team surveyed households of documented offenders and a randomly selected control group in the spring of 1992, and the data were analyzed for statistically significant variations.

The results were inconclusive, and significant doubts emerged about the validity of the data. Responses to control questions, such as whether a member of the household had been arrested for drunk driving, exhibited minimal or insignificant variation between the target group and the control group. While the survey results posed interesting methodological questions, they provided no answers for the question at issue: does forfeiture have an effect on driving behavior?

My involvement with the forfeiture project began in the fall of 1994. It was readily apparent to both Professor Kapsch

and me that no amount of analysis of the original survey results could yield definitive results or overcome the methodological qualms, and I looked for other sources of data. Working from the Portland Police data system's main arrest files, the Asset Forfeiture Unit's forfeiture database, and handwritten patrol records from the traffic division, I constructed a unified data file on nearly 17,000 perpetrators that included information on virtually all factors with theoretical relevance to re-offense. With the guidance of mathematics professor Albyn Jones, I learned to use and interpret the sophisti-



cated Cox Proportional Hazards statistical analysis model to test the independent effects of seizure and forfeiture on expected time from an initial offense to subsequent re-arrest.

The results of the analysis were as unequivocal as they were remarkable. To a near-statistical certainty, all other significant factors being equal, having a vehicle seized correlated with a nearly doubled expected time to re-arrest. In other words, offenders whose vehicles were seized re-offended only half as often as those whose vehicles were not seized.

Equally interesting, whether the vehicle subsequently was actually forfeited and sold or instead returned to a lien holder or innocent owner had no significant effect on re-offense beyond the mere fact of seizure itself. The conclusion was clear: Portland's forfeiture program worked, and

the careful compromise that had facilitated its enactment had not hampered its effectiveness.

Supreme Court rules

In the meantime, a number of developments significant to forfeiture had occurred on the Oregon and national political scenes. *Bennis v. Michigan*, an important forfeiture case, was handed down by the Supreme Court. Bob Packwood resigned from the U.S. Senate and was replaced by Portland's popular Representative Ron Wyden. This left an open seat in Congress that was filled by

to forfeiture based on her lack of knowledge or authorization of the offending use to which the car was put, depriving her of due process under the Fourteenth Amendment to the U.S. Constitution.

Law traced to Middle Ages

The Supreme Court's rejection of her claim lies in the peculiar legal status of the civil *in rem* proceeding used in forfeiture cases, which is rooted in the idiosyncrasies of ancient English law. Modern forfeiture processes stem from the medieval law of the deodand, by which property used in breaking a law was to be

returned to God, or his representative on earth, the Crown. In the scholastic jurisprudential logic of the era, the proceeding was against the property itself, not the owner, and hence any interest of the owner was simply irrelevant.

Though this fiction has been

abolished in other areas of American law, it persists in nearly unaltered form in respect to forfeitures. In *Bennis*, the Supreme Court relied on an unbroken string of decisions beginning with Justice Story's opinion in the 1827 forfeiture case of *The Palmyra* and culminating in the 1974 case *Calero-Toledo v. Pearson Yacht Leasing Co.* which concluded that "the innocence of the owner of property has almost uniformly been rejected as a defense" [against forfeiture].

Civil liberties affected

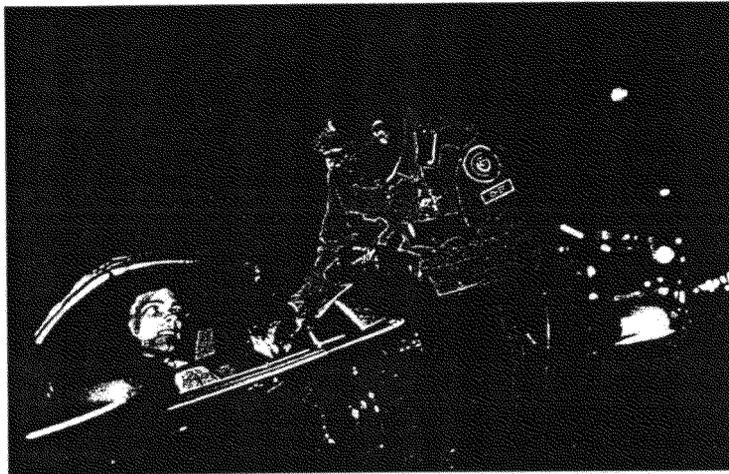
The omission in Congressman Blumenauer's proposed legislation of a requirement that state forfeiture programs provide innocent-owner defenses, coupled with the Supreme Court's decision in *Bennis v. Michigan*, raises the prospect that many more Tina Bennis will find their

property confiscated due to actions beyond their authorization or control as states respond to the incentive. Furthermore, Blumenauer's intention is that the current proposal is a first step toward a larger goal of providing even greater incentives, or perhaps even requiring states to enact forfeiture programs to qualify for certain federal funds.

Blumenauer admits that the breadth of its innocent-owner defense in the Portland ordinance was in part due to uncertainty about whether a more restrictive law could withstand constitutional challenge. Now that *Bennis* makes it clear that no such defenses need be provided, Blumenauer claims that he would "crank down" the exceptions if he were writing the ordinance today, but he would not eliminate them because he feels that such exceptions are correct as a matter of fairness and necessary to maintain the base of support for forfeiture, regardless of what the Supreme Court says.

If Blumenauer thinks so, then why doesn't the proposed Congressional legislation have an innocent-owner defense? He has a variety of answers, including the hope that states will do so without being required, possibly in response to the same pressures as in Oregon, and the availability from his office of model statutes that do include the defense. Let's hope that Blumenauer is right, and that in future legislation, Congress will protect the Tina Bennis of the world, because the Supreme Court clearly will not. Vehicle forfeiture has the potential to take drunk drivers off our highways nationwide as it has in Portland, but it need not do so at the expense of our civil liberties.

Ian B. Crosby, from Juneau, Alaska, graduated from Reed in 1995 with a B.A. in philosophy. He is currently a second-year law student at the University of Texas and an editor of the Texas Law Review.



Blumenauer, who immediately began laying the groundwork for placing vehicle forfeiture on the national agenda. While Blumenauer's efforts have the potential to have a positive effect on highway safety nationwide, a congressional failure to require greater forfeiture protections than those afforded by the lax constitutional standards enunciated recently by the Supreme Court may result in a deleterious—and in light of the Reed study, probably a needless—erosion of civil liberties.

In *Bennis*, the Supreme Court upheld the constitutionality of a Michigan law authorizing the forfeiture of a vehicle used in the solicitation of prostitution over the constitutional objections of the co-owner of the car (and unfortunate wife of the offender). Tina Bennis's central claim was that the statute failed to provide a defense



OFFICE OF THE MUNICIPAL ATTORNEY

CAR WARS - HOW TO TAKE THEM AND HOW TO GET RID OF THEM

By: Cliff John Groh and Scott A. Brandt-Erichsen

Cars and other vehicles pose some sticky problems. Two of the ways that they become problematic are the subject of this paper: 1) when they are used by drunk drivers and 2) when they are disposed of improperly. There are a couple of strategies which have been used lately to try to address both of these problems. To a certain extent they involve common issues and common procedures. Each will be discussed in turn.

The Municipality of Anchorage has been a leader in the field of DWI vehicle seizure and forfeiture in Alaska. Separately, the Ketchikan Gateway Borough has recently been making strides to address junked and abandoned vehicles. This report on experiences with these programs identifies the program and discusses some of the cases which have touched on relevant issues. The discussion of cases is not exhaustive, but is generally representative of the themes which are repeated in these areas.

I. VEHICLE IMPOUNDMENT AND FORFEITURE FOR DWI

A. Program

1. Context

Recognition of the carnage and destruction caused by Driving While Intoxicated (DWI) has increased in the past decade and a half. In four of the past 16 years, for example, a person in Anchorage was statistically more likely to be killed by a drunk driver than by someone using a firearm or a knife. This increased recognition has led to an increased emphasis on responding to the problem of DWI. The increased emphasis shows up in:

- ▶ increased devotion of police resources to enforcing the law against DWI
- ▶ improved techniques for detection of intoxicated drivers, including the use of standardized field sobriety tests, particularly the horizontal gaze nystagmus (HGN) test
- ▶ immediate administrative suspensions and revocations of the driver's license
- ▶ institution of the crime of Refusal to Submit to a Chemical Test (Refusal), making a crime of what formerly had led only to administrative license suspensions and

revocations

- ▶ mandatory minimum sentences, particularly the mandatory minimum three days in jail for the first offense of DWI
- ▶ the introduction of the crime of felony DWI, leading to longer jail sentences and more intensive probation for the worst recidivists
- ▶ impoundment and forfeiture of the vehicles driven by those arrested for DWI

Increased law enforcement and the use of improved detection techniques are widespread throughout the country. All the legal provisions listed above are applicable throughout Alaska except for impoundment and forfeiture. In Alaska, only the Municipality of Anchorage and the City of Ketchikan routinely tow the vehicles of persons arrested for DWI. Only the Municipality of Anchorage tows vehicles of all DWI arrestees and seeks 30 days of impoundment for a first offense as well as forfeiture for a subsequent offense. The combination of these DWI countermeasures--particularly the three-day mandatory minimum sentence for a first offense and the impoundment/forfeiture program--give Anchorage the toughest laws against DWI in the United States.

2. State Statutes Concerning Impoundment and Forfeiture

AS 28.35.036 (Appendix A) provides that the State may move for forfeiture of the vehicle used in DWI or Refusal upon conviction for a third or subsequent offense. This provision is invoked relatively rarely, however, because the penalty is discretionary with the court and the police do not routinely seize the vehicles at the time of arrest. Even if the court does order forfeiture at sentencing, the order is often never executed because the vehicle cannot be located.

3. Municipality of Anchorage's Ordinances

The Municipality of Anchorage has enacted its own ordinances for impoundment and forfeiture of vehicles used in DWI and Refusal. AS 35.28.038 (Appendix A) allows these ordinances, which are codified at AMC 9.28.020-.027 (Appendix B).

Anchorage's ordinances declare that the vehicles driven by drunk drivers are public nuisances and allow seizure of the vehicle incident to the arrest of the driver. Since the law was implemented in April of 1994, the police in Anchorage have routinely seized the vehicles used by drivers arrested for DWI. The Municipality seeks 30 days of impoundment if the offense is the driver's first, and seeks forfeiture of the driver's interest if it is a second or subsequent offense. Approximately one-third of the vehicles towed have been driven by a driver with a previous conviction within the past 10 years and are thus eligible for forfeiture. Also noteworthy is the license status of these arrested drivers. More than one-third of all drivers arrested for DWI have licenses which are revoked, suspended, or otherwise invalid. In many cases, the license is invalid because of a previous DWI conviction.

other than the driver through a civil action filed before the Municipality's administrative hearings officer. Service upon owners and lienholders is usually accomplished by mail, supplemented when necessary by or personal service or publication.

More than half of the vehicles seized are owned or co-owned by the driver charged with DWI. Whatever the ownership of the vehicle, an owner can get a vehicle released upon payment of a bond and the \$160.00 administrative fee plus towing and storage fees. Bonds are set within two working days of the seizure of the vehicle. The bond on a vehicle is like bail on a person: it secures the release of the vehicle pending a civil administrative hearing, criminal trial, or other resolution of the matter. Vehicle return bonds are tied to the age of the vehicle as a proxy for the value of the vehicle, and minimum amounts for the bonds are set out in the ordinances.

The ordinances set out a number of consequences for someone who secures the release of a vehicle through posting a vehicle return bond and then fails to return the vehicle when ordered. The bond is routinely forfeited. The conduct is a civil offense exposing the offender of up to a \$300 a day fine for each day the vehicle is not returned. The police may recover the vehicle.

4. Dispositions of Seized Vehicles

Vehicles seized are disposed of through: a) settlements or stipulations; b) release pursuant to dismissal or reduction of criminal charge or order at a hearing; c) recovery after 30 days of impoundment (in cases in which the Municipality is only seeking 30 days of impoundment); d) forfeiture and sale or other disposal; and e) abandonment after 30 days of impoundment and subsequent sale by the towing and storage contractor to satisfy the statutory towing and storage lien.

a. Settlements (Stipulations)

The civil actions against the interests of the owners and lienholders (other than the driver) are usually resolved through settlements, traditionally called stipulations. These stipulations typically involve the payment of fees, including an \$160 administrative fee, costs of \$6-\$12, an attorney's fee of \$102, and the towing and storage fees. Towing fees are \$25 for a day-time tow and \$1 for a night-time tow plus mileage fees of \$4 per mile, and storage fees are \$2 a day.

Stipulations also include a promise by the owner or lienholder recovering the vehicle not to allow the DWI arrestee to drive the vehicle while intoxicated or while unlicensed. The stipulation provides that the Municipality may seize the vehicle and sue for forfeiture if this promise is breached. If the Municipality is seeking forfeiture, a stipulation will also require that the person recovering the vehicle give the Municipality any equity owned by the DWI arrestee.

A stipulation ends the civil case and takes the vehicle out of the criminal case, thus ending the Municipality's efforts to obtain forfeiture or additional days of impoundment against the vehicle.

The Municipality will not stipulate with owners or lienholders who have promoted the offense. Evidence of such promotion can come from presence in the vehicle at the time of the arrest

or from an admission that the owner allowed the driver to use the vehicle with knowledge that the driver was not properly licensed.

b. Release of Vehicle Pursuant to Reduction or Dismissal of Criminal Charge or Order at Hearing

A disposition of a criminal case which results in other than a conviction for DWI or Refusal results in dismissal of the civil administrative case against owners or lienholders who are not the criminal defendant. Owners and lienholders may ask for a hearing on the civil administrative case and contest the impoundment or forfeiture.

Any person recovering a vehicle following a reduction or dismissal of a criminal charge or pursuant to a dismissal or order of release in the administrative case must pay the administrative fee and the towing and storage fee. The only two exceptions are (a) the police did not bring Municipal charges against the alleged driver or (b) the police had no reasonable suspicion to stop the vehicle or probable cause to arrest the alleged driver.

c. Recovery of Vehicles After 30 Days of Impoundment

Vehicles for which the Municipality is seeking 30 days of impoundment may be released to owners or lienholders at the end of the 30 days. Those recovering the vehicle pay administrative and towing and storage fees.

d. Forfeiture

About 10 percent of all vehicles towed incident to a DWI arrest are forfeited and sold at auction. This represents approximately one-third of all the vehicles for which the Municipality has sought forfeiture. To date, all vehicles forfeited have been sold at auction, but the ordinance also provides that the police may use forfeited vehicles for purposes of law enforcement.

Auctions of forfeited vehicles are held once a month, casually on the fourth Saturday of each month.

e. Sale of Abandoned Vehicles Pursuant to Towing and Storage Lien

Vehicles for which the Municipality seeks 30 days of impoundment are disposed of by the towing and storage contractor if no one recovers the vehicle after being sent notice of the intent to sell the vehicle if there is no recovery. This disposal occurs under the state's towing and storage lien created in AS 28.10.502.

f. Dispositions in Year to Date

Dispositions of Vehicles Towed Incident to DWI Arrest,

January 1 - October 31, 1996

Recovered after 30 days of impoundment	457
Released pursuant to stipulation	326
Forfeited and sold at auction	127
Abandoned after impoundment and sold	156
Pending/Other	498
	<hr/>
	1,564

5. Revenues and Costs of Program

The Municipality has added staff at the Municipal Attorney's Office and the Anchorage Police Department to operate the DWI vehicle impoundment/forfeiture program. The Municipality also collects revenues from administrative fees, attorney's fees, net auction proceeds, and vehicle return bond forfeitures. It appears that the revenues will cover approximately three-quarters of the costs in 1996.

6. Publicity

Municipal ordinances require that bars, liquor stores, and restaurant which serve alcohol post signs warning of the impoundment/forfeiture law. The signs say "DRIVE DRUNK--LOSE YOUR CAR!" and "Don't Get Hooked on Drinking and Driving." These signs are intended to be eye-catching, with bold print underscoring the simple message. Additional publicity, particularly on radio and television, would also be helpful in increasing deterrence.

7. Effects on Incidence of Driving While Intoxicated

The program's effects on the incidence of DWI are difficult to measure. The number of DWI arrests fell in 1995--the program's first full year of operation--but appear likely to rise in 1996. The difficulty of assessing the program's effect on incidence of DWI is caused by an increased law enforcement focus on DWI which has occurred since the program started in April of 1994. The total number of Anchorage Police Department (APD) patrol officers has increased since that date. Probably more significant than the total number of patrol officers, however, is the number of hours of police resources specifically devoted to DWI enforcement. A special federal grant has allowed APD to pay overtime to officers to work on traffic enforcement. Enforcement of traffic laws against speeding, improper turns and lane changes, and stoplight violations, particularly at night, is a proven method of producing DWI arrests. Officers assigned to DWI enforcement also routinely process

persons arrested for DWI by other patrol officers, thus allowing patrol officers to be more efficient and increase their total DWI arrests. The use of grant-funded overtime for DWI enforcement dramatically increased beginning in the fall of 1995, and has generally stayed at a higher level since then (see Appendix J). The amount of grant-funded overtime for DWI enforcement was almost three times higher from June through September of 1996, for example, than for that four-month period in 1995.

A more accurate measure of the true incidence of DWI than the number of DWI arrests is the number of deaths from alcohol-related DWI automobile crashes.

Number of Deaths from Alcohol-Related DWI Automobile Crashes,

1990 - 1996

1990	13
1991	13
1992	12
1993	12
1994	13
1995	9
1996 (through 10-29-96)	7

Some anecdotal evidence of deterrence exists. In addition, the program does prevent an infrequent but troubling phenomenon occurring previously. In a number of cases over the years, the police recall arresting a person for DWI who would secure release on bail or on own recognizance who would return to the vehicle and drive drunk again, occasionally causing a crash with death or injury. Since the impoundment/forfeiture program began, no one has driven drunk in the same vehicle after being arrested for DWI that same night.

B. Law

The statutory provisions applicable are included in the appendix. The state provisions, AS 28.35.036 are in Appendix A. The ordinance used in Anchorage is in Appendix B.

The legal issues involved are seizure, due process, double jeopardy and excessive punishment questions.

1. Seizure

Under what circumstances may a vehicle be seized? Given the fact that DWI seizures are all accompanied by an arrest, the seizure itself does not present a difficult issue under 13 AAC 02.345. Some other instances in which seizure of a vehicle and related search issues may arise are noted

Given appropriate circumstances and sufficient time any vehicle may be seized with a warrant. We know this already and this is not where the problems usually come up. We will skip further discussion of seizures with a warrant at this point.

b. Without warrant

Warrantless seizure may be justified in several circumstances, most of which boil down to where the public interest in the vehicle being seized is sufficiently great to justify the intrusion on the constitutional rights of the owner or person entitled to possession. Those of primary relevance to DWI vehicle seizures are search and seizure incident to arrest. See State v. Richs, 816 P.2d 125 (Ak. App. 1991), and see 13 AAC 02.345(c). Other justifications which may arise in given circumstances are as follows:

Search in exigent circumstances - Where there is a probable cause but insufficient time to obtain a warrant. See Gustafson v. State, 854 P.2d 751 (Ak. App. 1993);

Emergency aid doctrine - Where there is reasonable grounds to believe that there is an immediate need to take action to prevent death or to protect persons or property from serious injury. See Williams v. State, 823 P.2d 1 (Ak. App. 1990); and

Protective search. See Murdock v. State, 664 P.2d 589 (Ak. App. 1983).

Statutorily authorized search and seizure. Notable among these are evidentiary exceptions and where the vehicle is a public nuisance. Statutory authority to seize a vehicle includes the following:

Vehicle unsafe - Vehicles which are so unsafe they should not be driven. See AS 28.05.091;

Outstanding parking tickets - See, for example, AMC § 9.30.260;

Public Nuisance - impound to summarily abate. See 13 AAC 02.345;

Accident - AS 28.35.070; and

Vehicle obstructing a roadway or creating a hazard. 13 AAC 02.345.

2. Due Process

Due process looks at what notice and opportunity to be heard must be afforded prior to seizure or disposal of a vehicle. It also may require a remission procedure for innocent owners, although after Bennis v. Michigan, 134 L.Ed.2d 68 (1996), the innocent owner defense is no longer available

under the U.S. Constitution. The State Supreme Court has not yet adopted the Bennis reasoning as applicable to claims under the Alaska Constitution. The test under state law look to three factors:

First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and, finally, the Government's interest, including the fiscal and administrative burdens that additional or substitute procedural requirements would entail.

a. **State cases:**

Badoino v. State, 785 P.2d 39 (Ak. App. 1990).

Badoino involved forfeiture of certain money under AS 17.30 as part of a sentence for a conviction for misconduct involving a controlled substance in the third degree. The court held that it is satisfied that due process requires that a criminal defendant be given advance notice of the specific property which the state seeks to have forfeited. Where the property is not contraband, the defendant should be informed of the connection. The state will attempt to prove between the property to be forfeited and illegal activity. The defendant is also entitled to know in advance the steps he or she MUST take in order to contest forfeiture, who will have the burden of proof, and what the burden will be. Finally, a reasonable opportunity MUST be afforded the defendant to resist forfeiture. The court should make findings of fact regarding contested issues and set out its conclusions of law.

F/V American Eagle v. State, 620 P.2d 657, 667 (Alaska 1980).

American Eagle involved an action for civil in rem forfeiture of a vessel used in violation of crab harvest regulations under AS 16.05.195. The vessel owners challenged that the absence of an in rem procedure and a prompt post-service hearing denied the owners of due process of law. While this case resolved the due process issue on its particular facts, the court stated, in dicta, that we find no merit in the owners' apparent claim that due process requires that any owner of a vessel seized by the state for suspected use in illegal activity has an absolute right to obtain release of the property upon the posting of an adequate bond. To permit this would frustrate one purpose of forfeitures, which is to prevent possible use of the property in further illicit acts.

Graybill v. State, 545 P.2d 629, 631 (Alaska 1976).

Graybill was convicted of a game violation (attempted illegal transportation) and had his aircraft forfeited as part of his sentence. Graybill urged that where the property is not contraband forfeiture could not be pursued in the criminal case, but must be a separate civil proceeding. The court held that a separate civil proceeding was not necessary.

Hilbers v. Municipality of Anchorage, 611 P.2d 31, 36 (Alaska 1980).

Hilbers involved an appeal from a superior court order upholding ordinances regulating massage parlors. The court addressed the issue of due process holding that in order to determine what due process requires, three factors must be considered:

First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and, finally, the Government's interest, including the fiscal and administrative burdens that additional or substitute procedural requirements would entail.

State v. F/V Baranof, 677 P.2d 1245 (Ak. 1984).

This case was an in rem forfeiture of a vessel used for harvesting crab under AS 16.05.195. The court held that due process does not require notice or a hearing prior to seizure by government officials of property allegedly used in an illicit activity. However, when the seized property is used by its owner in earning a livelihood, notice and an unconditioned opportunity to contest the state's reasons for seizing the property must follow the seizure within days, if not hours, to satisfy due process guarantees even where the government interest in the seizure is urgent.

State v. Rice, 626 P.2d 104 (Ak. 1981).

Rice was a big game guide convicted of an illegal transportation violation. The state sought forfeiture of a Cessna used in the violation under AS 16.05.195. Cessna Finance was an "innocent third party" with an interest in the aircraft. The court held that under substantive due process a remission procedure is mandated under the Alaska Constitution. Not to allow innocent owners and security holders to show that they have not been involved in the criminal activity that triggered the forfeiture proceeding violates Alaska's constitutional due process provision. It remains to be seen whether **Bennis** will revise this view.

b. Federal cases:

1. Supreme Court

Bennis v. Michigan, 116 S.Ct. 994 (1996).

Bennis involved a vehicle forfeiture under a Michigan law which provided for forfeiture of Mr. Bennis's car on the basis that he was convicted of patronizing a prostitute in the vehicle. The "innocent owner" issue has involved due to the fact that Mr. Bennis's wife was a joint owner of the vehicle. The Supreme Court rejected the innocent owner defense asserted by Ms. Bennis although all parties agreed she had no knowledge of the use to which the vehicle was put by her husband. The court rejected both due process and takings claims asserted by Ms. Bennis.

Calero-Toledo v. Pearson Yacht Leasing Co., 416 U.S. 663, 40 L.Ed.2d 452 (1974).

In **Pearson Yacht**, a yacht owned by Pearson had been leased to two persons, one of whom used it for transportation of marijuana, and thus it was subject to seizure under a Puerto Rican forfeiture statute. The Supreme Court, in determining that there was no constitutional violation in such seizure, offered a succinct discussion of the applicable law in this area.

The Court observed that the history of forfeiture is deeply rooted in the common law with even Biblical origins. It has received widespread use and approval throughout the history of American jurisprudence. Despite this proliferation of forfeiture enactments, the innocence of the owner of property subject to forfeiture has almost uniformly been rejected as a defense.

Robinson v. Hanrahan, 409 U.S. 38 (1992).

Robinson involved proceedings for forfeiture of an automobile belonging to an accused who was in jail on a robbery charge. The notice of forfeiture proceedings was sent to the accused's home rather than the jail. The accused did not receive the notice until his release, after forfeiture had been ordered. The accused moved for, but was denied, a rehearing. The Supreme Court reversed on due process grounds. The court held that due process requires notice of forfeiture proceedings to be reasonably calculated to appraise the property owner of the proceeding.

2. Court of Appeals

Lee v. Thornton, 538 F.2d 27 (2d Cir. 1976).

In Lee, Plaintiffs' vehicles were detained by customs officials after crossing of the Canadian border. Plaintiffs challenged the statutory scheme under which the vehicles were detained. The vehicles were held without an opportunity for a prompt hearing. The court held that a prompt opportunity for a hearing, if only a probable cause hearing, should be provided within 24-72 hours.

United States v. One 1972 Chevrolet Blazer, 563 F.2d 1386 (9th Cir. 1977).

In One 1972 Chevrolet Blazer, the government sought forfeiture of a vehicle used to transport a contraband firearm. The district court granted summary judgment despite a thirty-party claim of equitable ownership. The Ninth Circuit remanded for full evidentiary hearing based on issues of fact precluding summarily denial of a petition for remission under federal forfeiture statute. The third-party owner of car alleged he had not known of or condoned the illegal carrying of a gun silencer in the vehicle by his father, and government had not alleged negligence by the owner.

3. District Courts

United States v. One Mercury Cougar XR7, 397 F. Supp. 1325 (C.D. Cal. 1975).

In One Mercury Cougar, the owner loaned her car to boyfriend to pick up passenger at airport and the car was seized when the boyfriend and passenger were arrested for sale of heroin. The court held that failure to return the car to the owner where record showed she had no awareness of the car's possible illegal use and had done all which reasonably could be expected to prevent the illegal use violated her due process rights. It is unclear whether this decision would survive Bennis.

3. Double Jeopardy

This has been a hot issue for the last year and a half or so. On the federal level it was settled this past year by a major decision in U.S. v. Ursery, 518 U.S. _____, 135 L.Ed.2d 549 (1996). This pretty much settled the issue on the national level, but we have yet to get a definitive decision on the state level.

The Alaska Court of Appeals recently considered a challenge to the Anchorage DWI forfeiture program in Skagen v. Municipality of Anchorage, Case No. A-5765/5795, Opinion No. 1474 issued June 21, 1996. This case involved both double jeopardy and waiver issues. The Court of Appeals did not squarely address double jeopardy as it found a waiver based on failure to assert a claim in the forfeiture action. The Court of Appeals adopted the Ninth Circuit's reasoning in U.S.

v. Washington, 69 F.3d 401 (9th Cir. 1995) (further discussion of Washington below).

a. State Cases

Calder v. State, 619 P.2d 1026 (Alaska, 1980).

Mr. Calder pled no contest to a reckless driving charge and was tried on an assault charge arising out of the same incident based upon his striking an officer with his vehicle. The jury convicted him of the lesser included offense of reckless driving. The court held no double jeopardy applying the rule for determining whether separate statutory crimes constitute the "same offense" for purposes of prohibiting double punishment, whether differences in intent or conduct between the statutory offenses are substantial in relation to the basic social interests protected or vindicated by the statutes.

Mitchell v. State, 818 P.2d 1163 (Alaska Ct. App., 1991).

Ms. Mitchell challenged conviction on two counts of unsworn falsification on double jeopardy grounds. Mitchell had signed an agreement to repay unlawfully obtained unemployment benefits. Subsequently, she was charged with unsworn falsification based upon her fraudulent unemployment applications. The court held that the civil repayment agreement, even with a penalty of 50%, would not take away the remedial character of the civil penalty and thus would not be sufficient for double jeopardy.

State of Alaska v. Kyle J. Zerkel, 900 P.2d 744 (Ak. App. 1995).

Several defendants on state or municipal DWI or refusal charges sought dismissal of criminal charges on double jeopardy grounds after having their driver's license revoked in an administrative proceeding. Administrative license revocation is premised on substantial remedial purposes. Even though administrative license revocation has always contained an element of deterrence, the case law demonstrates that it has traditionally been viewed as remedial rather than punitive. We conclude that administrative license revocation continues to be a "remedial" sanction, not a "punitive" sanction, for purposes of the federal double jeopardy clause. Therefore, the administrative revocation of the defendants' licenses is no impediment to their later prosecution for driving while intoxicated, refusing the breath test, or both.

City of New Hope v. 1986 Mazda 626, ___ N.W.2d ___, 1996 W.L. 175811 (Minn App., April 16, 1996).

In City of New Hope, the lower court dismissed a civil action for forfeiture of a vehicle used in a DWI by a person who had previously been convicted of DWI. The Minnesota Court of Appeals found that the forfeiture was remedial in nature. The case was brought by the city separate from the criminal prosecution. The court

held that the vehicle was essential to the underlying offense as an instrumentality of the crime.

Loui v. Board of Medical Examiners, 78 Haw. 21, 889 P.2d 705, 711 (Hawaii 1995).

Mr. Loui was convicted of attempted first-degree sexual assault and kidnapping. Based on this conviction, the Hawaii State Board of Medical Examiners suspended him from practicing medicine for one year. Mr. Loui challenged the suspension on double jeopardy grounds. The court noted that while the imposition of the one-year revocation of Loui's license to practice medicine [for the attempted rape of his medical assistant] may 'carry the sting of punishment'... it is clear that the statute in question is not designed to 'punish' Loui; rather, it is designed to protect the public from unfit physicians."

b. **Federal Cases**

1. **Supreme Court**

Bell v. Wolfish, 441 U.S. 520 (1979).

Bell involved a class action prisoner challenge to practices of a federal short term custodial facility. Practices challenged included double-bunking, limits on hard cover books and limits on packages, among others. The court recognized that "Governmental action does not have to be the only alternative or even the best alternative for it to be reasonable, to say nothing of constitutional." at 538-42. This was in reference to the traditional test that the government action which is discomfoting to the person acted upon is not "punishment" if it is reasonably related to a legitimate government objective.

Dept. of Revenue of Montana v. Kurth Ranch, 114 S.Ct. 1937, 128 L.Ed.2d 767 (1994).

Montana levied a civil tax on possession and storage of dangerous drugs. The tax rate was equivalent to \$100 per ounce of marijuana. The Kurth family operated a marijuana farm and were arrested and convicted for the operation. The state then sought \$900,000 in a separate proceeding for collection of taxes. The court held that post-conviction imposition of the civil "drug tax" constituted "punishment" and was barred by double jeopardy. The court relied heavily on the fact that the tax was only levied after an arrest and was purported to be a property tax, but the taxpayer neither owned nor possessed the property when the tax was imposed. Forfeitures may be distinguished from the drug tax imposed in Kurth Ranch. Kurth Ranch court did not apply the Halper analysis as to determining the appropriate level of tax to be compensation for law enforcement costs, but rejected the tax based on the manner of imposition.

Heath v. Alabama, 474 U.S. 82 (1985).

Mr. Heath hired two men to murder his wife. She was kidnapped from their home in Alabama and shot. Her body was found in Georgia. Mr. Heath pleaded guilty in Georgia and was subsequently charged in Alabama. He challenged his conviction in Alabama on double jeopardy grounds. The court held that the double jeopardy clause is inapplicable when separate governments prosecute the same defendant because the defendant has offended both sovereigns.

North Carolina v. Pearce, 395 U.S. 711 (1969).

Pearce involved two cases where the defendants were convicted and sentenced. After serving part of their sentences, their convictions were set aside and they were re-tried and re-convicted. The resulting sentences, when combined with time served, were more severe than the original sentences. The court ruled that the trial judge must affirmatively set forth the reasons for imposing a more severe sentence to ensure that there is not a retaliatory motive. The court also held that credit must be given for the time served on the first conviction. The court held that the double jeopardy clause protects against a second prosecution for the same offense after acquittal.

United States v. Halper, 490 U.S. 435, 109 S.Ct. 1892, 104 L.Ed.2d 487 (1989).

Halper involved a conviction for making fraudulent claims on the government. The court held that collection of a civil fine (\$130,000) more than 220 times the amount of which the government had been defrauded (\$585.00) constituted "punishment" and was barred by the double jeopardy clause based upon the defendant's prior federal criminal conviction. Civil penalties which are grossly disproportionate to the damages caused by the offender are punitive for double jeopardy purposes. A civil penalty is grossly disproportionate if it is not rationally related to the goal of making the government whole.

U.S. v. Ursery, 518 U.S. _____, 135 L.Ed.2d 549 (1996).

Consolidated ruling reversing the 6th Circuit's decision in Director of Transportation Services in **Ursery** and the 9th Circuit's decision in **U.S. v. 405,089.23 in U.S. Currency**, 33 F.3d 1210 (9th Cir. 1994), held that double jeopardy does not prohibit the government from convicting a defendant for a criminal offense and forfeiting his property for that same offense in a separate civil proceeding. Future double jeopardy challenges must still satisfy a two-part test articulated in **U.S. One Assortment of 89 Firearms**, 465 U.S. 354 (1984); either 1) that the legislature intended the particular forfeiture to be a criminal penalty and not a civil sanction; or 2) that, regardless of the law's intent, it is so punitive in fact that

it cannot be considered civil in nature. This ruling distinguishes Harper as involving in personam penalties rather than in rem; Austin as relating to excessive fines rather than double jeopardy; and Kurth Ranch as dealing with a punitive state tax, not an in rem forfeiture statute.

2. Court of Appeals

Bae v. Shalala, 44 F.3d 489 (7th Cir., 1995).

Bae involved a challenge to the Generic Drug Enforcement Act provision mandating permanent debarment of any individual convicted of a felony under federal law relating to development or approval of a drug product. Bae was convicted in 1990 for providing an FDA official with an "unlawful gratuity." By letter in 1993, the FDA notified Bae of the proposed debarment. The FDA ordered debarment. Bae appealed. The court held that lifetime disbarment from drug companies was sufficiently remedial under Halper. Bae's ex post facto argument was also rejected.

United States v. Payne, 2 F.3d 706, 710-11 (6th Cir. 1993).

Mr. Payne was a postal carrier. He didn't deliver all the mail. He was indicted for his misconduct. Before being indicted, he was fired and had his termination reviewed by an Administrative Law Judge. Mr. Payne prevailed in his challenge to the termination. Mr. Payne then sought dismissal of the indictment based upon collateral estoppel or double jeopardy. The court rejected the arguments holding that suspension of a mail carrier for illegal conduct was not "punishment" for double jeopardy purposes.

United States v. Furlett, 974 F.2d 839, 844 (7th Cir. 1992).

In Furlett, a commodities broker defrauded his clients. In an administrative proceeding, his license to deal commodities was revoked. He was later indicted for conspiracy, mail fraud, obstruction of justice, and subornation of perjury. The broker objected that this criminal prosecution violated the double jeopardy clause. The court held that the administrative order prohibiting the broker from engaging in commodities trading was not "punishment" for purposes of the double jeopardy clause.

United States v. Bizzell, 921 F.2d 263, 267 (10th Cir. 1990).

In Bizzell, two contractors committed fraud in the sale of various properties whose mortgages were held by the Department of Housing and Urban Development (HUD). The Tenth Circuit ruled that an order barring the two contractors from participating in HUD contracts for 18 and 24 months, respectively, was not "punishment" for their fraudulent conduct. The court said, "Removal of persons whose participation in those programs is detrimental to public purposes is remedial

by definition."

3. District Court

Orallo v. United States, 887 F.Supp. 1367 (D. Haw., 1995).

Orallo involved administrative forfeiture of a vehicle, cash and a cellular phone. Mr. Orallo received notice of the forfeiture proceedings. Orallo asserted that he filed a petition for remission of the property, but that the petition was denied. He then sought dismissal of his criminal charges for double jeopardy. The court held that a petition for remission does not contest the forfeiture and thus there was no adjudication of Orallo's culpability in the forfeiture action. Therefore, he was not placed in jeopardy or "punished." **But see Quinones-Ruiz v. U.S.**, 864 F.Supp. 983 (S.D. Cal. 1994).

Quinones-Ruiz v. U.S., 864 F.Supp. 983 (S.D. Cal. 1994).

Mr. Quinones-Ruiz entered a guilty plea to making a false statement to customs agents. Customs agents had seized \$40,000 in cash when searching a vehicle at a border crossing. The government sought and obtained forfeiture of the funds after sending notices and publishing notice. Mr. Quinones-Ruiz did not respond to the notice, but sued for return of the money claiming he did not receive notice. The court held that the notice was adequate for due process purposes even though it was not sent to his criminal defense attorney. The court analyzed the issue of double jeopardy under Austin and U.S. v. \$405,089.23, 33 F.3d 1210 (9th Cir. 1994), and concluded that the forfeiture was punitive. This case was decided prior to Ursery.

A sidelight to the double jeopardy analysis is the issue of whether a particular defendant waived the double jeopardy by failing to contest the in rem forfeiture. After Ursery, this may be a non-issue. However, the following are some cases discussing waiver in the double jeopardy context:

United States v. Arreola-Ramos, 60 F.3d 188 (5th Cir., 1995).

Omar Arreola-Ramos was charged with drug related offenses. He sought dismissal of his drug charges based upon the civil forfeiture proceeding involving \$11,408 in cash seized from his residence. The forfeiture was initiated after Mr. Arreola-Ramos had been indicted, but before his trial. He did not appear as a party to the civil forfeiture proceedings. The court held that summary forfeiture cannot be considered punishment when the defendant fails to respond or appear in the civil forfeiture.

United States v. Hudson, 14 F.3d 536, 541-42 (10th Cir. 1994).

In Hudson, the defendants were indicted under federal law for their alleged

illegal operation of several banks. The violations were based on the same lending transactions which were the subject of prior administrative sanctions imposed by the Comptroller of Currency. As part of the administrative proceedings, the defendants signed a consent order which included a waiver clause allowing other state or federal entities to bring other actions deemed appropriate. The court held that the waiver language was not sufficiently clear to be a valid waiver of the right to assert double jeopardy. The court implied that an explicit waiver may have been adequate, but was not present. Despite the lack of waiver, the court held that the administrative order barring defendants from future banking activities was not "punishment" for their illegal activities.

United States v. Washington, 69 F.3d 401 (9th Cir., 1995).

In **Washington**, Mr. Washington was arrested for a drug violation. At the time of his arrest, \$1,150 was taken from his person. The government sought forfeiture of the money as proceeds of illegal narcotics transactions. Mr. Washington received notice, but did not submit a claim to the funds. The funds were forfeited. Mr. Washington then challenged his criminal charge on double jeopardy grounds. The court held that an owner who receives notice of an intended forfeiture and fails to claim an ownership interest in the property has effectively abandoned that interest. Because abandonment constitutes a relinquishment of all rights in the property, taking of such property imposes no "punishment" and does not place the former owner in jeopardy. The court reached the same conclusion in **United States v. Cretacci**, 62 F.3d 307, 310-311 (9th Cir. 1995), which is relied upon in **Washington**.

4. Excessive Punishment

The issue of excessive fines under the 8th Amendment to the U.S. Constitution and Article I, Section 12, of the Alaska Constitution is unlikely to arise in connection with a vehicle forfeiture. The value of the vehicle will rarely if ever cause a problem following the **Austin** analysis, particularly if the vehicle is used in the offense. Some relevant cases are as follows:

a. State Cases

McNabb v. State, 860 P.2d 1294 (Ak. App. 1993).

Elmer McNabb was charged with fishing violations. He pled guilty to one charge in exchange for a dismissal of nineteen others. The maximum fine for the violation was \$15,000. He was sentenced to a fine of \$15,000 with \$5000 suspended. The court also ordered forfeiture of the fair market value of all of the fish aboard Mr. McNabb's boat on the date of violation, a total of \$39,758.40, with \$20,000 of that amount suspended. Mr. McNabb challenged the forfeiture and additional fine on several grounds including violation of the United States and Alaska Constitutional prohibitions against excessive fines. The court of appeals held

that "The Alaska Supreme Court has consistently held that Alaska Constitution does not require that penalties be proportionate to the offense. Only punishments that are 'so disproportionate to the offense committed as to be completely arbitrary and shocking to the sense of judgment' may be stricken as cruel and unusual under Alaska's Constitution." The court then concluded that the fine imposed in McNabb was not grossly disproportionate to Mr. McNabb's crime.

b. Federal Cases

Austin v. United States, U.S. 113 S.Ct. 2801, 125 L.Ed.2d 488 (1993).

In Austin the defendant was convicted by the State of South Dakota for possession of cocaine for distribution and was sentenced to 7 years. The U.S. then filed a civil in rem action against Austin's home and business plus \$4,700 in cash and other property seized at the time of arrest. Austin challenged the forfeiture under the excessive fines clause (8th Amendment). The court held that the excessive fines clause did not apply to civil forfeitures, but remanded the case for a determination of whether the clause was violated in Austin's case. The court recognized that forfeiture does not solely serve a remedial purpose.

5. Other rights

The right to counsel and right to jury trial may be raised as issues, but will not be problematic:

Baker v. City of Fairbanks, 471 P.2d 386, 402 (Alaska 1970).

Baker involved prosecution for assault under a city ordinance. Mr. Baker claimed that he was entitled to a jury trial. The Alaska Supreme Court extended the right of jury trial to a defendant in any "criminal prosecution". The court defined "criminal prosecution" to encompass any offense for which a conviction "may result in the [defendant's] loss of a valuable license, such as a driver's license or a license to pursue a common calling, occupation or business."

Resek v. State, 706 P.2d 288 (Ak. 1985).

Resek involved an in rem forfeiture of used or intended for use in violation of state drug laws under AS 17.30.112. The in rem case was filed after indictment but before the criminal trial. The court held that an indigent claimant does not have a constitutional right to appointed counsel at public expense in an in rem forfeiture proceeding, but acknowledging discretion of the trial court to require appointment of counsel, based in part on the self incrimination concern, where the forfeiture action precedes a criminal prosecution. The court also implied that civil forfeiture proceedings should be stayed pending the outcome of the criminal case. In Resek, the court noted that AS 17.30.116(c) specifically authorizes such a stay.

The exclusionary rule has been applied in civil forfeiture cases:

One 1958 Plymouth Sedan v. Pennsylvania, 380 U.S. 693 (1984).

This case involved a warrantless stop and search of an automobile by state liquor control board offices. Cases of liquor without state tax seals were discovered. The state sought forfeiture of the automobile. The Pennsylvania Supreme Court allowed the forfeiture, rejecting the argument that the exclusionary rule applied to civil forfeiture proceedings and confining the exclusionary rule to criminal cases. The Supreme Court reversed and applied the exclusionary rule. The court there also stated that vehicles are not instrumentalities of crime because "there is nothing even remotely criminal in possessing an automobile." This statement is undercut in DWI cases where the vehicle itself is essential to the crime. See, e.g., City of New Hope and Bennis.

Similarly, the right against self incrimination has been applied:

United States v. United States Coin & Currency, 401 U.S. 715, 28 L.Ed.2d 434 (1971).

Coin and Currency involved an action for forfeiture of money in possession of a person at the time of his arrest for illegal gambling. The Supreme Court held that the Fifth Amendment privilege against self incrimination could be invoked in forfeiture proceedings.

Finally, due to its outstanding and entertaining facts, **State v. Stagno** is worth noting for the reminder that ambiguities in criminal statutes must be read narrowly and strictly construed against the government.

State of Alaska, v. Frank Stagno, 739 P.2d 198 (Ct. App. 1987).

Stagno was convicted of DWI for driving an airboat down a roadway. The state sought revocation of Stagno's license to drive and forfeiture of the boat. The court, relying on the principle of statutory construction that ambiguities in criminal statutes must be narrowly read and construed strictly against the government, held that driving a boat did not fall within the terms of the license revocation and forfeiture statutes in effect at the time, but that discretionary license revocation might be available. The relevant statutes have since been revised.

SEP 10 1995

**PORTLAND'S ASSET FORFEITURE PROGRAM:
THE EFFECTIVENESS OF VEHICLE SEIZURE IN
REDUCING REARREST AMONG "PROBLEM"
DRUNK DRIVERS**

IAN B. CROSBY

A JOINT PROJECT OF
THE REED COLLEGE PUBLIC POLICY WORKSHOP
AND
THE PORTLAND POLICE BUREAU

AUGUST, 1995

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EXECUTIVE SUMMARY

Many drunk drivers are seemingly impervious to traditional sanctions and continue to drive when their licenses are suspended or revoked. Since 1989, Portland has used asset forfeiture to deprive these drivers of the instrumentality of their offenses: their vehicles. While Portland's asset forfeiture program is unique and innovative, it has arisen in the context of a burgeoning of policies nation-wide extending forfeiture to ever more areas of law enforcement. Yet even as forfeiture's targets have multiplied, serious study of its effectiveness has been neglected. In Portland, as in the rest of the nation, a question whose answer is crucial to the success of asset forfeiture has remained unanswered. Does the seizure of instrumental assets actually disrupt criminal activity and incapacitate or deter criminals? In Portland, it now appears that it has.

This study employs multivariate statistical analysis techniques to arrest data covering five years of forfeiture enforcement. With race, age, sex, prior arrest history and level of police enforcement held constant, perpetrators whose vehicles were seized could reliably be expected to be rearrested on average half as often as those whose vehicles were not. The most plausible explanations for this result point to a reduced threat to public safety from these problem motorists as a result of Portland's forfeiture program.

It is hoped that the information contained in this report will aid policy makers in informed decision making. Portland should share its experience through contacts with local, state and national law enforcement agencies, and encourage research on the effectiveness of forfeiture in combating the other activities against which it has been deployed.

BACKGROUND AND INTRODUCTION***FORFEITURE'S IMPACT ON CRIME: PAST RESEARCH AND DEBATE*****The Reed Forfeiture Project**

This study is a successor to another study of asset forfeiture initiated in the Fall of 1991 by Professor Stefan Kapsch, director of the Reed College Public Policy Workshop (PPW). The PPW is a organization dedicated to the empirical study of "ideas in good currency" — policy issues generating great public interest and debate. Forfeiture was then and remains now such an issue. After languishing in relative disuse since prohibition, the wars on drugs and organized crime promulgated new statutes and an explosion of interest which revived first criminal and ultimately civil forfeiture as common prosecutorial tools. Across the nation in the late 1980s, many state and local jurisdictions passed measures authorizing novel uses of forfeiture against crime. In 1989 one such measure, Portland's Forfeiture Ordinance, began targeting problem drunk drivers. For the PPW, the Portland forfeiture program promised to afford a unique opportunity for empirical investigation of forfeiture's effectiveness against a highly recidivistic group of lawbreakers. The forfeiture study consisted of two stages: a comprehensive review of the literature on forfeiture in general and a survey to study Portland's program.

PPW researchers discovered an abundant body of literature regarding the legal issues surrounding forfeiture, but they were surprised to find little material relating to forfeiture's effectiveness in deterring crime. This dearth of research was even more bewildering in light of the frequency with which they found the effectiveness of forfeiture cited in justification of its employment. The introduction to their report states: "Considering the appeals that the courts so often make to the effectiveness of forfeiture as an apology for occasional abuses, it is astounding that so little empirical evidence of

that effectiveness has been produced."¹ Since the 1991 report, forfeiture has continued to be a frequent topic of articles in academic and legal publications, as well as the subject of court decisions and public debate. Unfortunately, this attention has done little to provide any systematic evidence of forfeiture's widely touted effectiveness against any of the many types of crime against which it is now frequently used.

The Federal "War on Drugs"

According to the U.S. Justice Department Executive Office for Asset Forfeiture (EOAF), "[t]he mission of the Department's Asset Forfeiture Program is to maximize the effectiveness of forfeiture as a deterrent to crime."² While, in the opinion of the EOAF, "revenue is an ancillary benefit,"³ and not the primary goal of the forfeiture program, the amount of revenue derived from seizures and deposited in the Asset Forfeiture Fund "serves as a barometer to measure the success of the program."⁴ This amount has grown from \$27 million deposited in FY 1985 to more than one half billion dollars in FY 1993, and totals over \$3.2 billion since the Fund's inception in 1985.⁵ Excluding special

1. Kapsch, et al., *Forfeiture: History, Precedents, and Current Debate* (1991) (unpublished report of the Reed College Public Policy Workshop Forfeiture Project, on file with the Secretary of the Division of History and Social Science, Reed College).

2. EXEC. OFF. FOR ASSET FORFEITURE, U.S. DEP'T OF JUSTICE, ANNUAL REPORT OF THE DEP'T OF JUSTICE ASSET FORFEITURE PROGRAM at v (1994) [hereinafter EOAF ANNUAL REPORT].

3. *Id.* at 15.

4. *Id.* at 16.

5. *Id.*

deposits related to the Drexel Burnham Lambert case in 1989 and the Michael Milken case in 1991, regular deposits have increased in each year of the Fund's existence.⁶

If the fund truly is a barometer of the Asset Forfeiture Program's objective of deterring crime, we might expect to see an impact on the U.S. drug supply which roughly mirrors the growth in annual asset seizures. Yet in the case of cocaine, the flagship target of the national "war on drugs," prices have remained consistently low and purity has remained consistently high in recent years. The number of individuals reporting using cocaine at least once a week has remained relatively constant over the same period.⁷ While the number of people reporting infrequent use of the drug has dropped dramatically since the mid-1980s, it is not clear whether this drop is related in any way to the Asset Forfeiture Program, or if it is the result of increased drug education, cultural trends or a combination of factors.⁸ Absent a better measure of the impact of the Asset Forfeiture Program than the mere value of assets seized, it remains an open question whether, "[a]sset forfeiture has proven to be an effective tool in stripping criminals of the instrumentalities and proceeds of their illicit activities," as Attorney General Janet Reno asserts,⁹ or whether criminals have merely absorbed the costs imposed by the Program as an inevitable cost of doing business in the multi-billion dollar international drug trade.

6. *Id.* at 15.

7. NAT'L NARCOTICS INTELLIGENCE CONSUMERS COMM. (NNICC), U.S. DRUG ENFORCEMENT ADMIN., THE NNICC REPORT 1993: THE SUPPLY OF ILLICIT DRUGS TO THE UNITED STATES 1 (1994).

8. *See id.* at 1.

9. Att'y General Janet Reno, *Foreward* to EOAF REPORT, *supra* note 2.

State and Local Efforts

At the state and local level, a number of law enforcement jurisdictions have implemented enforcement programs which have included the use of forfeiture and other forms of administrative property seizure against a variety of criminal activities. Studies evaluating these programs, some of them quite sophisticated, nevertheless fail in a variety of ways to conclusively assess the effectiveness of forfeiture in any of the capacities in which it has been employed. Some efforts studied have targeted the "supply side" of criminal activities.

- In Phoenix Arizona, the attorney general's office used forfeiture to seize the assets of "chop shops" which dismantle stolen cars and sell their parts. Even as judgements under the program topped five million dollars, auto theft continued to increase far more quickly in Phoenix than nationally. The report was unable to conclude whether the theft rate would have increased even more had the program not been in place, or whether the effort was simply ineffectual.¹⁰
- In New York City, civil forfeiture was used to evict drug dealers from privately owned buildings by threatening or actually effecting the seizure of the properties. The program has been successful in removing problem drug dealers from chronically afflicted properties. The report does not address to what extent or whether drug activities resumed in the targeted properties after the evictions, nor the degree and duration of the disruption of the activities of the individual dealers evicted.¹¹

10. PETER FINN & MARIA O'BRIEN HYLTON, NAT'L INST. OF JUSTICE, U.S. DEP'T OF JUSTICE, USING CIVIL REMEDIES FOR CRIMINAL BEHAVIOR: RATIONALE, CASE STUDIES, AND CONSTITUTIONAL ISSUES 31-35 (1994) [hereinafter USING CIVIL REMEDIES].

11. *Id.* at 46-49.

Other efforts have attempted to control or hold accountable individuals who use drugs, or whose possession and use of legal but controlled items, such as weapons, poses a threat to society:

- In Maricopa County, Arizona, a "demand reduction" program was implemented which included the seizure of the vehicles of individuals caught purchasing any quantity of illegal drugs.¹² Although a follow up study was conducted, it did not assess any independent effects of asset forfeiture in achieving the program's objectives.¹³
- In Los Angeles, authorities seized weapons from the mentally ill absent the commission of a crime and without search warrants under the Welfare and Institutions Code. While the report notes reasons why this strategy should have been effective, it offers no hard evidence that it actually reduced violence among the mentally ill or that the confiscated weapons were not simply replaced.¹⁴

Some programs have used forfeiture in combatting both supply and demand of illegal drugs:

- As part of "Operation 'Caine Break,'" a multi-pronged attack on the activities of drug dealers and users in Birmingham, Alabama, 32 vehicles were seized from 80 individuals charged with soliciting narcotics from undercover officers. During and after the operation, violent and property crimes in the targeted areas of the city stayed relatively constant, in contrast to sharp rises in other areas of the city. However, since forfeiture was only one part of a larger strategy, it is impossible to determine the extent to which it independently influenced this outcome. The report also

12. JAN CHAIKEN, ET AL., NAT'L INST. OF JUSTICE, U.S. DEP'T OF JUSTICE, MULTIJURISDICTIONAL DRUG LAW ENFORCEMENT STRATEGIES: REDUCING SUPPLY AND DEMAND 7-9 (1990).

13. See JOHN R. HEPBURN, ET AL., NAT'L INST. OF JUSTICE, DEP'T OF JUSTICE, DO DRUGS, DO TIME: AN EVALUATION OF THE MARICOPA COUNTY DEMAND REDUCTION PROGRAM (1994).

14. USING CIVIL REMEDIES, *supra* note 10, at 26-30.

fails to address the concern that the reported results are consistent with the possibility that rather than reducing crime in Birmingham, 'Caine Break merely caused criminals to relocate their activities to non-targeted areas of the city.¹⁵

- In San Diego, asset forfeiture was used vigorously against dealers and purchasers as part of a comprehensive strategy to combat drug sales and use. While sophisticated multivariate techniques were used to test the effectiveness of certain elements of the strategy in obtaining convictions of suspects, no such techniques were employed to assess the effectiveness of forfeiture. A survey of offenders assessed their opinions on the importance of asset seizure in reducing drug use and sales. Offenders were ambivalent: 41% claimed that asset seizure was very important in achieving these goals, 41% said it was not important at all, and the remaining 18% felt that it was only somewhat important. While the report draws interesting conclusions about offender psychology from these results, it rightly does not attempt to draw any conclusions about the usefulness of forfeiture from them.¹⁶

While all of these studies provide interesting information on how forfeiture is being employed around the country to address a variety of law enforcement needs, none provides any conclusive evidence of forfeiture's effectiveness as a deterrent of crime.

Forfeiture and Policy Making: Need for Study

If any conclusive studies of forfeiture's effectiveness do indeed exist, certainly none have reached the attention of those who would have the greatest stake in citing their outcomes: the policy makers, public officials and academics who regularly square off in the forfeiture debate. Several papers delivered to a 1994 New York Law School Law

15. CRAIG D. UCHIDA ET AL., NATIONAL INSTITUTE OF JUSTICE, U.S. DEP'T OF JUSTICE, MODERN POLICING AND THE CONTROL OF ILLEGAL DRUGS: TESTING NEW STRATEGIES IN TWO AMERICAN CITIES 33-51 (1992).

16. SUSAN PENNELL AND CHRISTINE CURTIS, NAT'L INST. OF JUSTICE, U.S. DEP'T OF JUSTICE, DRUG CONTROL STRATEGIES IN SAN DIEGO: IMPACT ON THE OFFENDER 152 (1994).

Review symposium¹⁷ debating forfeiture assert that forfeiture is an effective crime deterrent. Yet none cites statistics which adequately substantiate this claim. At a 1993 congressional hearing in which civil forfeiture came under intense criticism sparked by well-publicized tales of abuse, a U.S. representative,¹⁸ a state representative,¹⁹ a high ranking Department of Justice official,²⁰ and a county sheriff²¹ all characterized forfeiture as a "powerful weapon" against crime. Yet none cited studies to substantiate this characterization, nor do any documents entered into the record of the hearing contain references to any such studies. A 1992 report by the Bureau of Justice Statistics on drug crime characterizes forfeiture in an almost identical manner, again without citation of evidence.²²

In academic and legal journals, in government reports, and ultimately before the political bodies where policy is shaped, forfeiture continues to be portrayed as a potent weapon against crime without the benefit of any systematic knowledge of its effectiveness. This does not seem to be the result of disingenuousness, but rather of a

17. Symposium, *What Price Civil Forfeiture? Constitutional Implications and Reform Initiatives*, 39 N.Y.L. SCH. L. REV. 1 (1994).

18. *Review of Federal Asset Forfeiture Program: Hearing Before the Subcomm. on Legislation and Nat'l Security of the Comm. on Gov't Operations*, 103d Cong., 1st Sess. 11 (1993) (statement of Rep. McCandless).

19. *Id.* at 56 (statement of Florida State Rep. Elvin Martinez).

20. *Id.* at 71 (statement of Cary H. Copeland, Director and Chief Counsel, Executive Office for Asset Forfeiture).

21. *Id.* at 307 (statement submitted for record of Robert L. Vogel, Sheriff, Volusia County, Fla.).

22. BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, DRUGS, CRIME, AND THE JUSTICE SYSTEM 186 (1992) [hereinafter 1992 DRUG CRIME REPORT] (calling forfeiture a "powerful sanction against illegal drugs").

pervasive conflation of the power of forfeiture to seize assets, which neither proponents nor critics doubt, with the power of forfeiture to deter crime, which is untested. The two are not synonymous. The words of Cary H. Copeland, Director and Chief Counsel of the EOAF, suggest a martial analogy which illustrates why this distinction is crucial to the forfeiture debate. Copeland states: "Asset forfeiture can be to modern law enforcement what airpower is to modern warfare: it attacks and destroys the infrastructure of criminal enterprises."²³

No matter how tactically successful airpower may be in destroying targets, if it fails to materially effect the ability of the enemy to wage war, then strategically it is little more than a waste of ordinance. The value of assets seized has little relevance to the effectiveness of forfeiture in achieving its stated goals if the deprivation of those assets neither deters criminals nor incapacitates them from engaging in further crime. Forfeiture is also of little practical use if its benefits are outweighed by the "collateral damage" — the unfortunate but inevitable civilian casualties, in current military euphemism — it inflicts. The need for proof that the benefits of forfeiture are tangible and significant increases with every *cause celebre* whose tale of alleged injustice is trumpeted in the newspaper headlines and paraded before congressional committees. Without knowing whether forfeiture achieves its ends, it is impossible to state whether the costs of its occasional abuse are justified. Rational public policy making requires well-defined, quantifiable assessments of what forfeiture has and has not achieved. Such assessments are sadly lacking from current policy debate.

23. *Department of Justice Asset Forfeiture Program: Hearing Before the Subcomm. on Legislation and Nat'l Security of the Comm. on Gov't Operations, 102d Cong., 2d Sess. 85 (1992)*

*PORTLAND'S FORFEITURE PROGRAM***User Accountability**

The most well known, debated and publicized aspect of forfeiture in the U.S. in the last decade has been the cooperative efforts of federal, state and local law enforcement authorities to wage the war on drugs against the various parts of the organizations which supply narcotics, from the giant international cartels to the dealers on the street. However, asset forfeiture programs aimed at "[ensuring] user accountability"²⁴ have been employed in various jurisdictions at least since 1986.²⁵ Typically, these efforts have targeted the demand-side of the drug equation, seizing the property — typically vehicles — of users who attempt to purchase drugs. Portland has taken this approach to new areas by using forfeiture to target other crimes in the commission of which a motor vehicle is instrumental. Under Portland's Forfeiture Ordinance, in effect since December of 1989, vehicles may be seized and forfeited from offenders arrested for driving while their licenses are suspended or revoked (DWS) if the suspension resulted from driving under the influence of intoxicants (DUI), and from offenders who are arrested as habitual traffic offenders (HO) — people who have committed three or more serious traffic offenses, at least one of which must be a DUI to meet the criteria for forfeiture.²⁶

24. 1992 DRUG CRIME REPORT, *supra* note 22.

25. Todd S. Purdum, *New York Police Now Seizing Cars in Arrests for Possession of Crack*, N.Y. TIMES, Aug. 5, 1986, at A1-1. (describing cooperative effort between U.S. DEA and New York Police Department to seize vehicles of persons attempting to purchase small amounts of "crack" cocaine); Kirk Johnson, *Seized*, N.Y. TIMES, Oct 14, 1986, at B1-1 (reporting results of first month of New York seizure effort).

26. The Ordinance also authorizes the seizure of vehicles which are used in connection with the solicitation of prostitutes. The effectiveness of this aspect of the forfeiture program is not a subject of this study.

Questions and Concerns

Portland's program raises a number of questions and issues. Drinking and driving is a devastatingly serious problem, a problem which is made more troublesome by the fact that many perpetrators are hard-core recidivists whose behavior seems to be all but impervious to modification by means of conventional sanctions. The Forfeiture Ordinance targets these individuals specifically, since one must be a repeat offender to be subject to its provisions. Does seizing these people's vehicles succeed where other measures often fail, or, as some suspect, do they simply replace the seized vehicles with unregistered "junkers" and continue to drive?

In addition to the impact of the Ordinance on offenders, its impact on taxpayers and law-abiding citizens must be considered. Contrary to popular (and often cynical) beliefs about the financial benefits of asset forfeiture to law enforcement, the Portland forfeiture program costs more to administer than it takes in from sales of seized property. Most vehicles seized are never auctioned, but are instead released to third parties, such as spouses and lenders. Of those that are forfeited and auctioned, most tend to be older vehicles of relatively little value. Another concern with the widened use of forfeiture by law enforcement is its perceived potential for abuse. Although the Portland Ordinance contains important safeguards and is administered by men and women of the highest integrity, the entrustment of such a powerful tool to the hands of law enforcement should be accompanied by clear benefits to public safety. Only if the program is effective in protecting lives on the highways by depriving drunks of their weapon of choice will the real cost in tax dollars and potential cost in liberty seem worth paying.

The 1992 Survey of Offenders

In the Spring of 1992, the PPW conducted its planned survey to examine the effectiveness of the Portland program in deterring alcohol-related driving activity. The

study was designed as a phone survey of a target group consisting of households of offenders, as well as of a control sample of households selected at random from the Portland metropolitan area. It was decided to request to speak with the individual in each household with the birthday nearest to the survey date rather than ask to speak to the offenders directly. It was felt that asking for offenders by name and posing questions relating to their criminal histories might result in a large number of refusals, hang-ups or untruthful responses. The survey was conducted in cooperation with the Portland Police Bureau (PPB) using the facilities of the PPW and funded through a grant from the Rose E. Tucker Charitable Trust.

Analysis of the data from the survey unfortunately revealed problems with the target group data. Of the 194 households surveyed in the target group, only 78 reported that any member had been stopped for DUII. Of those, only 12 reported having had a vehicle seized or forfeited. This was especially puzzling given the care with which the survey instrument had been adapted from instruments which had already been tested and found to be relatively reliable. It must be concluded either that the perpetrators were no longer or never had been at the phone numbers provided from the PPB computer files, or that the respondents did not answer accurately or truthfully on a wide scale. While there are no doubt important methodological lessons to be learned from the 1992 survey results, they cannot be used to answer the question of whether Portland's forfeiture program has been an effective crime deterrent.

The Current Study

The current research effort seeks to answer this question using offender data acquired internally from PPB, rather than from a survey. For the purposes of this investigation, the broad notion of deterrence is addressed operationally along the lines of the familiar dichotomy between general deterrence and specific deterrence. General

deterrence is the reduction in criminal activity caused by the threat of a sanction in those potentially subject to its imposition. Specific deterrence is the reduction in criminal activity caused by the imposition of a sanction in those to whom it has actually been applied. Despite exploration of a variety of techniques to circumvent the inherent shortcomings of arrest data, the lack of crucial information regarding individual knowledge and perceptions of forfeiture as a sanction prevented a methodologically sound assessment of the general deterrent effect of the forfeiture program. This study therefore focuses on the impact of forfeiture as a specific deterrent in reducing rearrest rates among those whose vehicles have been subjected to it. The body of the report is organized in three sections. *Data* describes the sources from which the data for the study were collected and the organization of the data file used in the analysis. *Methods* gives an account of the rationale behind the choice of the statistical model employed, as well as a discussion of the basic concepts involved in regression and event-history analysis. It is written for the interested layman with little knowledge of statistics and may be glossed over by those either familiar with the subject matter or wholly uninterested by it. *Results* reports and discusses the interpretation of the outcome of multivariate analysis which tests the effect of the forfeiture sanction on rearrest rates among a sample of offenders. The study as a whole should be of interest to policy makers and law enforcement officials in Portland, as well as to those from other jurisdictions who wish to implement similar programs or evaluate the effectiveness their own forfeiture efforts.

DATA**SOURCES**

The data for this study were acquired from PPB's Portland Police Data System (PPDS), from the PPB Asset Forfeiture Unit's vehicle seizure records, and from the monthly reports of the PPB Traffic Division. The PPDS data consists of all citations issued from January 1, 1989, to December 31, 1994, for DUII, felony DWS, and HO (N = 22,525). Data prior to 1989 were unavailable due to regular purging of old citation records by the Data Processing Division. Multiple citations may be issued for a single custody, and of course many perpetrators have multiple citations. Each record of a citation contains variables for unique PPB perpetrator and custody identification numbers, allowing grouping and relational linking of records by perpetrator or custody. There are 21,220 unique custodies and 16,801 unique perpetrators represented in the PPDS data set.

The vehicle seizure data consist of records for all seizures of vehicles for felony DWS or HO subsequent to the institution of the forfeiture ordinance in mid-December, 1989 (N = 746). Traffic Division data consist of a record of hours patrolled by Traffic Division officers by shift (morning or evening) and the total number of DUII citations they issued for each month from January, 1986, to December, 1993. There are gaps of missing values in these data due to transitions in record-keeping staff. The data sets for all analyses were created via manipulation of these three sources.

ORGANIZATION**Unobserved Sources of Heterogeneity**

Any individual charged with HO, or with felony DWS during a license suspension for DUII, is potentially subject to vehicle seizure and subsequent forfeiture. In answering

the question of whether having a vehicle seized specifically deters, we wish to examine whether rearrest rates differ between individuals arrested for HO or felony DWS based on whether or not their vehicles were seized at the time of initial arrest. Ideally, there should not be any unobserved sources of heterogeneity — unmeasured differences between groups — which make people in one group more or less likely to be arrested than those in another. For example, if seizure were only applied to offenders with particularly egregious driving histories, and data about those driving histories were unavailable for inclusion as controls in analysis, we would be unable to sort out the effects of forfeiture on recidivism from the effects of having such a driving history. Fortunately, this is not the case. However, there is one difference which we must consider between the group of individuals whose vehicles were seized and the group whose vehicles were not.

We know that all individuals whose vehicles were seized for felony DWS were operating under a suspension for an alcohol related offense, since such a suspension is a criterion for seizure. However, due to the way that offenses are coded in the PPDS data and the purge by PPB Data Processing of all data prior to 1989, it is impossible to know whether the license of an individual charged with felony DWS whose vehicle was not seized was suspended for an alcohol related offense or for some other reason. However, the non-alcohol related license suspensions during which a felony (as opposed to misdemeanor) DWS citation may be issued are generally related to severe and relatively rare offenses, such as suspensions for negligent vehicular homicide or hit-and-run.²⁷ Consequently, only a very small proportion of felony DWS citations are given to individuals whose licenses were suspended for non-alcohol related reasons. This fact, the fact that we may introduce controls for recent alcohol related driving convictions from

27. OR. REV. STAT. § 811.182(3) (1993-94).

the available data, and the large sample size all make it unlikely that the inevitable inclusion of non-alcohol related felony DWS custodies in the group whose vehicles were not seized introduces significant bias.

It should also be noted that even if any bias were introduced by the inclusion of such custodies, such a bias would be conservative with respect to the effect of vehicle seizure on rearrest, if one assumes, plausibly, that offenders charged with felony DWS for driving during non-alcohol related suspensions are less likely to be subsequently commit alcohol-related offenses. All individuals charged with felony DWS whose vehicles were seized are known to have been operating during an alcohol related suspension. Some individuals charged with felony DWS whose vehicles were not seized presumably were operating under non-alcohol related suspensions. If the non-seizure group as a whole were somewhat less likely to offend, then any reduction of the risk of rearrest attributable to having one's vehicle seized would be *underestimated*, since the group of individuals whose vehicles had been seized would be in general more likely to offend. Since the null hypothesis we wish to reject is that seizure has no effect in reducing recidivism, if seizure exhibits such an effect in analysis, we can be certain that this effect is not due to an unobserved source of heterogeneity related to the inclusion of non-alcohol related felony DWS custodies, and that if the estimation of this effect is at all in error, then such an error is on the side of conservatism.

Structure of the Data Set

With this in mind, the data set was chosen to consist of all custodies between January 1, 1990, and December 31, 1994, for which a citation for felony DWS or HO was issued (N = 5,493). Only custodies for 1990 and later were used to allow the creation of a variable for number of prior offenses in the previous year. Since no data exist prior to 1989, including cases prior to 1990 in the analysis would have introduced bias, as the

prior arrest variable for such cases would not reflect a full year of data, as it would for all subsequent cases. For each case, a variable was created for the date on which the next subsequent felony DWS, HO or DUII arrest was observed for the individual involved in the custody. Many individuals were not rearrested within the observation period. A "dummy variable," that is, a dichotomous variable having the value of either one or zero, was created to indicate whether the rearrest variable contained the date of a subsequent arrest, or whether there was no rearrest observation in the study period. Cases for which there was no rearrest are considered to be *censored* by the end of the study period. Censoring of data is discussed in the methods section, below. Another dummy variable was flagged to indicate cases where there had been a vehicle seizure at the time of arrest (N = 610).²⁸ An additional dummy variable was flagged for cases for which the vehicle was subsequently auctioned (N = 226). In addition to these variables, each case contains a variable for age at time of offense and a dummy variable indicating the sex of the subject. The race of the offender was broken down in to six categories: White, Black, Hispanic, Asian, American Indian and Other.

Enforcement Level Covariate Vector

It is likely that the probability of being arrested at any given time depends in part on the level of police enforcement in effect at that time. Traffic enforcement is carried out both by the officers of the Traffic Division and by regular patrol officers on the street. There are, unfortunately, no available data on Bureau-wide traffic enforcement activity. Missing data can often be extrapolated from available data if a model with reasonable

28. Due to errors in data entry in the PPDS system, a number of custodies where a citation for DWS was issued were not included in the sample, and thus there are fewer cases in the data set corresponding to seizures than there were actual seizures. As there is no reason to believe that these cases are not missing at random, their omission presents no difficulties for the data analysis.

assumptions can be fitted which reliably predicts missing values as a function of other complete data. The Traffic Division in the past has issued monthly reports containing information on its patrol activities. Complete data does exist for the total number of DUII citations issued per month Bureau-wide through December, 1994, as well as for the number of DUII citations per month issued by the Traffic Division through August, 1993. If a model were found which could reliably predict Traffic Division hours patrolled as a function of Traffic Division DUII citations issued, then this model could be used to predict Bureau-wide patrol hours on traffic enforcement from Bureau-wide DUII citations issued, assuming that regular officers, when engaged in traffic enforcement, are approximately as efficient at issuing citations as Traffic Division officers.

Unfortunately, the best model capable of being constructed with the available data was only able to account for approximately 39% of the variance in Traffic Division hours patrolled as a function of Traffic Division citations issued. Introduction of controls to account for seasonal variation in offense rates did not significantly improve the model. In other words, approximately 60% of the variation in DUII citations issued by the Traffic Division is accounted for by factors other than hours patrolled and seasonal variance. As sufficient data is not available to reliably predict missing values for Traffic Division hours patrolled, there is no way to predict Bureau-wide traffic enforcement, even if the assumption of equal enforcement efficiency were justified.

While we cannot extrapolate the total Bureau-wide traffic enforcement, the number of patrol hours by the Traffic Division in the evening (when most citations are issued) does significantly predict over 37% of the variance in Bureau-wide DUII citations issued. Traffic Division evening patrol hours may therefore be a significant predictor of a portion of the variance in the likelihood that an individual will be arrested for DWS, DUII or HO at any given time. We may test this hypothesis by analyzing the subset of cases for which complete Traffic Division evening patrol data are available. The data on

Traffic Division enforcement were used to create for each case a vector of 44 variables containing values for hours patrolled in each of the up to 44 months subsequent to the date of arrest for which data exist. Although this is less than ideal, the subset of complete cases from January, 1990, through August, 1993, is sufficiently large to allow testing of whether Traffic Division hours patrolled had a significant effect on rearrest rates.

METHODS

REGRESSION

Basic Concepts

Fitting a model to data which estimates how the value of a dependent variable, such as time to rearrest, depends on values for a number of independent variables, such as age, sex, vehicle seizure, etc., is usually accomplished by means of multiple regression. While there are many types of regression, in general each employs a "regression equation" which expresses the dependent variable as a function containing terms for each of the independent variables. Constants for each of the independent terms in the regression model are estimated in such a way as to maximize the goodness of fit of the predicted values with the actual values observed for the dependent variable. The significance of the contribution of a variable, that is, the likelihood that the variation in the dependent variable explained by it is attributable to random chance (often measured by the statistic p), can be assessed by constructing a restricted model from which the variable is omitted, and comparing the improvement of fit of the full model (including the variable) over the restricted model, given certain other parameters.

Problems with Time-to-Event Data

The most common regression methods are often inappropriate for analysis of the effects of independent variables on a dependent variable containing time to an event. In most techniques, values for the dependent variable be a number or must be dichotomous categorical. Although these methods can be used with time-to-event data, for example, if the dependent variable is coded to reflect whether or not, or how often, an event has occurred in an arbitrarily specified follow-up period, such an approach is wasteful of information for a number of reasons. First, and most obviously in the present case, all custodies whose follow-up period extends beyond the end of the study period would have

to be eliminated from analysis, since we could not specify a value for the dependent variable for them. If the follow-up period were, for example, one year, no custodies after December 31, 1993 could be used as cases in the analysis, since the period for which data exist ends December 31, 1994, and these custodies would not have a full year of subsequent observations for the determination of the dependent variable. Second, even for cases where the initial offense occurred before December 31, 1993, information about reoffenses which may occur subsequent to the follow-up period would be lost to analysis. Lengthening the follow-up period only reduces the number of usable cases by lengthening the period prior to the end of the study in which cases could not be used, while ameliorating the loss of cases by shortening the follow-up period exacerbates the loss of potentially interesting reoffense data beyond the follow-up period.

A third problem with customary regression techniques when applied to time-to-event data is apparent when we consider that in the case of criminal recidivism, the amount of time from initial offense to reoffense is highly interesting. This information is available in our data set, but is wasted when only whether or how often an individual is rearrested within a given period is considered. It might be thought that this deficiency could be corrected in a linear regression model by using time to reoffense as the dependent variable. However, for individuals who are not rearrested by the end of the study period, the value of the dependent variable is unknown, or *censored* by the arbitrary imposition of the time cut-off at the end of the study period. Assigning the end date of the study period to the dependent variable would introduce bias by underestimating the actual time to reoffense in most cases, while assigning any other date would be completely arbitrary and result in an under or overestimation for an unknowably large part of the sample. The only other alternative would be to treat censored cases as missing, and thus exclude them from analysis, introducing yet a different bias and losing valuable cases. A further problem with common regression methods for time-to-event data is the fact that

certain independent variables, such as an individual's age, are not constant, but vary through time. Ordinary regression techniques offer no way to estimate the effects of time-dependent variables. A different approach is obviously needed.

*EVENT HISTORY ANALYSIS*²⁹

Basic Concepts

The various techniques of event history analysis are superior to other regression techniques for time-to-event data in that they allow censored observations adequately to be taken in to account, and they permit the use of time-dependent variables. A number of concepts are common to all methods of event history analysis. A case for which an event, such as reoffense, could occur at some time is said to be "at risk" at that time. The total number of cases at risk in any given time period is known as the "risk" set. The probability that an event will occur in a particular time period for a particular case in the risk set is termed the "hazard rate." Certain event history models incorporate regression techniques to allow the estimation the effects of covariates on hazard rates. Of these, the Cox proportional hazards log-linear regression model³⁰ is especially powerful and non-restrictive, given that certain assumptions are adequately fulfilled.

29. See PAUL D. ALLISON, *EVENT HISTORY ANALYSIS: REGRESSION FOR LONGITUDINAL EVENT DATA* (1984), for an accessible discussion of the various techniques of event history analysis and their relative merits.

30. D. R. Cox, *Regression Models and Life Tables*, 34 *JOURNAL OF THE ROYAL STATISTICAL SOCIETY, SERIES B* at 187 (1972).

Advantages of the Cox Proportional Hazards Model

Two of the advantages which Cox models have over many other methods of event history are worthy of note. First, as we have noted, certain covariates, such as the age of a research subject, may change in value during the time that the subject is at risk, and Cox models can use time-dependent variables in regression analysis. Second, many other continuous-time methods use "parametric" models. Such models require the researcher to specify prior to analysis the over-all form of the hazard rate as a function of time. Often, there is very little information available on which to base such a specification. As "non-parametric" models, Cox models require no specific assumptions about the form of the underlying hazard function, and are thus much more general and flexible than parametric models. It is primarily because the Cox model combines the use of time dependent variables with a non-parametric model that it has become the method of choice for event history analysis when it is appropriate.

The Proportionality Assumption

Cox models are not, however, always appropriate for all data. For a Cox model to be appropriate, it must be assumed that the effects of differing values for the independent variables are proportional over time. For example, if the covariate "sex" is included in the model, the Cox model is appropriate just in case the hazard function for males differs from that for females only by a constant factor at all times. A simple statistical method of checking proportionality with respect to a variable is available by means of testing the significance of the effect of the interaction of that variable with the log of the time on study minus the log of the mean time to event for the entire sample. If the effect of this interaction variable is not significant at a chosen level of significance (as it is not for the variables used in this analysis at $p \leq 0.05$), then the data may be assumed to be roughly proportional and the Cox model may be used.³¹

Stepwise Regression and Model Building

Building the best model for predicting observed values of a dependent variable involves testing candidate independent variables for inclusion and removal from the model such that the final model contains only those independent variables which contribute significantly to the overall goodness of fit of the model, and excludes those which do not. With any more than a few explanatory variables, manually building a model can be very time consuming. A stepwise regression is an automated procedure for performing this potentially tedious task. In our analysis, variables considered likely to contribute to the model based on theoretical considerations and exploratory results were included in the model on the first step, and those considered unlikely to make a significant contribution were excluded. In subsequent steps, variables in the model were tested for removal and variables not in the model were tested for inclusion. Variables were removed if their removal did not significantly degrade the predictive accuracy of the model, and were included if their inclusion significantly improved the model (p to include ≤ 0.1 , p to remove ≥ 0.15). Significance levels were calculated using the maximum partial likelihood ratio method. Stepwise regression proceeds iteratively until no variables meet the significance criteria for inclusion or removal. The variables still remaining at this point constitute the final model.

Constant explanatory variables tested for inclusion and removal were the sex and race of the subject, the number of prior felony DWS, HO or DUII offenses in the preceding year, whether the subject's vehicle had been seized at the time of custody, and

31. HANS-PETER BLOSSFELD ET AL., *EVENT HISTORY ANALYSIS: STATISTICAL THEORY AND APPLICATION IN THE SOCIAL SCIENCES* 147-149 (1989); *but see* ALLISON, *supra* note 29, at 38 (suggesting that because of the generality of the proportional hazards model, concern for the violation of the proportionality assumption may often be exaggerated.)

whether the vehicle was subsequently auctioned. The time-dependent variable of the age of the perpetrator was tested using the entire sample, as was the monthly number of evening hours patrolled by the Traffic Division in a model using only cases through August of 1993.

RESULTS

EFFECTS OF VARIABLES ON REARREST RATE

Table 1 shows the effects of explanatory variables on time to rearrest in terms of regression coefficients with associated significance levels from the Cox proportional hazards regression model. Only variables having a significant effect on time to rearrest are included in Table 1. Evening hours patrolled by the Traffic Division did not have a significant effect on rearrest in the subset of cases through August, 1993. The model therefore was estimated using all available cases from January 1, 1990, through December 31, 1994.

Table 1
Effects of Explanatory Variables on Time to Rearrest

Variable	Coeff.	Predicted # Rearr./Mo. % Increase (Decrease)	Predicted Time to Rearr. % Increase (Decrease)
Sex (Male)	0.4467*	56.32	(36.03)
Age	-0.0192*	(1.90)	1.94
Race: Black	0.6900*	99.38	(49.84)
Asian	-1.8141*	(83.70)	513.50
Other	0.3934**	48.19	(32.52)
No. Prior Offenses	0.2543*	28.96	(22.46)
Vehicle Seized	-0.6887*	(49.78)	99.12

* $p \leq 0.01$.

** $p \leq 0.05$.

Model Chi-Square=724.02, DF=7, $p \leq 0.01$.

Regression coefficients indicate the magnitude and the direction of the effect of each explanatory variable on the hazard rate. A positive coefficient indicates a greater

number of expected rearrests in a one month period of time based on an increase of one unit in the value of an explanatory variable, and a shorter expected time to rearrest based on the same increase. A negative coefficient indicates the opposite effect. By calculating the exponent of the coefficient, we arrive at the percent increase or decrease in the hazard rate predicted by a positive change of one for an explanatory variable. Thus being male, as opposed to female (the arbitrarily chosen reference category), corresponds to a 56.32% increase in the number of expected rearrests per month. 100% minus the inverse of this percentage gives the percent expected increase or decrease in time to rearrest — for males, a 36.03% decrease in expected time to reoffense as opposed to females.

No entry for "Race: White" is included in Table 1, as Whites are the reference category for the categorical variable "race" (though any other category could have been chosen). All estimates for the effect of race contrast the effect of being in a certain racial category as opposed to being White. We can thus see that expected time to rearrest is slightly less than half as long for Blacks than for Whites, and over five times longer for Asians than for Whites. Time to rearrest did not differ significantly for Hispanics or American Indians from that for Whites, and these categories are therefore not shown in Table 1. Considered together, other races than those considered specifically had a predicted time to rearrest about a third shorter than that for Whites. Each additional year of age increased the expected time to rearrest by about 2%. We can also see that each prior arrest predicts a 32.52% decrease in expected time to rearrest. Most interestingly, having a vehicle seized nearly doubled expected time to rearrest. Having a vehicle actually forfeited did not have a significant effect over and above that associated with simply having it seized. All of these results are highly statistically significant. Vehicle seizure is a strong and significant predictor of reduced rearrest for DWS, HO and DUII with several other important factors taken into account.

INTERPRETATION

Interpretation of statistical results is not a deductive process, but rather involves choosing among explanations which are consistent with an outcome based on their plausibility. Before concluding that seizure has resulted in reduced recidivism, we must consider consistent alternatives. A classic example of a sanction reducing rearrest rates within a certain geographical area without affecting recidivism is the case of prostitution. There is good reason to believe that when stronger anti-prostitution enforcement is applied in a certain area, arrests in that area may fall, but often only because prostitutes and "johns" relocate to a different area where they may conduct their business with less interference. A similar phenomenon is common with respect to drug activity and enforcement. As state-wide data on offenders were not available for analysis, it may be questioned whether individuals whose automobiles were seized merely continued to reoffend in jurisdictions other than Portland, just as prostitutes or drug-dealers may ply their trades in less well-patrolled sections of town when enforcement is strengthened in their customary area of operations. Could individuals whose vehicles have been seized simply have continued to reoffend at the same rate, but in another jurisdiction as subsequent to vehicle seizure?

There is a fundamental difference between driving on the one hand, and prostitution and drug-dealing on the other, which suggests that the answer to this question is negative. Stepped-up enforcement in one area only requires that a prostitute or drug-dealer travel to a different area to conduct his or her business. No relocation of domicile is required. But an individual whose license has been suspended cannot simply continue to drive in another jurisdiction without relocating his or her place of residence. To completely avoid the prospect of seizure while continuing to drive, an offender must physically relocate his or her residence to another jurisdiction. Such an individual might theoretically reduce his or her chances of apprehension by striving to the greatest degree

possible to drive in other jurisdictions when conducting business, minimizing time spent driving within Portland. Yet such a strategy would still involve the risk of regular driving within the city limits, and require a great deal of additional time in performing even the most routine errands. It is highly unlikely that such relocation, either or domicile or driving, is responsible for the dramatic increase in expected time to rearrest predicted by vehicle seizure. More plausible than relocation is the possibility that offenders are continuing to drive after seizure or forfeiture, but that they are driving more carefully to avoid detection. While it is highly likely that this occurs, it seems doubtful that it accounts for the magnitude of the effect on rearrest rates. Presumably, the offenders did not try to get caught the first time. It should also be noted that even if the only effect of the forfeiture program were to run offenders out of town, to cause them to drive as much a possible in other jurisdictions or just to drive much more carefully, this result in itself would be highly desirable from the standpoint of Portland motorists.

If seizure does result in reduced recidivism, how does it do so? Could seizure of vehicles be physically preventing people from driving? While actual forfeiture did not predict any reduction in rearrest over and above that predicted by seizure alone, this does not mean that physical prevention of driving through the loss of a vehicle is not an important factor in reducing rearrest rates. Vehicles which are not forfeited are released to lien holders, spouses and other innocent owners on the understanding that their use will be withheld from offenders. Yet any offender who is able and who wishes to may purchase a beat-up used car for very little money, neglect to register and insure it, and continue driving. If offenders are not driving subsequent to seizure, it is likely not because, strictly speaking, they are physically prevented from doing so, but rather that they choose not to take the necessary steps and resume driving, that is, *they are deterred*.

Why would seizure deter where other sanctions have failed? While offenders may view brief jail terms with indifference and simply fail to pay fines, the loss of use of a

vehicle through seizure or forfeiture is a tangible penalty. Many offenders have few financial resources. The investment which is lost in a vehicle which is forfeited may be considerable to them, even if the vehicle was of relatively little value. The cost of replacing a vehicle can serve as an unavoidable fine, even if a vehicle is only seized and released, if an offender also loses access to it. With vehicles which are released, the consequences incurred at the hands of third parties also may enhance the deterrent effect of seizure. New York prosecutor Sterling Johnson, speaking of suburbanites who travel to the city to buy crack and whose cars are seized, put it well: "When they come home without momma's car or without daddy's car, the criminal justice system is going to be the least of their worries..."³²

32. Purdum, *supra* note 25, at A24-1.

CONCLUSION

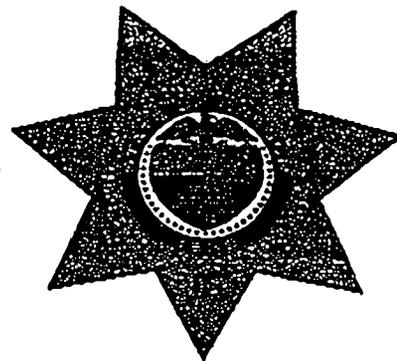
Proper consideration of the outcome of this study requires that the sharp distinction between the facts revealed and their theoretical explanation be reiterated. One may perhaps dispute the explanation, but inasmuch as our data are accurate and our methods sound, the facts are known to be true beyond dispute. It is a fact that, other things being equal, having a vehicle seized reliably predicts a doubled expected time to rearrest for individuals arrested for DWS in the city of Portland between Jan 1, 1990 and December 31, 1994. Explanation of the facts is based on inference and is open to interpretation. Reduced driving as a result of physical incapacitation or deterrence, or driving more carefully are plausible explanations and are consistent with the observed reduction in rearrest rates. Most probably, a combination of these factors is responsible for this result. What is important is that following any of these plausible strategies for avoiding rearrest also serves to make an offender less of a danger on Portland's roads. Any positive modification of the behavior of a group of offenders as recalcitrant as the subjects of this study is an accomplishment indeed. If Portland's forfeiture program achieves nothing else, it is still a verifiable success story.

It is believed that this study represents the only application of multivariate statistical analysis techniques to the assessment of the effectiveness of a forfeiture policy directed at any kind of criminal activity in the United States. While it may serve as a vindication for Portland's forfeiture program and an incentive to move forward, it still does little to fill the research void with respect to this issue of national importance. Portland's forfeiture program must be considered within the broader context of the proliferation of uses for forfeiture across the nation over the last decade. In examining the current state of knowledge about forfeiture, we considered a number of jurisdictions which have extended the use of forfeiture to new areas of law enforcement. Not only is Portland's forfeiture program at least as innovative as that of any jurisdiction which has

received national attention, it also has the unique attribute of having verifiably worked. As Portland shares its experience with other law enforcement jurisdictions around the state, the region and the country, it is hoped that those who wish to follow Portland's leadership in policy will also be encouraged to take the steps necessary to encourage more and better research of this type in the future.

Greg Brown
Sheriff

DESCHUTES COUNTY SHERIFF'S DEPARTMENT



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Redmond, OR 97756
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Fax 541-923-8814

LaPine
Sheriff Substation
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LaPine, OR 97739
541-536-1758
Fax 541-536-5766

Sisters
Sheriff Substation
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Adult Jail
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Bend, OR 97701
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Emergency Services
Search & Rescue
1100 NW Bond St
Bend, OR 97701
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May 6, 1997

The Honorable Senator Smith
Dirkson Building
Washington, DC 20510

Dear Senator Smith:

Since its inception, the Deschutes County county-wide forfeiture program has been successful in reducing drunk driving. Deschutes County is growing at the fastest rate of any county in the State of Oregon. Arrests have declined from a high of 1052 to 628 in 1995, while the population grew from 74,958 to 100,000 this year.

Financially the program has more than broke even, returning approximately \$150,000 to the area law enforcement agencies and the Sheriff's Department who administers the program. There has been no increased liability encountered with the program and court challenges, all successfully resolved in favor of the County, have been limited.

It is my understanding that Administration's proposed Alcohol-Impaired Driving Countermeasures grants would give states credit for implementing auto forfeiture programs. Having seen first hand the effectiveness of forfeiture, I strongly encourage you to support this aspect of the Administrations NEXTEA proposal.

Respectfully,


Greg Brown, Sheriff



Sheriff's Department

1100 N.W. Bond Street, Bend, Oregon 97701 • (541) 388-6655
Darrell D. Davidson Sheriff

October 4, 1996

TO: Michael Harrison

FROM: Lieutenant Greg Brown *GTB*

SUBJECT: Forfeiture Program

In 1992 a group of citizens met with Deschutes County law enforcement officials to address the continuing problem of drunk driving. Deschutes County was growing, and continues to grow at the fastest rate of any county in the state. The Sheriff's Department had a very pro-active traffic safety team that had reduced serious injury accidents from 350 per year to 175.

A group called the Criminal Justice Advisory Coalition which was a spinoff from a defunct MADD group was proving effective with court watch programs but felt more needed to be done with Driving Under the Influence of Intoxicants. The group proposed a vehicle seizure program and enlisted my help.

At the meeting with law enforcement officials and the advisory group it was first agreed that Deschutes County would take the lead in the proposed ordinance and that the Cities of Bend, Redmond, and Sisters would then follow.

THE ORDINANCE

An ordinance was crafted that did the following:

1. The vehicle was declared a nuisance. This effectively removes several legal arguments effecting forfeiture programs. It is argued in court that the vehicle is the nuisance and is being abated.
2. The ordinance allowed for the seizure of vehicles from operators arrested for DUII who had one prior diversion or conviction for DUII within a prior ten year period.

PAGE TWO

3. The ordinance allowed for the seizure of vehicles from operators arrested for Criminal Driving While Suspended which includes Misdemeanor - Felony - or Habitual Offender.

4. The ordinance also allowed for vehicle forfeitures based upon serious traffic offenses such as Eluding, Vehicle Manslaughter and other such offenses.

There was a lot of debate about when to seize a DUII vehicle. Some committee members wanted to seize on the first arrest and others on the second or third. It was finally agreed that a vehicle could be seized after one prior conviction or diversion.

PROGRAM IMPLEMENTATION

Deschutes County was first to adopt the ordinance which went into effect in August 1992. Because it was a county ordinance it could not be enforced within incorporated cities. The Cities of Sisters and Redmond followed in December and the City of Bend in March of 1993.

VEHICLE RELEASE PROGRAM

A vehicle release program was established as a means of allowing certain offenders the opportunity to have their vehicle released. The driver and registered owner if different have to agree to sign a vehicle release agreement that establishes the reason for the seizure, a stipulated judgement is signed for a future arrest while operating the same vehicle, and a \$125.00 administrative fee is paid. The vehicle hold is then released and the operator pays their tow bill. Vehicles eligible for release are those operated by a driver who is DWS-M and/or DUII who has one arrest or diversion for DUII.

TOWING

Deschutes County put the forfeiture towing program out to bid and selected one vendor. A two tiered rate structure was established. For vehicles released through a VRA, standard two rates are charged and 10% of the total bill is credited back to the Sheriff's Department. A lower rate is charged for vehicles that the Sheriff's Department receives a judgement on. For example normal storage costs are \$15 per day but the Sheriff is charged \$1 per day. These charges are offset by the 10% credit which means a vehicle that is towed and stored for 45 to 60 days will have an average \$100 bill owed by the Sheriff.

PAGE THREE

COURT CHALLENGES AND CLAIMS

Of the 861 vehicles seized through forfeiture action since the programs inception less than 10% have been involved in claims and other legal action.

Only one vehicle has been released back to an owner with a claim. Several vehicles have been sold back to the owner after a claim was filed for an average of 50c on the dollar of the value of the vehicle.

Approximately 30 court hearings have been held challenging the forfeiture program. The majority of the hearings challenged the \$125 administrative fee which repeatedly has been ruled to be an approved fee that covers costs of the program and not punitive. Other challenges include the legality of the ordinance, the policy of which vehicles qualify for vehicle release, and whether a vehicle can be seized civilly when the criminal charges have been reduced or dismissed. Deschutes County has prevailed in every legal challenge and has not appeared in a hearing in over three months.

LIEN HOLDERS

Deschutes County immediately notifies lien holders when a vehicle is seized with a lien. At times depending upon the amount of the lien the County has paid the lien and retained the vehicle. If the lien exceeds or is close to the value of the vehicle it is usually released to the lien holder who is charged towing and storage.

FINANCIAL IMPLICATIONS

An administrative Lieutenant and Secretary coordinate the forfeiture program for Deschutes County and all the cities. Deschutes County receives 50% of any clear proceeds. Legal costs have been kept to a minimum as each jurisdiction uses its own counsel which is usually in-house. Deschutes County does have a recognized expert forfeiture counsel on retainer who also does all the narcotic forfeitures. This counsel is available to assist the in-house counsels with forfeitures.

Vehicles obtained by court judgement are sold at a bi-yearly auction. A local auctioneer who lost her sister to a drunk driver donates her time to the auction.

PAGE FOUR

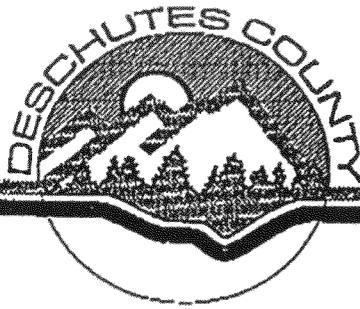
To date Deschutes County has received slightly over \$200,000 from administrative fees and the sale of vehicles obtained by court judgements. Costs have approximated \$60,000 for advertising and towing and storage costs and \$140,000 has been retained by Deschutes County and the Cities of Bend, Redmond and Sisters.

PROGRAM SUCCESS

Deschutes County is the fastest growing county in the State of Oregon. It is also a hub for tourist activity which is reflected in the fact that it has the highest use National Forest in the nation and daily traffic counts on Highway 97 in Bend match traffic counts on Interstate 5.

Eighteen thousand persons have moved to Deschutes County since the forfeiture program began. DUII arrests which peaked in 1990 with a very aggressive traffic safety program have declined dramatically since.

It should be noted that individual forfeiture statistics can be somewhat skewed. Forfeitures are left up to the discretion of each individual officer with a standard policy in place for all agencies. Additionally, an individual arrested for DUII and DWS will only be entered under one category so the total number of forfeitures per year is more valid than each individual category listing.



Sheriff's Department

1100 N.W. Bond Street, Bend, Oregon 97701 • (541) 388-6655
Darrell D. Davidson Sheriff

Deschutes County Sheriff's Department, The Oregon State Police
and
The Cities of Bend, Redmond, and Sisters

DESCHUTES COUNTYWIDE DUII ARRESTS

Year	Arrests	Population
1989	1000	68,000
1990	1052	74,958
1991	1036	79,800
1992	930	82,600
1993	831	86,800
1994	771	89,500
1995	628	94,100
Jan-June 1996	408	(Jan-June approximate) 100,000

FORFEITURE PROGRAM TOTALS

Year	BUII	DVSI	DVSI	TOTAL FORFEITURES	POPULATION
1992*	9	4	8	21	82,600
1993*	117	25	56	198	86,800
1994	116	43	89	248	89,500
1995	98	60	51	209	94,100
Jan-Jun 1996	101	13	51	165	(approximate) 100,000

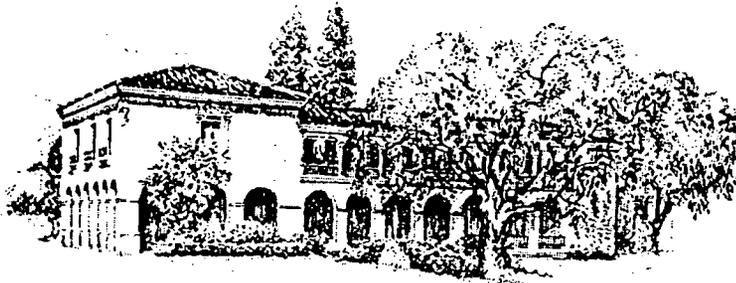
- *Deschutes County forfeiture program began in August 1992
- *Redmond Police and Sisters Police Departments - December 1992
- *Bend Police Department - March 1993

CITY OF SANTA BARBARA

AUG 08 1997
POLICE DEPARTMENT

CHIEF OF POLICE

Richard A. Breza



215 EAST FIGUEROA
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SANTA BARBARA, CA 93102

TELEPHONE: (805) 897-2300
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August 5, 1997

Mr. Michael Harrison
1113 Longworth H.O.B.
Washington, DC 20515

Dear Mr. Harrison

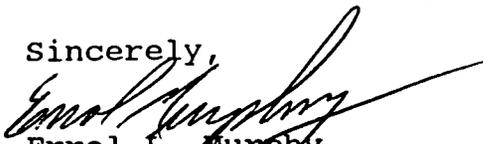
This is in response to your request for our opinion of the cost effectiveness of our vehicle forfeiture program for unlicensed drivers.

It should be noted that most law enforcement activities, programs and prevention measures are not cost effective from a monetary basis but need to be measured for their effect on public safety and law and order. The vehicle impound and forfeiture program enacted by California law in 1995 for unlicensed drivers is an exception. Not only does it help make streets safer for the general public and reduce accidents, it also provides sufficient income to at least cover all department expenses if not show a profit.

In Santa Barbara since the program started January 1, 1995, we have impounded 4,338 vehicles driven by unlicensed drivers of which 243 have met the criteria for forfeiture. Each vehicle is assessed a \$45 administrative fee upon release. The moneys received from the sale of forfeited vehicles, after payment of tow fees and liens due to legal owners, yielded enough to cover \$10,935 in release fees, \$12,150 in additional agency cost to process the forfeiture and sale and still have \$66,346 remaining which was split 50/50 between the state and our department.

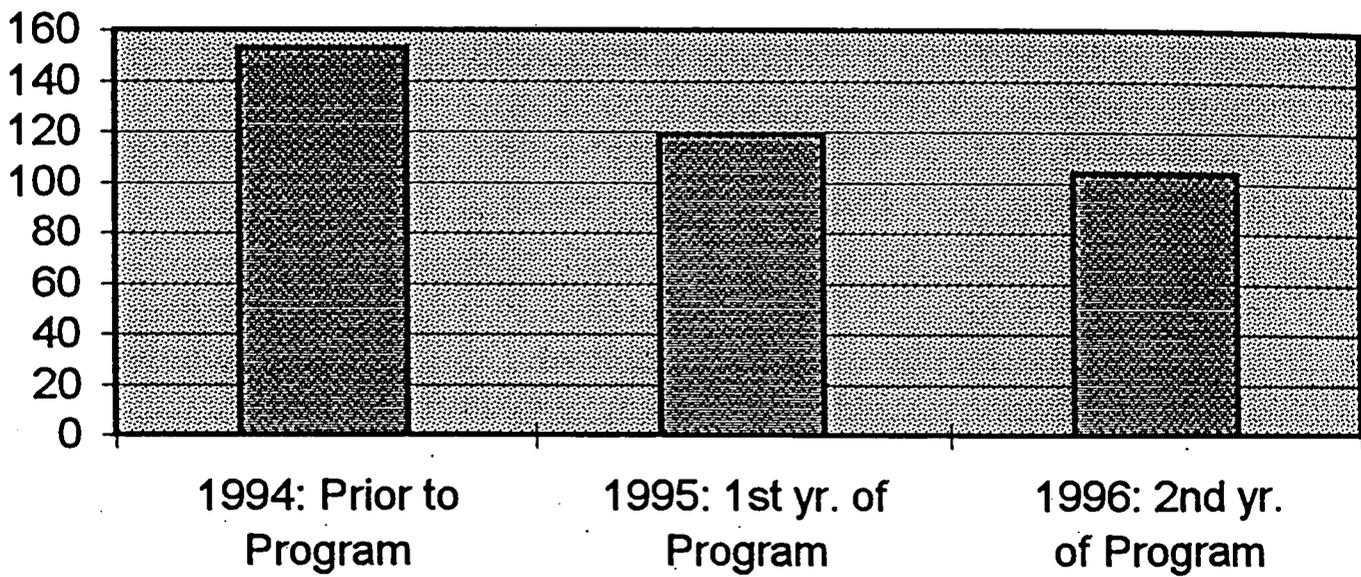
While we definitely consider the program cost effective in the monetary sense, we do not view it as a revenue producing activity. The money is a useful byproduct of what we consider to be an extremely beneficial tool to keep unlicensed drivers off the roads. Our accident and hit and run rates are down and we'll never know how many lives have been saved, injuries prevented and property damage avoided. We would keep this program in effect even if there were no cost recovery.

Sincerely,


Errol L. Murphy
Police Business Manager

Effectiveness of Auto Forfeiture Program for Repeat Drunk Drivers Santa Barbara, CA

DUI Related Auto Accidents Per Year



CONTACTS

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Deschutes County Sheriff's Department
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SANTA BARBARA, CALIFORNIA

Errol L. Murphy
Police Department
P.O. Box 539
Santa Barbara, California 93102
(805) 897-2300

Jim Whitehead

Jim Whitehead, Portland native, was recruited by Mothers Against Drunk Driving when an intoxicated driver killed his 26 year old son in 1991. Mark Whitehead, a reserve deputy for the Multnomah County Sheriff's office, was killed while on duty. He and his partner, reserve Sgt. Scott Collins, were traveling along Interstate 84 when Ervin Vandervoort rounded a curve and his car sailed over the median and sheared off the top of the patrol car. Vandervoort's toxicology report revealed a blood alcohol level of .20. Mr. Vandervoort had been previously convicted of Driving Under the Influence of Intoxicants several times, his most recent arrest had been weeks before the crash.

Mr. Whitehead and his wife, Beverly Whitehead, have been active in MADD and Concerns of Police Survivors. He has conducted several workshops for law enforcement agencies on line-of-duty death notification and speaks on behalf of MADD to high school students on the perils of drinking and driving. Mr. Whitehead has been a counselor for Reynolds School District since 1997. He is also currently the president of the Multnomah/Hood River Chapter of MADD>

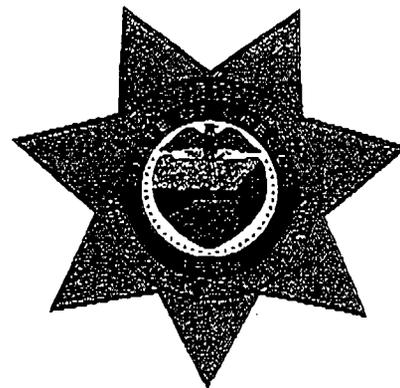
Tiana Tozer

Tiana Tozer was just 20 years old, a sophomore at the University of Oregon, when she was run over by an intoxicated driver. She spent 35 days in intensive care and to date has undergone 34 surgeries. After four years of struggling to walk, Ms. Tozer learned that a wheelchair would be a permanent part of her life. After her crash, Ms. Tozer shared her experiences with high school students throughout Oregon. The man who caused the crash, Juan Mejia, had a blood alcohol level of .09. He was subsequently convicted of driving under the influence of intoxicants, his third DUII conviction. His driving privileges had been suspended at the time of the crash.

Ms. Tozer went on to graduate school where she played wheelchair basketball. In her sport, Ms. Tozer holds four national titles, a silver medal from the Barcelona Paralympics and a bronze medal from the Atlanta Paralympics. In 1993 she graduated from the University of Illinois with an MA in International Relations. In 1998, Tiana returned to Oregon, where she is a public affairs consultant in the firm of Robertson, Grosswiler & Co.

Greg Brown
Sheriff

DESCHUTES COUNTY SHERIFF'S OFFICE



August 11, 1999

Terrebonne Station
8222 N Hwy 97
Terrebonne, OR 97760
541-548-2022

TO: Commissioner Lisa Naito

Redmond Station
737 SW Cascade
Redmond, OR 97756
541-923-8270
Fax 541-923-8814

FROM: Sheriff Greg Brown *Greg Brown*

SUBJECT: Vehicle Forfeiture Ordinance

La Pine Station
51590 Huntington Rd.
La Pine, OR 97739
541-536-1758
Fax 541-536-5766

I apologize for not being able to attend your hearing on the proposed Vehicle Forfeiture Ordinance. I strongly endorse this program and can't attend as I had a prior commitment.

Sisters Station
541-549-2302
Fax 541-549-1762

You will probably hear rhetoric about Vehicle Forfeiture during the hearing from people that believe it targets certain population or economic groups. Please remember that nothing can be further from the truth.

Riverwoods Station
19745 Baker Road
Bend, OR 97701
541-318-8361

The other night one of my deputies escaped serious injury when his patrol vehicle was totaled after being struck head-on by a drinking driver. At impact, my deputy knew nothing about the social economic class of the other driver, only that he had become a victim.

Bend Station
541-388-6655
Fax 541-389-6835

Vehicle Forfeiture is about **saving lives**. Commissioners, law enforcement officials, and many social service groups have tried to affect the problem of drinking drivers – all with somewhat limited success.

Administration
541-388-6659
Fax 541-389-4454

Adult Jail
541-388-6661
Fax 541-383-5054

Regional Jail Facility
541-617-3312
Fax 541-389-6368

Special Services/SAR
541-388-6502
Emergency Services
541-617-3313
Fax 541-388-0793

Vehicle forfeiture is not the complete answer but it is a very important tool. Back in 1992 when we started the vehicle forfeiture program, I was amazed by the change in drivers attitudes who understood there was no second chance for their vehicle. Drinking and driving behavior was immediately affected.

Page Two
Commissioner Naito

In 1992 Deschutes County enacted our Vehicle Forfeiture Ordinance followed by the City of Sisters, City of Redmond, and the City of Bend.

I made presentations at each of the hearings. Four governing boards and over twenty individual personalities on those boards presented some challenges as we were breaking new ground.

Each council or commission ultimately passed identical ordinances and we remain one of the few countywide forfeiture ordinances in the country.

To this day what impacted me the most during the hearings was the number of innocent victims who attended the hearings. These people came from all walks of life, from varied ethnic groups and with different economic levels. They came because they heard about the proposed ordinance and wanted to tell their story.

Even with the number of alcohol related incidents that I had been involved in over the years as a deputy sheriff, I had no idea that so many people had been impacted.

As you consider the proposed forfeiture ordinance please help remember and honor the many victims in our society and vote to give your law enforcement an important tool.

Following is a rebuttal to Mr. Windell's paper entitled "Driving Under the Influence of Intoxicants (DUII): Sanctions and Treatment – A Brief Review of the Literature

- In recent years, vehicle forfeiture has been proposed as an allegedly effective means of curbing DUII among chronic offenders.
In 1994, California initiated a law which authorized the impoundment of all first time DUII vehicles. Studies show there was a substantial reduction (over 30%) of alcohol related accidents by those whose vehicles were impounded compared to the DUII drivers whose vehicles were not impounded. (California Dept. of Motor Vehicles)

Minnesota law (confiscate vehicles and license plates)- recidivism rate 50% compared to those not impounded/seized. (MADD)

New York City reports alcohol related traffic fatalities down 40% since Police Dept. has begun their focus on seizing the instrumentality of the crime of DUII – The Vehicle. (NYPD)

Anchorage Alaska Forfeiture Program reports that deaths from DUII's dropped over 20% each of the past four years. (MADD)

- To the best of anyone's knowledge, there is but one study that focuses on the effectiveness of vehicle forfeiture as a penalty for DUII. According to an official of the National Highway Traffic Safety Administration, the primary reason for the deficiency is that, although several jurisdictions have laws permitting forfeiture, there have been too few cases to support a valid analysis of the effectiveness of the sanction.
"It is believed that this study represents the only application of multivariate statistical analysis techniques to the assessment of the effectiveness of a forfeiture policy directed at any kind of criminal activity in the United States...Not only is Portland's forfeiture program at least as innovative as that of any jurisdiction which has received national attention, it also has the unique attribute of having verifiably worked." (Crosby, 1995, pg. 31-32)
- The single study that purports to support the effectiveness of forfeiture, in fact does not. Thus Most interestingly, having a vehicle seized nearly doubled expected time to rearrest. Having a vehicle actually forfeited did not have a significant effect over and above that associated with simply having it seized. (Crosby, 1995, pg.27)

"While actual forfeiture did not predict any reduction in rearrest over and above that predicted by seizure alone, this does not mean that physical prevention of driving through the loss of a vehicle is not an important factor in reducing rearrest rates. Vehicles which are not forfeited are released to lien holders, spouses and other innocent owners on the understanding that their use will be withheld from offenders...If offenders are not driving subsequent to seizure, it is likely not because, strictly speaking, they are physically prevented from doing so, but rather that they choose not to take the necessary steps and resume driving, that is, THEY ARE DETERRED...While offenders may view brief jail terms with indifference and simply fail to pay fines, the loss of use of a vehicle through seizure or forfeiture is a tangible penalty...The investment which is lost in a vehicle which is forfeited may be considerable to them, even if the vehicle was of little value." (Crosby, 1995, pg.29-30)

- There is considerable support for various forms of separating the multiple DUII offender from his or her vehicle, including impoundment, license plate seizure or immobilization (DeYoung, 1997). However, "there is virtually no difference in recidivism rates between those who receive jail time or public service only and those who do not." (NCADD, 1999)

The Ordinance does not speak to the ability of Courts to sentence offenders to jail or public service or to mandatory treatment. The Ordinance provides a tool to aid in removing the instrumentality of the crime.

- The most effective programs are those that combine legal sanctions with treatment (NCADD, 1999, RIA, 1995). This is exactly what Oregon has been doing for nearly 20 years. The Oregon program has received national accolades and appears to be quite effective.
In 1995 Portland police report 2169 arrests for DUII. Of these, 780 or 35.9% had prior arrests, and 674 or 31% related accidents were recorded, with 7 alcohol involved fatal accidents. In 1998, PPB reported 2604 arrests for DUII with 891 or 34.2% being re-offenders. The related accident rate was 813 or 31.2%, with 24 alcohol related fatal accidents reported. An increase of 29%.
- Nevertheless, there remains a small group of chronic DUII offenders that continues to trouble and frustrate citizens and law enforcement officials.
Public Safety officials recommend Autoforfeiture and mandatory secure treatment as expanded weapons in the fight against these dangerous criminals.
- Rather than devising additional penalties, it might be worth pursuing further who these chronic offenders are and what might work to reduce their recidivism and perhaps reduce their problems with alcohol abuse. McCarty & Argeriou found that participation in a fourteen residential treatment program reduced the rearrest by half (20% to 10%).
Public Safety officials would agree that mandatory secure treatment as well as Autoforfeiture would most likely decrease recidivism in these offenders. Multnomah County is constructing a 300-bed secure residential treatment center, which could accommodate any number of these offenders.
- Wilson (1991?) reported the results of a multi-variant cluster analysis of DWI and high-risk drivers in an effort to identify clinically relevant subtypes. Two of the subtypes, "characterized by thrill-seeking, hostility and irresponsibility, appear to conform to a 'problem-behavior' profile" (Wilson, 1991(?), pg. 1)
- In sum, rather than additional penalties (Oregon and Multnomah County already have provisions for vehicle seizure and impoundment), what is likely required is additional study of chronic DUII recipients and the development of clinically appropriate treatment modalities. In some cases, this may mean occupational development programs, in others it may mean mental health care, particularly treatment for clinical depression.

Mr. Windell views Autoforfeiture as an additional penalty in the sentencing of DUII offenders. Public Safety officials view the process as one of removal of the instrumentality of the crime from repeat offenders, while they are appropriately treated for their crimes. The ultimate goal is the protection of Multnomah County citizens and the reduction of an unacceptable level of death and injury caused by these dangerous repeat offenders.

Dan Oldham 7/9/99

FAX TRANSMISSION

UNITED STATES DISTRICT COURT
1010 Fifth Ave Rm 809
Seattle WA 98104
206-553-4424
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To: Sgt. Pat Kelly
Bob Azorr

Date: July 30, 1999

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Pages: 1, including this cover sheet.

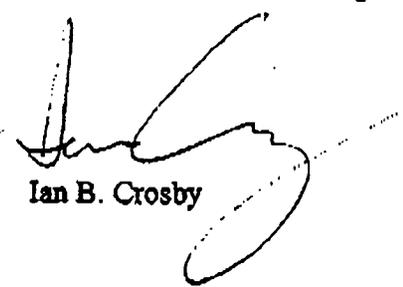
From: Ian Crosby, Law Clerk

Subject: Forfeiture Study

COMMENTS:

I am writing regarding Mr. Windell's drunk driving literature review and letter that you sent me. It appears to me that Mr. Windell misunderstands the findings of my 1995 study. In that study, I found that forfeiture predicted no statistically significant increase in recidivism over seizure alone *when cars that were seized from repeat offenders but not forfeited were returned to innocent third-party owners*. My study does not support the conclusion, which Mr. Windell apparently draws, that seizure alone is as effective as forfeiture when seized vehicles are instead returned to culpable owners. Indeed, my study could not support that conclusion, because my data set of arrests under the 1987 law contained no identifiable cases of returns to perpetrators.

Thank you for the opportunity to clarify my research. I look forward to hearing from you if I may be of further assistance.



Ian B. Crosby

FEB 1

DAVID DeYOUNG
Research Program Specialist

Department of Motor Vehicles
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AN EVALUATION OF THE SPECIFIC DETERRENT EFFECT OF VEHICLE IMPOUNDMENT ON SUSPENDED, REVOKED AND UNLICENSED DRIVERS IN CALIFORNIA

By
David J. DeYoung

November 1997

Research and Development Branch
Licensing Operations Division
California Department of Motor Vehicles
RSS-97-171

EXECUTIVE SUMMARY

Background

The automobile is the primary mode of transportation in the United States, and while it offers the benefits of convenience and quick mobility, crashes involving autos exact a high societal toll and present a major public health problem. In 1995, there were more than 6.6 million motor vehicle crashes in the United States, with about one-third resulting in injury (NHTSA, 1996).

One avenue that has been pursued to ameliorate the crash problem in the United States is to identify and better control high risk drivers, typically through sanctions applied by the courts or law enforcement. Sanctions traditionally prescribed for high-risk drivers include fines, license actions (restriction/suspension/revocation), jail, community service, and alcohol treatment (and more recently ignition interlock) for alcohol-involved problem drivers. Studies examining the effectiveness of these sanctions have consistently found that license actions (plus alcohol treatment for drivers convicted of driving-under-the-influence [DUI]) are some of the most effective countermeasures available for reducing the subsequent crash and traffic conviction rate of high-risk drivers (DeYoung, 1997; Peck, 1991; Peck & Healey, 1995; Wells-Parker, Bangert-Drowns, McMillen & Williams, 1995).

While license actions, particularly suspension/revocation, are effective, it has been recognized for some time that they have significant limitations. Perhaps their major weakness is that they don't fully incapacitate the driver—as many as 75% continue to drive during their period of license suspension/revocation (Hagen, McConnell & Williams, 1980; van Oldenbeek & Coppin, 1965). And, while research has shown that suspended/revoked (S/R) drivers drive less often and more carefully during their period of license disqualification (Hagen et al., 1980; Ross & Gonzales, 1988), it has also been shown that they still pose an elevated traffic risk; DeYoung, Peck and Helander (1997) found that S/R drivers in California have 3.7 times the fatal crash rate as the average driver.

So, while license suspension/revocation is one of the most effective countermeasures currently available to attenuate the traffic risk posed by problem drivers, it is clear that there is considerable room for improvement. One relatively recent approach to strengthen license actions, and also to incapacitate S/R and

unlicensed drivers, targets the vehicles driven by such drivers. Vehicle-based sanctions can take a number of forms, from marking or confiscating license plates of drivers convicted of driving-while-suspended (DWS)/driving-while-unlicensed (DWU), to actually seizing and impounding/immobilizing the vehicle.

Impoundment/forfeiture programs have been implemented in Manitoba, Canada (1989); Portland, Oregon (1989), and; Santa Rosa, California (1993). While anecdotal evidence suggests that Santa Rosa's program may be associated with traffic safety benefits, the lack of systematic and rigorous study of this program precludes any conclusions about its effectiveness. However, both Manitoba and Portland's vehicle impoundment programs have been formally evaluated. The study of Manitoba's program, while limited due to the lack of statistical or design controls, indicates that impoundment is associated with reductions in both DWS/DWU recidivism and traffic convictions overall (Beirness, Simpson & Mayhew, 1997). The quasi-experimental study of Portland's program did employ statistical controls and thus is more definitive (Crosby, 1995). This study showed that impoundment reduced the recidivism rate of drivers whose vehicles were seized to about half that of a similar group of drivers whose vehicles were not taken.

More recently, Ohio implemented an impoundment and immobilization program for DWS and multiple DUI offenders. Voas, Tippetts and Taylor evaluated the implementation of this law in two counties, one of which impounded vehicles (in press) and the other which towed vehicles to the homes of offenders and immobilized them by installing a "club" device on the steering wheel (1997). Both programs were found to be effective, both in preventing recidivism through incapacitation while the vehicle was impounded/immobilized, and in deterring people from reoffending once the vehicle was released.

Current Study

The California legislature passed two bills during the 1994 legislative session prescribing vehicle impoundment (Senate Bill (SB) 1758) and vehicle forfeiture (Assembly Bill (AB) 3148), effective January, 1995. SB 1758 authorizes peace officers to seize and impound for 30 days vehicles driven by S/R or unlicensed drivers, while AB 3148 goes a step further by providing for the forfeiture of vehicles driven by S/R and unlicensed drivers who are the registered owners of the vehicles and who have a prior conviction for DWS/DWU.

California's impoundment/forfeiture laws are the first to attempt such sanctions on a large scale; there are about one million drivers in the state who are suspended/revoked at any given time, and another estimated one million who are unlicensed. The few rigorous studies of vehicle-based sanctions that have been conducted to date examine these sanctions undertaken on a relatively limited scale. The current study evaluates California's large-scale attempt at vehicle impoundment, and is designed to provide useful information to policy makers so that informed decisions on traffic safety can be made. This study is part of a joint project funded by NHTSA, which is being undertaken by the California Department of Motor Vehicles (DMV) and the National Public Services Research Institute (NPSRI). The California DMV has primary responsibility for the current study, which evaluates how impounding vehicles affects the subsequent driving behavior of S/R and unlicensed drivers who experience this sanction, as well as a follow-up study, which will examine the effects of impoundment on all S/R and unlicensed drivers in California, regardless of whether their vehicles are impounded.

Research Methods

Because there is no centralized database containing information on vehicles that have been impounded, it was necessary to rely on police departments and courts to provide this information. Four jurisdictions (Riverside, San Diego, Stockton and Santa Barbara) that had record systems which would allow impoundment data to be linked to driver record data in the DMV database were selected for inclusion in the study.

This study compares the 1-year subsequent driving records of subjects whose vehicles were impounded with similar subjects (i.e., S/R and unlicensed drivers) who would have had their vehicles impounded, but who did not because their driving offense occurred in 1994, the year before the impoundment/forfeiture laws were implemented. Because it was not feasible to randomly assign subjects to impound or no-impound groups, statistical controls were used to attempt to control potential biases resulting from pre-existing differences between the groups. While statistical techniques, such as the analysis of covariance (ANCOVA) used in this study, help control bias, they do not ensure that all sources of bias have been

controlled. Thus, the results of the analyses do not prove that differences in subsequent traffic convictions/crashes between impound and control group subjects are due to the effects of vehicle impoundment, as much as they portray the associations between the two.

Results and Discussion

Subsequent DWS/DWU convictions

The results from the ANCOVA analysis showed that drivers who had their vehicles impounded had a significantly lower average rate of subsequent DWS/DWU convictions than drivers whose vehicles were not impounded. Furthermore, the effects of impoundment were more pronounced for repeat offenders. That is, while impoundment was associated with lower rates of subsequent DWS/DWU convictions for both first and repeat offenders in the impound group, relative to their counterparts in the control group, this difference was significantly greater for repeat offenders than it was for first offenders. The results are presented in Figure 1, below.

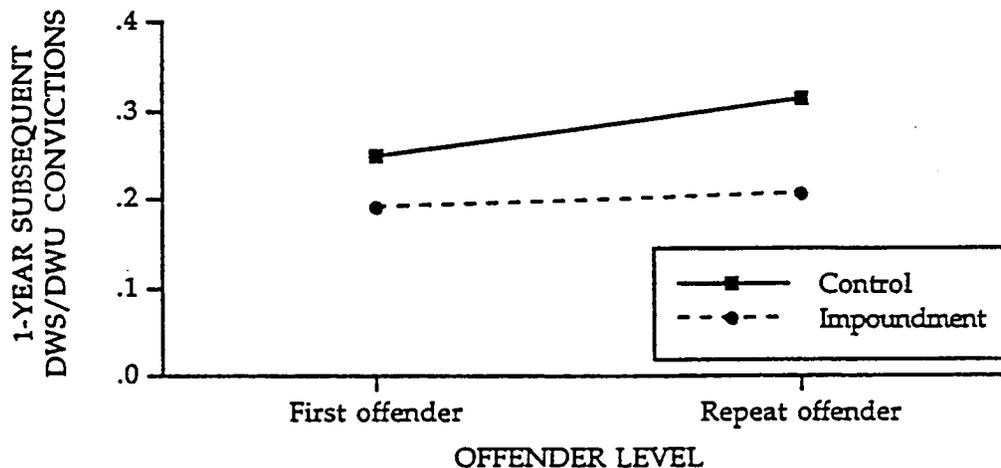


Figure 1. Adjusted subsequent DWS/DWU convictions for vehicle impoundment versus control groups, by number of prior DWS/DWU convictions.

Importantly, the effects of vehicle impoundment on subsequent DWS/DWU convictions are not only statistically significant, they are also large enough to be meaningful from a policy perspective. For first offenders in the impound group, the subsequent DWS/DWU conviction rate is 23.8% lower than the first offender control group rate, and for repeat offenders it is 34.2% lower. These findings are similar to those found for civil forfeiture in Portland Oregon (Crosby, 1995), and for vehicle immobilization (Voas et al., 1997) and impoundment (Voas et al., in press) in Ohio, and thus provide further evidence that such vehicle-based sanctions can lower recidivism rates of suspended/revoked and unlicensed drivers.

Subsequent total traffic convictions

The overall ANCOVA analysis demonstrated that drivers whose vehicles were impounded had a lower average rate of subsequent total traffic convictions than drivers who did not lose their vehicles, and that this difference was highly statistically significant. The analysis also showed that this lower rate of subsequent traffic convictions for impound versus control group drivers was greater for repeat offenders than for first offenders, although this finding approached but did not quite reach conventional levels of statistical significance. These results are portrayed in Figure 2 below.

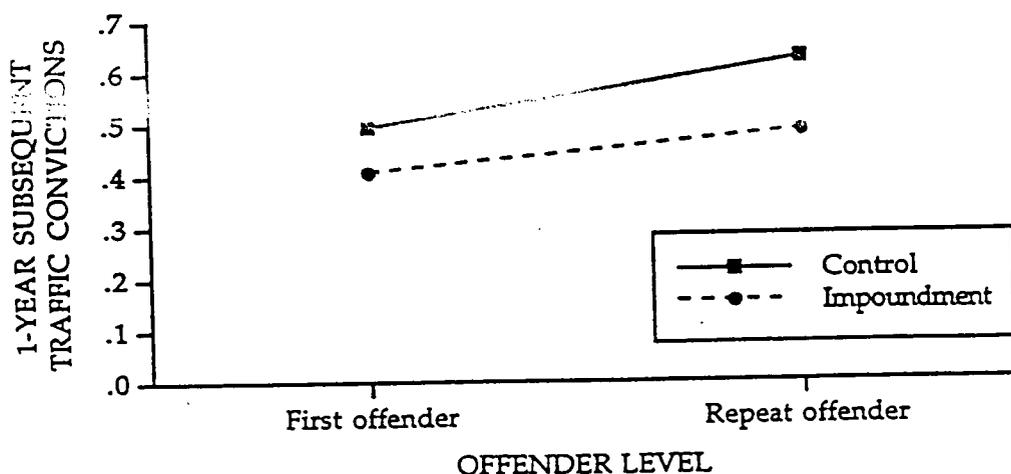


Figure 2. Adjusted subsequent traffic convictions for vehicle impoundment versus control groups, by number of prior DWS/DWU convictions.

The effects of vehicle impoundment on subsequent total traffic convictions are both statistically significant and large enough to be considered meaningful; the rate for first offenders in the impound group is 18.1% lower than for their counterparts in the control group, and it is 22.3% lower for repeat offenders in the impound group relative to repeat offenders in the control group. Thus, these findings show that vehicle impoundment not only keeps S/R and unlicensed drivers from driving when they shouldn't be (e.g., subsequent DWS/DWU convictions), it also appears to have salutary effects on their overall subsequent driving behavior.

Subsequent crashes

The results from the ANCOVA model evaluating the effects of vehicle impoundment on subsequent crashes revealed that drivers whose vehicles were impounded had significantly fewer crashes, on average, than drivers whose vehicles were not impounded. As with the previous analysis (which examined subsequent traffic convictions), the analysis of subsequent crashes showed that while the difference between impound and control subjects on this measure was greater for repeat offenders than it was for first offenders, this result approached but did not quite reach statistical significance. Given that this trend of stronger effects of impoundment for repeat offenders was observed with all three outcome measures, it is likely that impoundment may, in fact, actually be more effective in curbing crashes for repeat offenders. The results of the analysis are shown in Figure 3 below.

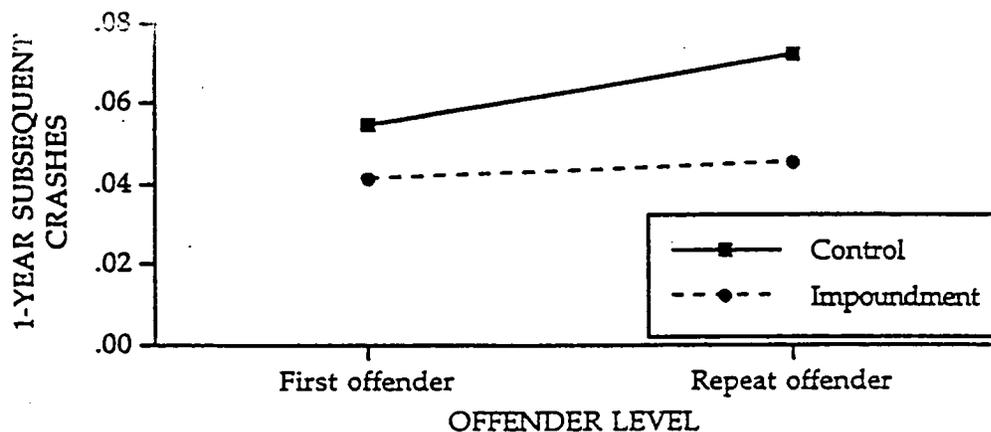


Figure 3. Adjusted subsequent crashes for vehicle impoundment versus control groups, by number of prior DWS/DWU convictions.

The findings from the analysis of subsequent crashes, like those from the other two outcome measures previously described, are of a sufficient magnitude to be both statistically significant and also to have important policy implications. First offenders who have their vehicles impounded have 24.7% fewer subsequent crashes than first offenders in the control group, while repeat offenders in the impound group have 37.6% fewer crashes than their counterparts in the control group. These findings, considered along with those evaluating the effects of vehicle impoundment on traffic convictions, strongly suggest that this countermeasure has a substantial effect in improving traffic safety.

Conclusion

The findings reported here provide strong support for impounding vehicles driven by suspended/revoked and unlicensed drivers. They add weight to a small but growing body of evidence that vehicle-based sanctions, whether they involve immobilizing vehicles for a period of time through such devices as a "club" on the vehicle's steering wheel, or whether they consist of simply seizing and impounding vehicles, are an effective means for controlling the risk posed by problem drivers. It is especially noteworthy that vehicle impoundment appears to be even more effective with repeat offenders, a group whose high-risk driving has traditionally been resistant to change.

Information obtained from a survey of law enforcement agencies in the state has shown that while vehicle impoundment has been widely implemented, forfeiture is simply not being used on any significant scale; thus, this study is really a study of vehicle impoundment, not vehicle forfeiture. While concern has been expressed about the failure of California law enforcement agencies and courts to utilize vehicle forfeiture, in the end this lack of utilization of forfeiture may not matter much. Impounding vehicles is having a substantial positive effect in California, and if Crosby's (1995) findings in Oregon hold in California as well, going the extra step of forfeiting vehicles may not produce much added benefit.



CITY OF
PORTLAND, OREGON

BUREAU OF POLICE

VERA KATZ, MAYOR
Charles A. Moose, Chief of Police
1111 S.W. 2nd Avenue
Portland, Oregon 97204

MEMORANDUM

July 14, 1999

**TO: The Honorable Mayor Vera Katz
Portland Police Bureau Commissioner
Chief Charles A. Moose**

**FROM: Captain James C. Ferraris
Drugs & Vice Division**

SUBJECT: Proposed Revision to City of Portland Forfeiture Ordinance

Last year, drunk drivers caused 813 accidents in the City of Portland. Hundreds of citizens were injured. Twenty-five people died. Since 1995, the rate of drunk driving-related fatalities in Portland has been increasing by 40% annually. On average, seven drivers a day are arrested in this city for driving under the influence of intoxicants. Hundreds more are not caught. Every one is a potential tragedy ready to occur. The number of people killed is rising each year; 7 in 1995, 12 in 1996, 19 in 1997.

The twenty-five (25) Portlanders killed last year were from every part of society. They were truly innocent victims. The burden on the citizens of Portland is widespread. Millions of dollars are spent on medical bills, police services, jails, courts, insurance payments, etc. The cost in human misery is incalculable.

Traditional sanctions—license suspension, incarceration, fines and mandatory treatment have had minimal effect on the severity of the drunk driving problem in the U.S. It is still the nation's most frequently committed violent crime.

In a recent poll conducted by the U.S. Dept. of Transportation (1997), over 50% of Americans ranked drunken driving as the #1 social issue which needs addressing. Last year the total number of drunk drivers arrested by Portland police equaled one-half of 1% of the City's population. Also, one-third of these drivers were repeat offenders. The fact that nationwide, over 17,000 people are killed annually, does not have a deterrent effect on the offenders.

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The City of Portland has proven that it is possible to deter drunk drivers. Other cities and states have also found that positive, common sense approaches to this problem can work. The basic idea being used in various cities, with great success is this: A drunk driver, when caught, has his or her vehicle impounded. When it is released, the driver is warned that a second offense could result in the actual forfeiture of the vehicle. This impoundment and the threat of, or actual forfeiture of the vehicle, for repeat offender reduces the recidivism rate by half in almost all of studies referenced. (See attached statistics.)

Since 1989, Portland has been at the forefront in forfeiture law, following the lead of the State of Oregon Legislature. Our current City ordinance allows for the forfeiture of a vehicle when soliciting prostitution or driver is arrested for driving with a suspended license for a past DUII (driving under the influence), or other specific criminal driving offenses.

The application of this ordinance as it applies to prostitution "johns" works very well. Over 95% of the "johns" arrested have their vehicles seized. First-time offenders are able to get their vehicles back the next working day. A second offense can result in the forfeiture of the vehicle.

The proposed revisions to this ordinance will allow for more clear and consistent application of the law as it relates to the DUII drivers, criminal suspended drivers, and drivers that attempt to elude the police. For example, in 1998, only 172 of the 891 repeat DUII offenders' vehicles were seized. Hundreds of drivers with criminally suspended licenses repeatedly are cited and continue to drive their cars. Finally, drivers that attempt to outrun the police in a chase and are caught—as detrimental to society as this act is—do not currently have to fear the loss of their vehicles.

The simplicity of the revisions would be as follows:

All second time DUII offenders, repeat criminally suspended drivers, and "johns" or prostitutes that are arrested at least 2 times and use their vehicles to facilitate the crime will face possible forfeiture of their vehicles. People who engage in police pursuits could face forfeiture for a first offense. This more serious response is needed because one-third of these chases ends in death, injury, or property damage.

All of the following safeguards will continue to accompany the forfeiture process:

- 1. A forfeiture notice is given to the offender upon impoundment of the vehicle. This notice explains the full process and is signed by the issuing officer.**
- 2. A review of the investigation by a supervising officer.**
- 3. The review of all aspects of the case by the Forfeiture Unit Sergeant. If satisfactory, it is forwarded to the City or District Attorney's office.**
- 4. A review and filing of the case by the City or District Attorney.**

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5. The opportunity to have the case heard in civil court, and in the appellate court.
6. The Internal Affairs complaint process.
7. The State of Oregon's Asset Oversight Review Committee's complaint process.
8. The opportunity to return to present their case to the Forfeiture Unit Supervisor if they are acquitted in their criminal case. All cases are considered on an individual basis.
9. The open-door policy of the Forfeiture Unit to discuss a case with a complainant at any time.
10. The adherence to State Forfeiture Policy guidelines involved (under ORS485A).

The Portland Police Bureau is very responsible in our decision-making, and we consider it extremely important to be fair when the seizure and possible forfeiture of an individual's property is at stake. We are confident that the process in Portland works. The Internal Affairs Division has received fewer than a handful of complaints, relating to the thousands of forfeiture cases the Portland Police Bureau processes. These complaints are usually resolved immediately.

It is expected that the number of cars impounded each year will triple with the revisions proposed in this ordinance. This will cause an increased workload in the Forfeiture Unit, the City Attorney's Office, and will create a need for a larger vehicle storage arrangement. These administrative troubles will be absorbed. The most important changes that will undoubtedly occur will be the fact that lives will be saved, scores of injuries will be avoided, and the tiny percentage of the population that continues to drive intoxicated will have ample reason and warning to stop repeating their crimes.

The following statistics and case studies are from cities throughout the U.S. and organizations such as MADD, the National Highway Transportation & Safety Administration (NHTSA), and various law enforcement agencies. The first group of statistics will detail the depth of the problem that needs to be addressed, and the second section will show some very successful programs and results, whose main component is the impoundment and forfeiture of vehicles driven by drunk drivers.

Portland DUII Statistics

	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>
• Arrests:	2054	1970	2169	2318	2153	2604
• Prior Arrests:	745	757	780	900	806	891
• Accidents Involved:	635	662	674	820	734	813
• Fatal Accidents (Alcohol involved):			7	12	19	24

(Source: Portland Police Bureau Traffic Division)

- Approximate fatalities in alcohol-related deaths average over 16,000 per year in the U.S. (MADD 1998)

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- **In 1997, two alcohol-related deaths on the highways per hour (the equivalent of two jet airliners crashing each week. (NHTSA 1997)**
- **While most drivers involved in fatal crashes have not had prior convictions for DUII, those who do are at significantly greater risk of causing a drunk driving crash. (NHTSA 1997)**
- **A driver with a blood alcohol content of .15 is more than 300 times more likely to be involved in a fatal crash. (NHTSA 1997) Note: Average blood alcohol of DUII suspects arrested in Portland: .17.**
- **In California, drivers with suspended or revoked licenses have 3.7 times the fatal crash rate as the average driver. (NHTSA 1998)**
- **38% of all traffic fatalities in the U.S. involve alcohol. (NHTSA 1998)**
- **Over 1,000,000 people were injured in alcohol related accidents in 1997. (NHTSA 1998)**
- **Drunk driving is the nation's most frequently committed violent crime. (MADD)**

Use of the impoundment forfeiture laws to address these problems:

- **In 1994, California initiated a law, which authorized the impoundment of all, first time DUII vehicles. Studies show there was a substantial reduction (over 30%) of alcohol-related crashes by those whose vehicles were impounded compared to the DUII drivers whose vehicles were not impounded. (California Dept. of Motor Vehicles)**
- **In Hamilton County, Ohio, seizure of DUII vehicles resulted in a "substantial reduction" in the recidivism rate. (NHTSA1999)**
- **A Minnesota law, which confiscates vehicles and/or license plates, lowered the recidivism rate 50% compared to those offenders not subjected to impoundment and confiscation. (MADD)**
- **"Booze It and Loose It" crackdown in North Carolina has cut late night DUII driving incidents in half. (MADD)**
- **Deschutes County, Oregon, reduced DUII incidents by 50%, while the population increased 100%. This was done with an impoundment ordinance, leading to the possible forfeiture of repeat DUII offenders. (Deschutes County, Oregon)**

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- **New York City – Alcohol-related traffic fatalities down 40% since the NYPD has begun their focus on seizing the instrumentality of the crime of driving while intoxicated—the vehicle. (NYPD)**
- **NYPD Civil Enforcement Unit claims forfeiture actions/policies are main contributors to the 40% average reduction in all index crimes.**
- **Anchorage, Alaska, Forfeiture Program – Deaths from DUI's dropped over 20% each of the past four years. (MADD)**
- **Cost of Forfeited Programs – If not revenue neutral, is offset by the police resources conserved each time a condition is corrected. Additionally, the public benefits from improved livability and the reduction of the fear and frequency of serious crime. (Reed College Study)**
- **The City of Portland's DUI vehicle forfeiture law has resulted in "an unqualified success—it significantly reduces the threat to innocent parties on the public roadways." (Reed College Study)**

The Portland Police Bureau wants to improve on this success. We have been working diligently to determine how the City Forfeiture Ordinance could be used more effectively and applied more fairly. We have met repeatedly with local judges, attorneys, citizen groups, alcohol industry lobbyists, and government leaders. All are in agreement that repeat DUI offenders should not be driving. Lisa Naito of the Multnomah County Board of Commissioners has spearheaded this cooperative effort and will present a similar DUI forfeiture ordinance to the Multnomah County commissioners. We support her in that effort.

Attached to this letter is the draft City of Portland Forfeiture Ordinance, with revisions inserted. Also, attached is our flow chart that describes the procedures followed by the Portland Police Bureau during the impoundment and possible forfeiture of an arrested subject's vehicle.

Thank you very much for your time and for your attention to this serious issue.

Sincerely,

**JAMES C. FERRARIS
Captain**

JCF/cd



CITY OF
PORTLAND, OREGON

OFFICE OF CITY ATTORNEY

Jeffrey L. Rogers, City Attorney
City Hall, Suite 430
1221 S.W. 4th Avenue
Portland, Oregon 97204
Telephone: (503) 823-4047
Fax No.: (503) 823-3089

July 13, 1999

INTEROFFICE MEMORANDUM

TO: Lt. Larry Kochever, Drugs and Vice Division
Sgt. Patrick Kelly, Drugs and Vice Division

FROM: Linda S. Law 
Deputy City Attorney

SUBJECT: Forfeiture Ordinance

For ease of reading, enclosed you will find a copy of how Portland City Code Chapter 14.90 will appear if the proposed ordinance is approved by council. It does not show the bracketing and underlining, and written directions of council that are required in a draft ordinance.

As I informed you earlier, it is anticipated that the council will be making city wide cleanup of the city code, deleting unconstitutional or redundant code sections, clarifying current sections, adding new sections, and changing section numbers. Thus, even upon passage by city council, there will be certain technical amendments to the forfeiture code.

LSL:ll
Enc.

\\ATTORNEYSYS\ATL\NDAL.WRK\FORFEITU\kochever\713.doc



Chapter 14.90**FORFEITURE****(Proposed July 12, 1999)****Sections:**

- 14.90.010 Certain Vehicles as Nuisances.
- 14.90.020 Forfeiture Proceedings.
- 14.90.030 Prostitution.
- 14.90.040 Gambling.

14.90.010 Certain Vehicles as Nuisances.

The following motor vehicles are hereby declared to be nuisances and subject to seizure and in rem civil forfeiture:

- A. A motor vehicle operated by a person whose operator's license is criminally suspended or revoked under ORS 811.182.
- B. A motor vehicle used to commit Driving Under the Influence of Intoxicants in violation of ORS 813.010.
- C. A vehicle within which an act of prostitution as prohibited by PCC 14.36.065 or as defined in ORS 167.007 has occurred.
- D. A motor vehicle used to commit Fleeing or Attempting to Elude Police under ORS 811.540.

14.90.020 Forfeiture Proceedings.

All in rem civil forfeiture proceedings pursuant to this Chapter shall be done in accordance with the provisions of Oregon Revised Statutes Chapter 475A.

14.90.030 Prostitution.

(Added by Ord. No. 162675, Jan. 11, 1990.) Conduct involving violation of, solicitation to violate, attempt to violate or conspiracy to violate any provision of ORS 167.002 to 167.027 is hereby declared to be prohibited conduct, and any property that is used to commit or which is proceeds of the prohibited conduct is hereby declared to be subject to forfeiture, as limited by the provisions of 14.90.020.

14.90.040 Gambling.

(Added by Ord. No. 162675, Jan. 11, 1990.) Conduct involving violation of, solicitation to violate, attempt to violate or conspiracy to violate any provision of ORS 167.117 to 167.166 is hereby declared to be prohibited conduct, and any property that is used to commit or which is proceeds of the prohibited conduct is hereby declared to be subject to forfeiture, as limited by the provisions of 14.90.020.

Chapter 14.90

FORFEITURE

(Added by Ord. No. 162568,
effective Dec. 6, 1989.)

Sections:

- 14.90.010 Certain Vehicles as Nuisances.
- 14.90.020 Forfeiture Proceedings.
- 14.90.030 Prostitution.
- 14.90.040 Gambling.

14.90.010 Certain Vehicles as Nuisances.

(Amended by Ord. No. 163438; and 165594, July 8, 1992.) The following motor vehicles are hereby declared to be nuisances and subject to forfeiture:

- A. A motor vehicle operated by a person whose operator's license is suspended or revoked as a result of conviction for:
 - 1. Driving under the influence of intoxicants in violation of the provisions of ORS 813; or
 - 2. Any degree of manslaughter or criminally negligent homicide, as those terms are defined in ORS Chapter 163 involving a motor vehicle.
- B. A motor vehicle operated by a person who has been determined to be a habitual traffic offender under the terms of ORS 809.600 to 809.660 and who has been convicted within 5 years of the date of the seizure for driving under the influence of intoxicants in violation of the provisions of ORS Chapter 813.
- C. A vehicle within which an act of prostitution as prohibited by 14.36.065 or as defined in ORS 167.007 has occurred.

14.90.020 Forfeiture Proceedings.

All forfeiture proceedings pursuant to this Chapter shall be done in accordance with the provisions of Oregon Laws, Chapter 791 (1989).

14.90.030 Prostitution.

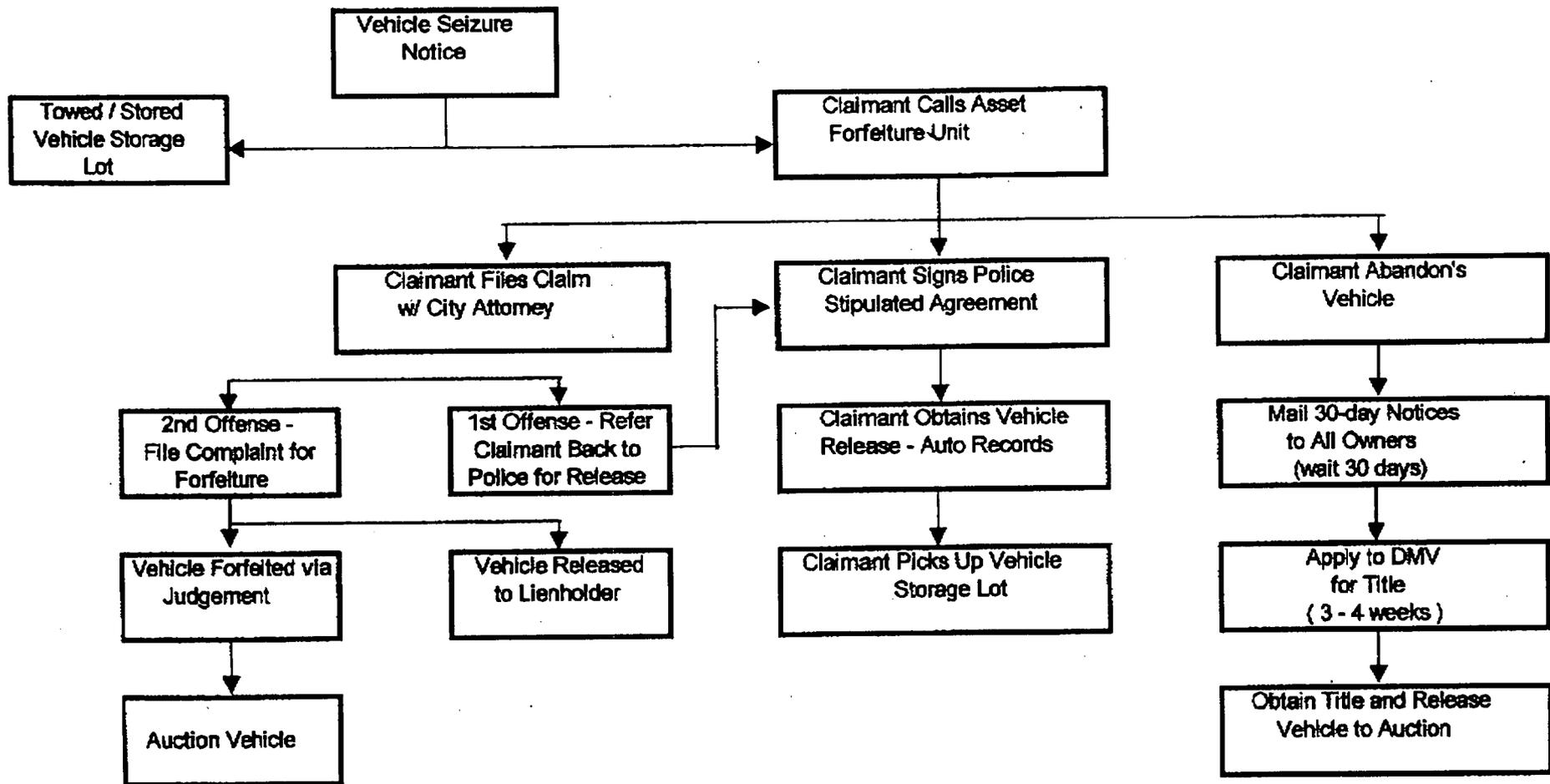
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14.90.040 Gambling.

(Added by Ord. No. 162675, Jan. 11, 1990.) Conduct involving violation of solicitation to violate, attempt to violate or conspiracy to violate any provision of ORS 167.117 to 167.166 is hereby declared to be prohibited conduct, and any property that is used to commit or which is proceeds of the prohibited conduct is hereby declared to be subject to forfeiture, as limited by the provisions of 14.90.020.

FLOW CHART OF VEHICLE SEIZURES - Police Agencies



SHARRON KELLEY
Multnomah County Commissioner
District 4



Portland Building
1120 S.W. Fifth Avenue, Suite 1500
Portland, Oregon 97204
(503) 248-5213
E-Mail: sharron.e.KELLEY@co.multnomah.or.us

MEMORANDUM

TO: Board of Commissioners

FROM: Commissioner Sharron Kelley

RE: DUII Forfeiture Ordinance
Agenda Item R-5

DATE: August 12, 1999

I write to share with you the numerous problems with the ordinance on the agenda.

1. The ordinance gives to much power to law enforcement.
 - A. Individuals would be subject to forfeiture on their very first arrest if they do not sign the last chance agreement.
 - B. Individuals would be subject to forfeiture on their very first arrest after the ordinance passes if they have a prior DUII arrest within ten years and are therefore not eligible for diversion and the last chance agreement.
 - C. Individuals would be subject to forfeiture even if they are never convicted.
 - D. The state legislature extensively considered this topic and came up with a less punitive approach (HB 3304 has passed both houses and is on the governor's desk). Under HB 3304, individuals would be subject to forfeiture for driving under the influence within three years of a prior conviction or bail/security forfeiture. The state essentially would forfeit on

the third strike: diversion, conviction, forfeiture – whereas this is a one or two strike ordinance.

- E. The ordinance before you is even more punitive than the Deschutes County ordinance on which it claims to be modeled. In Deschutes County, individuals become subject to forfeiture on the second arrest, and are then are given a last chance agreement (or a third chance if they sign).
2. Impoundment alone is sufficient to address public safety issues in the aftermath of a drunk driving incident. The Board should adopt an ordinance that more effectively impounds vehicles if the state impoundment law is a problem. The county also has the option to use forfeiture if the Governor signs HB 3304 when those underlying criteria are met.
 3. Multnomah County ordinances only apply to the unincorporated areas. Most DUIIs (about 74 percent) take place in the City of Portland. The current County code matches the City of Portland Code. It makes more sense for the county consider updating its code in the unincorporated areas if and when the City deliberates over the issues and updates its code.
 4. The Board should not adopt the ordinance without reviewing the budget for costs under the ordinance and the allocation of revenues. There is no budget yet, but MCSO will seek advance funds from contingency for an unknown amount. If the ordinance fails to fund itself it will detract from other county efforts. There should also be advance agreements on the allocation of revenues in the event these exceed the original expenditure plan.
 5. Forfeiture has not been shown to have a deterrent effect beyond the effect of impoundment. Forfeiture is not comparable to gun regulations such as background checks. Repeat offenders can still buy or rent cheap cars and reoffend. They can even repurchase their own cars at auction.
 6. The effect on offenders is unnecessarily punitive and in some cases will increase resistance to treatment. DUII offenders in Multnomah County are already subject to an array of consequences:

Current DUII Fees and Fines

DUII Diversion

Filing Fee under ORS 813.240; 813.210(2).	\$237
Diagnostic Assessment Fee under ORS 813.240(2); 813.210(3).	\$ 90
Victim Impact Treatment Fee under ORS 813.235	\$ 5 – 50
Provider Assessment	\$95 - 150
Information = 12 – 20 hours x \$35 - \$50 per hour	\$420 - \$1000
Rehabilitation = 40+ hours x \$35- \$50 per hour	\$1400+
Tow Fee	\$81
Impound Fee @ \$15 per day	\$15
Annual Auto Insurance Increase	\$1500 - \$3000
DMV Hearing Attorney Fees	\$1000 - \$3000

DUII Conviction

I. Jail under DA Guidelines

First Conviction: If no prior diversion, 3 days jail or 80 hours alternative community service

If prior diversion, 4 days jail or 120 hours alternative community service

2 years bench probation

Second Conviction: 5 – 30 days of jail
3 years bench probation

Third Conviction:

If pleading guilty: 5 days jail followed by electronic and random monitoring

If guilty at trial: 30 – 90 days jail + 3 years formal probation

Fourth Conviction:

If pleading guilty: 10 days jail followed by electronic and random monitoring

If guilty at trial: six months jail with credit for up to 90 days for in-patient treatment

Fifth Conviction:

If pleading guilty: 15 days jail followed by electronic and random monitoring

If guilty at trial: 180 days jail or Intensive Supervision Program

Sixth conviction -

If pleading guilty: 20 days jail followed by electronic and random monitoring

If guilty at trial: 12 months jail

Seven or more convictions: 12 months jail

II. In addition to jail, fines (under DA Guidelines as follows)

First or Second Conviction: \$565 or 100 hours alternative community service

Third Conviction -
 If pleading guilty: \$565 or 100 hours alternative community service
 If guilty at trial: \$700 or 140 hours alternative community service

Fourth Conviction:
 If pleading guilty: \$700 or 140 hours alternative community service
 If guilty at trial: \$800 or 160 hours alternative community service

Fifth Conviction -
 If pleading guilty: \$800 or 160 hours alternative community service
 If guilty at trial: \$1000 or 200 hours alternative community service

Sixth Conviction -
 If pleading guilty: \$900 or 180 hours alternative community service
 If guilty at trial: \$1000 or 200 hours alternative community service

Seven or more convictions: \$1000 or 200 hours alternative community service

III. Other Expenses in addition to Jail and Fines

Unitary Assesment (court costs)	\$ 90
Court Fee under ORS 813.020(1)(a); 813.030	\$130
Examination Fee under ORS 813.020(1)(b)(B)(Central Intake)	\$ 90
Provider Assessment	\$ 95 - 150
Information = 12 - 20 hours X \$35 - \$50 per hour or	

Rehabilitation = 40+ hours x \$35- \$50 per hour	\$420 - \$4000
Victim Impact Panel Fee ORS 813.020(3)	\$ 15
Formal Probation Fee: \$25 per month	\$150 - 900
Tow Fee	\$ 81
Impound Fee @ \$15 per day	\$ 15
DMV Suspension Restoration Fee ORS 809.030	\$ 10
Attorney Fees	\$350 - \$10,000
Increase in cost of private insurance	\$1800 - \$3600
Suspension of Drivers License: ORS 813.400(2); 809.420(Schedule II) =	
One Year for First Offense;	
Three Years for a Second Offense and subsequent if within five years after the prior conviction; one year for subsequent offense if more than five years have passed since the prior conviction.	

70th OREGON LEGISLATIVE ASSEMBLY--1999 Regular Session

Enrolled

House Bill 3304

Sponsored by Representative UHERBELAU; Representatives ATKINSON, BACKLUND, GARDNER, HOPSON, JENSON, LEHMAN, LEONARD, LUNDQUIST, MANNIX, MORRISSETTE, PATRIDGE, PIERCY, ROSENBAUM, SHETTERLY, STARR, TAYLOR, THOMPSON, Senators BROWN, BRYANT, HANNON (at the request of Angela Barber)

CHAPTER

AN ACT

Relating to driving offenses.

Be It Enacted by the People of the State of Oregon:

SECTION 1. { + Section 2 of this 1999 Act is added to and made a part of ORS chapter 809. + }

SECTION 2. { + (1) A motor vehicle may be seized and forfeited if the person operating the vehicle is arrested or issued a citation for driving while under the influence of intoxicants in violation of ORS 813.010 and the person, within three years prior to the arrest or issuance of the citation, has been convicted of or forfeited bail or security for:

(a) Driving while under the influence of intoxicants in violation of ORS 813.010, or its statutory counterpart in another jurisdiction; or

(b) Murder, manslaughter, criminally negligent homicide or assault that resulted from the operation of a motor vehicle in this state or in another jurisdiction.

(2) All seizure and forfeiture proceedings under this section shall be conducted in accordance with ORS chapter 475A. + }

SECTION 3. { + (1) The seizure and forfeiture provisions of section 2 of this 1999 Act do not preempt a city or county ordinance enacted and in effect on June 22, 1999, relating to forfeiture of a motor vehicle operated by a person described in section 2 of this 1999 Act.

(2) The seizure and forfeiture provisions of section 2 of this 1999 Act do not preempt a city with a population exceeding 400,000 or a county with a population exceeding 500,000 from enacting, on or before January 1, 2000, an ordinance relating to seizure and forfeiture of a motor vehicle operated by a person described in section 2 of this 1999 Act.

(3) Notwithstanding subsections (1) and (2) of this section, seizure and forfeiture procedures in a city or county ordinance relating to seizure and forfeiture of a motor vehicle operated by a person described in section 2 of this 1999 Act shall be in accordance with ORS chapter 475A. + }

Deschutes County

**Chapter 10.20. VEHICLE NUISANCES -
FORFEITURE**

10.20.010. Certain Vehicles as Nuisances.

10.20.020. Impoundment.

10.20.030. Forfeiture Proceedings.

10.20.010. Certain vehicles as nuisances.

A motor vehicle is hereby declared to be a nuisance and subject to forfeiture when either of the following occurs:

- A. The motor vehicle is operated by a person whose operator's license is suspended or revoked or in violation of a hardship or probationary permit in violation of the provisions of Oregon Revised Statutes 811.182; or
- B. The motor vehicle is operated by a person under the influence of intoxicants in violation of Oregon Revised Statutes 813.010, and, in addition, the person has:
 1. Habitual offender status under Oregon Revised Statutes 809.640 or its statutory counterpart in any jurisdiction; or
 2. Participated in a driving under the influence of intoxicants diversion program as provided for by the Oregon Statutes, or its statutory counterparts in any jurisdiction within ten years prior to arrest or citation; or
 3. Been convicted or forfeited bail or security within the previous ten years of:
 - a. Driving Under the Influence of Intoxicants under Oregon Revised Statutes 813.010 or its statutory counterpart in any jurisdiction; or
 - b. Any degree of murder, manslaughter, criminally negligent homicide, assault, recklessly endangering another person, menacing, or criminal mischief resulting from the operation of a motor vehicle, or its statutory counterparts in any jurisdiction; or
 - c. Any crime punishable as a felony with proof of a material element involving the operation of a motor vehicle, or its statutory counterparts in any jurisdiction; or

- d. Failure to perform the duties of a driver under Oregon Revised Statutes 811.705, or 811.700 (commercial motor vehicle), or its statutory counterparts in any jurisdiction; or
- e. Reckless driving under Oregon Revised Statutes 811.140 or its statutory counterpart in any jurisdiction; or
- f. Fleeing or attempting to elude a police officer under Oregon Revised Statutes 811.540 or its statutory counterpart in any jurisdiction.

(Ord. 98-045 § 1, 1998; Ord. 92-022 § 1, 1995)

10.20.020. Impoundment.

Any vehicle declared a nuisance and subject to forfeiture by this chapter may be impounded at the time of arrest or citation of the driver for:

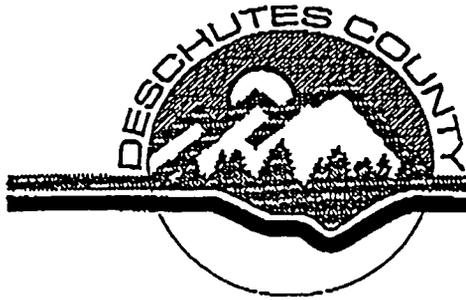
- A. Criminal driving while suspended or revoked or in violation of a hardship or probationary permit in violation of Oregon Revised Statutes 811.182; or
- B. Driving under the influence of intoxicants in violation of Oregon Revised Statutes 813.010.

(Ord. 92-022 § 1, 1992)

10.20.030. Forfeiture proceedings.

All forfeiture proceedings pursuant to this chapter shall be conducted in accordance with sections 1 to 14 and 22 chapter 791, Oregon Laws, 1989, as amended by chapters 218, 237, 276, 291, 791, 800, 924, and 934 sections 4, 5 and 6, Oregon Laws, 1991, and chapter 699, sections 13-16, Oregon Laws, 1995.

(Ord. 98-012 § 1, 1998; 92-022 § 1, 1992)



Sheriff's Department

1100 N.W. Bond Street, Bend, Oregon 97701 • (541) 388-6655
Darrell D. Davidson Sheriff

October 4, 1996

TO: Michael Harrison

FROM: Lieutenant Greg Brown *GTB*

SUBJECT: Forfeiture Program

In 1992 a group of citizens met with Deschutes County law enforcement officials to address the continuing problem of drunk driving. Deschutes County was growing, and continues to grow at the fastest rate of any county in the state. The Sheriff's Department had a very pro-active traffic safety team that had reduced serious injury accidents from 350 per year to 175.

A group called the Criminal Justice Advisory Coalition which was a spinoff from a defunct MADD group was proving effective with court watch programs but felt more needed to be done with Driving Under the Influence of Intoxicants. The group proposed a vehicle seizure program and enlisted my help.

At the meeting with law enforcement officials and the advisory group it was first agreed that Deschutes County would take the lead in the proposed ordinance and that the Cities of Bend, Redmond, and Sisters would then follow.

THE ORDINANCE

An ordinance was crafted that did the following:

1. The vehicle was declared a nuisance. This effectively removes several legal arguments effecting forfeiture programs. It is argued in court that the vehicle is the nuisance and is being abated.
2. The ordinance allowed for the seizure of vehicles from operators arrested for DUII who had one prior diversion or conviction for DUII within a prior ten year period.

3. The ordinance allowed for the seizure of vehicles from operators arrested for Criminal Driving While Suspended which includes Misdemeanor - Felony - or Habitual Offender.

4. The ordinance also allowed for vehicle forfeitures based upon serious traffic offenses such as Eluding, Vehicle Manslaughter and other such offenses.

There was a lot of debate about when to seize a DUII vehicle. Some committee members wanted to seize on the first arrest and others on the second or third. It was finally agreed that a vehicle could be seized after one prior conviction or diversion.

PROGRAM IMPLEMENTATION

Deschutes County was first to adopt the ordinance which went into effect in August 1992. Because it was a county ordinance it could not be enforced within incorporated cities. The Cities of Sisters and Redmond followed in December and the City of Bend in March of 1993.

VEHICLE RELEASE PROGRAM

A vehicle release program was established as a means of allowing certain offenders the opportunity to have their vehicle released. The driver and registered owner if different have to agree to sign a vehicle release agreement that establishes the reason for the seizure, a stipulated judgement is signed for a future arrest while operating the same vehicle, and a \$125.00 administrative fee is paid. The vehicle hold is then released and the operator pays their tow bill. Vehicles eligible for release are those operated by a driver who is DWS-M and/or DUII who has one arrest or diversion for DUII.

TOWING

Deschutes County put the forfeiture towing program out to bid and selected one vendor. A two tiered rate structure was established. For vehicles released through a VRA, standard two rates are charged and 10% of the total bill is credited back to the Sheriff's Department. A lower rate is charged for vehicles that the Sheriff's Department receives a judgement on. For example normal storage costs are \$15 per day but the Sheriff is charged \$1 per day. These charges are offset by the 10% credit which means a vehicle that is towed and stored for 45 to 60 days will have an average \$100 bill owed by the Sheriff.

ment

88-6655
Sheriff

August 29, 1999

To whom it may concern;

I understand you will be voting in October on a bill to take away vehicles of Drunk Drivers.

It is a well known fact in Psychology circles for punishment to be effective it should be swift and severe.

It is also a well known fact that repeated DUII offenders do get their Licenses back and drive and if they don't get their licenses back- they still drive !! This is not effective. Lives are lost needlessly and it's our fault!! Let's take away their Weapons (ie, Cars) immediately. This may get their attention at last, it may also get the attention of anyone who allows their car to be borrowed by a Repeater Offender.

Hell, we can't even smoke in Public Places, we shouldn't be able to drive drunk in public!

Respectfully,



Laura Mahan

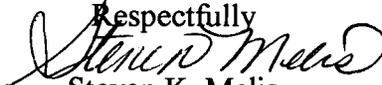
Laura Mahan
6711 S.E. Reedway St.
Portland, Oregon 97206

BOARD OF
COUNTY COMMISSIONERS
99 SEP - 1 PM 1:40
MULTI-COUNTY
OREGON

August 30, 1999

To whom it may concern:

I would like to express my views on the upcoming Legislature concerning the forfeiture of a DUII, repeat offenders Vehicles. I feel that this would open the eyes of the repeat offender and make them think, and others as well, who would think about loaning a person whom had been drinking their car. Sometimes I wonder how many offenders are driving on the same roads that I do. A motor vehicle has the potential to be a weapon, like a gun. I hope this becomes law and you still keep up the good service to the community!

Respectfully

Steven K. Melis

Steven Melis
6722 S.E. Boise St.
Portland, Oregon 97206

BOARD OF
COUNTY COMMISSIONERS
MULTNOMAH COUNTY
OREGON
99 SEP - 7 PM 1:39

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. _____

An ordinance amending county Forfeiture Law (MCC 15.350, et seq.)

(Language stricken is deleted; double-underlined language is new.)

Multnomah County Ordains as follows:

Section 1. MCC § 15.350 is amended to read as follows

15.350- Title.

This subchapter shall be known and cited as the Impoundment and Vehicle Forfeiture Law of the county.

Section 2. MCC § 15.351 is amended to read as follows

15.351 Definitions.

—(A)— For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

(A) **PROHIBITED CONDUCT.** Operating a motor vehicle while driving privileges are suspended or revoked under ORS 811.182(3)(g) (Driving Under the Influence of Intoxicants under 813.010), or in violation of driving restrictions imposed as a result of conviction for driving under the influence of intoxicants, or driving under the influence of intoxicants in violation of ORS 813.010, or in violation of any court order suspending, revoking or restricting driving privileges.

(B) **FORFEITURE COUNSEL.** The district attorney, county counsel or any qualified attorney may represent the county in any action under this subchapter.

(C) **VEHICLE RELEASE AGREEMENT.** The terms and conditions under which a person may obtain release of a vehicle that is subject to forfeiture provided the operator is eligible for diversion under state law as outlined in ORS 813.215.

~~————— **PROHIBITED CONDUCT.** Includes violation of, solicitation to violate, attempt to violate or conspiracy to violate any provisions of ORS 164.005 through 164.125 (Theft), ORS 164.135 (Unauthorized Use of a Vehicle), ORS 164.205 through 164.225 (Burglary), ORS 167.002 through 167.027 (Prostitution and Related Offenses), ORS 167.117 through 167.153 (Gambling Offenses) and ORS 163.665 through 163.695 (Visual Recording of Sexual Conduct by Children), and ORS 811.182(3)(g) (Driving While Driving Privileges are Suspended or Revoked for a Driving Under the Influence of Intoxicants Conviction).~~

~~————— (B) This chapter incorporates by reference as though fully set forth 1989 Oregon Laws, Chapter 791, §§ 2(1) through (10) and §§ 2(12) through (14), inclusive.~~

Section 3. MCC § 15.352 is amended to read as follows

15.352 Impoundment.

Any motor vehicle operated by a person engaged in prohibited conduct shall be subject to impound at the time of arrest or citation of the operator. The operator and/or vehicle owner will be required to reimburse the impounding agency for all administrative fees, towing and storage costs related to the impound.

~~————— (A) The Board finds that:~~

~~————— (1) The use of profits, proceeds or instrumentalities in theft (ORS 164.005 through 164.125); unauthorized use of a vehicle (ORS 164.135); burglary (ORS 164.205 through 164.225); gambling offenses (ORS 167.117 through 167.153); prostitution and related offenses (ORS 167.002 through 167.027) and visual recording of sexual conduct by children (ORS 163.665 through 163.695) and driving while driving privileges are suspended or revoked resulting from a conviction for driving under the influence of intoxicants (ORS 811.182(3)(g)) have and are proliferating in the county, and the presence of such activities is detrimental to the public health, safety, welfare and quality of life in the county;~~

~~————— (2) In particular, gambling and prostitution activities involving the use of conveyances and real property and conveyances used by drivers whose driving privileges have been suspended or revoked resulting from a conviction for driving under the influence of~~

~~intoxicants have been and are proliferating in the county, and the presence of these activities is detrimental to the safety and quality of life in the county and therefore the specified conveyances and real property are nuisances;~~

~~_____ (3) The prohibited conduct defined in this chapter is undertaken in the course of profitable activities which result in, and are facilitated by, the acquisition, possession or transfer of property subject to civil forfeiture under this subchapter;~~

~~_____ (4) Transactions involving property subject to forfeiture under this subchapter escape taxation;~~

~~_____ (5) Local government's attempts to respond to prohibited conduct require additional resources to meet its needs;~~

~~_____ (6) There is a need to provide for the civil forfeiture of certain property subject to forfeiture under this subchapter, to provide for the protection of the rights and interests of affected persons, and to provide for uniformity with respect to the laws pertaining to the forfeiture of real and personal property; and~~

~~_____ (7) The instrumentalities, profits and proceeds of prohibited conduct are often used to commit the same or another prohibited conduct and the return of the property thus serves to encourage and perpetuate the commission of prohibited conduct in the county.~~

Section 4. MCC § 15.353 is amended to read as follows

15.353 Forfeiture.

_____ (A) A motor vehicle is declared a nuisance if operated by a person engaged in prohibited conduct as defined in MCC § 15.351. The vehicle is further subject to civil in rem forfeiture in accordance with ORS Chapter 475A and its amendments.

_____ (B) Where the operator of the vehicle that is subject to forfeiture under (A) of this section is eligible for diversion as outlined in ORS 813.215, the operator/owner is eligible to enter into a Vehicle Release Agreement. Upon signing the agreement and paying administrative fees, towing and storage costs, the vehicle will be returned to the operator/owner.

~~_____ The following will be subject to civil in rem forfeiture:~~

~~———— (A) — All property, products and equipment of any kind which are used, or intended for use, in providing, manufacturing, compounding, processing, delivering, importing or exporting any service or substance in the course of prohibited conduct.~~

~~———— (B) — All conveyances, including aircraft, vehicles or vessels, which are used or are intended for use, to transport or in any manner facilitate the transportation, sale, receipt, possession or concealment of property described in division (A) of this section, and all conveyances including aircraft, vehicles or vessels, which are used or intended for use in prohibited conduct or to facilitate prohibited conduct in any manner. Such conveyances specifically include, but are not limited to, the following:~~

~~———— (1) — A conveyance operated by a person whose operator's license is suspended or revoked as a result of conviction for driving under the influence of intoxicants in violation of the provisions of local or state law;~~

~~———— (2) — A conveyance within which an act of prostitution as prohibited by local or state law; or~~

~~———— (3) — A conveyance used or intended to be used to facilitate activities defined in ORS 167.012 (Promoting Prostitution), ORS 167.017 (Compelling Prostitution), or ORS 167.122 through 167.137 (Gambling Offenses).~~

~~———— (C) — No conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of this section unless the owner or other person in charge of such conveyance was a consenting party or knew of and acquiesced in the prohibited conduct.~~

~~———— (D) — No property shall be forfeited under the provisions of this section by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such property was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States or any state. Such property shall be returned to the owner following a determination by the court that the property was unlawfully in the possession of a person other than the owner, and the owner did not know it, and did not consent to the use of the property for prohibited conduct.~~

~~———— (E) — This subchapter incorporates by reference state law.~~

Section 5. MCC § 15.354 is amended to read as follows

15.354 Innocent Owner Provision.

(A) A person claiming an interest in the seized property (claimant), who has complied with the statutory requirements for filing a claim specified in ORS 475A.055(3) or 475A.075(2), may plead as an affirmative defense that the person took the interest in the seized property:

(1) (a) Before it was seized for forfeiture;

(b) In good faith and without intent to defeat the interest of any forfeiting agency; and

(c) Continued to hold the property or interest without acquiescing in the prohibited conduct; or

(2) By co-ownership or co-tenancy taken in good faith, without intent to defeat the interest of any forfeiting agency and continued to hold the property or interest without acquiescing in the prohibited conduct.

(B) If, by a preponderance of the evidence, the claimant proves a defense under this section, then judgment shall be entered for the claimant as provided in ORS 475A.110(6). However, as long as reasonable suspicion is demonstrated for seizing the property, the seizing agency and forfeiture counsel shall not be liable for attorney fees or any damages resulting from the seizure.

(C) This defense may not be asserted by a financial institution which holds a security interest in the property.

(D) For the purposes of this section, a person shall be considered to have acquiesced in prohibited conduct if the person knew of the prohibited conduct and knowingly failed to take reasonable action under the circumstances to terminate or avoid use of the property in the course of prohibited conduct.

~~_____ The forfeiture procedures of state law are incorporated by reference.~~

Section 6. MCC § 15.355 is amended to read as follows

15.355 Forfeiture Procedures.

_____ All forfeiture proceedings shall be conducted in accordance with ORS Chapter 475A and its amendments. The Sheriff shall adopt administrative rules for forfeiture proceedings.

~~_____ After the forfeiture counsel distributes property under the provisions of state law, the forfeiture counsel shall disperse of and distribute property in the following manner:~~

~~_____ (A) If the seizing agency has an intergovernmental agreement pursuant to state law, the terms of the intergovernmental agreement shall control the distribution of the property.~~

~~_____ (B) If the seizing agency does not have an intergovernmental agreement pursuant to state law, the seizing agency shall recover 50% of the property, the county district attorney's office shall recover 35% of the property and the remaining 15% shall be credited to the county general fund for criminal justice services.~~

~~_____ (C) If more than one law enforcement agency has participated in the investigation leading to forfeiture, the participating agencies shall share the 50% of the proceeds ordinarily remitted to the seizing agency equitably between the participating agencies.~~

~~_____ (D) Except as otherwise provided by intergovernmental agreement, the forfeiting agency may:~~

~~_____ (1) Sell, lease, lend or transfer the property or proceeds to any federal, state or local law enforcement agency or district attorney;~~

~~_____ (2) Sell the forfeited property by public or other commercially reasonable sale and pay from the proceeds the expenses of keeping and selling the property;~~

~~_____ (3) Retain the property; or~~

~~_____ (4) _____ With written authorization from the district attorney for the forfeiting agency's jurisdiction, destroy any firearm or contraband.~~

~~_____ (E) _____ The forfeiting agency, and any agency which receives forfeited property or proceeds from the sale of forfeited property, shall maintain written documentation of each sale, decision to return, transfer or other disposition.~~

FIRST READING: _____

SECOND READING AND ADOPTION: _____

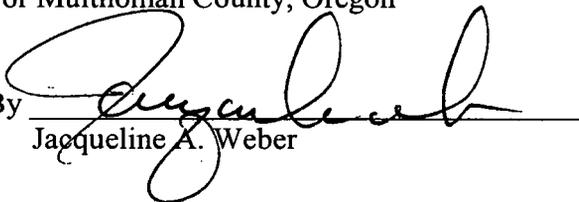
BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Beverly Stein, Chair

REVIEWED:

Thomas Sponsler, County Counsel
For Multnomah County, Oregon

By _____


Jacqueline A. Weber

BOGSTAD Deborah L

From: COMITO Charlotte A
Sent: Wednesday, October 13, 1999 2:38 PM
To: STEIN Beverly E; LINN Diane M; CRUZ Serena M; KELLEY Sharron E
Cc: FORD Carol M; BOGSTAD Deborah L
Subject: FW: Forfeiture Resolution

Tomorrow Lisa will ask for unanimous consent to substitute this resolution for our DUII Ordinance second reading.

-----Original Message-----

From: KINOSHITA Carol
Sent: Wednesday, October 13, 1999 1:22 PM
To: COMITO Charlotte A
Cc: WEBER Jacquie A
Subject: Forfeiture Resolution

Here's an electronic copy of the final resolution (hard copy delivered to you). Thanx!



BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. _____

Affirming Continued Support of Efforts to Deal with Intoxicated Drivers in
Collaboration with Local Jurisdictions Within the Parameters of HB 3304 Authorizing
Seizure and Forfeiture of Vehicles Operated by Drunk Drivers Convicted of Certain
Crimes

The Multnomah County Board of Commissioners Finds:

- a. Traditional criminal sanctions, including license suspension, incarceration, fines and mandatory treatment have had only minimal impact on the increasingly severe problem of repeat DUII offenders.
- b. The County's current vehicle forfeiture law has not fully addressed the compelling interest of the County in protecting public health, welfare and safety.
- c. On December 17, 1998, in Resolution No. 98-207, the Board of County Commissioners (Board) authorized Sheriff Noelle to convene a committee to reduce drunk driving with local jurisdictions by developing recommendations for forfeiture ordinances and administrative rules.
- d. The committee has been working on complementary ordinances and coordinating proposed forfeiture programs to deal with the growing and deadly problem of intoxicated drivers within the County.
- e. On August 12, 1999, the Board of County Commissioners unanimously voted to move forward with the Auto Forfeiture Ordinance. The ordinance allows for forfeiture of vehicles operated by repeat offenders not eligible for diversion and those offenders whose drivers licenses have been suspended for DUII.
- f. The language in the Ordinance may be preempted by HB 3304.
- g. HB 3304 effective October 23, 1999, allows forfeiture of a vehicle operated by a person arrested or cited for DUII if the person has been convicted within the preceding three years of DUII or murder, manslaughter, criminally negligent homicide or assault that arises from the operation of a motor vehicle. (1999 Oregon Laws Chapter 1100)
- h. HB 3304 is a major step toward providing civil remedies to combat the devastating problem of intoxicated drivers, but does not fully address the County's interest in creating enforceable civil remedies. The Board is committed to finalizing a legally enforceable civil forfeiture ordinance that does fully address

the County's compelling interest in protecting public health, welfare and safety in the arena of intoxicated drivers.

- i. The Board is also committed to continued collaboration with all local jurisdictions within Multnomah County.

The Multnomah County Board of Commissioners Resolves:

1. The Sheriff is directed to establish a work group with other jurisdictions and police agencies within the County to explore ways to deal with intoxicated drivers within the parameters of HB 3304 and other state legislation.
2. The Board is committed to seeking legislative change at the state level that will allow the County to enact enforceable civil remedies to combat the issue of intoxicated drivers in addition to those provided by HB 3304.

Adopted this _____ day of October, 1999.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Beverly Stein, Chair

REVIEWED:

Thomas Sponsler, County Counsel
For Multnomah County, Oregon

By _____

Jacqueline A. Weber

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BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 99-203

Affirming Continued Support of Efforts to Deal with Intoxicated Drivers in Collaboration with Local Jurisdictions Within the Parameters of HB 3304 Authorizing Seizure and Forfeiture of Vehicles Operated by Drunk Drivers Convicted of Certain Crimes

The Multnomah County Board of Commissioners Finds:

- a. Traditional criminal sanctions, including license suspension, incarceration, fines and mandatory treatment have had only minimal impact on the increasingly severe problem of repeat DUII offenders.
- b. The County's current vehicle forfeiture law has not fully addressed the compelling interest of the County in protecting public health, welfare and safety.
- c. On December 17, 1998, in Resolution No. 98-207, the Board of County Commissioners (Board) authorized Sheriff Noelle to convene a committee to reduce drunk driving with local jurisdictions by developing recommendations for forfeiture ordinances and administrative rules.
- d. The committee has been working on complementary ordinances and coordinating proposed forfeiture programs to deal with the growing and deadly problem of intoxicated drivers within the County.
- e. On August 12, 1999, the Board of County Commissioners unanimously voted to move forward with the Auto Forfeiture Ordinance. The ordinance allows for forfeiture of vehicles operated by repeat offenders not eligible for diversion and those offenders whose drivers licenses have been suspended for DUII.
- f. The language in the Ordinance may be preempted by HB 3304.
- g. HB 3304 effective October 23, 1999, allows forfeiture of a vehicle operated by a person arrested or cited for DUII if the person has been convicted within the preceding three years of DUII or murder, manslaughter, criminally negligent homicide or assault that arises from the operation of a motor vehicle. (1999 Oregon Laws Chapter 1100)
- h. HB 3304 is a major step toward providing civil remedies to combat the devastating problem of intoxicated drivers, but does not fully address the County's interest in creating enforceable civil remedies. The Board is committed to finalizing a legally enforceable civil forfeiture ordinance that does fully address

the County's compelling interest in protecting public health, welfare and safety in the arena of intoxicated drivers.

- i. The Board is also committed to continued collaboration with all local jurisdictions within Multnomah County.

The Multnomah County Board of Commissioners Resolves:

1. The Sheriff is directed to establish a work group with other jurisdictions and police agencies within the County to explore ways to deal with intoxicated drivers within the parameters of HB 3304 and other state legislation.
2. The Board is committed to seeking legislative change at the state level that will allow the County to enact enforceable civil remedies to combat the issue of intoxicated drivers in addition to those provided by HB 3304.

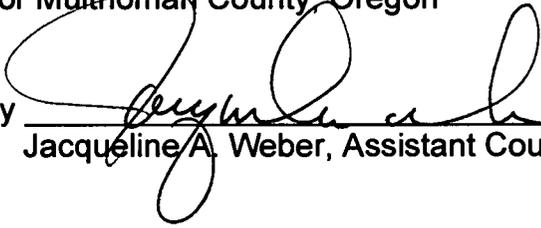
Adopted this 14th day of October, 1999.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Beverly Stein, Chair

REVIEWED:

Thomas Sponsler, County Counsel
For Multnomah County, Oregon

By 
Jacqueline A. Weber, Assistant County Counsel

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BOGSTAD Deborah L

From: KINOSHITA Carol
Sent: Wednesday, October 13, 1999 5:51 PM
To: WEBER Jacquie A
Cc: BOGSTAD Deborah L
Subject: FW: Revised Forfeiture Resolution

Jacquie,

Tom ok'd the revisions that Commissioner Cruz wanted, and she asked me to send the revised resolution to the Board and Deb (she stated the resolution won't pass without the changes that were:

- delete b. about the current forfeiture law not addressing the compelling interests of the county
- slight revision to prior e. On Aug. 12, the Board unanimously voted to move forward to continue reviewing with the Auto Forfeiture Ordinance.
- delete prior h. HB 3304 is a major step toward providing civil remedies...
- add second sentence to paragraph 1 - re: self-supporting proposal
- delete prior 2. and add revised re considering changes to HB 3304 in 2001 legislative agenda

I'll bring revised original for your signature shortly (for delivery to Deb). Thanx!

-----Original Message-----

From: KINOSHITA Carol
Sent: Wednesday, October 13, 1999 5:43 PM
To: STEIN Beverly E; LINN Diane M; CRUZ Serena M; NAITO Lisa H; KELLEY Sharron E
Cc: BOGSTAD Deborah L; WEBER Jacquie A; SPONSLER Thomas
Subject: Revised Forfeiture Resolution

Attached for your consideration is the forfeiture resolution that contains Commissioner Cruz's recent revisions.



BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 99-203

Affirming Continued Support of Efforts to Deal with Intoxicated Drivers in Collaboration with Local Jurisdictions Within the Parameters of HB 3304 Authorizing Seizure and Forfeiture of Vehicles Operated by Drunk Drivers Convicted of Certain Crimes

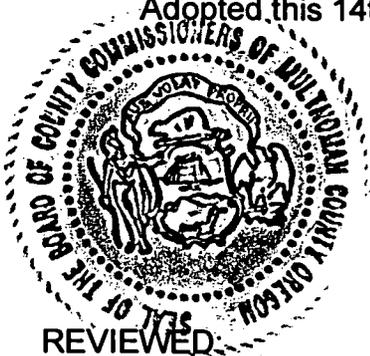
The Multnomah County Board of Commissioners Finds:

- a. Traditional criminal sanctions, including license suspension, incarceration, fines and mandatory treatment have had only minimal impact on the increasingly severe problem of repeat DUII offenders.
- b. On December 17, 1998, in Resolution No. 98-207, the Board of County Commissioners (Board) authorized Sheriff Noelle to convene a committee to reduce drunk driving with local jurisdictions by developing recommendations for forfeiture ordinances and administrative rules.
- c. The committee has been working on complementary ordinances and coordinating proposed forfeiture programs to deal with the growing and deadly problem of intoxicated drivers within the County.
- d. On August 12, 1999, the Board of County Commissioners unanimously voted to move forward to continue reviewing the Auto Forfeiture Ordinance. The ordinance allows for forfeiture of vehicles operated by repeat offenders not eligible for diversion and those offenders whose drivers licenses have been suspended for DUII.
- e. The language in the Ordinance may be preempted by HB 3304.
- f. HB 3304 effective October 23, 1999, allows forfeiture of a vehicle operated by a person arrested or cited for DUII if the person has been convicted within the preceding three years of DUII or murder, manslaughter, criminally negligent homicide or assault that arises from the operation of a motor vehicle. (1999 Oregon Laws Chapter 1100)
- g. The Board is committed to continued collaboration with all local jurisdictions within Multnomah County.

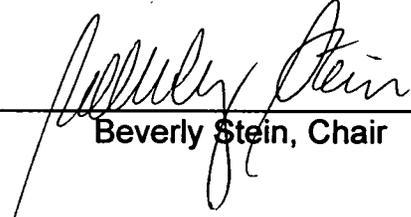
The Multnomah County Board of Commissioners Resolves:

1. The Sheriff is directed to establish a work group with other jurisdictions and police agencies within the County to explore ways to deal with intoxicated drivers within the parameters of HB 3304 and other state legislation. The work group is directed to identify a self-supporting proposal.
2. The Board will consider changes to HB 3304 to achieve local control in the context of its 2001 legislative agenda.

Adopted this 14th day of October, 1999.

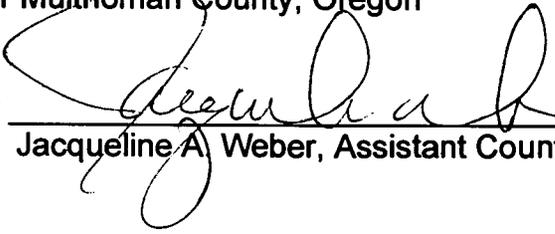


BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON



Beverly Stein, Chair

Thomas Sponsler, County Counsel
For Multnomah County, Oregon

By 

Jacqueline A. Weber, Assistant County Counsel

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OCT 14 1999

MEETING DATE: OCT 07 1999 RA
AGENDA NO: UC-1
ESTIMATED START TIME: 9:30

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Amendment to Children and Family Services Lease at the Commonwealth Building

BOARD BRIEFING: DATE REQUESTED: _____
REQUESTED BY: _____
AMOUNT OF TIME NEEDED: _____

REGULAR MEETING: DATE REQUESTED: October 7, 1999
AMOUNT OF TIME NEEDED: N/A

DEPARTMENT: Environmental Services **DIVISION:** Property Management

CONTACT: Jennifer de Haro **TELEPHONE #:** 66094
BLDG/ROOM #: 421/3rd

PERSON(S) MAKING PRESENTATION: N/A (consent Item)

ACTION REQUESTED:

INFORMATIONAL ONLY POLICY DIRECTION APPROVAL OTHER

SUGGESTED AGENDA TITLE:

Approval of Amendment to Children and Family Services Lease at the Commonwealth Building

10/14/99 ORIGINAL LEASE COPIES OF
ALL TO JENNIFER DE HARO

CLERK OF
COUNTY COMMISSIONERS
99 OCT - 5 PM 3:38
MULTNOMAH COUNTY
OREGON

SIGNATURES REQUIRED:

ELECTED OFFICIAL: _____
(OR)
DEPARTMENT MANAGER: Mark K. Nicholas

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Board Clerk @ 248-3277

SUPPLEMENTAL STAFF REPORT

TO: Multnomah County Board of Commissioners
FROM: Jennifer de Haro, Property Management Specialist
DATE: October 14, 1999
RE: Lease Amendment for Community and Family Services at the
Commonwealth Building.

1. Recommendation/Action Required:
Approve the lease agreement.
2. Background/Action Requested:
Community and Family Services has an existing lease at the Commonwealth Building, that through an amendment will extend through June 3, 2005, for a monthly rental of \$69,248.08. This amendment adds approximately 2323 square feet, with an increase to the monthly rental of \$2,613.38 per month.
3. Financial Impact:
The monthly payment will increase from \$66,634.70 to \$69,248.08
4. Legal Issues:
None known.
5. Controversial Issues:
None known.
6. Link to Current County Policies:
Not Applicable.
7. Citizen Participation:
None known.
8. Other Government Participation:
None known.

SUPPLEMENTAL STAFF REPORT

TO: Multnomah County Board of Commissioners
FROM: Jennifer de Haro, Property Management Specialist
DATE: October 14, 1999
RE: Lease Amendment for Community and Family Services at the Commonwealth Building.

1. Recommendation /Action Required:
Approve the lease agreement.
2. Background/Action Requested:
Children and Family Services has an existing lease at the Commonwealth Building, that through an amendment will extend through June 3, 2005, for a monthly rental of \$69,248.08. This amendment adds approximately 2323 square feet, with an increase to the monthly rental of \$2,613.38 per month.
3. Financial Impact:
The monthly payment will increase from \$66,634.70 to \$69,248.08
4. Legal Issues:
None known.
5. Controversial Issues:
None known.
6. Link to Current County Policies:
Not Applicable.
7. Citizen Participation:
None known.
8. Other Government Participation:
None known.

SUPPLEMENTAL STAFF REPORT

TO: Multnomah County Board of Commissioners
FROM: Jennifer de Haro, Property Management Specialist
DATE: October 4, 1999
RE: Lease Amendment for Children's Services Division at the
Commonwealth Building

1. Recommendation /Action Required:
Approve the Lease amendment.
2. Background/Action Requested:
Children and Family Services has an existing lease at the Commonwealth building that through an amendment will extend through June 30, 2005, for a monthly rental of \$69,248.08. This amendment adds approximately 2323 square feet, with an increase to the monthly rental of \$2,613.38 per month.
3. Financial Impact:
The monthly payment will increase from \$66,634.70 to \$69,248.08.
4. Legal Issues:
None known.
5. Controversial Issues:
None known.
6. Link to Current County Policies:
Not Applicable.
7. Citizen Participation:
None known.
8. Other Government Participation:
None known.

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. _____

Authorizing Execution of an Amendment to an Existing Lease for Children and Family Services at the Commonwealth Building.

The Multnomah County Board of Commissioners Finds:

- a) Multnomah County has an existing lease with American Property Management for Children and Family Services, approved by the Board December 29, 1994, amended and extended through June 30, 2005.
- b) Children and Family Services requires more space to accommodate growth in the programs and to continue to deliver services in the Commonwealth Building.
- c) The 800 square feet that is the subject of this amendment has been identified as sufficient in size and location to facilitate the growing needs of the agency.
- d) The premises described in the attached Lease Amendment before the Board this date have been determined to be available at a reasonable rental.
- e) It appears that the lease of the premises described in the Lease Amendment before the Board this date will benefit Multnomah County.

The Multnomah County Board of Commissioners Resolves:

1. The Chair of the Multnomah County Board of Commissioners is authorized and directed to execute the attached Lease Agreement before the Board this date and any other documents required for the completion of this lease on behalf of Multnomah County.

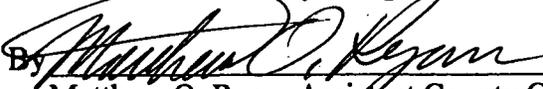
Adopted this day of October, 1999.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Beverly Stein, Chair

REVIEWED:

Thomas Sponsler, County Counsel
For Multnomah County, Oregon

By 
Matthew O. Ryan, Assistant County Counsel

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 99-204

Authorizing Execution of Amendment 4 to Lease Agreement 301615-8 with American Property Management for Department of Community and Family Services Space at the Commonwealth Building

The Multnomah County Board of Commissioners Finds:

- a) Multnomah County has an existing lease with American Property Management for the Department of Community and Family Services, approved by the Board December 29, 1994, amended and extended through June 30, 2005.
- b) The Department of Community and Family Services requires more space to accommodate growth in the programs and to continue to deliver services in the Commonwealth Building.
- c) *ps. 2323* The ~~800~~ square feet that is the subject of this amendment has been identified as sufficient in size and location to facilitate the growing needs of the Department.
- d) The premises described in the attached Lease Amendment has been determined to be available at a reasonable rental.
- e) It appears that the lease of the premises described in the attached Lease Amendment will benefit Multnomah County.

The Multnomah County Board of Commissioners Resolves:

- 1. The Chair of the Multnomah County Board of Commissioners is authorized and directed to execute the attached Lease Agreement and any other documents required for the completion of this lease on behalf of Multnomah County.

Adopted this 14th day of October, 1999.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON



Beverly Stein, Chair

REVIEWED:

Thomas Sponsler, County Counsel
For Multnomah County, Oregon

By 
Matthew O. Ryan, Assistant County Counsel

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 99-204

Authorizing Execution of Amendment 4 to Lease Agreement 301615-8 with American Property Management for Department of Community and Family Services Space at the Commonwealth Building

The Multnomah County Board of Commissioners Finds:

- a) Multnomah County has an existing lease with American Property Management for the Department of Community and Family Services, approved by the Board December 29, 1994, amended and extended through June 30, 2005.
- b) The Department of Community and Family Services requires more space to accommodate growth in the programs and to continue to deliver services in the Commonwealth Building.
- c) The 2,323 square feet that is the subject of this amendment has been identified as sufficient in size and location to facilitate the growing needs of the Department.
- d) The premises described in the attached Lease Amendment has been determined to be available at a reasonable rental.
- e) It appears that the lease of the premises described in the attached Lease Amendment will benefit Multnomah County.

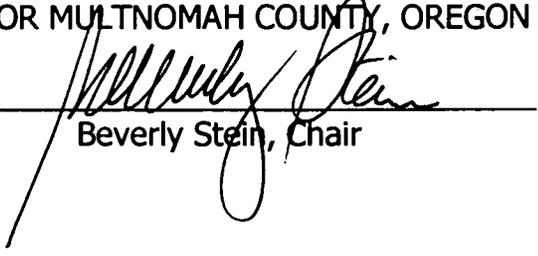
The Multnomah County Board of Commissioners Resolves:

1. The Chair of the Multnomah County Board of Commissioners is authorized and directed to execute the attached Lease Agreement and any other documents required for the completion of this lease on behalf of Multnomah County.

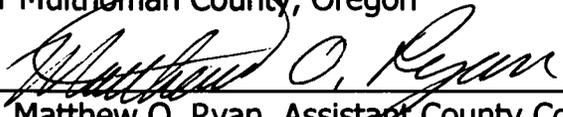
Adopted this 14th day of October, 1999.



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON


Beverly Stein, Chair

Thomas Sponsler, County Counsel
For Multnomah County, Oregon

By 
Matthew O. Ryan, Assistant County Counsel



AMERICAN PROPERTY MANAGEMENT

2154 N.E. Broadway Portland, Oregon 97232

Mailing Address: P.O. Box 12127, Portland, Oregon 97212

Phone (503)284-2147 Fax (503)287-1587

FOURTH AMENDMENT TO LEASE

Date: **September 15, 1999**

AMERICAN PROPERTY MANAGEMENT Account #C-8486-02

The following **Fourth** Amendment to Lease shall amend the original Lease dated **December 29, 1994**, the **First Amendment to Lease dated February 20, 1995**, the **Second Amendment to Lease dated April 25, 1995** and the **Lease Extension/Expansion dated July 1, 1998** (collectively the "LEASE") between AMERICAN PROPERTY MANAGEMENT CORP. as agent for and on behalf of WESTON HOLDING CO., L.L.C. ("LESSOR") and Multnomah County, a division of The State of Oregon, Community and Family Services ("LESSEE") regarding the Premises located at **421 S.W. Sixth Avenue, Portland, Oregon**.

If any provisions contained in this **Fourth** Amendment to Lease are inconsistent with any other provisions of the LEASE, the provisions contained in this **Fourth** Amendment to Lease shall control, unless otherwise provided in this **Fourth** Amendment to Lease.

The LEASE shall be amended as follows:

1.) Page One:

Commencing **October 15, 1999** the account number shall include #C-8516-03.

Commencing **October 15, 1999** the Premises shall include Suite #800 ("Expansion Space").

Commencing **October 15, 1999** the Premises square footage shall increase by **2323** rentable square feet.

Commencing **October 15, 1999** the initial Base Rental shall increase by **\$2,613.38** per month.

This Fourth Amendment shall expire **October 31, 2000**.

2.) Interior Design and Modification:

Expansion Space, Suite #800 is described on the attached Exhibit "B-2" Space Plan.

3.) Lessor Agreed Tenant Improvements:

Expansion Space, Suite #800, shall be improved based on the attached Exhibit "C-2" Interior Space Work Agreement for Suite #800.

If any provisions contained in this Exhibit "C-2" Interior Space Work Agreement are inconsistent with any other provisions contained in this LEASE (ie: Exhibit "B-2" Space Plan), the provisions contained in this Exhibit "C-2" Interior Space Work Agreement shall control.

4.) Standard of Measurement for Suite #800:

A.) Useable Square Footage

Is that area from the center of the tenant demising wall to the center of the opposite tenant demising wall which is established by the American National Standard Method of Measurement of Office Floor Space (ANSI Z65.1-1980) and the Building Owners and Manager Association (BOMA).

B.) Load Factor

Is a percentage of all the Building common areas such as Building lobby, elevator lobbies, common hallways, common restrooms, common utility service closets, common conference room, common canteen/kitchen lounge areas and designated smoking areas. Not calculated are vertical floor penetrations such as stairways, elevator shafts or mechanical shafts.

C.) Rentable Square Footage

Is the calculated useable square footage plus a percentage of the common area of the building. The total of the two equal rentable square footage.

Formula:

Expansion Space, Suite #800

2112 useable square feet + 10% Load Factor = 2323 rentable square feet

Note: The actual common area square footage exceeds the Load Factor of the Lease.

These square footages are approximations only and may vary from the actual square footage. Prior to occupancy LESSEE may inspect and measure the Expansion Space to confirm the square footage. As of occupancy LESSEE shall be deemed to have accepted the Expansion Space, and will be deemed to have waived any objection to the square footage approximations set forth herein.

5.) Must Take Option

This Fourth Amendment to Lease will automatically be extended on November 1, 2000 and terminate on June 30, 2005. The Base Rental will subject to a five percent (5%) annual increase on the following dates: July 1, 2001; July 1, 2002; July 1, 2003; and July 1, 2004.

6) Floor Plan

See attached Exhibit "E-1" Floor Plan.

7.) Expiration of Offer:

This offer to amend the LEASE shall expire at the sole option of the LESSOR if this Lease Amendment is not signed by the LESSEE and delivered to the LESSOR with no changes and accompanied by appropriate prepaid monies by **September 29, 1999**.

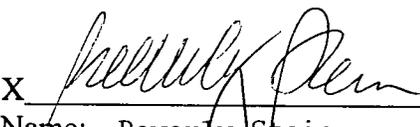
All other terms and conditions of the LEASE shall apply.

IN WITNESS WHEREOF, the respective parties have executed this instrument in duplicate on this, the day, the month, and the year hereinbelow written, any corporation signature being by authority of its Board of Directors.

LESSOR:

AMERICAN PROPERTY MANAGEMENT CORP. **Multnomah County, Oregon a political division of The State of Oregon, Community and Family Services**
As agent for and on behalf of
WESTON HOLDING CO., L.L.C.

LESSEE:

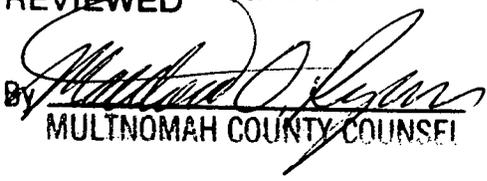
X 
Name: Beverly Stein
Title: Multnomah County Chair
Date: October 14, 1999

X _____
Douglas D. Lindholm
Vice President of Commercial Property

Date: _____

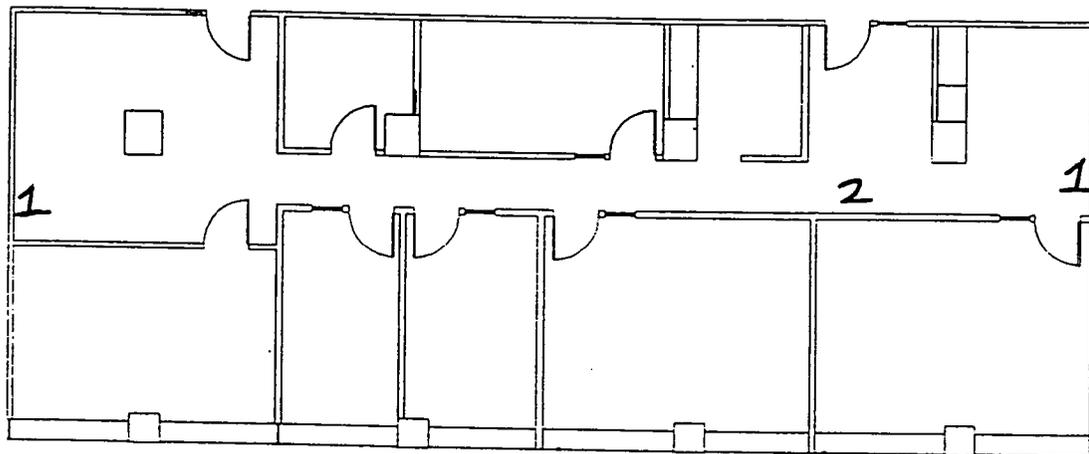
C:\AMENDMEN.(03/25/99tm)

APPROVED MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # R-9 DATE 10/14/99
DEB BOGSTAD

REVIEWED BOARD CLERK
By 
MULTNOMAH COUNTY COUNSEL

**EXHIBIT "B-2" SPACE PLAN FOR EXPANSION SPACE
SUITE #800**

*Multnomah County, Oregon, a political division of The State of Oregon,
Community and Family Services
421 S.W. Sixth Avenue, Suite #800
Portland, Oregon 97204
Account #C-8516-03*



COMMONWEALTH BLDG.
SUITE 800
421 SW 6th AVENUE
PORTLAND, OR 97204

Acct. #8516
2,112 USEABLE SQ.FT.
OCTOBER 21, 1996
SCALE: 1" = 10'

1 = Add Cased Opening

2 = Repair Wall and Paint

Any changes to this Exhibit "B-2" Space Plan are subject to LESSOR'S approval. Any changes to this plan shall be at LESSEE'S sole cost and expense, shall not delay lease commencement, and may delay LESSEE'S occupancy.

**EXHIBIT "C-2" INTERIOR SPACE WORK AGREEMENT FOR EXPANSION SPACE
SUITE #800**

*LESSEE: Multnomah County, Oregon, a political division of The State of Oregon,
Community and Family Services*

ACCOUNT #: C-8516-03 BUILDING/SUITE Commonwealth#800:

<u>ITEM</u>	<u>ACCEPTED AS-IS</u>	<u>AGREED IMPROVEMENTS</u>	<u>LESSOR EXPENSE</u>	<u>LESSEE EXPENSE</u>
PAINTING: <i>(Building Standard Color)</i>	—	<i>Repair wall and paint as described on Exhibit "B-2" space plan to match existing paint color.</i>	<u>X</u>	—
FLOORCOVERING: <i>(Building Standard Carpet Color/Cove Base Color)</i>	—	<i>Shampoo carpet in Suite.</i>	<u>X</u>	—
VINYL FLOORCOVERING: <i>(Building Standard Vinyl)</i>	<u>X</u>	—	—	—
LIGHTING: <i>(Building Standard Fixtures)</i>	<u>X</u>	—	—	—
ELECTRICAL: <i>(Building Standard 110 Volt)</i>	<u>X</u>	—	—	—
CEILING: <i>(Building Standard Acoustical Tile)</i>	<u>X</u>	—	—	—
PARTITIONS: <i>(Building Standard Sheetrock)</i>	<u>X</u>	—	—	—
DOORS/FRAMES <i>(Building Standard Quality)</i>	—	<i>Install two (2) cased openings as described on Exhibit "B-2" Space Plan</i>	<u>X</u>	—
LOCKS/HARDWARE <i>(Building Standard Quality)</i>	<u>X</u>	—	—	—
RELIGHTS: <i>(Building Standard Interior)</i>	<u>X</u>	—	—	—
WINDOWCOVERING: <i>(Building Standard Exterior)</i>	<u>X</u>	—	—	—
TELEPHONE: <i>(Building Standard Mud Rings)</i>	<u>X</u>	—	—	—
PLUMBING:	<u>X</u>	—	—	—

Note: LESSEE acknowledges that LESSOR will be performing the above-described work during normal business hours. LESSEE agrees to move all furniture and equipment at least three (3) feet away from work areas.

If LESSEE is modifying their existing space layout, or expanding their leased premises, it is understood and agreed that all Lessor Agreed Tenant Improvement work may be performed during normal business hours and will not be deemed as an interruption of LESSEE'S business and that AMERICAN PROPERTY MANAGEMENT CORP. assumes no liability for damage to any existing hidden electrical located in the walls, ceiling and/or floors (i.e., electrical for phones, fax, computers, office equipment, etc.) that is not indicated on this agreement and brought to the attention of AMERICAN PROPERTY MANAGEMENT CORP. prior to the office remodel or is not equipped with an appropriate power surge protection device.

EXHIBIT "E-2" FLOOR PLAN FOR EXPANSION SPACE

SUITE #800

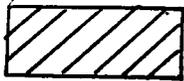
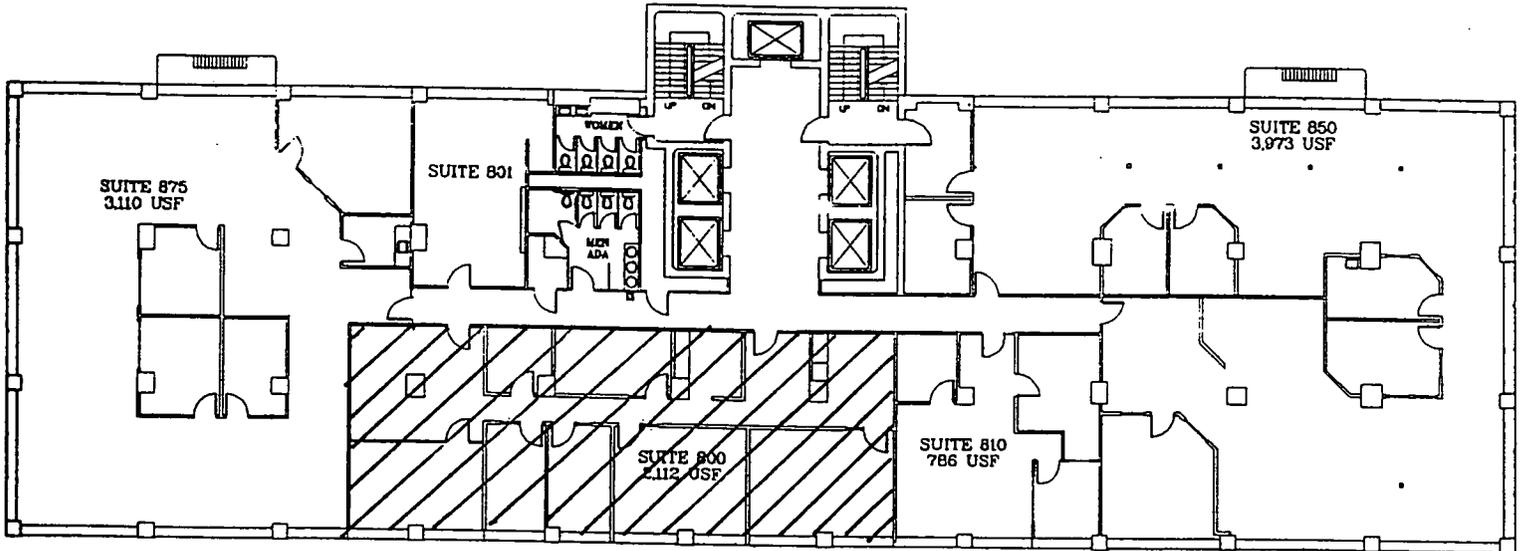
Multnomah County, Oregon, a political division of The State of Oregon,

Community and Family Services

421 S.W. Sixth Avenue, Suite #800

Portland, Oregon 97204

Account #C-8516-03



= Premises

COMMONWEALTH BLDG.

EIGHTH FLOOR

421 SW 6th AVENUE

PORTLAND, OR 97204

MARCH 11, 1998

SCALE: 1" = 20'

The above Floor Plan is meant to show the approximate location of the Premises in relation to the rest of the floor only. It may not show an accurate as-built drawing and is not meant for tenant improvement purposes.

Recommendations for Inclusion of Domestic Violence Funding in the Year 2000 Community Safety Levy

Board Briefing, October 14, 1999

The attached materials outline the recommendations for domestic violence funding in the Year 2000 Community Safety Levy. These recommendations were developed with County Departments and community partners, and have been reviewed by the Family Violence Intervention Steering Committee. Materials include:

- Page 1 Overview of recommendations
- Page 2 Current Domestic Violence-Specific Services and Recommended Enhancements
- Page 3-6 Detailed analysis of recommendations, including descriptions, FTE or Units to be funded, justification, budget, number to be served, current level of services and outcomes
- Page 7 Budget summary, indicating 3 levels of funding (as proposed, \$2 million and \$1.2 million levels) and One Time Only funding

Community Safety Levy Recommendations for Domestic Violence Funding

The attached recommendations for inclusion in the Year 2000 Community Safety Levy will enhance our current coordinated response to domestic violence. Additional services will increase the safety for victims of domestic violence, including children, and give a strong message to offenders to end their violence. Services will increase our capacity to address the special needs of children who witness domestic violence, people in the Gresham area, those who do not speak English, especially Spanish-speaking residents, and victims who have A&D abuse histories, large families male children over 12 years old, or who can not access current shelters.

Additional funding will increase:

- Prosecution, punishment, re-education and supervision of domestic violence offenders
- Shelter space and services for victims
- Children's advocates to assist children to cope with the impact of this violence on their lives
- Alcohol and drug treatment for victims of domestic violence.

Services for victims and children will increase:

- The number of women and children who can be safely housed in emergency situations, both through additional shelter capacity, technology access, and rent assistance with supportive services to address the needs of specific populations.
- Services for children who witness domestic violence and whose mothers are receiving other forms of intervention, through law enforcement, SCF or non-shelter based domestic violence programs.
- Access to civil processes that will increase safety, such as custody and visitation orders that take into account the prior domestic violence.
- Support for victims when the offender is either being prosecuted or has been convicted.
- Intervention for women who abuse alcohol or drugs, thus allowing them to make better use of and/or stay in other programs for victims, especially shelters.

Offender re-education and accountability will include:

- Increase in number of offenders successfully prosecuted, both through additional support in the Gresham area and investigation.
- Increased capacity for intensive probation supervision.
- Batterers re-education for both Spanish-speaking offenders and for inmates during their jail term.

Current Domestic Violence Specific Services

Multnomah County currently provides or contracts for an array of specialized services to intervene in and prevent domestic violence. These include the following:

- ❖ Specialized DA Domestic Violence Unit prosecutes domestic violence cases. Staff reviewed over 4,000 cases, and issued 1,374 of them in 1998. They also provide prosecution-related services to victims to over 1,000 victims. DA developed and administers the Deferred Sentencing Program, which refers 3-400 offenders annually to intensive supervision. Currently, the unit is made up of six Deputy DA's, five Victim Advocates and associated staff. Recommended levy funding would increase this Unit's capacity by:
 - Addition of an investigator
 - Assuring on-going funding of one Deputy DA at the Gresham Office
 - Addition of a Victim Advocate and Office Assistant to the Gresham Office.

- ❖ Specialized Probation Domestic Violence Unit provides intensive supervision for 700 offenders convicted of domestic violence crimes or violation of restraining orders or participating in the Deferred Sentencing Program. They provide batterers' intervention education for 300 offenders. Currently, the unit is made up of eight Probation Officers, two Corrections Technicians, office staff, supervisor, and one Corrections Counselor. Recommended levy funding would increase this Unit's capacity by:
 - Corrections Counselor/Victim Advocate to work with victims of the supervised offenders
 - Two Probation Officers to provide intensive supervision for domestic violence offenders
 - Contracted batterers' intervention re-education for Spanish-speaking offenders.

- ❖ DCJ Family Court Services, provides mediation and evaluation in custody and visitation cases to 1,500 clients. 80% of these families have some kind of past abuse that impacts the outcome or course of the court cases. Current staff include five Counselors and are funded from Court fees. Recommended levy funding would increase this Unit's capacity by:
 - One Marriage and Family Counselor to provide additional mediation and evaluations.

- ❖ DCFS contracts for victim services include emergency shelters, non-shelter based services (case management with rent assistance, support groups, culturally or population specific services), transitional housing, legal advocacy and representation, and school-based prevention services. Combined with private, State, Federal and foundation funds, the victim services network in FY 1997 provided emergency shelter to 1,600 women and children, transitional housing services to 245 women and children, school-based prevention services to over 15,000 children and adolescents, and non-shelter based services to 3,800 families. Recommended levy funding would increase this Unit's capacity by:
 - 30 additional emergency beds, and upgrade of existing facilities
 - Five Children's Advocates for children of victims currently receiving intervention
 - Alcohol and drug treatment for victims of domestic violence receiving domestic violence intervention services
 - Support, case management and housing assistance for victims who have difficulty in accessing the current emergency shelter system, together with technology to increase access to the system.

Proposed Domestic Violence Programs for Inclusion in YR2000 Community Safety Levy

Department of Community Justice						
Description	FTE or Units	Justification	Budget	# to be Served	Current Level	Outcomes
Family Court Services Division:						
Marriage and Family Counselor	1.0 FTE	Replace position loss due to decrease in funding (fees); 80% of clients victims of domestic violence;	\$72,000	50 evaluations 200 mediations 300 I&R's	5 Counselors: 250 evaluations; 1,000 mediations; 1,500 I&R's	Increases safety for victims and their children
Training		Training on domestic violence and appropriate evaluation and mediation techniques for 6 FTE Counselors	\$4,000	2,000 clients would receive better services	Current staff have received some training on domestic violence, but need a comprehensive course	Increase safety for victims; increase ability to appropriately utilize mediation in these cases
Phone system upgrade		Provide speaker phones for mediation involving victims and perpetrators on custody, visitation issues	\$4,000	300 clients would utilize the system annually	Phone system does not allow for conference calls so that victims can be in a different location then the perpetrator	Increase safety for victims; increase ability to appropriately utilize mediation in these cases
Domestic Violence Probation Unit:						
Corrections Counselor/Victim Advocate/	1.0 FTE	To do proactive outreach to the victims of DVU offenders, including in-house counseling services, lethality assessments	\$68,000	55-60 victims caseload/100 annually	No staff dedicated to working with victim; intake worker attempts to contact all victims	Increase victim safety and accountability of perpetrator; reduce crime
Parole and Probation Officers/Domestic Violence Unit	2.0 FTE	Reduced current caseload size to approximately 65:1; increase coordination with juvenile justice and other criminal justice agencies	\$142,000	130 offenders	8 FTE Probation Officers; 700 cases annually	Increase victim safety and accountability of perpetrator; reduce crime
Batterers' Intervention Program for Spanish speaking offenders/DCJ		Provide weekly batterers' intervention program for domestic violence offenders who speak Spanish	\$15,000 contracted	55 offenders	\$65,000 annually contracted to work with 112 Deferred Sentencing Program offenders (English-speaking). An additional 200 offenders are mandated to batterer intervention services.	Increase victim safety and accountability of perpetrator; reduce crime

District Attorney's Office						
Description	FTE or Units	Justification	Budget	# to be Served	Current Level	Outcomes
Deputy District Attorney/Domestic Violence Unit/DA	1.0 FTE	In Gresham Office, to support increased access and services to Latino and Russian/Eastern European communities in the East County area. To replace grant funded position	\$106,000	Review 250-300 cases annually; carry 120 cases annually	5 Deputy DA's in Courthouse office; one in Gresham; in total, they review 4,000+ cases; issue 1,375 cases	Increase victim safety and perpetrator accountability, in underserved populations of Latino and Eastern European
Victim Advocate/Domestic Violence Unit/DA	1.0 FTE	In Gresham Office, to assist victims in the prosecution process	\$72,000	Assist in 300 cases per year	5 Victim Advocates for all types of cases; none in Gresham. In total, they work with 1,375 domestic violence victims	Increase victim safety and perpetrator accountability, in underserved populations of Latino and Eastern European
Investigator/Domestic Violence Unit/DA	1.0 FTE	Currently there is no investigator attached to the Domestic Violence Unit; does follow-up investigation in cases	\$67,000	Assist in 200 cases annually	No investigator currently assigned to the Domestic Violence Unit	Increase DA's prosecution rate
Office Assistant/Domestic Violence Unit/DA	1.0 FTE	Gresham Office, to support attorney and victim advocate	\$47,000	Assist in 300 cases per year	No office assistant in Gresham office	Increase victim safety and perpetrator accountability, in underserved populations of Latino and Eastern European

Multnomah County Sheriff's Office						
Description	FTE or Units	Justification	Budget	# to be Served	Current Level	Outcomes
Corrections Counselors/Batterer Intervention Program in Jail	2.0 FTE	To provide intensive anger control and cognitive restructuring instruction to domestic violence perpetrators and victims that are incarcerated in the county jail	\$103,000	Up to 130 male perpetrators At least 32 female victims	Provide non-domestic violence specific anger management and cognitive restructuring instruction to some inmates	Reduce domestic violence
Corrections Technician	1.0 FTE	To provide data collection and assist in the evaluation and referral process for the cognitive restructuring program	\$38,500	Up to 130 male perpetrators At least 32 female victims		Reduce domestic violence

Community-Based Victim Services						
Description	FTE or Units	Justification	Budget	# to be Served	Current Level	Outcomes
Children's Advocates	4.0 FTE	Provide services to children who witness domestic violence whose mothers are receiving services through another agency, such as law enforcement, criminal justice system, SCF or non-shelter based victim services	\$200,000	Assist 320 children annually	Only located in 5 shelters; work with 750 children annually. No services specifically for children who witness domestic violence available through police, SCF, DA's office or non-shelter services.	Increase safety for children who witness domestic violence; prevent/ameliorate negative consequences of witnessing domestic violence
Scattered Site Case Managers (with associated rent assistance, below)	4.0 FTE	Provide services to victims and their children from underserved populations (large families, language barriers, male children over the age of 12, women with developmental disabilities and/or cognitive limitations)	\$200,000	Assist 100 women and annually	4.0 FTE currently, work with 200 women annually	Increase victim safety; provide for emergency needs; ameliorate effects of domestic violence; assist in long term self-sufficiency

Community-Based Victim Services (continued)

Description	FTE or Units	Justification	Budget	# to be Served	Current Level	Outcomes
Rent and other direct client assistance (in conjunction with case managers above)		Provide housing, medical care, other needed services to victims in currently underserved populations	\$100,000	100 women and their children	\$250,000 currently available; houses 200 women and children annually	Increase victim safety; provide for emergency needs; ameliorate effects of domestic violence; assist in long term self-sufficiency
One Time Only Access Technology I	Computers, faxes, phone system	Upgrade communication systems to provide better access and utilization of existing services (especially shelter beds)	\$200,000	Assist 20,000 women and children in accessing services	Not all domestic violence programs currently have email, or up-to-date computer systems; phone system does not expedite referrals and transfers	Increase victim safety; improve provision of emergency needs; increase efficiency of system
One Time Only: Facilities Upgrade	As needed	Upgrade existing shelter facilities in terms of security, ADA compliance, and health requirements	\$500,000	Assist 1,500 women and children annually		Increase victim safety; improve provision of emergency needs; increase efficiency of system
Emergency shelter	Additional 30 beds	Increase system capacity by 30 beds in emergency shelter	\$700,000 annually for operations	Assist 600 women and children annually	89 beds in 5 shelters now available; no specialized service shelters. Currently house 1,600 women and children annually.	Increase victim safety; provide for emergency needs; ameliorate effects of domestic violence; assist in long term self-sufficiency
A&D/DV Program	4.0 FTE	Provide A&D specialists to work with victims in existing programs to address A&D problems	\$200,000	Assist 200 women annually	Most domestic violence programs provide screening and referrals. Estimate 40-60% (430) of victims in shelters in need of A&D treatment	Increase victim safety; provide for emergency needs; ameliorate effects of domestic violence; assist in long term self-sufficiency; reduce A&D abuse

**Year 2000 Public Safety Levy
Domestic Violence Proposals
DRAFT Recommendations**

Description	FTE or Units	Budget	\$2 Million		\$1 Million	
			FTE or Units	Budget	FTE or Units	Budget
Department of Community Justice						
Family Court Services Division						
Marriage and Family Counselor	1.0 FTE	\$72,000	1.0 FTE	\$72,000		\$ 72,000
Training for Counselors		\$4,000				
Phone system upgrade		\$4,000				
Probation DVUnit						
Corrections Counselor/Victim Advocate	1.0 FTE	\$68,000	1.0 FTE	\$68,000	1.0 FTE	\$68,000
Parole and Probation Officers	2.0 FTE	\$142,000	2.0 FTE	\$142,000	1.0 FTE	\$71,000
Hispanic Batterers' Intervention Program		\$15,000		\$15,000		\$15,000
Sub-Total		\$305,000		\$297,000		\$226,000
District Attorney's DVUnit						
Deputy District Attorney	1.0 FTE	\$106,000	1.0 FTE	\$106,000	1.0 FTE	\$106,000
Investigator	1.0 FTE	\$67,000	1.0 FTE	\$67,000	1.0 FTE	\$67,000
Office Assistant	1.0 FTE	\$47,000	1.0 FTE	\$47,000	.5 FTE	\$23,000
Victim Advocate	1.0 FTE	\$72,000				
Sub-Total		\$292,000		\$220,000		\$196,000
Community-Based Victim Services						
Children's Advocates	5.0FTE	\$250,000	5.0FTE	\$250,000	4.0 FTE	\$200,000
Scattered site case management	4.0 FTE	\$200,000	4.0 FTE	\$200,000	4.0 FTE	\$150,000
with rent assistance		\$100,000		\$100,000		\$75,000
Emergency shelter	30 beds	\$700,000	30 beds	\$700,000	15 beds	\$350,000
A&D/DV Program	4.0 FTE	\$200,000	4.0 FTE	\$200,000		
Sub-Total		\$1,450,000		\$1,450,000		\$775,000
MCSO						
Batterer Intervention Program in Jail	3.0 FTE	\$ 142,000	1.0 FTE	\$ 52,000	1.0 FTE	\$ 52,000
Sub-Total		\$142,000		\$52,000		\$52,000
Grand Total						
		\$2,189,000		\$2,019,000		\$1,249,000
One Time Only						
Access Technology		\$200,000		\$200,000		\$200,000
Facilities Upgrade		\$500,000		\$500,000		\$500,000
Total		\$700,000		\$700,000		\$700,000

SAFETY AND JUSTICE

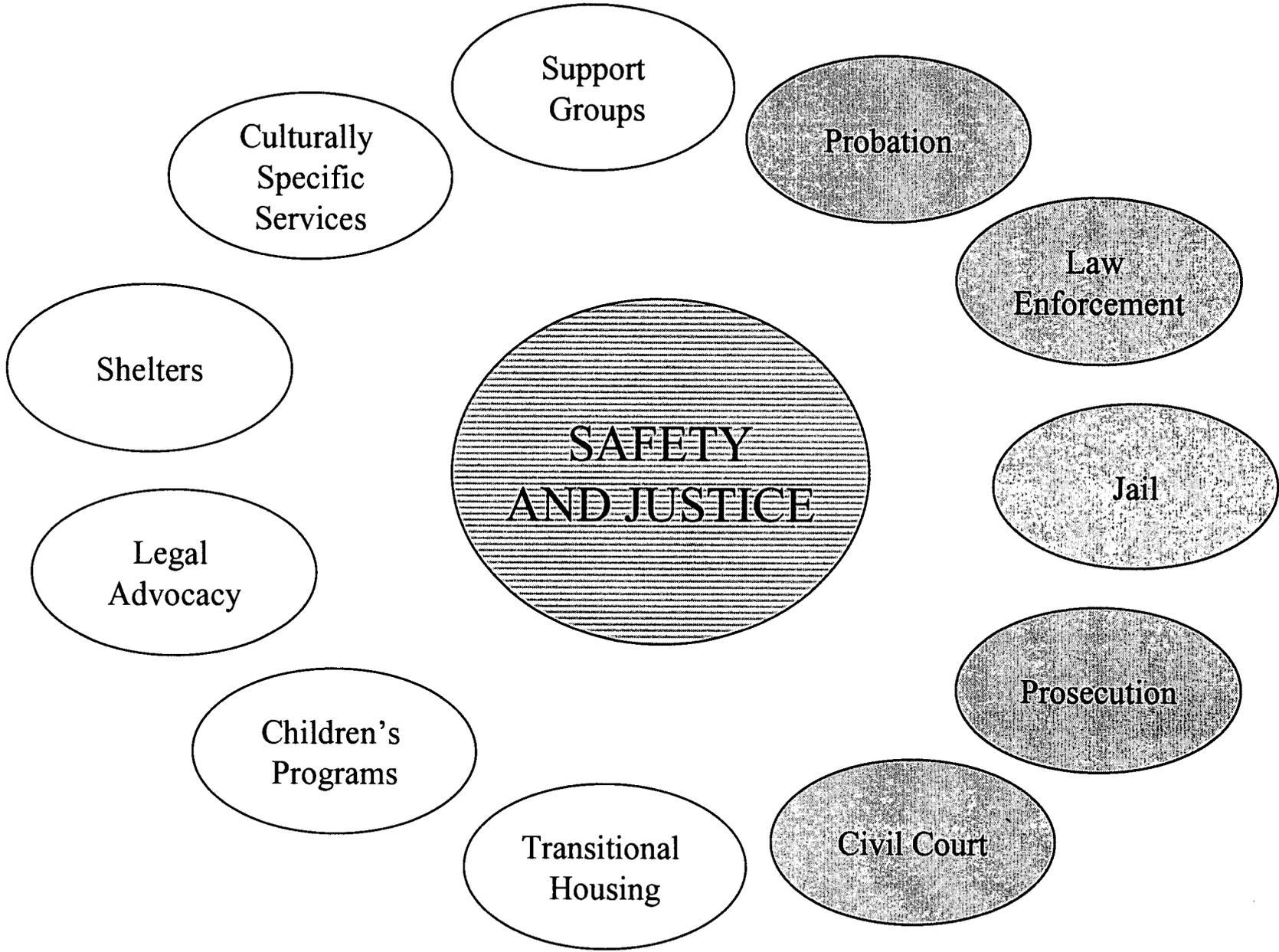
DOMESTIC VIOLENCE INTERVENTION IN MULTNOMAH COUNTY

PROCESS

- Internal County Team
- Augmented by consultation with community-based victim services organizations
- Reviewed by the FVISC

GOALS FOR INTERVENTION

- For Victims and Their Children
 - Safety
 - Support
 - Stability
- For Batterers
 - Accountability
 - Deterrence
 - Re-education



Support
Groups

Probation

Law
Enforcement

Jail

Prosecution

Civil Court

Transitional
Housing

Children's
Programs

Legal
Advocacy

Shelters

Culturally
Specific
Services

OBJECTIVES OF THE RECOMMENDATIONS

- Build on what we are currently doing well
- Maintain and increase system-wide capacity
- Identify the most significant next steps
- Add a significant increment of services through this funding

THEMES

- Increased prosecution, punishment, treatment and supervision of domestic violence offenders
- Increased safety, support and stability for victims and their children
 - increased shelter space and services to victims
 - specific services for children who witness domestic violence
 - A&D intervention/treatment for victims

LEVELS OF FUNDING

- Full funding requested
- \$2 million level
- \$1.2 million level
- One-time-only technology/capital

COUNTY'S CURRENT ROLE

- Sheriff's Office: jail, civil service, enforcement
- DA's Office: specialized unit, including a DDA in Gresham and access to victim assistance (\$600,000)
- Department of Community Justice: specialized unit, and Family Court evaluation and mediation services (\$780,000)
- DCFS Funds \$1.4 million in victim services

Increased prosecution, punishment, re-education, and supervision

- Investigator in the DA's Office
- Full staffing of the Gresham DA's Office, working with the Gresham Police Department's Domestic Violence Unit: Deputy DA, Victim Assistant and Office Assistant
- In-jail batterers' re-education program
- Additional Probation Officers
- Batterers' re-education for Spanish-speaking offenders

Increased safety, support and stability

- 30 additional shelter beds
- Advocates for children whose mothers are receiving domestic violence intervention services
- Additional Marriage and Family Counselor
- Victim Advocate to work with victims of offenders on probation Support, case management and housing assistance for victim who have difficulty in accessing current emergency shelter system

Safety, support and stability

- One Time Only funding
 - Technology to increase access to the existing victim services system
 - Upgrade of existing facilities to increase safety, accessibility and health

- Technology to increase access to the existing victim services system
- Upgrade of existing facilities to increase safety, accessibility and health

BUDGET IMPLICATIONS

- Combined costs: \$2.2 million plus \$700,000 in One Time Only/Capital costs
- Priority items, \$2 million plus \$700,000 in One Time Only/Capital costs
- Highest priority items, \$1.25 million plus \$700,000 in One Time Only/Capital costs

\$2 MILLION LEVEL

- Increased prosecution, punishment, treatment and supervision of domestic violence offenders
 - \$429,000
- Increased safety, support and stability for victims and their children
 - \$1,590,00 on-going operations
 - \$700,000 one time only

SUMMARY

- Provides a balanced approach to additional services
 - criminal justice system
 - victim services
 - specialized services for children
- Builds on strengths of the current system
- Addresses critical needs in several areas
- Has support from those working in domestic violence intervention system

OTHER CONSIDERATIONS

- How can we assure of future funding, especially for facilities-based programs (shelters) and on-going funding for existing programs?
- How will we do the next round of prioritization, if less than \$1 million?
- Are there proposals here that make more sense funded through general fund?
- How will funding for domestic violence fit with the overall message of the levy?