

Court Reengineering and Efficiency Workgroup 2 (CREW2) Final Report

July 1, 2011

Introduction

The CREW (Court Re-engineering and Efficiencies Workgroup) reflects the commitment of the OJD to a branch wide re-engineering effort undertaken by Chief Justice Paul J. De Muniz. The original CREW identified eight promising areas for increasing efficiency and productivity within the Oregon Judicial Department in the near term. (See, Final CREW Report, September 14, 2010).

CREW2 operates as the umbrella organization to provide an ongoing process for re-engineering that will identify, examine, and evaluate potential efficiency initiatives consistent with four guiding principles.

GUIDING PRINCIPLES:

- Promote convenience for litigants
- Reduce cost and complexity of judicial processes
- Maintain or improve access to justice
- Improve case predictability

The CREW2 first met November 15, 2010. Chief Justice De Muniz reviewed the charge he developed for the group and the guiding principles. Lane County Circuit Court Judge Karsten Rasmussen was named Chairman of the CREW2. Membership of the CREW2 is comprised of judges and trial court administrators. See pages three and four for the list of CREW2 members, subcommittees, and staff.

Following an introductory discussion the group broke up into subcommittees to work through issues assigned to them, identify additional issues for further discussion, and develop next steps. The three CREW2 subcommittees are; Technology, Restructure, and Centralization/Regionalization.

Each subcommittee met at least one more time before the end of calendar year 2010 to further refine the re-engineering concepts raised in their groups while considering a series of questions related to the priority of the issue, anticipated efficiencies, information and data needs, next steps in consideration of the issue, implementation steps, and impediments to implementation.

On January 19, 2011, the CREW2 met again. The full group engaged in an active review of the reports from each subcommittee on their work to date. The three subcommittees then met to incorporate comments from the review session and further refine the issues under their

consideration. The CREW2 reconvened to hear reports back from the subcommittees and plan next steps for review and comment by presiding judges and trial court administrators. To ready the draft document for distribution to presiding judges and trial court administrators, each of the subcommittees met, before the end of January 2011, to update their reports consistent with the feedback received at the January 19, 2011, CREW2 meeting.

Judge Rasmussen sent this updated CREW2 Discussion Draft (V.2) to all presiding judges and trial court administrators on February 7, 2011 for review and comment. Presiding Judges and Trial Court Administrators were encouraged to respond, and to engage their colleagues and staff in consideration of the concepts offered for review. Comments were returned, as requested, by February 18, 2011. The initial review and comment period was compact to meet deadlines related to the legislative session and upcoming TCA meetings. Additional comments and reengineering and efficiency suggestions will be accepted for review by the CREW2 at any time.

Comments were returned from seven judicial districts reflecting the wide diversity of the OJD both geographically and by size. Comments came from small, medium, and large courts, as well as from throughout all regions of the state (rural and urban). When considered with the districts represented in the CREW2 membership, 77% of the judicial districts and the appellate courts have had direct input in to the CREW2 process and work product to date. All comments are attached to this document.

General themes from the comments can be characterized as offering new ideas; thanks for being asked to participate; being appreciative of the issues raised and the work done to identify pros and cons rather than defining solutions; finding merit in the centralization discussion while expressing caution in light of the current diminished resource environment and that resources to support centralization or regionalization might come at the expense of the local courts; and offers to share valuable experience in support of the continued work to detail steps to implement many of the proposals.

Comments from the presiding judges and trial court administrators, when collected and compiled, were distributed to all CREW2 members on February 23, 2011. Once again, the subcommittees met to revise their reports, this time in response to comments received from the presiding judges and trial court administrators. The updated subcommittee reports were returned to CREW2 staff on March 3, 2011, and make up the body of this working draft report (V.3). It is this version of the report which will be presented to the Judicial Council and the Chief Justice.

There are no decisions inherent in the ideas identified for discussion, nor from the names of the subcommittees or workgroups – e.g.: Centralization/Regionalization does not indicate a preference for either, rather it is an effort to identify ideas and frame the questions to be considered concerning efficiencies which might best be accomplished through a centralized or regionalized approach.

This is a working document - a place to start. The CREW2 process includes ample opportunity for substantive review and comment. This is not intended as a one-time process. Rather, re-engineering is an integral part of the way OJD will move forward - always looking for better ways to deliver justice services to Oregonians consistent with the OJD mission and strategic plan.

Please address comments and questions to Judge Karsten Rasmussen (karsten.h.rasmussen@ojd.state.or.us) or, David Factor (david.factor@ojd.state.or.us).

CREW2 Membership

Chair: Hon. Karsten Rasmussen, Lane County Circuit Court

Vice-Chair: Chief Justice Paul J. De Muniz, Oregon Supreme Court

Judges

Hon. Thomas Balmer, Justice, Oregon Supreme Court

Hon. John Collins, Presiding Judge, Yamhill County Circuit Court

Hon. William Cramer, Jr., Presiding Judge, Grant and Harney County Circuit Court

Hon. Randolph L. Garrison, Presiding Judge, Douglas County Circuit Court

Hon. Daniel Harris, Jackson County Circuit Court

Hon. Marilyn Litzenberger, Multnomah County Circuit Court

Hon. Steven Maurer, Clackamas County Circuit Court

Hon. Daniel Murphy, Presiding Judge, Linn County Circuit Court

Hon. Dale Penn, Marion County Circuit Court

Hon. David Schuman, Oregon Court of Appeals

Hon. Michael Sullivan, Presiding Judge, Deschutes County Circuit Court

Hon. Kirsten Thompson, Presiding Judge, Washington County Circuit Court

Court Administrators

Pamela Barton, Trial Court Administrator, Malheur County Circuit Court

Amy Bonkosky, Trial Court Administrator, Crook and Jefferson County Circuit Court

Kingsley Click, State Court Administrator, Oregon Judicial Department

Ed Jones, Trial Court Administrator, Coos and Curry County Circuit Court

Ernest Mazorol, Trial Court Administrator, Deschutes County Circuit Court

Bonnie Savage, Trial Court Administrator, Lincoln County Circuit Court

Subcommittees and Members

Centralization and Regionalization

Chair: Hon. Marilyn Litzenberger, Multnomah County Circuit Court

Circuit Court Judges: William Cramer, Randy Garrison, Dan Harris, Steven Maurer

Court Administrators: Pam Barton, Amy Bonkosky

Technology

Chair: Ernest Mazorol, TCA, Deschutes County Circuit Court

Circuit Court Judges: Daniel Murphy, Michael Schuman, Kirsten Thompson

Restructure

Chair: Hon. Thomas Balmer, Justice, Oregon Supreme Court

Circuit Court Judges: John Collins, Dale Penn, Karsten Rasmussen, Michael Sullivan

Court Administrators: Kingsley Click, Ed Jones, Bonnie Savage

Staff Resources

Bryant Baehr, Director, Enterprise Technology Services Division (ETSD)

Jim Conlin, Deputy Director, ETSD

Mollie Croisan, Director, Office of Education, Training, and Outreach (OETO)

David Factor, Staff Counsel, OETO

Phillip Lemman, Legislative Communications Manager, OETO

David Moon, Director, Budget and Fiscal Services Division (BFSD)

Katie Steinback-Smith, Education Specialist, OETO

Technology Subcommittee Report

The Technology Subcommittee of the Court Reengineering and Efficiency Workgroup (CREW 2) consists of Judge Dan Murphy, Judge David Schuman, Judge Kirsten Thompson, Court Administrator Ernie Mazorol and Director Mollie Croisan as staff. The subcommittee reviewed several technology topics identified by CREW 1 and generated new ideas to improve efficiency in the trial and appellate courts. These combined topics were then set in priority order as noted below.

The subcommittee met on three separate occasions to revisit the entire list of proposals and to consider general feedback from Presiding Judges and Court Administrators. Lead subcommittee members were designated for each initiative. Leads are expected to: a) explore these proposals in greater depth and discuss them with appropriate staff and judges; b) determine how to best implement the proposals; and c) determine if a topic should be abandoned because it's too costly or resource intense to implement. Below is a brief recap of each proposal and its priority.

Overarching Priority

Oregon eCourt

Moving forward with Oregon eCourt, although costly and resource intense to implement, is the subcommittee's highest priority. It is the infrastructure OJD must have to accomplish its vision, modernize business practices and enhance decision making. At this critical juncture, choices are being considered to leverage early benefits for all trial courts, balanced against the need to complete the department's recalibration plan by June 30, 2011. As Oregon eCourt moves forward with a single solution provider, it is critical that adequate resources remain dedicated to this overarching project and that activities remain in scope. We recognize this may be very difficult during budget cutbacks and due to system wide pressures (internal and external) required to implement such a large scale business reengineering project. The momentum of Oregon eCourt must remain on track to improve court services for all Oregonians.

Other Identified Priorities

Priority 1 Expand Video and Teleconference Use

Although video and teleconference hearings are common in most medium and small sized trial courts, they are uncommon in urban trial courts and the Court of Appeals. Reasons for this disparity require analysis to determine if video and teleconference hearings can, or should, become common practice in these venues. Urban trial courts may have less need for video/teleconference since travel demands for inmates and litigants are much shorter in distance than in rural areas, although video/teleconferencing would also reduce costs in those courts. On the other hand, oral arguments by video/ teleconference in the appellate courts may

be very efficient and less costly to litigants who must now travel to Salem. While video/teleconference may increase efficiencies, cultural barriers and the benefit of live presence in court must be overcome to further expand this option.

To make full use of video and teleconference technology, the department should:

- Develop preliminary recommendations to define the type of court hearings that are most appropriately conducted with video/teleconference equipment.
- Adopt a statewide policy to expand and advance, where appropriate, the use of video and teleconference equipment for court hearings.
- Publish technology standards for video and teleconference equipment; encourage local partnerships with county government (such as county commissioners, district attorney, defense counsel, county sheriff); and leverage resources to purchase and maintain these tools.
- Develop methods to determine and identify when local judicial resources and volunteer pro tem judges are available to conduct video hearings, at their court location, for statewide purposes.
- Recommend and implement a new program to identify and dedicate on-going Plan B pro tem judge resources to conduct video hearings, at a central or trial court location, for statewide purposes in short criminal matters, restraining orders, domestic proceedings, etc.
- Designate a pilot project to advance and implement video and teleconference use for oral arguments in the Court of Appeals.
- Use archival video as instructional material for judges, law schools, self represented litigants and the public.

Priority 2 Self Help Online

As Oregon eCourt's infrastructure is refined and deployed, external and internal self help services beyond electronic forms is essential. Self represented litigants continue to grow in number which requires greater court resources to process their cases. To reduce staff and judge demands, online video and audio modules should be developed and provided to explain court process and rules, program options and eligibility, form preparation requirements, etc. In addition, self help training videos are needed for judges and staff. Discussions to identify, develop, advance and maintain these essential online services need to occur relatively soon, so they may be staged in proper sequence. It would also be useful to catalogue all of the self help material that currently exists in the courts, so it may be inventoried and deployed for statewide purposes.

Priority 3 e-Correspondence

Although the CREW 1 report outlined several e-correspondence ideas, emphasis was placed on court notices and juror eligibility/questionnaire forms.

Even though OJIN has the capability to e-mail court notices to counsel, this function is not fully utilized in several trial courts. Unlike appellate courts, trial courts must manually input attorney bar numbers and email addresses because the Oregon State Bar's mailing list is not merged into the trial court's database. Court staff must also keep this data current, which is a very time consuming process and poses a higher risk of error. These steps would be eliminated with the merge and the data relied upon should be up-to-date and error free. More trial courts would then rely on and use electronic notices similar to the appellate courts. In reference to litigant e-mail notices, court staff must manually input individual addresses and keep them current, which would be a new procedure to implement and an added workload. No merge exists to fix this workload problem.

By statute (ORS 10.245(4)), juror eligibility/questionnaires require a person's signed declaration. Although some courts currently provide this option to jurors and process these documents electronically, many courts are reluctant to do so in light of statutory language and privacy concerns. The OJD has drafted a legislative fix to address the problem.

The subcommittee also recommends that protocols be developed for judges on how to best use general and case related e-correspondence. As judges send and receive sensitive and confidential documents by e-mail, best practices must be developed and followed to ensure protection of this material. As data is shared outside of the court's network, the system becomes more vulnerable to external viruses and hackers who penetrate multiple databases for personal gain or to create havoc.

Priority 4 Telephones

A variety of phone systems and local intergovernmental agreements exist around the state. While some trial courts have complete control of their phone system, others contract with the county for equipment and services. Many local agreements have been in place for years. Without a statewide phone system, it's difficult to control long term costs and advance technologies such as Voice over Internet Protocols (VoIP). VoIP is managed through servers and when fully integrated on the state's network, costs and services are better controlled and managed. This technology allows for efficiencies such as jury call out systems, interfaces with current and planned computer applications, flexible call manager programs, etc. It's expensive to convert to VoIP due to the cost of new technology and staff requirements to support the system. The Enterprise Technology Services Division (ETSD) recently received a statewide benefit analysis from Verizon. Strategies should now be developed to plan for a statewide system and determine what funding options exist for a phased in approach over the next several years.

Priority 5 Online Transactions

Significant efficiency gains are expected with e-payment, e-file and electronic public records access. Although these applications are included in Oregon eCourt, long term funding and a lengthy five year statewide roll out of Tyler's products remain a concern. If funding reduces these and other critical Oregon eCourt modules, the department should expand its current commitment to retrofit the OJIN beyond e-payment for traffic and static debt. Without compromising current Oregon eCourt plans, and until these applications are fully rolled out, the department should continually explore short term statewide efficiency gains using contracted or local court e-payment and e-filing programs, as budget and resource decisions materialize.

Most courts currently use digital recording to capture the record. When a copy of a proceeding is requested, it's standard practice to provide a copy by burning the audio to CD. The CD is then provided to the requestor for a minimal fee. Burning the audio to CD is an unnecessary step because the digitally recorded audio can be sent as an e-mail attachment. This could save valuable court resources and reduce CD costs. Since the court audio copy may require a certification stamp, a Chief Justice Order or legislative fix may be necessary to implement this practice.

Priority 6 Research and Development

Technology changes at a rapid pace and systems are very complex. A wide variety of tools and strategies exist to solve business problems, and many products are highly integrated with business practices. In this environment, it's essential that products be carefully researched and tested before they are deployed. Relying on inferior products can compromise Oregon eCourt efficiencies or jeopardize time schedules and costs. Typically, a research and development unit is used to test products in a lab environment. The ETSD has no such unit or lab, so diagnostic testing is done on a limited and ad hoc basis. Discussions are currently underway within ETSD and the trial courts to create a research and development team with existing resources. These discussions should also include, where appropriate, the use of a contractor for project specific services. Broad attention and advocacy must be directed in the area for it to become a reality and to timely interface with Oregon eCourt product time lines.

Restructure Subcommittee Report

The Restructure Subcommittee split itself into 2 workgroups: Modifications and New Structures. A separate item initially assigned to this subcommittee concerning the use of non-elected judicial officers was referred to a Judicial Council Workgroup led by Judge James Rhoades which is already studying the item. The product of that work group is to be delivered directly to the Judicial Council and is not a part of this report.

Workgroup A – Modifications: Justice Balmer (Chair), Judge Rasmussen, Judge Collins, TCA Savage.

1. Increase the Small Claims Jurisdiction Limit The workgroup considered whether to raise the small claims jurisdiction limit from the current \$7500. The workgroup elected to look further into this issue, recognizing there are significant external stakeholder interests to be considered before supporting a particular proposal. The initial external stakeholders to be contacted are the Collector's Association and Legal Aid.

The workgroup thought that raising the jurisdictional limit to \$25,000 was too much too fast and determined that an increase to \$10,000 would be a less disruptive step. One judicial district commented that even an increase to \$10,000 might result in the need for additional resources dedicated to small claims cases.

The Joint Justice System Revenue Committee of the legislature is also considering an increase in small claims jurisdiction limit to \$10,000. The OJD is closely monitoring the activity of that committee and the legislation it introduced (HB 2710).

The Budget and Fiscal Services Division (BFSD) will need to consider the potential revenue impact of such a change. Additional data to collect and analyze include the number of small claim cases currently, whether changing the limit would yield more or less small claims filings, what savings might be achieved, and what impact such a change might have on judicial resources/time.

Such a change requires legislation - a likely vehicle for this is the bill introduced by the Jt. Justice System Revenue committee (HB 2710).

2. Appropriate Dispute Resolution The workgroup reviewed a proposal to consider elimination of mandatory arbitration, or in the alternative to reconsider the current mandatory arbitration limits and permit parties to opt out of mandatory arbitration in favor of another court connected process – e.g.: mediation/settlement conf., expedited civil jury trial program, etc. The workgroup elected not to pursue this idea further.

The arguments in favor of studying this issue include the potential to free up court staff currently dedicated to managing court connected arbitration. In addition, the subcommittee considered whether arbitration should be mandatory or voluntary, and noted that the cost of arbitration can be an issue for the parties.

The workgroup recognized that there would be significant dissent and push back from pursuing the elimination of court connected arbitration. Subcommittee membership, as a whole, did not support the idea. It would take a significant amount of time to engage all the internal and external partners necessary to make such a change. The Oregon State Bar was seen as better suited to identify and work on any potential changes to the current structure of court connected arbitration. The subcommittee anticipated opposition from presiding judges, as arbitration is a trial docket management tool. Eliminating or changing the arbitration limits would require legislation.

A related discussion concerning whether cases with fee deferral/waiver should continue through arbitration will be referred to Presiding Judge and TCA peer group meetings for follow-up.

3. More Efficient Use of Judicial Resources This discussion is fairly wide ranging. The central theme is: “how to use existing judicial resources more efficiently to manage the statewide caseload?” This discussion includes the notion of moving away from limitations created by judicial district boundaries.

Three general themes were identified relative to this subject: special assignment courts; a real time clearinghouse for management of available judicial time; and judge exchanges. Each of these ideas will be submitted to the Presiding Judge’s group for feedback. Whether Plan B judges could be integrated for use with each of these proposals was also considered.

A. **Special assignment** opportunities to improve case management include:

- i. Complex Criminal Case Program – aggravated murder, murder, RICO, multiple co-defendants, and other complex criminal cases;
- ii. Complex Civil Case Program - implementation already begun, UTCR adopted;
- iii. Settlement Program w/statewide panel of judges - across case types.

The subcommittee considered how to draft policies or rules to manage, institutionalize, and encourage the use of such programs. The complex civil program rules reinforce that case assignments are voluntary. There was very positive feedback to the complex civil litigation rules following the presentation at the PJ/TCA meeting in early December, 2010.

A similar program for complex criminal cases also would encourage rather than mandate participation. The Chief Justice will appoint a workgroup to develop draft rules for such a program with input from practitioners and judges. The subcommittee recognizes that it is difficult for a busy judicial district to adjust to “the big case” that consumes most of a particular judge’s time for many months.

Questions remain re: how to best use Plan B and senior judges effectively in this model. The complex civil program rule currently says “sitting judges”. The subcommittee potential value in using Plan B judges for this purpose.

A settlement program could be formed to help resolve cases anywhere in the state, at the parties’ request, utilizing the special skills of current and retired members of the bench.

B. Real Time Judicial Clearinghouse The workgroup considered what steps could be taken to use available judicial time in one judicial district to cover needs in another district. One option identified was the potential of a statewide clearing house for more centralized judicial resource management in some case types - FAPAs, short routine matters, arraignments, etc.

The subcommittee recognized the inherent difficulties in managing such a program, but thought it was worth investigating further. A number of individuals indicated that a real time clearinghouse that included sitting and Plan B judges would make it easier to find replacement judges when necessary.

Issues in need of resolution in order to implement the “clearinghouse” of available judicial time include: How would available judicial time and the need for assistance become known? Who would manage the matching of those available to help with those requesting assistance? How to overcome possible obstacles – statutory/constitutional (venue), technological (video links), cultural, administrative (role of PJs in case assignment, central OJD clearinghouse, TCA role) to increasing statewide use of judicial resources?

Another proposal would authorize the Chief Justice (with the consent of all concerned) to assign a judge to a different judicial district for a specified period of time in order to balance disparities between judicial resources and needs in different districts.

The use of a Plan B judge as a daily “duty” judge in a centralized location made available to assist requesting courts was discussed as a potential way to make judicial time available quickly on an as needed basis. Another idea is to give each district a set number of “Plan B judge days”. That idea is seen to be more efficient and facilitate planning.

C. Judge Exchange The workgroup looked at ways to encourage the use of judge exchanges using panels of judges with expertise in specific identified areas – civil, commercial, construction defect, major criminal, domestic relations, personal injury/medical malpractice, other business, etc. Plan B and senior judges might be used instead of, or in addition to, judge swaps and exchanges.

If there is a cost to either the sending or receiving court, which court should bear expense? Or, should the expense be covered from the central budget? That issue may be particularly important to smaller courts. Use of judges outside their own districts may be constrained by the number of courtrooms available, unless it is a true “exchange” between courts.

A secondary idea in this category is the potential to use judges from other judicial districts, including Plan B and senior judges, for reviewing case flow management and other administrative functions of the court they are asked to visit as they bring experience and perspective from another jurisdiction. The subcommittee recognized this could be delicate, but that it also could have potential for significant benefit to PJs. The Chief Justice should encourage PJs to invite Plan B, senior, and other well respected PJs to come to their courts for an extended period of time (up to 3 weeks). Such “exchanges” should be voluntary, providing an opportunity for candid suggestions to the PJ and TCA re: more efficient operations and alternative ways of getting our work done.

4. Peer Exchange: Sharing and Implementing Best Judicial Practices. The concept considered by the workgroup here is how to institutionalize a procedure for the Presiding Judges to learn best practices from each other in regularly scheduled meetings (2x/yr.) patterned after the model implemented by the TCAs. The agendas for these meetings would be developed and led by the Presiding Judges.

Suggested practices to be focused on could include – central/individual/hybrid docketing, differentiated case management; motion practice; jury management; judge and staff morale/motivation/career satisfaction issues; county relations, etc.

Peer exchange opportunities could be provided on every PJ meeting agenda. Input from the PJs and Judicial Council is required to implement this idea. These peer exchange opportunities could be a helpful way to look at the way we do business and incorporate best practices across the state. Results from such conversations may be non-measurable, but the potential to change the culture of “business as usual” to incorporating what works, is worth pursuing. We need to recognize that these topics include important administrative practices, and consideration of “best practices” will require close consultation and coordination with TCAs.

Workgroup B - New Structures: Judge Sullivan (chair), Judge Penn, SCA Click, TCA Jones, (Justice Balmer, ex officio).

1. **Redistricting** Formal redistricting would require legislative action to combine one or more of the current 27 judicial districts into smaller number of total districts.

The subcommittee elected not to pursue this idea any further. No advantages to redistricting leap to mind, and the obstacles would be many. Consensus in the workgroup was that there were not much savings to be had or value to be added from “real” redistricting.

Multiple concerns with combining/creating larger judicial districts across county and geographic boundaries were identified, including: PJ so busy managing the docket, not much time for administrative duties; TCA engagement with external stakeholders (county commissioners, sheriffs, DA, local bar, etc.) increased by number of counties in the district, and so would likely need another person to lead the court (operations manager), but even so might lose

connection/trust relationship with county. To accomplish a rational redistricting process would likely require completion of a new weighted caseload study followed by staff reorganization and reassignment to balance caseload with available judicial positions.

2. **Creation of Administrative Districts** Creation of consolidated administrative districts would combine two or more current districts for purposes of managing OJD resources more efficiently. Issues to consider in determining whether to combine administrative functions across districts include:

- a) Whether redistricting into larger administrative districts with multiple courts save any money? Even if not, would it allow the larger district to operate more efficiently because the PJ and TCA could allocate judicial and staff resources more effectively? What is the kind and magnitude of possible personnel, money, and time savings that might result?
- b) Without redrawing the entire state judicial district map, are there specific districts which due to size, demographics, geography, or existence of a unified bar practicing within the proposed district, appear to be good candidates for combination?
- c) Do the statistics on case filings, staff and judicial resources, indicate that some districts have more than sufficient resources and therefore may be good candidates for combination with an under-resourced neighboring district in an “administrative” district?
- d) If current districts were combined, what recommendation do we have for the administrative structure? Will there be one PJ and one TCA? Who does the TCA report to: one or two PJs, or possibly the SCA?
- e) Would it make sense to think "big" on this, or small -- say create 10 regional administrative districts across the state? Or are we talking about just some tweaking? Should the Chief Justice consider big administrative districts (with much administrative consolidation) or more limited administrative consolidation?

The workgroup discussion quickly focused on the opportunity in HB 2691 (2011 OJD “efficiencies” bill) intended to give the Chief Justice the authority to create administrative districts where and when necessary. This necessity might arise should some counties become insolvent as a result of the current statewide fiscal crisis. The Chief Justice would then be able to match available resources to meet the demands arising from county realignment.

The subcommittee agreed that the Chief Justice should have the authority to establish administrative districts – to be used sparingly, most likely in emergency situations (e.g.: severe budget reductions), or when a unique opportunity reveals itself (e.g.: vacancies in district(s) most likely to benefit from being combined). Use of this tool will make more sense in some districts and geographic locations than others (e.g.; in neighboring counties with a unified local bar).

Changes in this area must recognize that much of the strength of OJD comes from the creativity and commitment of the front line judges and staff, and that many of the most effective changes are likely to begin in the trial courts and then spread across the OJD.

Any decision to take such an action should be viewed through the lens of the CREW2 guiding principles, with the input and advice of the affected counties (local perspective), and the Judicial Council (statewide perspective).

Larger administrative districts might streamline administrative and management functions. There might be some efficiency gained from consolidating budgets, and the use of consolidated judicial and staff resources, along with greater cross training of staff to permit more efficient case management. The extent of available cost savings is not obvious.

With the implementation of Oregon eCourt, courts will be able to balance some of the staff resource issues by working on cases remotely from other jurisdictions.

There was agreement in the subcommittee that having a TCA report to more than one PJ was unworkable from a management perspective with little, if any, personnel savings to be gained.

3. Consolidation of PCR Case Management The workgroup considered consolidation of the administration of Post Conviction Relief (PCR) cases for efficiencies and workload management.

One aspect of this idea is to create staff backup for counties without the depth of staff to handle the PCR workload within prescribed timelines. Training for PCR is detailed and specific. Consolidation would allow the PCR court to process cases more efficiently and meet timelines while achieving greater uniformity of practice across state.

The workgroup then focused on whether there was an advantage in creation of a group of judicial officers (Plan B) dedicated to hear PCR matters via video from Salem. The subcommittee saw merit in pursuing this idea further.

There are several models for how this might be accomplished. The cases could be worked up locally and then moved to a central location for hearing/trial; or they could be moved to centralized staff for case management and subsequent hearing/trial.

PCR proceedings are public hearings, so there would be a need for staff in the county of origin to accommodate the needs of the parties, victims, etc. However, the judge and DOJ attorney could be in a separate, central location and appear by video. The defense attorney could also be in the central location, in the county of venue with the defendant, or in a separate location.

Venue does not necessarily need to change. One thought was that with a statutory change venue could be established in a small number of counties (e.g.: Marion, Multnomah, Malheur)

and the work could be accomplished in those locations, with accommodations to be made for the public, victims, defendants, and attorneys.

Although most PCR cases arise in districts where there is a correctional facility, some are brought by inmates in county jails or persons no longer incarcerated. Steps to consolidate PCR cases should consider whether or not it makes sense to consolidate those cases, as well.

Malheur and Umatilla Counties have worked out a process that works very well. They rely on video from start to finish, so it does not matter where the defendant is lodged. The staff and judges from these judicial districts should be consulted as this concept moves forward.

PCR is a specialized caseload that requires special skills and the criminal defense bar needs access to the prisoners. The Public Defense Services Commission (PDSC) could take the lead on training and ensuring the quality of attorneys who handle PCR matters.

The subcommittee recommends continued work to coordinate, consolidate, and centralize appropriate functions of PCR case management.

Centralization/Regionalization Subcommittee Report

Membership: Judge Marilyn Litzenberger, Chair; Judges Cramer, Maurer, Garrison, and Harris; TCAs Barton and Bonkosky.

Assignment: Analyze, prioritize, and make recommendations to CREW2 on how centralizing or regionalizing OJD services might be incorporated into a strategic plan to re-engineer state courts. Use the guiding principles and questions to consider presented to the group.

Issue Inventory: The Centralization/Regionalization (C/R) work group looked at the issues presented to it, and issues proposed by members. The work group established the following prioritized list for its work.

1. Provide model on-line forms. Developed from CREW1 recommendation (#4, see page 5 of Final CREW Report).
2. Statewide violations bureau.
3. Centralize some court functions. NCSC notes that other states have looked at payables (accounts/receivables), collections, processing traffic citations, most jury management functions, and arraignments using videoconferencing. (See, NCSC synopsis document, #1, page 2).
 - a. Study costs/benefits of centralized OJD payment system. From CREW1 recommendations (#5, see page 6 of Final CREW Report).
4. Centralized jury management.
5. Regionalize some court functions. NCSC notes states have looked at arraignments (to the extent they are not centralized) and regional trial centers for specific case types (e.g., dependency, complex civil, serious felony cases). (See, NCSC synopsis document, Item #2, page 2).
6. Regional settlement conferences. Refer to Re-Structure Work Group, which deals with judicial resources.
7. Contracted bench probation monitoring. Dropped after discussion.

The work group started reviewing each proposal to determine whether it met the guiding principles, then started addressing the questions to consider.

CONCEPT 1 – PROVIDE MODEL ONLINE FORMS FOR USE BY JUDGES, STAFF AND EXTERNAL USERS

Developed from CREW1 recommendation (#4, see page 5 of Final CREW Report), which focused on internal forms used by judges and staff. The NCSC discussion of on-line forms focus is on external forms used primarily by pro se litigants. The subcommittee discussed both.

1. Description Presently the OJD publishes a variety of model forms for use by judges/courts statewide. The subcommittee agreed with the CREW1 recommendation that “judges and staff would benefit from online forms for common orders and judgments, even before the roll-out of Oregon eCourt.” The subcommittee also agreed that local courts should be allowed to develop electronic forms or macros for common types of orders, notices and judgments as they deem appropriate; however the group felt the development, maintenance and publication of many standard orders, notices and judgments could be centralized or regionalized.

The benefits of transitioning to the use of centralized online forms to simplify standard court transactions/functions will increase the courts’ efficiency and promote uniformity in the trial courts statewide. This will result in convenience for litigants, judicial staff and judges and enhance equal justice by making the same forms available to all users (external and internal). In particular, use of standard forms will make it easier for visiting “Plan B” judges because they will not need to become familiar with different (locally generated) forms used for the everyday work of the court. The subcommittee’s consideration of this recommendation dovetails with work done by the Oregon eCourt Consistency Committee last spring. *See Consistency Committee Flow Chart (May 12, 2010) and draft meeting minutes (noting areas of external communications and document/data sharing opportunities using consistent formatting of standard notices, letters, orders).*

Another, somewhat related, recommendation mentioned in the comments received by the workgroup from the PJ/TCAs was to develop model informational materials for statewide distribution to litigants unfamiliar with the justice system. These “what to expect” brochures would be specific for criminal proceedings, small claims court, FAPA hearings, challenges to garnishments and the like. The commenter noted that local court staff spends a significant amount of time explaining these details to self-represented users of the justice system. This type of educational information could be made available in written form and on the OJD website and be designed to provide general information that is consistent from court to court. The work group will consider this recommendation as a sub-topic to its online forms discussion.

2. Priority Oregon eCourt objectives within the Case Management System (CMS) presently contemplate the usefulness of central access to a variety of court forms that are expected to be available online through the OJD Portal. Those specific objectives include establishing “consistent enterprise-wide operational practices and data entry standards” and improving “access to justice for citizens and pro se litigants through the use of electronic data forms.” *See Oregon eCourt Projects: Case Management*
<http://courts.oregon.gov/oregonecourt/Projects/CaseManagementSystem.page>

It is not necessary to wait for implementation of Oregon eCourt to achieve the efficiency and consistency benefits of standard forms. In fact, it makes sense to establish policies and processes for developing, approving and publishing standard forms now to facilitate “buy-in” by judges and OJD staff who will have access to and be expected to use them. Experience teaches that user buy-in is essential for OJD to achieve the benefits anticipated from using standard forms. Starting the process now will also assist Oregon eCourt developers identify types of information that can be programmed to automatically populate standard notices and orders, which will result in efficiency by minimizing or eliminating redundant data entry by staff.

3. Cost (in dollars or shifting of existing resources) Minimal additional dollars or resources are anticipated since OJD staff resources are already dedicated to providing access to online forms for internal and external users of the OJD website. Staff and judicial resources will be required to maintain and update online forms. Phase 2 of the Oregon Court’s Intranet, which is expected to go live in April 2011, includes links for “court forms” under “Materials and Resources” available for external users (attorneys, self represented litigants) and statewide forms for internal users (TCA’s & Managers and Staff). See, 12/16/2010 - eCourt Newsflash.

Oregon Courts Intranet My Portal | Intranet Home | OJD Internet | ADA | Text Size A+ A A

Human Resources | Oregon eCourt | OSCA | Courts | Programs & Services | Reference

This web site is for all OJD employees & judges and is to provide a reference tool and centralized place for news, information, and other items of interest.

Time Sheets

- Electronic Time Sheet
- Electronic Leave Request

Oregon eCourt

- Oregon eCourt Home
- Newsletters

Popular Links

- HRSD Payroll Info & Electronic Time Sheets
- Office of the State Court Administrator (OSCA)

Judges

- State of Oregon Law Library
- Sentencing Guidelines
- Smart Sentencing
- Performance Measures
- [More...](#)

TCAs & Managers

- Human Resources
- Electronic Time Sheets
- Statewide Forms
- Budget Office
- [More...](#)

Staff

- Statewide Forms
- Family Law
- Job Opportunities
- Court Interpreter Services

TSSs & Other Technology Staff

- Computer/Technical Standards
- ETSD Home page
- Security
- Webinar Instructions

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4. Specific Implementation Steps

- A. Collect forms presently available; identify authors.
- B. Prioritize efforts on most-used forms.
- C. Develop policies and procedures for collaboration on design of forms to
- D. Develop centralized access to forms. ETSD reports that OJD can host a SharePoint website holding forms developed by local courts available as a resource to all courts. Details on document naming conventions, organization of the website and indexing would need to be developed. On the positive side, ETSD can develop the website with a minimal impact on current operations. In order to be effective, the website would need to be effectively indexed and easily accessible.
- E. Develop training modules/videos/webinars
 - 1. For external users (self-represented litigants*; jurors)
 - 2. For internal users (using tools similar to those for implementation of Oregon eCourt)

* The methods considered for development of training materials related to online forms would be applicable to the other informational tools recommended for distribution to external users (“what to expect” information).

- F. Implement update/amendment process

5. Barriers to Implementation

- A. “Buy-In” by Local Courts and Judges Forms must be clear and easy to use by all judges, not just those with special expertise (e.g. family law). Most of the comments the workgroup received echoed this concern.

Proposed forms should be reviewed and piloted by a broader base of judges and staff before they are adopted. Publication of “final” versions should make clear that comments and revisions are expected and encouraged to maximize buy-in and enhance utility of forms designed for statewide or regional use by judges and staff.

In the past, the OJD has used the AS400 database on Lotus Notes as a clearing house for seeking comments on proposed forms and as a means through which different courts could share forms generated locally. [Do information/work overload issues make this method of publication and seeking input ineffective? Would the database be more effective if forms were categorized? Should someone from each court be designated as the person to respond to requests for comments – what should that person’s responsibility be with respect to soliciting comments from within their court?]

B. Complexity of Existing Forms The subcommittee's discussion of online forms generated comments regarding the utility of existing OJD forms, which several subcommittee members considered too complex for the majority of the court's work (e.g. setting over hearings). An example given was a multi-page order incorporating an alternative order continuing the hearing for another date/time.

C. Publication and Training Like any other tool designed to reduce costs and improve operations, online forms are only as effective as the persons trained to use them and they will be used only if potential users know they exist and can find them easily when they are needed.

6. Timetable - Begin now and complete by July 2012. The subcommittee should develop a framework designed to maximize acceptance and use of simple standard form notices and orders statewide. Comments received from PJ/TCA's questioned whether the groups initial projected timeline was realistic given the reduced staff resources in 2010-11 so the time line was modified by extending the initial projected completion date.

TCA's should identify the form notices and orders currently used by their judges and staff and send them to a central custodian for cataloging.

Proposed notices and orders should be vetted by a clearing house of actual users with a diverse work experience (e.g. judges, staff, large court, small court), but input should not be limited to this group.

The Oregon eCourt change management team should identify the most effective methods to promote acceptance and use of standard forms in all courts.

7. Pros & Cons

A. Pros – Promotes benefits of consistency in court operations generally. Develops policy/procedure for identifying, creating and vetting consistency concepts appropriate for statewide court operations, starting with standardized notices and orders (simple). Creates efficiencies by eliminating redundant data entry, reducing the learning curve for visiting judges and lawyers who now must be familiar with different forms, notices, etc. that are used by individual judicial districts. Work groups composed of internal and external operations are expected to improve the quality of existing forms and notices.

B. Cons – Centralized forms, notices will not be used unless there is "buy-in" from judges and staff and there is some degree of flexibility to modify forms when appropriate. It will take time (resources) to identify existing forms and notices and to set up work groups to solicit input from stakeholders (internal and external).

CONCEPT 2: CENTRALIZED JURY MANAGEMENT ACTIVITIES

1. Description Identified as a potential candidate for centralization by the National Center for State Courts (NCSC) and by OJD as a means of promoting predictability in court operations with respect to jurors and prospective jurors. The subcommittee considered whether certain jury management functions could be centralized or even outsourced (e.g. mailing juror summons, questionnaires) and whether standard or model juror questionnaires could be developed and used statewide.

Concerns were raised regarding whether savings would actually be realized if jury management activities were centralized since staff time will still be required to answer telephone calls and respond to in person inquiries about jury service, exemptions and the like. Additionally, courts tend to vary with respect to how they manage jury service based on the population of their respective districts (number of potential jurors) and the need for prospective jurors being tied to the number of jury trials docketed by the court. For example, judicial districts in rural areas would have difficulty using a one day, one trial system because that would require them to regularly issue summons citizens to serve as jurors more than once every 24 months, contrary to the policy of ORS 10.030(5).

Notwithstanding these concerns, it was noted that some trial courts within OJD already use a centralized resource (DAS) to mail juror summons and questionnaires. Those courts pleased with the system and report significant time savings in staff resources and ease of use.

The company in Salem that is handling this task is doing it at a reasonable cost and have trained personnel on staff who work with each jurisdiction to make sure that they can include in the summons and information that goes out exactly what they need (maps to the courthouse, instructions about appearing, etc). There doesn't appear to be a basis for not moving forward to use this system in every jurisdiction.

Additionally, we know of one Circuit Court (Deschutes County) using automated call out telephone systems to notify jurors about jury duty. These systems call the juror(s) with information on when/whether to report to the courthouse for jury duty. These systems are also used to remind jurors about jury duty the next day. Jefferson County expects to activate the same juror call out system in the near future. On the positive, this system has been shown to increase juror attendance and reduce juror no-shows. On the down side, so far these systems have not resulted in a significant reduction in staff work load, because staff time is required to load juror contact data into the automated call out system. Staff time could be reduced if the automated call out system replaced other call systems (e.g. the juror call/check in systems currently in place in most trial courts). At least one TCA suggested there may be other even less time consuming ways of managing juror issues; follow up is needed to identify what those might be and whether they should be investigated further.

At this time, nine judicial districts are using the web based juror forms (Benton, Linn, Lincoln, Malheur, Umatilla, Yamhill, Marion, Washington, and Josephine). Comments received from staff in seven of those districts indicate the following:

- It is universally popular with staff and is now saving them money by reducing staff time, materials and storage space.
- It is slowly catching on in some of the jurisdictions (mostly Eastern Oregon). The first county to start using the system was Washington County (started in 2006). They now have 35 to 40 percent of all responses being made with the web form. Yamhill County, which started last October, also has a response rate of about 40 percent.
- All jurisdictions report that the percentage of those who respond should increase over time as they are able to inform the public of this option. Use of the web form has increased in each jurisdiction as prospective jurors have been informed of this option.
- Most jurisdictions report that they need more flexibility in updating the form. ETSD should be able to address this issue.
- Washington County reported that this system needs to be integrated into the OJD system at some point.
- One county reported having security issues (the forms being accessed by people outside the system).

All jurisdictions reporting like this system want to see it used more. They all agree that this system could save money as its use increases. The public's awareness of this option needs to be improved. Jurisdictions need to know who to turn to when they want to change or improve the form being used.

2. Priority Assuming costs savings could be realized immediately by using DAS to mail juror summons and questionnaires, it should be a high priority to investigate whether these costs savings can be realized in all judicial districts by using DAS services if they are not doing so already. The same applies for implementing automated telephone systems or internet e-mail reminders or notifications.

3. Cost (in dollars or shifting of existing resources) Unknown at this time; costs benefit analysis needed.

4. Specific Implementation Steps

A. Determine which judicial districts use DAS to mail juror summons and the cost savings realized as a result of outsourcing that function.

B. Consider whether the pros and cons of moving toward a standard juror summons, questionnaire and reporting system or implementing automated telephone systems to notify jurors.

C. Consider what other aspects of jury management might be appropriate to centralize (and those that would not); consider whether any of these might be appropriate to regionalize (review existing systems and practices in different judicial districts; consult with Oregon eCourt personnel to find out what is on the design board or available through "off the shelf" jury

management software to identify other tasks where centralization would generate cost savings); consult with TCAs to identify other methods of managing juror issues.

5. Barriers to Implementation Many jury management functions are best performed at the local level (e.g., excuses and deferrals) because of the different and changing needs of different trial courts. If Oregon eCourt adopts jury management software that can be configured to excuse jurors with statutory exemptions, it may be possible to centralize this task although it is expected that local resources may still need to be available to answer telephone calls and in person questions.

6. Timetable - Begin now and complete by December 2011.

7. Recommendation – Pros & Cons Costs savings have been documented by courts already centralizing some jury management functions. To the extent similar cost savings can be achieved by following those courts' lead, OJD should centralize those functions. That being so, it is recognized that jury service is tied to the specific needs of local trial courts; it involves a direct connection between citizens and their locally elected judicial officers and their "home" courts. This important aspect of the jury system should not be overlooked when considering which jury management tasks can be centralized or regionalized.

CONCEPT 3: STATEWIDE VIOLATIONS BUREAU

1. Description Adopt a single, uniform violations bureau process for all judicial districts. Each individual judicial district would no longer have independent criteria by which to adjudicate offenses.

2. Priority The Judicial Department should place a high priority on reviewing and developing a statewide violations bureau. Actual implementation depends in part on legislation pending before the 2011 Legislative Assembly (HB 2712). Even if legislation does not mandate this approach, the Chief Justice should consider implementing it administratively.

3. Costs (in dollars or shifting resources) Unknown at this time. Local rules and processes would require changing. Programming or other costs are unknown.

4. Specific Implementation Steps

- a) Identify a group responsible for gathering current violation bureau rules and processes, and charge that group with recommending the criteria for adjudicating violations and a specific structure to implement a statewide violations bureau.
- b) Consider how implementation of Oregon eCourt will affect violations bureau processing.
- c) Propose statutory authority for a statewide violations bureau. Pending 2011 legislation (HB 2710, Section 149) proposes repealing ORS 153.800, which establishes statutory authority for violations bureaus in individual courts.

5. Barriers to Implementation

- a) Existing violations bureaus in judicial districts have developed over time using local values and resources available (e.g., how previous convictions are considered, the level of reduction of fines, whether education or other services are available in that community). Any uniform process will need to consider availability of local resources.
- b) Judicial decisions in this area will affect law enforcement agencies and other stakeholders, as well as the driving public. Changes in judicial practices will affect how the judicial process is perceived in each community.
- c) To the extent legislation limits judicial discretion to impose individualized sanctions, judges might have concerns about moving to a single statewide approach.

6. Timetable Identifying a group to gather information and review individual violations bureau processes should begin immediately. The timeline to implementing a statewide violations bureau is unknown, and depends in part on legislation yet to be adopted.

CONCEPT 4: CENTRALIZE KEY COURT BUSINESS/SUPPORT FUNCTIONS

1. Description Both the National Center for State Courts and OJD's own work suggest that efficiencies and cost savings might be realized by standardization of business processes and centralizing key business and support functions currently conducted in the individual courts. These improvements facilitate the creation of accessible and reliable data and increased transparency. Several examples have been outlined below in section 8.

2. Priority Opportunities exist in the short term (within 12 months), mid-term (one-to-four years), and long-term (four+ years) to obtain efficiencies by standardizing, regionalizing, or centralizing business functions. Some mid and long-term efficiencies will be obtained through implementation of Oregon eCourt. OJD should develop a systematic approach in assessing where short-term efficiencies can be obtained. A systematic approach and action plan should then be developed for mid and long-term changes.

3. Costs (in dollars or shifting resources) Indeterminate. BFSB is preparing business case analyses for specific centralization efforts already underway, some of which are identified below as examples in section 8 (e.g., accounting and printing checks and notices).

4. Specific Implementation Steps

- a) Charge a group to identify focus areas in the short- and longer-terms. Some additional assistance from NCSC might be helpful to identify other states' activities.
- b) Direct the group to report back at a time certain with recommendations on which functions will be implemented in the short term. The group will provide a strategic approach for longer-term efficiencies, and will assess whether standardizing processes remaining in local courts would produce efficiency savings. Consideration should be given to the Final Report generated by the OJD Technology Regionalization Workgroup issued 1/21/2010.

- c) Direct BFSB to partner with other state agencies which have developed efficiency programs allowing OJD to take advantage of what has already been proven and to leverage their investment.

5. Barriers to Implementation

- a) Lack of an identified group to assume this task.
- b) Lack of resources with which to conduct the review.
- c) Lack of staff trained in LEAN or other methods to analyze business practices.
- d) Lack of consensus within OJD about centralizing which functions/services might produce efficiency savings, and whether those savings would produce added value (by mitigating the impact of budget reductions or new ability to re-allocate existing staff resources) by centralizing those functions.

6. Timetable Designation of a group can be done through the CREW process. The group should report back with specific recommendations no later than July 30, 2011. Other timelines will be established through that process.

7. Pros & Cons Standardization and centralization within the courts and OSCA may reduce a courts ability to adapt to local needs. However, such changes in business processes are expected to result in greater efficiencies and significant cost savings. Standardization and centralization must be implemented in such a way that allows for adaptation to local needs wherever possible.

8. Current and Proposed Programs The following programs have been identified as potential areas of standardization and centralization. Several are currently being piloted and evaluated.

a) The Central Debt Management Program manages and standardizes collection practices for delinquent court debt. This includes:

- increase to the collection referral assessment (CRAS),
- three new contracts with specialized private collection firms (PCFs),
- standard collection cycle for delinquent debt including statewide participation in license reinstatement programs,
- automated referral to outside collections,
- identification of inactive stale debt at the courts,
- identification of expired judgment remedies.

These changes are intended to:

- eliminate our court stale debt that sits inactive at the courts,
- improve collection performance,
- enable the OJD to track costs and performance by PCF and manage our inventory accordingly,
- create a more uniform system of collections that can take advantage of improved technology,
- enable courts to focus reduced resources on core judicial processes.

b) The Central Services Program partners with local courts to improve and streamline court accounting processes by transferring the following key accounting functions to dedicated central staff:

- daily accounting functions such as processing adjustments, daily account verification, processing accounting reports, and monitoring trust accounts,
- disbursements, fund transfers, security payment processing, printing trust checks, investigating forged checks, and performing due diligence on returned checks,
- monthly accounting functions such as month-end close and balancing,
- peripheral accounting functions such as Land Board activities, bankruptcy processing and biennial close,
- conversion of automated printed reports and notices to an electronic format,
- evaluate feasibility of outsourcing the printing and mailing of checks and collection notices to the State Print Plant.

These changes are intended to:

- create efficiencies by reducing the amount of variation in business practices across the courts,
- strengthen internal accounting controls, standardize accounting functions in preparation for the new eCourt FMS.
- enable courts to focus reduced resources on core judicial processes,

c) A Central IT Services Program will manage and standardize IT support statewide. Regionalization or more correctly sharing of technology services where needed, is already a reality among Oregon's circuit courts.

Central IT services will include:

- "front-line" technical support positions dedicated to each court or group of courts based on geographic location and court size,
- enterprise level technical staff dedicated to infrastructure, applications development, project management, and business analysis,
- development of statewide technology standards and configurations,
- central oversight for technology decisions and purchases,
- central IT budget and project funding.

These changes are intended to:

- facilitate better communication between OJD's technical resources,
- eliminate duplicative efforts and redundant technology spending statewide,
- reduce costs by eliminating the "patchwork quilt" of technology configurations and environments,
- establish technology standards that will maximize our technology resources,
- enable the sharing of technology resources where they are needed most,

- reduce the level and amount of technology resources required to support a court by moving the technology infrastructure to a centrally managed model,
- enable courts to focus reduced resources on core judicial processes.

Comments received from TCAs in smaller judicial districts caution that centralization or regionalization of IT services should not be at the expense of eliminating onsite IT expertise. The inability of these courts to access IT help immediately will lead to interruption of court proceedings and those courts' inability to complete their work. This is a valid concern the work group must take into consideration.

CONCEPT 5: CONTRACTED BENCH PROBATION MONITORING

1. Description Supervising persons placed on bench probation currently is done by judicial officers and/or court staff. The subcommittee considered whether to recommend studying contracting out this function to identify possible in cost savings. The subcommittee instead recommends that the appropriate question is whether OJD should support continuing bench probation as a court function, or whether supervision of offenders should be an executive branch function. If the decision is to continue supporting bench probation, a best practices model should be developed for use statewide.

2. Priority The Judicial Department should determine whether bench probation is a core or essential judicial function. If budget reductions require eliminating activities performed by OJD, bench probation should be on the list for consideration.

3. Costs (in dollars or shifting resources) Costs to supervise persons placed on bench probation has not been determined. OJD is projected to collect approximately \$1.2 million in the 2009-11 biennium from the bench probation fee established under 2009 HB 2287. The bench probation fee is proposed to continue in 2011 (See, HB 2712, Section 71).

4. Specific Implementation Steps Use OJD's budget reduction process. Consider seeking repeal of ORS 137.540, which provides statutory authority for court-supervised probation and the bench probation fee.

5. Barriers to Implementation

- a) Courts have implemented bench probation to enforce compliance with court orders, especially in cases where the state or counties are not supervising these offenders. Law enforcement, district attorneys, community corrections, crime victims advocacy groups, and the public might be concerned about the public safety impact of not supervising these offenders.
- b) Courts have an interest in having their orders enforced, and might not want to abandon this supervision method.
- c) Potential loss of revenue from bench probation fees.

6. Timetable As provided in any budget reduction exercise or process conducted by OJD generally.

7. Pros & Cons See Barriers to Implementation, above. While courts are interested in having their orders enforced, they are also interested in returning responsibility for investigating violations back to community corrections and law enforcement and for prosecuting violators back to local district attorneys.