



JUDICIAL SETTLEMENT CONFERENCES STANDARDS OF EXCELLENCE

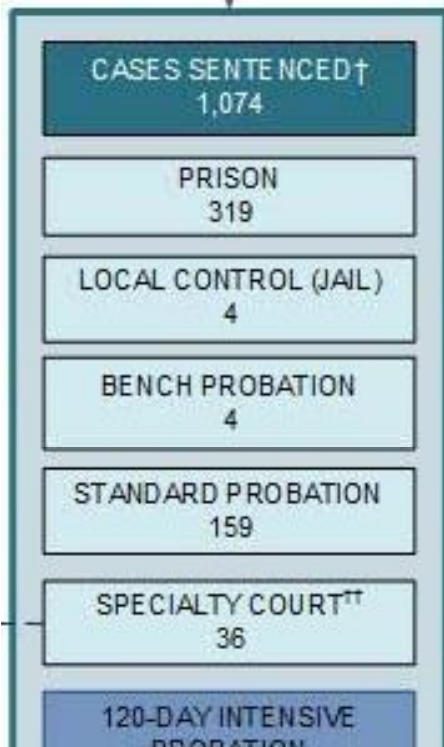
BEST PRACTICES FOR

DISTRICT ATTORNEYS
PROBATION OFFICERS
DEFENSE ATTORNEYS

Multnomah County Justice Reinvestment Program
Standards of Excellence Task Force
April 22, 2016

JUSTICE REINVESTMENT

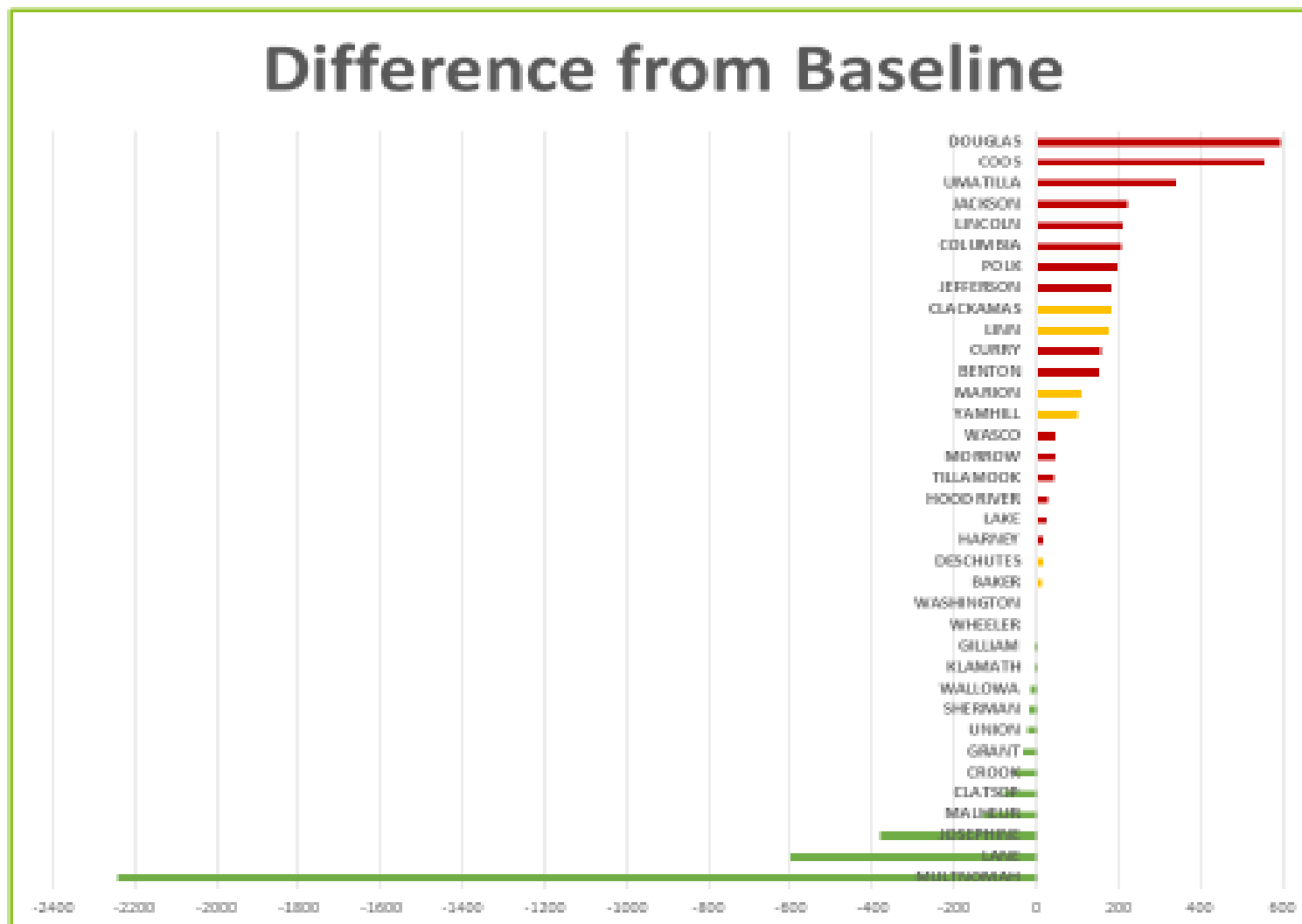
- Improving public safety by reducing spending on incarceration in order to reinvest savings in evidence-based strategies that decrease crime
- Controlling Prison Growth: HB 3194 (2013)
 - 3194 sentencing reforms can no longer control growth of Oregon's prison population
 - Local use of funding will determine outcomes



MCJRP

CASE DISPOSITION	MCJRP CASES PLED
CONVICTIONS	1064
PLEA	1056
TRIAL	8
DISMISSED	1
NOT GUILTY	1
TRIAL	1
TOTAL CASES	1066

IMPACT ON PRISON POPULATION



Task Force Approach

- Convened by the Multnomah County Justice Reinvestment Steering Committee
- Collaboration: Judges, Defense Attorneys, Probation Officers and Prosecutors
- Best Practice: Before, During and After a Judicial Settlement Conference

THERAPEUTIC OPPORTUNITY IN JSCS



TIM HARTNETT
EXECUTIVE DIRECTOR, CODA

MOTIVATIONAL INTERVIEWING

CONVERSATIONAL APPROACH TO DEFENDANTS

Discover their own interest in changing their lives

Change Talk: Expresses a desire for change

Examine ambivalence about the change

Plan and begin the process of change

Elicit and strengthen change-talk

Enhance their confidence in taking action and
noticing that even small, incremental changes are
important

Strengthen their commitment to change

BEFORE THE JSC



PROBATION OFFICERS
DISTRICT ATTORNEYS
DEFENSE COUNSEL

BEFORE THE JSC PROBATION OFFICER

- Interview defendant
- Conduct LS/CMI
- Inform defendant about MCJRP
- Schedule evaluations
- Case plan
 - Risk and Need
 - Controls and Programming

BEFORE THE JSC PROBATION OFFICER

- Complete report within two weeks of LS/CMI. Include recommendation for supervision options/treatment courts to address defendant's need. Assess defendant's readiness to change.
- Complete pre-adjudication home visit. Create housing plan should defendant need housing.

BEFORE THE JSC DISTRICT ATTORNEY

- Communicate with the victim
- Know your case's strengths and weaknesses
- Know possible, and most likely sentencing ranges

BEFORE THE JSC DEFENSE ATTORNEY

- Assigned attorneys should personally appear at JSC whenever possible. If necessary and appropriate for a particular case, make arrangements for coverage.
- Provide notice ahead of time to reschedule JSC, if necessary. See MCJRP Court Coordinator protocols for guidance.

AT THE JSC



PROBATION OFFICERS
DISTRICT ATTORNEYS
DEFENSE COUNSEL

AT THE JSC PROBATION OFFICER

- Complete the assessment and attend JSC
- Discuss advantages and disadvantages of proposed outcomes
- Know availability and length of wait list for treatment and housing options
- Attend plea and sentencing. Explain in detail the expectations, conditions of probation, and timing

AT THE JSC DISTRICT ATTORNEY

- Inform parties if the victim is present and determine what level of participation the victim wishes
- Do not attempt to control the JSC. Listen to everyone else.
- Encourage the defendant to tell you about what life changes s/he could implement to avoid recidivism

AT THE JSC DISTRICT ATTORNEY

- Explain your preliminary assessment of the case and likely sentencing outcomes
- Explain why the DA's office may be reluctant to agree to probation on a mandatory or presumptive prison case and discuss the DA's duty to protect the public

AT THE JSC DISTRICT ATTORNEY

Get as much information from defendant, defense attorney and PO as possible.

- Why past treatment programs did not work
- Why defendant engaged in this crime
- What may be different this time if defendant is given probation

AT THE JSC DEFENSE ATTORNEY

- Listen to Judge and PO; do not try to control the JSC. Allow Judge to control JSC, and let the PO provide additional information about the Defendant and the availability of treatment and resources.
- Discuss case with DA outside the presence of the Defendant and Judge. Do not bicker with the DA at the JSC.

AT THE JSC DEFENSE ATTORNEY

- Encourage Client to speak with the DA, PO and Judge at the JSC, but be prepared to speak for Clients who are not articulate or who are uncomfortable
- Collaborate with PO to explain skills & needs to Judge and DA

AT THE JSC DEFENSE ATTORNEY

Explain how utilizing existing skills, addressing treatment and other needs will reduce recidivism.

- How will the Client change his or her thinking, attitudes and associates?
- What is the plan?

AT THE JSC DEFENSE ATTORNEY

- Offer reasonable resolutions likely to build consensus. Clients with lengthy or serious criminal histories will need to commit to more time and higher local jail sentences than those with minimal criminal histories.
- Discuss eligibility for alternative programs (START, DISP, Mental Health Court, etc). Be familiar with the basic criteria of any alternative programs you discuss.

AT THE JSC DEFENSE ATTORNEY

Mitigation

Sentence Length

- Use Assessment Report to advocate shorter sentence
- Advise parties on status of mitigation

Further Proceedings

- Ask Judge to schedule follow up JSC or plea if needed.
- If agreement is reached before the next court date, notify the DO

STATE V. HOSER



AFTER THE JSC



PROBATION OFFICERS
DISTRICT ATTORNEYS
DEFENSE COUNSEL

AFTER THE JSC PROBATION OFFICER

- Communicate with all parties about likely outcome
- Make any and all referrals to treatment, housing, or community programming
- Follow up with any additional assessments

AFTER THE JSC PROBATION OFFICER

- PO who completed the assessment should attend plea/sentencing
- PO or designee arranges to pick defendant up should they be in custody

AFTER THE JSC DISTRICT ATTORNEY

- Obtain copies of any mitigation
- Follow-up with the victim

AFTER THE JSC DEFENSE ATTORNEY

Comment regarding overall best practices

- After the JSC, all parties should continue to communicate about the case and the ultimate sentence.
- The DA should communicate with the victim as appropriate.
- The DA and defense counsel should include PO in e-mail negotiations where appropriate, especially if there will be a probation sentence.
- Allowing the PO to get started on referrals and of services prior to adjudication will help save jail days and increase public safety upon release.
- Schedule the plea for the earliest possible date.

JUDICIAL SETTLEMENT CONFERENCES

STANDARDS OF EXCELLENCE



TOP 10

*THINGS YOU DON'T WANT TO HEAR IN A
JSC*

10. CLIENT ENTERS AND SAYS

Soooo, what's this all about?

9. CLERK ENTERS AND SAYS

Judge is in chambers, said to call if you need them

8. DA ENTERS AND SAYS

You're going down so hard, you are going to bounce

7. PROBATION OFFICER ENTERS

...and starts a crossword puzzle

6. CLIENT SAYS : *Settlement ?!?*

I'm here for a dismissal & an apology letter from the DA

TOP 10: *THINGS YOU DON'T WANT TO HEAR AT A JSC*

5. DEFENSE ATTORNEY GOES

Non-deportable!?

Man, you're screwed

4. DA GOES

Probation?

*And starts laughing
hysterically*

- 3-

THE JUDGE AND THE PO JOIN IN

-2-

PO SAYS

***YEAH, I GOT YOUR TREATMENT RIGHT
HERE***

*AND THE NUMBER 1 THING YOU
DON'T WANT TO HEAR AT A JSC*

*I'll take MCJRP with cheese, fries and
a chocolate shake*