

Lane County Sheriff's Office

Russel E. Burger, Sheriff



April 23, 2009

Lane County Board of Commissioners

Commissioners:

It is out of great concern for both the safety of the citizens of Lane County and the institution of Lane County government that I write you today. You have been informed that the public has been put at risk because of our inability to hold dangerous offenders in our County Jail due to inadequate funding. This has been brought to the Board's attention a number of times in the past by Circuit Court Judges, Police Chiefs, citizens, the District Attorney and I. This has especially been the case as the Board has deliberated on how to spend the millions of dollars of Secure Rural Schools funding attached to the Emergency Economic Stabilization Act that was passed in the fall of 2008.

What I wish to convey out of concern for Lane County government, beyond the liability that it may be incurring by putting the public at risk by turning a blind eye towards releasing dangerous offenders into the community, are three separate specific issues that you may or may not already be aware of:

The first is that of Oregon Revised Statute (ORS) 137.140 and related statute ORS 137.330. In essence, these statutes say that "whenever it appears to the court" that suitable confinement does not exist to incarcerate defendants, that the court may order that the defendant be held in another jail in Oregon, and that the cost of incarceration is the responsibility of the sentencing county. Our local Circuit Court Judges are aware of this statute and I have been advised that they are ready to impose it if our jail capacity situation does not improve.

Even if the judges were to only commit the first 1,000 high risk offenders (meaning at high risk of being a danger to the community) we will release this year due to overcrowding, it is estimated that it could cost Lane County in the neighborhood of seven million dollars, not including transportation costs to house these inmates in another county. It is also estimated that if the judges were to elect to order that all offenders being released due to overcrowding be committed to out of county jails, it could cost as much as 40 million dollars within a year's time.

The second issue you need to be aware of is that Lane County has caught the attention of the Oregon State Attorney General's Office. District Attorney Alex Gardner was recently contacted by the Attorney General's office inquiring into a

concern raised by a citizen that the Lane County Jail has been releasing dangerous offenders in violation of State statutes. As you will remember, violating ORS 135.240, regarding the release of violent offenders, was a concern that was raised by Presiding Circuit Court Judge, Mary Ann Bearden, to the Board in person on October 21, 2008 and again via letter signed by each of the fifteen Lane County Circuit Court Judges on December 10, 2008.

If the Attorney General decides to pursue this issue any further, something you may want to consider is that it is one thing to release inmates in violation of a statute if you truly have no ability (funding) to hold them, yet it is another thing to release them when, by choice, you are intentionally holding on to funds that could be used to keep them in jail.

Finally, the Federal Consent Decree we operate under provides protection from liability if a released offender commits a crime. It may not provide that protection if you have the discretion to fund Corrections capacity and choose not to.

It is my sworn duty to protect the public, and it is also my obligation to protect the Sheriff's Office and Lane County from liability and that is why I am informing you of these serious concerns. The Board of Commissioners have been advised by nearly all of Lane County's criminal justice authorities, including those from the treatment community, that we need to open more jail beds to both keep the public safe and to make treatment programs work.

The Board of Commissioners also has at its disposal the funding necessary to do so today, while continuing to work on funding sources for the future. To clearly know about this issue and to have the ability to do something about it and not take action is to invite liability upon our county.

My recommendation is to immediately provide the funding necessary to open enough jail beds to keep those that are at high risk for being a danger to the community in jail.

Sincerely,



Russ Burger, Sheriff
Lane County Sheriff's Office

Cc/ Alex Gardner, District Attorney
Maryann Bearden, Presiding Judge - Lane County Circuit Court
Jeff Spartz, Lane County Administrator
Liane Richardson, Lane County Counsel