

## May 13, 2019 Working Group Notes for SB498

My name is Rebecca Whetstone. I am offering these brief notes on the current iteration of **SB498** on behalf of the subject community of inmates and their families and friends. Nobody pays me to be here, I do not come here presenting myself as a lobbyist or other political entity. I work to gather up the observations, concerns, requests and suggestions of the community least listened-to. I am pleased that our great concern for the poorly presented or, in some cases, purposely misrepresented data from Oregon's Department of Corrections and its selected private industry contractors has been taken seriously. I am pleased that our request that frequent and third-party audited reporting be written into this law to help correct a fundamental substrate used to keep the mass incarceration industry immovably in place as we see it today.

However, this gratitude has its limits. Following are some notes as regards concerns or toxic effects that will continue in our lives should we be so fortunate as to see this bill pass this session. It is in representing these toxic effects to you that you are asked to remember to come back to this bill next session and continue in your duty to address the suite of laws we loosely call "mass incarceration" so as to recalibrate the balance of justice to the community and accountability to the agencies and contractors for whom we are an opportunity to earn. The community I listen to recognizes their duty to accountability and is tasked to strive in that direction in a place where daily negations are doled out. You cannot rehabilitate people by victimizing them. You cannot provide them solid reentry resources if those waiting for them are victimized. This is, in essence, is the current scheme on offer.

**Appendix 1** will be my hand-written notes on the bill copy. **Appendix 2** is a supplementary testimony that did not make it into the records this session – an explanation of the "entertainment platform" that is also impacted by this legislation. I apologize for the length, tenor and roughness of these notes.

In my reading of this bill, it occurs to me that not only are kickbacks still in place, relatively untouched, for the jails, but also still in place for the prison administration. In **Section 2, Parts 1 and 2**, the language is clear in allowing kickbacks to continue and does not specify jails vs prisons. My expectation of this bill when it was in the Senate Judiciary was that prisons were no longer allowed to receive these other than on the so-called "entertainment platform", which is in itself problematic (see **Appendix 2** for a position on this). Given that both prisons and jails continue to be allowed kickbacks, I am asking that the remedy be that jails and Department of Corrections (DOC) must report the "third party providers" (**Section 2, Part 1b**) in detail and broken down individually in publicly available and third party audited quarterly reports. It's time for transparency in the agencies we pay for by state taxes as well as the second tax represented in these further fees. It is time to make it clear just how privatized Oregon's prison services industry has or has not become. It is also time to make it discoverable as to whether correctional industry contracts are in line with reason or need to be brought into line.

In **Section 4, Part 1, Line 2**, a kickback amount is prescribed. In this same line loophole language is present. "or other amount authorized by the PUC" allows for further loading to occur outside the view of the subject population and concerned legislators. As remedy, please structure a linkage between those processes and any legislative or reporting and administration activity on these issues, easily navigable and timely offered so that community have the ability to understand and impact these changes. In **Section 4, Part 5, Line 30**, loophole language is presented that allows reasonable movement for agencies, yet also the continuation of current practices as well. We request third party monitoring processes to be initiated to assist in creating a cultural of veracity.

In **Section 4, Part 3, Line 9**, the “Inmate Welfare Fund Account” is mentioned. First, a detailed description and quarterly updates to this information must be easily searchable online. Second, I request that up to date and easily read report formats be used. At present, DOC reports are typically very difficult to read and do not search from engines, nor are they easily located on the website. In the very least, use graphics such as celled formatting in Excel or similar to make it possible for users to easily locate and read the information sought. This has made it difficult for subject populations to use the reports to date. In **Section 4, Part 5 Line 26** the quarterly, detailed accounting of this fund is described. We reiterate that end user needs be read as relating to the subject community of inmates and their support systems. Do not bury this data and use professional formats. As a side note, we recognize that correctional agencies are heavily funded overall, but may be underfunded in certain aspects. As the culture around mass incarceration shifts now, and jails and prisons are required to be rehabilitative rather than punishment driven, we recognize that these strenuous-seeming reporting requirements will actually assist these agencies in gathering solid data with which they can then return to the legislature and request proper funding of state functions as opposed to the literal super taxes laid upon those of us subject to these state functions of incarceration.

In **Section 4, Part 4(a), Line 15**, a quarterly reporting requirement is prescribed to bring transparency into this process. We have turned out numerous technical reports that were accepted and acknowledged by top executives and line leadership at the DOC. We have found numerous and reliable instances of either poorly-gathered, -understood or -managed data as well as instances of misreporting. Accordingly, we require that an independent, third party audit must be used on all the prescriptions so as to set a baseline of veracity. If the Secretary of State’s office has been auditing to date, we find that agency to not be maintaining proper scrutiny on this task.

In **Section 5, Lines 6-10** we get to a primary issue. At present, the telecom providers have been allowed to operate with very little accountability laid on them. They refuse to allow anyone but a stressed incarcerate standing in a line in a noisy prison block to report poor line quality. The inmate does not get customer assistance. They make a report on a recorded line and they may receive a voice mail that disappears after only one run through telling them they do or do not get to have their money back. I’ve reported previously that we’ve been robbed of a lot of money by telecom employees who refuse to do right. I want to stress to you that by laying the reporting responsibility on inmates only, the agencies ensure that very few actual complaints over time from the same inmate actually do occur. In addition, by doing it this way, the prevailing culture of agency and contractor is undisturbed “they are all cons anyway” and “who’s going to listen to an inmate” is the internal dialogue. More than this, I know for a fact that I am at present suffering illicit connection charges on my personal account of money for calls that are not connecting, and nobody at the company will assist me unless I tell them in detail of date and time and duration every single call I want checked. This despite the admission I extracted recently that they could, in fact, scroll quickly down the system to see our call history. Charging for paper records in such an atmosphere of refusal to service the users is predatory. I demand a third-party audit process be applied against this. The good faith of these predatory companies is not to be trusted, and the ability of the agencies in question to be diligent in the face of all they already must do is naïve. **Section 5, Lines 19-21** require a strong regulatory oversight to ensure the data is not being misrepresented. Not only should all users now be allowed to report any line or quality issues and with greater customer support offered, but source data provided so as to set a standard of absolute honesty in these matters. Dropped calls and non-completed calls are resulting in pilfering of funds. For further language on this, refer to **Section 5, (page 4)**,

**Lines 16-18** regarding call log fees and the refusal of telecom employees to be more than minimally assistive to sorting out illicit fees and quality issues.

As to the fee schedules described, I find that these are still an undue burden on newly incarcerated people in the case of jails. People who are trying to figure out their situations, need to find their support and legal infrastructure – the current culture is ensuring a lack of justice for those least able to purchase legal services. The electronic deposit fees are somewhat recalibrated, but still create a lack of ability for community to support prisoners. At present, the DOC has an unwieldy process for people to supply money to inmates for free. I ask that this be revisited with a community advisory board so as to ensure user needs are better met. We do not receive a robust set of alternatives at present. The document is describing a fee structure that ensures the likelihood that you are going to contract with the nation's most expensive and largest provider, Securus. If this occurs, you will have taken a step backward and away from the intended outcomes. I am requesting that a quick study be done as to how much these telecoms are paying for their VOIP lines. I believe you will find that you have now signed into law undue profit structures. In addition, you have now codified newly up-charged fees on us because you have removed the requirement that prisoners receive the same telephone privileges as outsiders. You are now going to charge us MORE to talk to each other across state lines. This is a clear step backwards, and I am adamantly against this move.

**Section 6, Part 1, Lines 2-5 and 10-16** describe what kickbacks are to fund. I reiterate that you are enshrining in this law's language the belief that it is proper to make laws to incarcerate, then secondarily tax those in the public to fund the services associated, nay, required. At some point here we have to be blunt about the situation. If the state wishes to continue to mass incarcerate citizens but also state a position of humanizing the thus-far non-rehabilitative prisons, then the state needs to find money for both the mass incarceration and the humanization of the conditions. We need to come back and work on this more in the future. As an example: why am I being charged to provide law library? Is this not a requirement already, that jails and prisons allow law library? And are you aware that the law library on offer is not a full-service professional portal? Have you checked to see if prisoners are being charged these fees when accessing the online "law library"? Are you aware that the few "educational programs" offered on the electronic platform were removed recently? Are you willing to insist the be returned to the inmates? You may not know that only two out of fourteen of our prisons allow actual community college course work. All other prisons require inmates to pay as much as \$700 per class for correspondence courses completed by pencil and paper. Inmates can be waitlisted as much as 2-3 years to be able to complete their GEDs behind bars. Drug and alcohol treatment programming is denied to Measure 11 prisoners at Snake River Correctional Institution. DOC has elected to use treatment as a carrot instead of a right of those incarcerated for substance issues. In addition, given that most Measure 11 inmates have substance issues, and are not eligible for "good time", they are denied treatment programs that are offered as incentive programs for earning good time vs fundamental rights to those who need it.

I am asking that further attention be paid to these things and critical analysis of impacts be maintained. Do not take the reports and pass on. Please look at the values expressed in what you are reading. We are at least taking our first steps. But remember that the suffering will continue, even under this first move we make together. I look forward to working together with you to ensure we rationally restructure Oregon's culture of mass incarceration.

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