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Clackamas DA raises legitimate concerns about state panel's 'low risk' offenders

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By The Oregonian Editorial Board



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Clackamas County District Attorney John Foote takes issue with the characterization of "low risk" inmates discussed by the state Commission on Public Safety.

What, exactly, is a "low-risk" criminal offender?

Ask the average person, and he'll probably tell you that a low-risk offender is someone who isn't likely to hurt anybody if released (duh) and probably didn't do anything bad enough to deserve a stiff prison sentence.

That's surely how Oregonians who participated in a **crime-and-punishment survey** early this year understood the term. More than 80 percent agreed that the state should send "fewer low-risk offenders to prison and reinvest some of the savings" on parole and probation.

The survey was commissioned by the **Pew Center on the States**, which is lending technical help to the **Oregon Commission on Public Safety**, a panel Gov. John Kitzhaber created to "identify fiscally responsible and sustainable, evidence-based policies and practices that will control corrections growth, hold offenders accountable, and protect public safety." The commission will issue a report this year, some elements of which lawmakers will consider in 2013.

The commission's work is certainly worthwhile, and its recommendations may be as well. But at least one of its members has blown the whistle on its sloppy use of the term "low risk," and he has a point.

Would the vast majority of those who participated in the Pew survey, which appears on the commission's website, have

taken such a relaxed view of low-risk offenders if they knew the term could refer to a man serving a 30-year sentence for beating his domestic partner to death? How about a guy who fatally stabbed his girlfriend or another, released from prison only months earlier, who killed his octogenarian neighbor with a shovel?

Yet these criminals are among a group Pew researchers dubbed low risk during a June meeting, according to information

obtained by commission member and **Clackamas County District Attorney John Foote**.

At that meeting, the **Pew folks presented a number of slides showing various factors responsible for the growth of Oregon's prison population**. According to one slide, 26 percent of those admitted to state prisons in 2011 were low-risk offenders, a 37 percent jump over the 2000 rate. This rise, according to a later slide, is one of "numerous measures" by which "the offenders admitted to prison in 2011 were less serious than those admitted in 2000."

Foote recalls seeing the first slide and thinking, "Hey, that doesn't sound right to me." He asked for the names of those deemed low risk, then distributed the list of 850 offenders to the state's district attorneys, who provided information about most of them. Foote followed up by telling his fellow commissioners in an **Aug. 22 letter** that "Oregon's prosecutors are very concerned about the accuracy of the information that is being provided."

The low-risk criminals included dozens convicted of homicide, some of whom are on death row. It even includes Bruce Turnidge, who was convicted in 2010 of planting a bomb at a Woodburn bank that killed two police officers.

Craig Prins, executive director of the Oregon Criminal Justice Commission, chalks up the controversy to context. Low risk, as applied by Pew during the June meeting, refers only to a criminal's likelihood to reoffend, according to an actuarial tool known as the **Public Safety Checklist**. But "it in no way means that an individual offender should not go to prison." In fact, he says of PEW's presentation, "I don't think that's what it's implying."

We'll take his word for it. However, the commission's statistics, and its terminology, will become part of the public debate as soon as the Legislature takes up its work, if not before. Oregonians, thus, are likely to hear that 26 percent of those admitted to prison in 2011 are low-risk criminals who shouldn't be behind bars, just as they're likely to hear that most Oregonians would prefer to send fewer low-risk offenders to jail and spend the savings on probation.

What a pity. To use these statistics to argue against locking up such "low-risk" criminals would, says **Clatsop County District Attorney Josh Marquis**, be "akin to avoiding surgery based on fundamentally flawed diagnostic techniques."

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