



STATEMENT REQUESTING AMENDMENTS: HB 2931 (MANDATING MEDICAL EXAMINATIONS FOR ARRESTEES)

To: House Committee on Judiciary
From: Michael Selvaggio, Oregon Coalition of Police and Sheriffs
Date: January 23, 2021

Chair Bynum and Members of the Committee:

For the record, my name is Michael Selvaggio, representing the Oregon Coalition of Police and Sheriffs (ORCOPS). ORCOPS is asking you to amend HB 2931 in order to avoid drastic constitutional issues and unintended (?) intersection with HB 2932, which creates a searchable database of uses of force.

The first and most obvious concern is that -- should both of these measures pass -- an officer faced with an arrestee who refuses medical assistance may be faced with a choice between violating HB 2931 (allowing the individual to refuse an examination) or appearing on a publicly-searchable database by dint of threatening or utilizing force to ensure compliance.

The awkward confluence of these two measures might be addressed if the Committee were to first inquire as to current practices and policies. In fact, the vast majority of police agencies in Oregon already have policies in place requiring officers to have EMS come out to the scene when certain levels of physical force are used or if the suspect is exhibiting any forms of physical distress. In fact, the Portland Police Bureau's directive 630.45, Section 5 is broader in terms of who it applies to, though stops short of mandating examinations.

There is also a significant concern among ORCOPS membership that such mandated medical examinations conflict with a person's right to refuse treatment. While cases such as *Washington v. Harper* (494 U.S. 210 1990) outlined the state's ability to mandate medical treatment when a compelling interest existed, HB 2931 makes so much test and broadly applies the requirement to all arrested persons.

Frankly, for a legislative environment where this Committee will also be considering applying personal liability to law enforcement officers (even for actions that are nevertheless in line with

adopted law and policies)... the consideration of actively requiring officers to violate such well-established case law seems dangerously casual.

ORCOPS would be happy to work with the Committee and other stakeholders to adjust the policy to comply with existing case law and to best comport with existing local agency policies that are already in place. Any arrested person who requires medical treatment or who would be benefitted by an examination should be offered such care.