



STATEMENT OPPOSING SB 421 (DATABASE OF COMPLAINTS AGAINST OFFICERS)

To: Senate Committee on Judiciary and Ballot Measure 110 Implementation
From: Michael Selvaggio, Oregon Coalition of Police and Sheriffs
Date: April 5, 2021

Chair Prozanski and Members of the Committee:

For the record, my name is Michael Selvaggio, representing the Oregon Coalition of Police and Sheriffs (ORCOPS). We represent line officers and deputies around the State of Oregon, and are Oregon's largest law enforcement organization.

On behalf of our membership, I want to convey our opposition to SB 421.

While the measure summary on your Committee agenda only makes reference to shifting the responsibility for an existing database from DPSST to the Department of Justice, it should be noted that the bill in fact goes much further.

The measure seeks to create a database of records of complaints and allegations made against public safety officers -- as well as a host of other personnel records -- to the general public, regardless of whether those allegations or resulting investigations resulted in discipline or were ever even sustained. The idea of publicizing official actions that may be unsustainable, frivolous, or even retributive opens the door wide to the weaponization of personnel records for purposes not intended by this measure.

Given that investigations may in many cases be instigated by anonymous complaints, this measure functionally allows anyone, without attribution, to write an allegation into an officer's personnel record and ensure that it becomes a publicly searchable document. This is an authorship privilege rife with opportunities for abuse:

- Unscrupulous managers could conceivably make unsubstantiated complaints about employees in order to justify termination,
- Unscrupulous officers could conceivably make unsubstantiated complaints about unpopular managers in order to justify termination, or

- An intolerant member or members of the public could make unsubstantiated complaints about officers based on their racial background, sexual orientation, or other characteristics in order to justify termination or simply to provide an opportunity to harass.

Lest the committee believe that these types of abuses are rare, please consider the case of Charmaine McGuffey,¹ who as a Deputy with the Hamilton County Sheriff's Office in Ohio, was subjected to a number of unfounded complaints which were -- unfounded as they were -- used as a basis for her eventual termination. However, McGuffey's subsequent lawsuit quotes then-Sheriff Neil as explaining the reasoning that some deputies "don't like working for a woman." McGuffey explained to the press that "The fact I was a woman was an issue with some of the men in the upper echelon. The fact I was gay was an issue [too]." This particular story has an inspirational ending, in that in 2020 McGuffey ran successfully for and now serves as Sheriff of Hamilton County. But not all law enforcement officers may be so lucky.

If SB 421 passes in its current form, Oregon will be setting the table for this kind of targeted abuse of the personnel and public records systems.

The chilling effect on recruitment will be dire. As Oregon law enforcement agencies attempt to recruit quality officers who care deeply about their records and reputations, SB 421 signals that when serving in Oregon, anyone may make an anonymous unsubstantiated complaint that will automatically become public and follow you for your entire career.

ORCOPS firmly supports the value of accountable and transparent law enforcement, but this must be balanced with the understanding that opening personnel records in such a broad manner will certainly have unintended consequences. This is why these public records exemptions exist in the first place -- not only for public safety officers, but for teachers, firefighters, and even elected officials.

ORCOPS is willing to have a more detailed discussion of public records. As noted in our testimonies to other measures, various databases regarding law enforcement conduct exist currently (e.g: at DPSST, USDOJ, etc) and also several more are proposed in legislation this session (e.g: HB 2929, HB 2932, LC 17, etc). To avoid establishing a tangle of separate databases and disclosures that overlap in varying degrees, we request that this concept be considered in a more comprehensive discussion of data collection and use.

We oppose SB 421 in its current form.

¹ McGuffey v. Hamilton County Sheriff's Office, Case No. 1:18-cv-322 (S.D. Ohio Jul. 29, 2020)