



STATEMENT REQUESTING AMENDMENTS: HB 2929 **(“DUTY TO REPORT” EXPANSION)**

To: House Committee on Judiciary
From: Michael Selvaggio, Oregon Coalition of Police and Sheriffs
Date: January 29, 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 for three adjustments to HB 2929:

1. Whistleblower protections

We want our members to have avenues through which they can safely report as required by the “Duty to Report” policy without fear of retaliation. We have no objection to creating an option of taking such complaints to BOLI, but fear that some commanding officers may see this as an opportunity to retaliate by disciplining the complainant for reporting outside of the chain of command. (This is not an unfounded fear; a number of officers have been subjected to just such discipline in the past.)

A straightforward solution to this question would be to amend the bill so as to clarify that complainants are protected from retaliation under Oregon’s existing whistleblower protection statutes, ORS 659A.199 *et seq.* As an example, we would urge the addition of the following (or something substantively similar) to Section 1, subsection 3 of the introduced bill:

(e) An officer making a report of misconduct under this subsection is subject to the employee protections provided under ORS 659A.199 and may avail themselves of any remedies therein.

2. A more comprehensive discussion on “databases”

Section 2 of the bill establishes a comprehensive database at BOLI for the purpose of documenting the reports described in Section 1 and providing information to the

Department of Justice. This is in addition not only to other databases regarding law enforcement conduct that exist currently (e.g: at DPSST, USDOJ, etc) but also to several that are proposed in legislation this session (e.g: HB 2932, LC 17, etc).

To avoid establishing a tangle of separate databases that overlap in varying degrees, we request that Section 2 of the bill be separated from HB 2929 and instead be considered in tandem with a more comprehensive discussion of data collection and use. We feel this would especially be useful in this budget-constrained environment.

3. Rationalize receipt responsibilities

As written, the measure contains various triggers and timeframes for actions taken once a report is made subject to Section 1. It should be noted that all of these actions apply universally, regardless of the substance of the complaint.

While it makes sense to ensure the receiving party commences an investigation within a reasonable amount of time, Section 1(3)(c) and (d) impose a number of requirements that may be premature if the receiving party has not even yet started that investigation much less ascertained the substance of the underlying complaint. Further, the investigation timeframe of three months may not cover all circumstances; allowances should be provided for when an extension is required.

We request that the requirements in Section 1(3)(c) and (d) be adjusted to simply require the commencement of an investigation, provide for the optional submission of a report of misconduct to BOLI, and establish a timeframe with some provision of extension as necessary.

Those in a position of authority who abuse their public trust should not be actively shielded from accountability by their colleagues. With these three adjustments made, ORCOPS would support the resulting measure.