

WRITTEN TESTIMONY
IN OPPOSITION TO SB 1550 AND 1551

FEBRUARY 7, 2012

By Don W. Leach

Before the Judiciary Committee

Dear Chairperson and members of the Judiciary Committee. My apologies for submission of my testimony without being present but I am unavoidably out of state for the hearings on such short notice in these matters. I will be back in state on or about February 22, 2012. Upon your timely request I can attend meetings after that date.

INTRODUCTION: I am Don Leach, currently of Creswell, Oregon. I am a father of 6 with 21 grandchildren. I was born in Cottage Grove, Oregon, attended grade school (2 rooms, 8 grades) at Lynx Hollow Grade School in the community of Walker located on old Highway 99 between Cottage Grove and Creswell, Oregon; graduated from Cottage Grove High School; attended undergraduate college "around" with about 7 years of credits and no degree. Going back to school at age 39 I attended Willamette College of Law in Salem, Oregon. I completed the experience a full semester ahead of my class. In passing the Bar on my first try I was practicing law without an undergraduate degree before the rest of my class graduated.

I joined the U.S. Army July 11th, 1966. My military experience included 1 year of training and 3 years as a spy. I have a military service connected disability rating of 100%. After my year of training I was attached to the Air Force. Assigned under the umbrella of Military Intelligence through NSA I spent 1 year in Turkey and 2 years in Japan. I returned stateside July 10th, 1970. After 2 years of inactive reserve I received my honorable discharge in 1972. (Vietnam era.)

From those of us generationally at my last class reunion 11 have passed as a direct result of their military service, the most recent about a year ago from the long term terminal impacts of Agent Orange. Not of my class but one of my very best friends, George Paul Leatham, passed about 8 months ago, Agent Orange.

I have a heart felt feeling and belief my generation and I have paid our price to be allowed to speak and be heard. Further, that price paid for our country gives us the right to talk about the freedoms enumerated in the Federal and Oregon Constitutions we collectively gave our lives for, whether we bled on the soils of a foreign country or as a result of our service watch the deterioration of our brothers as we too wrestle with the impacts of our service.

As I said earlier, I served in Turkey and Japan, yet when I processed out in Southern California in 1970, while in my military uniform I too was taunted and spit on by those who did not favor actions of the US military and our involvement in Vietnam. It is with a critical eye I watched what has happened in our country the last 40 years that brings me to a point where I feel compelled to give this testimony. It is with some of those same feelings I had as a young man walking the corridor of the airport I view the offering by Senator Burdick in SB 1550 and 1551.

TESTIMONY: I looked for a place to start and found it in a Burdick press release of June 7, 2006 where in she states "If we're going to fully protect our citizens, we need to examine every aspect of our criminal justice system and constantly be looking for ways to make improvements."

Many would agree the criminal justice system in Oregon is broken. Some advocates such as Burdick believe that to keep guns out of the hands of otherwise law-abiding citizens is some miracle cure for the problem posed by criminals who use guns, more specifically, handguns.

With this background we can look at the impacts of criminals who engage in various forms of illegal activity with the use of handguns by the impacts of those illegal actions. I doubt Burdick condones murder. She probably does not condone theft. Those two types of crime are fundamentally the same. A murderer wrongfully takes a life in one fell swoop where a thief takes it a small piece at a time. If she stands against those criminal concepts embraced in Oregon law, she would certainly stand with the majority of people in Oregon.

A small part of Oregon's treatment of that class of criminal is to allow self-defense. If the criminal is wrongfully using force that is intended to or would likely deprive another person of their life or cause them serious bodily injury then the "victim" is authorized to use deadly force in response. Further, the use of deadly force authorization for defense of the victim is extended to another when the victim is in the others presence.

This is NOT a blanket license to kill. The person using the deadly force response in defense of self or another in his or her presence must reasonably believe the deadly force response was necessary and may only use it to the point of effectively stopping the criminal from the wrongful imposition of force.

This treatment of victims, the allowance to protect themselves is well preserved in Oregon's laws. With statehood Oregon adopted a social compact for governance of our internal political affairs and as a part of that agreement between the people of the state of Oregon and the political body of the state of Oregon, they enumerated rights reserved to and vested in the citizens of Oregon.

At the core of those lay Article 1, Section 1 of the Oregon Constitution where in it states:
"Natural rights inherent in people. We declare that all men, when they form a social compact are equal in right: that all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness; and they have at all times a right to alter, reform, or abolish the government in such manner as they may think proper. —"

The clear responsibility for this legislative governing body is embraced in Section 1 and for which you all have been elected, which is for my and our collective peace, safety, and happiness.

From here take a very small step to Article 1, Section 27. "**Right to bear arms; military subordinate to civil power.** The people shall have the right to bear arms for the defense [sic] of themselves, and the State, but the Military shall be kept in strict subordination to the civil power[.]"

I am one of the people who has the right to bear arms in the defense of myself and pursuant to statutes, to protect others who are wrongfully the victims of unlawful force intended or likely to cause us death or serious bodily injury.

What I find in the proposals of SB 1550 and 1551 are direct attacks on my guaranteed fundamental right to protect myself from criminals who would do me and others in my presence severe bodily harm, even unto death. What part of this proposed legislation protects me, my family, and my friends from the fiends who would hurt us?

As legislators you already are failures in protecting us and now Burdick in violation of my constitutional fundamental rights wants to guarantee I, my family, and my friends will be victims. The worst part of this in the 2 places I most need to be able to protect myself and my family she would take away my ability to do so, leaving me exposed and totally defenseless against the very criminal element she is otherwise supposed to be protecting us from.

What do any of you think would be my and others like me feelings if one of our grandchildren were the victim, killed by a gunman or gun woman because we had been denied the ability to defend them in the place where they are otherwise most vulnerable?

Because of your constitutional mandated duties under the social compact if you all go down this path, then you have a duty in the absence of my ability to protect myself, to protect me. It is an actual duty. It is not enough you collectively by some majority vote deem some political solution as meeting that requirement. You have to make it happen. And folks, you don't have the budget to make that happen. It is that simple.

I have often said that as a product of the 60s in my youth I can complain but I don't have to have a solution. In this case I do have a solution. First you follow the Oregon Constitution in allowing me and other law abiding citizens statutory unfettered right to keep and bear arms in my defense. Second and more effective when combined with the first suggestion, you list a number of crimes that by their very nature are an authorization for an armed citizenry to use deadly force in defense of themselves and third parties in their presence. Of course murder in any of its forms would be at the top of the list. Serious crimes such as rape, sodomy, and other sexual crimes

would be on the list. And those crimes that often are intended to cause death or serious bodily injury such kidnapping, arson, etc. would be on the list.

While you are engaged in this treatment to put a band-aid on your failures in controlling crime you can also truly make my home my castle. You can pass legislation that in substances says people who enter ones home, my home, without permission are without a legal defense against the use of force in response to their entry. As a part of the "reasonable belief" concept for the use of deadly force, you can deem as a matter of law it is "reasonable to believe a person wrongfully entering one's home or place of residence intends to engage in a pattern of conduct which would cause death or serious bodily injury to the resident(s)". Extend this "castle doctrine" (as it is known in other states) to include the curtilage when it is properly posted, with a gate, etc.

It would not take long for this type of legislative treatment of criminals to have an impact on the criminal element (no pun intended), a strong deterrent to their criminal activity.

In closing this section of my testimony and in keeping with a view of how to protect me and the citizens of Oregon against criminal activity we need to examine every aspect of our criminal justice system and constantly be looking for ways to make improvements. Having provided a way, I urge you regardless of party to see through the sham of Burdick's SBs for what they really are. It is my hope you will stand up for the Oregon citizenry and our constitutional rights by standing in opposition to SB 1550 and 1551.

I have 2 other matters for this body at this time as a natural flow from the offering of SB 1550 and 1551:

First: While various dictionaries semantically differ on what "war" is, the general theme is that "war" is a state of armed conflict between different nations or states or different groups within a nation or state. In the national newspaper head lines we often read about "the war on drugs," or "the war on crime." Here in Oregon I think most people would agree that we are at war internally. We are at war against criminals and drugs, much more so than a mere microcosm of the national scene.

I suggest that Senator Burdick through her proposed legislation is an enemy of the state. By attempting to circumvent my and rest of the citizens of the state of Oregon's Constitutional Right as enumerated in Article 1, Sections 1 and 27 she has engaged in levying war against the State. As a natural consequence of her attempted actions she has demonstrated she adheres to our enemies, the drug and other criminal elements giving them aid and comfort by freeing the criminal element from fear of immediate response to their unlawful use of force when the use of such force is likely or intended to cause death or serious bodily injury to the citizenry of Oregon and in fact has done just that. There is a proper way within the system to change the Constitution

but she, having been rejected in this arena several times, refused and continues to refuse to use that way. Instead she intends to "end-run" the system and in that process achieve her goal of disarming an otherwise lawful citizenry and dismantling the statutory scheme designed to allow us to protect ourselves and our families.

Second and last: I owe an apology to the men on the Judiciary Committee. I assumed Burdick was male. I assumed "he" has not committed even one day of real and meaningful service in defense of this country and/or this state. Last, I assumed that with the stupidity of the proposed SB 1550 and 1551, defying any meaningful logic, that the elected senator was new to politics.

I have learned Burdick is a female. Senator Ginney Burdick is NOT new to politics and in the particular arena of the current SB 1550 and 1551 she has failed several times. It follows she has engaged in a nefarious scheme and pattern of conduct in support of the criminal element within the state of Oregon. By her open refusal to follow the rules of law in attacking my fundamental rights via fundamental changes in the Constitution of Oregon, repeatedly, and those of my fellow citizen brothers and sisters she has and continues to wage war on us as surely as if she were directly linked to that criminal element. In doing so, she is identified in Article 1, Section 24 of the Oregon Constitution: "**Section 24. Treason.** Treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid or comfort.—No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or confession in open Court.—"

I view her and those who support her much the same as I view the actions of Hanoi Jane. I understand that I am at least a generation away from most of you, but even so, treason is treason. Hanoi Jane was never charged and convicted. Burdick will also probably avoid that, but those of you who have to deal with her should know her for what she is, regardless of your political affiliation. I would and do stand opposed to all who engage in this pattern of activity, regardless of political affiliation. To that end I not only urge you to reject SB 1550 and 1551 but to start the appropriate inquiries into the funding sources where she must be getting paid off for her treasonous activity by the criminal element she is protecting by attacking law abiding persons such as myself.

Most sincerely,

Don W. Leach