



To: Members of the Senate Judiciary Committee

From: Chief Geoff Spalding, Beaverton PD
Oregon Association Chiefs of Police

Sheriff Jason Myers, Marion County Sheriff's Office
Oregon State Sheriffs Association

Date: March 17, 2015

Re: Support for HB 2901 & Opposition to SB 640

Chair Prozanski and members of the Senate Judiciary Committee; please accept this letter of support for HB 2901 and opposition to SB 640 on behalf of the Oregon Association Chiefs of Police and the Oregon State Sheriffs' Association.

As new technologies are developed and made available to law enforcement as tools to prevent crime, investigate criminal activity and keep communities safe and as criminal enterprises increasingly utilize new technologies to facilitate their crimes, policing agencies are under increasing pressure to strategically respond. During the past several legislative sessions, the introduction of numerous measures designed to address the deployment of these policing tools caused law enforcement leaders to form the Oregon Law Enforcement Responsible Technology Workgroup (LERT). The "LERT" includes law enforcement leaders and public safety partners from throughout the state along with experts in law enforcement technology, criminal investigation, agency accreditation and best practice policy. The objectives and values of the LERT include the following:

- To develop legislation to modernize our privacy statutes to insure that law enforcement implements the use of new technologies in a manner that carefully balances the privacy of our citizens and the safety of our communities. Policing agencies and prosecutors are sworn to uphold our state and federal constitutions and protecting the privacy of our citizens is an unwavering priority. For your law enforcement leaders and for the work of the Law Enforcement Responsible Technology Workgroup, the balance between privacy protection and keeping communities safe is not an "either/or"; Rather, it is a "both/and" proposition.
- To develop and align agency policies to insure that the utilization of new technologies is in keeping with best practice standards and practices. The goal of the LERT is to identify and use current research and policy development resources to create a best practice policy framework for use by local police agencies when they deploy new technologies. These policy frameworks are designed to recognize the need for agencies to establish policies on new technology use and deployment that take into consideration agency size, geographic location and other factors.

- To provide police agencies with tools to assist with planning, implementation, training, deployment, use, and proper management of new technologies. Before deploying new technologies, agencies should have an adopted best practice policy and the necessary training in place to insure that the new technology is implemented responsibly.

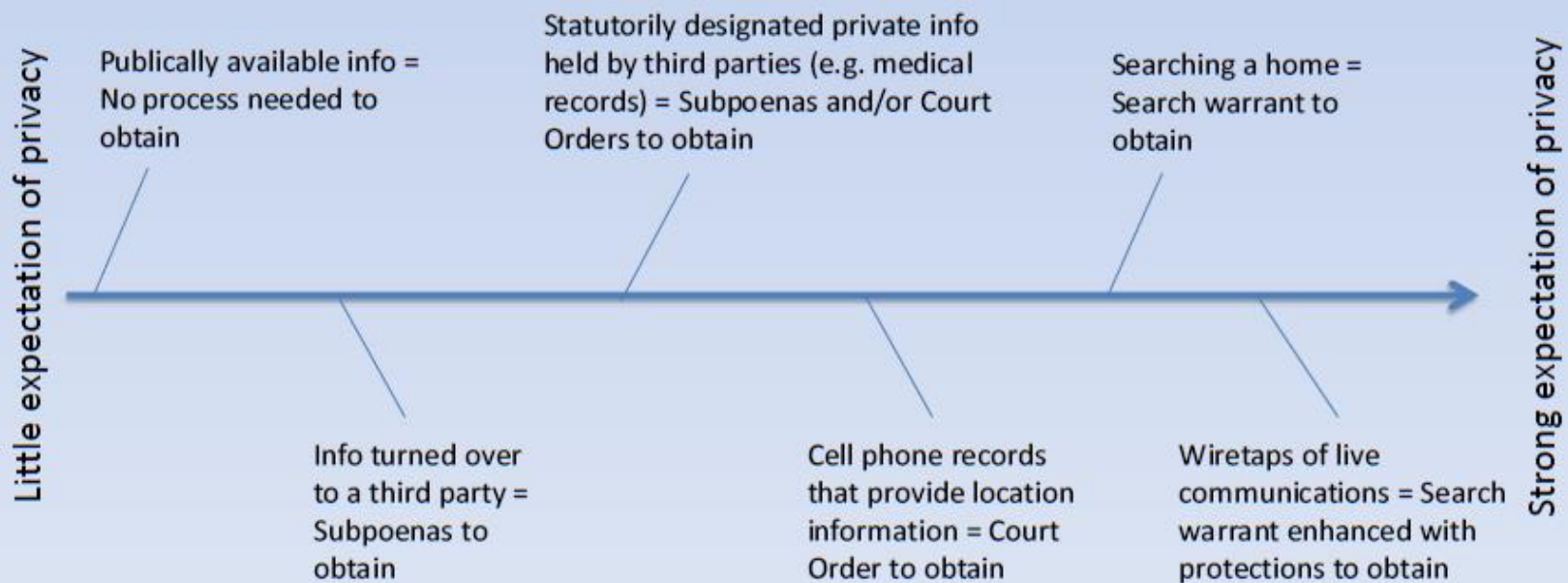
The Oregon Association Chiefs of Police and the Oregon State Sheriffs Association are committed to deploying new policing technologies in a manner that protects the privacy, civil rights, and civil liberties of our citizens while enhancing the safety of our communities. In keeping with this commitment, our associations cooperated with the Law Enforcement Responsible Technology Work Group to introduce HB 2901. The “Privacy Protection and Safe Communities Act” was carefully drafted to modernize our privacy statutes in order to insure that the privacy of our citizens is protected and enhanced as new technologies are deployed. While the courts are providing regular guidance to law enforcement through case law regarding the appropriate use of technologies to obtain information in the course of criminal investigations, our Oregon privacy statutes are antiquated and in desperate need of modernization. We look forward to working with the members of this committee to achieve this important objective.

Before Ryan Lufkin goes into a detailed review of HB 2901, we thought it would be valuable to briefly discuss the process law enforcement agencies must follow in order to obtain information where there is a reasonable expectation of privacy...regardless of the technology utilized to obtain the information. The stronger the general public’s reasonable expectation of privacy, the more process and court oversight is required to obtain it. We want to briefly refer to the following “Privacy Rights and Law Enforcement” visual that appears on the next page as a reference.

Thank you for your consideration and for your efforts to carefully balance privacy rights and the safety of our communities.

Privacy Rights and Law Enforcement (not mutually exclusive)

General rule: The stronger the general public's reasonable expectation of privacy is in keeping something private, the more process law enforcement must undertake to obtain it



Burden of Proof:

- Reasonable Suspicion = Suspicion that is objectively reasonable
- Probable Cause = More likely than not true (50.1% true)