



Legislative Testimony

OREGON DEPARTMENT OF CORRECTIONS

May 11, 2015

The Honorable Jeff Barker, Chair
House Committee on Judiciary

RE: Senate Bill 641A

Chair Barker and members of the Committee, I am Leonard Williamson, Inspector General for the Oregon Department of Corrections (DOC). I am here to testify on SB 641A, and provide information as it relates to the department.

What the Bill Does:

SB 641A prohibits law enforcement agencies from obtaining by forensic imaging, information from portable electronic devices without a warrant, unless authorized by consent.

Issues Created for DOC by this Bill:

The A-engrossed version removed the term "public body" from the language, and now speaks to law enforcement agencies, for which it does not define. Given the many definitions of law enforcement, DOC may likely fall under this terminology. Further, this concept provides that information obtained by forensic imaging from portable electronic devices without a warrant would not be admissible in court proceedings and administrative proceedings (like DOC inmate disciplinary hearings) unless certain warrant exceptions apply. This concept would cover the methods used to retrieve data from portable electronic devices currently owned by inmates (MP3 and MP4 players, which inmates may currently use to send and receive electronic messages). Electronic messaging is covered in the Oregon Administrative Rule on Inmate Mail (OAR 291-131), which states that all electronic messages will be processed in the same manner and be subject to the same standards established for the sending, receipt, and processing of regular inmate mail. This means all electronic messages are subject to regular mail inspection and examination. This bill would prevent DOC from reviewing electronic messages without a warrant, thereby impeding our ability to hold inmates accountable for misconduct. The regular review and examination of electronic messaging is crucial for the safety and security of our operations.

In addition, in support of the Prison Rape Elimination Act, DOC is exploring the use of a GPS system for the Coffee Creek Correctional Facility population, including inmates and staff, for which DOC has prepared a Policy Option Package. Although this POP was not included in the Governor's Balanced Budget, this bill could have unintended consequences on this system if it is funded in the future.

Requested Action:

SB 641A may likely apply to DOC as law enforcement, and for the reasons mentioned above, the Department of Corrections recommends that SB 641A be amended to carve out an exemption for the department.

Thank you for your time and consideration. I am happy to answer any questions you may have.

Submitted by:

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