



DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

HB 2355: Ending Profiling by Law Enforcement

“Police officers have enormous discretion. I understand the theory: Everyone who violates the law should be held accountable. But that can’t happen. There are a bunch of people speeding. Who am I going to stop? A group of people hanging out. Who are you going to select? How do you know unless you have the data?”

Oregon Supreme Court Chief Justice Thomas Balmerⁱ

In 2015, Oregon became the 31st state to place a prohibition against profiling by law enforcement into statute. House Bill 2002 also required the Attorney General to Chair a Task Force on the Prevention of Profiling by Law Enforcement. This Task Force, including members from the Chiefs of Police, Sheriffs, District Attorneys, police unions, ACLU, defense attorneys, Unite Oregon, Portland’s Independent Police Review Board, and an attorney in private practice. After 18 months of deliberation, this Task Force has returned unanimous, consensus recommendations now codified as House Bill 2355. This bill endeavors to follow the best available national trends in recommending a path to prevent profiling within Oregon through training, transparency, and accountability.

TRAINING. The Department of Public Safety Standards and Training (DPSST) estimate that only slightly more than a third of our law enforcement personnel have received training on the bundle of skills necessary to prevent profiling, including a conscious awareness of implicit bias and the development of general skills in cultural competency. This is a reflection of the newness of these trainings, which have only been in widespread existence for a decade or less. Because of this, only our youngest law enforcement members have reliably been exposed to these crucial trainings. HB 2355 would require this training for all law enforcement, not just in the academy but via continuing in-service trainings extending through an officers entire law enforcement career. This would also allow for the training of transfers and other mid-stream officers who might not have passed through Oregon’s basic training.

TRANSPARENCY. Nineteen states mandate the collection of data related to discretionary stops initiated by police. Oregon is not among them. HB 2355 would institute a statewide data collection system that would provide our public and our policy makers with current data about who is being stopped, who is being searched, who is being arrested, and who is simply being let off with a warning. What we know about our criminal justice system suggests the presence of enforcement disparities across multiple levels of our criminal justice system, but the absence of concrete data can drive false conclusions not only as to where disparities are to be found, but why they are to be found. HB 2355 will require select information to be required from law enforcement every time a stop is made, including the perceived race, gender and ethnicity of a person, the circumstances of the stop, and whether a search was conducted. Other states implementing similar systems estimate the impact on police officer time as less than 30 seconds per stop. Oregon already collects comparable data around prosecutorial discretion and charging decisions, criminal sentencing and recidivism. Yet despite being the most common interaction between citizens and law enforcement, the simple traffic stop remains among the most poorly understood.

ACCOUNTABILITY. All findings made by the Criminal Justice Commission, as long as the aggregated data submitted by law enforcement, will be made available to the public. The CJC will commemorate these findings via an annual report to the legislature and Governor. Upon the identification of a pattern or practice, a report will be furnished to the Department of Public Safety Standards and Training to assist in providing technical guidance to the law enforcement agency who is the subject of the identified pattern. Any advice provided by DPSST to the law enforcement entity will also be made a matter of public record. HB 2355 requires all advice to be provided via live testimony to the Local Public Safety Coordinating Council (LPSCC) in the county where the law enforcement office is housed, with opportunity for public participation and comment.

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ⁱ Portland Tribune, February 9, 2017