



**Testimony of Kimberly McCullough, Legislative Director  
In Support of HB 2355  
House Committee on Judiciary  
March 6, 2017**

Chair Barker and Members of the Committee:

The American Civil Liberties Union of Oregon<sup>1</sup> strongly supports HB 2355, which is aimed at identifying and reducing patterns and practices of profiling by law enforcement in Oregon, as well as reducing the impact of profiling and its resulting racial disparities in our criminal justice system.

I am honored to have been given the opportunity to participate in the End Profiling Task Force for the last two years. The group worked diligently, thoughtfully and with a high degree of collaboration and cooperation to work toward consensus on many challenging issues. We are proud to support the culmination of this hard work: HB 2355.

Our criminal justice system should keep communities safe and treat people fairly, regardless of their age, race, ethnicity, color, national origin, language, gender, gender identity, sexual orientation, political affiliation, religion, homelessness or disability.<sup>2</sup> In addition, for our system to do a good job, it must be cost-effective by using our taxpayer dollars and public resources wisely, in an evidence-based rather than fear-based manner. HB 2355 will help Oregon achieve these aims, by addressing and reducing profiling by law enforcement.

Profiling, by its definition, is unfair because it equates criminality with membership in a particular population. It is based on false assumptions, implicit bias, and broadly-accepted stereotypes. Several significant and negative consequences occur when profiling is prevalent.

Members of the community lose trust in the system and police officers. That can create all sorts of problems down the line, whether people no longer call for help or are unwilling to cooperate as witnesses in prosecutions.

Another consequence of profiling is the misallocation of scarce law enforcement resources. Ultimately, this results in both police officers and community members being less safe than they otherwise would be if profiling wasn't an issue.

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<sup>1</sup> The American Civil Liberties Union of Oregon (ACLU of Oregon) is a nonpartisan organization dedicated to the preservation and enhancement of civil liberties and civil rights. We have more than 28,000 members in the State of Oregon, and that number is growing as we speak.

<sup>2</sup> Such fairness is not merely an aspirational goal, but is required under the core promises of equal protection under the law and freedom from unreasonable searches and seizures enshrined in the Oregon Constitution and the federal Constitution.

We also understand that profiling that the failed War on Drugs fuels profiling and amplifies racial disparities in our criminal justice system. To address this, HB 2355 includes drug policy reform, decreasing the penalty for possession of small amounts of controlled substances from a felony to a misdemeanor. This will move Oregon toward treating drugs as a public health issue and reduce the harsh collateral consequences of drug possession convictions.

Felony convictions for small-scale drug use ruin lives and waste taxpayer money. Our current approach is unfair, and it doesn't work. Felony convictions can ruin people's lives right at the moment when they need help, and they continue to do damage, even decades later. The convictions can result in people being evicted from their homes, fired from their jobs or expelled from school. They make it much more difficult to find a new job or place to live or get a loan. They brand individuals as "felons," moving them into a different class of people.

Making matters worse, the convictions are handed out in an unfair way. Even our state's own research from the Oregon Criminal Justice Commission has found a disturbing racial disparity in convictions for possession of a controlled substance. People of color are more than twice as likely to be convicted of felony drug possession, even though federal health data shows there is no disparity in drug use.

Research also shows punishments are an ineffective way to address drug addiction. Experience and studies by drug experts shows that treatment, education and recovery support work much better and are more cost-effective than punishing people. We can fix this.

Eighteen other states have reduced small-scale drug possession to a misdemeanor. The most recent state to do this is Oklahoma, which is much more conservative than Oregon, and they passed it via ballot measure in November 2016.

The ACLU of Oregon believes we should no longer treat drug possession as a felony. Oregon voters strongly agree. The support holds strong among Democrats and Republicans, liberals and conservatives, urban voters and rural voters, men and women, and all age groups. Please refer to the public polling memo that I have submitted along with this testimony for more information.

For all of these reasons, we urge you to support HB 2355. Please feel free to contact me if you have questions or concerns.