



To: Members of the House Judiciary Committee

From: Chief Brian Harvey
La Grande Police Department

Date: April 5th, 2017

Re: Support for HB 2380 – Threatening a Mass Injury Event

Chair Barker and members of the committee, for the record, my name is Brian Harvey and I am the Chief of Police for the La Grande Police Department. I am here today to speak in favor of HB 2380.

Currently there is no Oregon Revised Statute that makes it a crime to threaten a mass shooting or similar mass casualty event unless the person made the threat knowing it to be *false* (see ORS 166.023 Disorderly Conduct I which is classified as a misdemeanor). In other words if the suspect was actually intending to follow through with the threat or to cause fear or alarm in others, in most circumstances it would not be criminal to merely make the threat.

We know that in many actual mass casualty events throughout the U.S., the suspect had either made threats directly or indirectly prior to the event often through various means to include electronic (i.e. social media).

Threats of this nature can, and have caused, major operational disruptions of the organizations they are made to and can create fear, alarm and panic with those who are the target of the threats and their loved ones. Additionally, that fear, alarm and panic routinely extends beyond the borders of the organization and into the community and public especially with the speed and proliferation of social media sources. This then can cause a widespread negative affect on an entire community or region. Law enforcement typically must expend a tremendous amount of resources in responding to these types of threats even though under current law they have often not risen to the level of a crime yet.

The lack of a crime in these circumstances means the ability to investigate is severely hampered. For example, law enforcement would not be able to obtain search warrants as there is no crime to base the warrant on. This may very well

result in the inability to *detect* a much more serious potential attack, the ability to *prevent* an attack, or to preserve evidence before it is destroyed or compromised. This leaves us with the all too common scenario wherein we uncover this type of information and evidence after the massacre has occurred.

Oregon has had at least three cases of persons planning and indirectly threatening mass shootings and law enforcement struggled greatly to find a law violation in order to *intervene and prevent* a tragic occurrence and contain the suspects prior to the events occurring. In a state that has suffered vastly from the Thurston High School shooting, Clackamas Town Center shooting, Umpqua Community College shooting, and Reynolds High School shooting, to name just a few, it is baffling that one can still legally threaten these types of events with impunity and there is no law preventing such threats. Also, it is disconcerting that even after these tragedies we as a state still have not been compelled to action to provide every reasonable tool available to prevent future tragedies of this nature. HB 2380, Threatening a Mass Casualty Incident is exactly the type of tool needed.

Due to the severity and significant negative impact of these types of threats they should be classified as a felony. If they are classified as a misdemeanor, in the case of juveniles, they typically will not be detained in a juvenile facility for a crime of a misdemeanor level. This is problematic as again, the goal is to prevent and appropriately investigate the incident and at times at least a temporary detention is needed to accomplish this.

I highly recommend this proposed crime stay classified as a felony for the following reasons:

- Classifying this as a misdemeanor would send a message that as a state and society, we see no difference in those threatening violence with *no* intent to pursue such violence (i.e. Disorderly Conduct I) as those who *do intend* to commit intimidation and violence.
- Threats such as these have an enormous negative impact on victims and the community and cause serious disruptions in everyday business. For example, a public school receiving threats may need to evacuate or close the school until the severity of the threat is determined. Parents are often in fear of having their children return to school. The school administration typically must expend significant resources in managing the aftermath of the incident.
- In many jurisdictions, misdemeanor cases may be heard in a municipal court which can create a lack of consistency and oversight.
- There is no state required supervision for convicted misdemeanants by a probation or parole officer. In other words if probation is part of a sentence the individual has no monitoring or oversight for the duration of their probationary status.

- Persons who threaten death to others are likely very much in need of monitoring and state provided services which are not available to misdemeanants on a statewide basis.
- There is no statewide entity responsible for, or system of resources for, the assessment, treatment and rehabilitation of those convicted of misdemeanors. Those convicted of felonies have programs available through the Oregon Department of Corrections or Oregon Youth Authority (in the case of juveniles).
- A misdemeanor conviction (with a few rare exceptions) does not prevent someone from the legal purchase and possession of firearms. It would seem prudent to make it illegal for those convicted of threatening a mass casualty event to purchase or possess firearms.
- District Attorneys have considerable latitude in handling cases at a lower level in circumstance when it is appropriate. Judges also have considerable latitude in sentencing based on the circumstances of a case. For example, in a less egregious case with significant mitigating circumstances, a felony may be handled with misdemeanor treatment or a judge may suspend or reduce prison time in sentencing.

In today's environment and with the increase of mass attacks both in schools and elsewhere, we cannot afford to allow threatening behaviors to go unchecked or for another tragedy to occur that may have been prevented. Support for and passage into law of HB 2380 is the type of preventative solution to a serious problem that Oregonians not only expect but deserve.

Thank you all for your time and consideration.