



**Testimony of Kimberly McCullough, Policy Director
In Support of HB 3242 with the -A8 amendments
Senate Committee on Judiciary
May 25, 2017**

Chair Prozanski and Members of the Committee:

The American Civil Liberties Union of Oregon¹ supports HB 3242 with the -A8 amendments, which would require peace officers to electronically record interviews with youth during criminal investigations of felonies, or an allegation that the person being interviewed committed act that, if committed by adult, would constitute a felony. As a nonpartisan organization dedicated to the preservation and enhancement of civil liberties and civil rights, the ACLU of Oregon supports efforts that protect young people during law enforcement interviews and in the juvenile justice system more broadly.

The rights of the accused are a cornerstone of a fair judicial system, and as the Supreme Court has noted,² these rights are especially important when young people find themselves in the justice system, where lacking an adult's capacity to recognize the consequences of their actions endangers their freedom. HB 3242 will help protect the rights of youth when interacting with the criminal justice system.

Recording interviews will benefit law enforcement and increase public trust and public safety. The existence of an objective and reviewable record will protect police officers against false accusations. A clear record of what occurred during interviews will also provide much-needed transparency in the system, which will increase public trust in law enforcement. Furthermore, an increase in public trust leads to an increase in public safety.

In addition, recording interviews will allow officers to focus on the interview at hand, rather than performing the additional task of taking handwritten and incomplete notes. Recording interviews will also create accurate records that fully reflect interviews, therefore increasing the efficiency of law enforcement.

Lastly, recording interviews will provide courts with more accurate and reliable records of youth interviews. For example, it will clarify questions around Miranda and voluntariness

¹ The American Civil Liberties Union of Oregon (ACLU of Oregon) is a nonprofit organization with more than 40,000 members in the State of Oregon.

² “[S]o long as the child’s age was known to the officer at the time of police questioning, or would have been objectively apparent to a reasonable officer,” law enforcement must factor age into determining whether to give a young person a *Miranda* warning. *J. D. B. v. North Carolina*, 564 U.S. 261 (2011)

and it will decrease wrongful convictions by providing an “objective, comprehensive, and reviewable record...to challenge misleading or false testimony.”³ Courts in eight states—Alaska, Arkansas, Indiana, Massachusetts, Minnesota, New Jersey, Utah, and Wisconsin—have implemented rules that encourage law enforcement officers to record custodial interrogations (i.e., police questioning where the interviewee is not free to leave).⁴ Oregon should follow their lead.

As a final note, while we ultimately believe that the recording requirement should be extended to all law enforcement interviews with youth, including during investigations of misdemeanors and interviews by school resource officers, this bill is a significant step toward that goal.

For these reasons, the ACLU of Oregon urges you to support HB 3242 with the –A8 amendments.

³ *In re Jerrell*, 699 N.W.2d 110, 123 (Wis. 2005) (holding juvenile interrogations must be recorded).

⁴ Rules including cautionary jury instructions, the suppression of evidence of unrecorded statements, and the inadmissibility of unrecorded custodial interrogations. Custodial Interrogation Recording Compendium by State, Nat’l Ass’n of Crim. Def. Law. (Apr. 3, 2016), <https://www.nacdl.org/usmap/crim/30262/48121/d>.