



STATEMENT RE: Legislative Intent vs. Language (LC 745)

To: Joint Committee On Transparent Policing and Use of Force Reform

From: Michael Selvaggio, Oregon Coalition of Police and Sheriffs

Date: July 30, 2020

Co-Chairs and Members of the Joint Committee:

Earlier this morning this committee had a productive and, I hope, fruitful discussion with regard to LC 745, banning the use of chokeholds.

My understanding, given the statements from Committee members, is that the general intention of the legislation is to maintain the state's broad restrictions on the use of chokeholds by law enforcement officers, which is a total ban except in cases where an officer's life or the life of another person is otherwise in immediate jeopardy. *(If I am in error, and it is the Committee's intent to ban chokeholds even in cases where an officer's life or the life of another person is otherwise in immediate jeopardy, please correct me!)*

In that regard, ORCOPS is in supportive agreement with the underlying intention of the bill.

Our concern would be if the Committee moved forward with the existing language of LC 745, which does not reflect -- and in fact seemingly contravenes -- that stated intent. Despite the well-intentioned legal theorizing that is nobly attempting to extract a particular intent from the existing draft, intent is no match for the plain meaning of the words in the text of a measure, as recently noted by the U.S. Supreme Court:

"When the express terms of a statute give us one answer and extratextual considerations suggest another, it's no contest. Only the written word is the law"
(Bostock v Clayton County, 2020)

ORCOPS recommends simply amending the draft with the Committee's intentions plainly written into the measure.