

From Michael Mann, Oregon Resident

June 24, 2020

Honored legislators,

My name is Michael Mann.

I agree with many others who are calling for reform of the criminal justice system; I have a degree of knowledge about this topic and I offer more specifics on my knowledge base after I address the bill at hand (\*please see the end of my statement).

Regarding HB 4203 (the bill that will prohibit force that limits the ability of a person to breathe), it is proper for the legislature to prohibit unnecessary force against people. I support and encourage the direction the legislature is taking. Reform should be supported by everyone, especially in the wake of the tragic death of George Floyd. However, as a person with knowledge and experience in police tactics, I feel compelled to point out that as it is written, HB 4203 would situationally ban many reasonable and necessary methods of legitimate physical control, nearly all of which currently would be considered “physical force” rather than “deadly physical force.” Necessary and reasonable physical force is necessary for police officers to enforce the law and protect society.

All of the following methods of controlling a violent, resistive, or combative person are currently legitimate force methods that could restrict the ability of a person to breathe (even if only momentarily), depending on the circumstances. All of these tactics could be outlawed for use by law enforcement in all circumstances by HB 4203 because they interfere with breathing:

***Tackling a person to the ground*** (hitting the ground forcefully can “knock the wind” out of someone and it may take some moments to recover),

***Many physical takedowns that are completed when an officer places the person on the ground*** (after exertion, just being prone can make it more difficult to breathe),

***Putting a knee on a person’s back after a takedown to hold the person down*** (officers use weight to keep resistive people in a prone position for control; weight impedes chest movement),

***Holding a person on the ground in order to complete handcuffing*** (same as above),

***Use of empty-handed strikes to the abdomen*** (breath can be knocked out and it may take some moments to recover),

***Any use of pepper spray*** (the spray makes it difficult to breathe),

***Any use of tear gas*** (even to resolve barricaded suspect situations, same breathing issues as pepper spray),

***Use of a baton to the torso*** (breath can be knocked out and it may take some moments to recover),

***Use of extended range impact munitions to the torso*** (less-lethal bean-bag rounds, breath can be knocked out and it may take some moments to recover),

***Use of electrical devices such as Tasers*** (the electrical current temporarily disrupts muscle control), and

***Use of any firearm against a person*** (likely damage to respiratory system).

I urge the legislature to not pass HB 4203 as currently written, as nearly every law enforcement tactic and tool to control a resistive, combative, or deadly suspect could be viewed as outlawed or rendered unusable under this proposal. If the legislature is looking to ban methods of control that specifically block the flow of air via the neck, the language should be much more specific.

A more specific version could look similar to:

(1) As used in this section, “neck compression” is defined as intentionally or knowingly using mechanical pressure on the neck or throat of another person to impede the normal breathing or circulation of the blood of that person.

(2) A peace officer may not use neck compression on another person except when deadly force is reasonably necessary.

(3) A peace officer may only use compression of another person’s chest when and to the extent reasonably necessary to gain or maintain physical control of a person.

I also great urge caution in legislating that specific methods of deadly force being banned, such as neck compression; if deadly force is justified and necessary, all means should be available because some methods of deadly force are ultimately less likely to result in death than using firearms. For example, if an officer is attempting to stop a person from violently and severely attacking a victim (an example would be striking the victims’ head against a sidewalk or strangling the victim) and other methods are failing, neck compression would be much safer for both the victim of the attack and for the suspect instead of using a firearm to stop the violent attack. Or another example, if a suspect is defeating an officer in a fight and is violently pummeling the officer on the ground, the suspect would be more likely to survive a neck restraint tactic than to survive being shot with a handgun (neck restraints are used frequently in martial arts without resulting in death). It would be a true tragedy for a suspect to be shot and killed if the officer had the skills to use a neck restraint but was forced to shoot the suspect because the legislature declared the officer could not use a neck restraint. Removing a less-destructive tactic makes it more dangerous not only for the suspect being controlled, but also for the public due to the slight possibility of bullets striking other people; neck compression carries no such danger to other people when it is used.

Please continue with legislation that reforms and improves the criminal justice system, but please do not pass this legislation as drafted. Many Oregon laws regarding force do need to be updated and improved in order to be in-line with the many federal rulings regarding civil liability.

Thank you for your consideration in this matter.

Respectfully submitted,

Michael Mann

\* I am a member of the Oregon community, as are my family, friends, and acquaintances.

I am knowledgeable about law enforcement as a recent retiree of the criminal justice system. I retired in 2019 as the Training Sergeant at the only police department in Oregon that was awarded international accreditation at the "Gold Standard with Advanced Meritorious Certification." I am not writing as a representative of that agency since I am now retired, but I do have information that you may find valuable. I instructed police officers for 25 years in areas such as de-escalation, police authority, force and other topics including the DPSST developed course "Police Legitimacy and Procedural Justice." I believe that competent, frequent, and progressive training delivered in a consistent manner is the most important component of a successful and trusted police agency.

There are many paths to build a justice system that more accurately reflects the vision of our nation; one path that I believe would deliver substantial results would be to require standardized on-going training to all law enforcement officers in Oregon, not just to basic police recruits. Many people likely do not realize that police officers in Oregon only receive state-standardized training during the basic police academy which occurs during the first eighteen months of employment. After that, police officers must receive on-going training, but the content and quality of that training is up to each individual agency; the training is not standardized which inevitably results in different knowledge, different skills, and different practices on the street.