



## Legislative Testimony

### OREGON DEPARTMENT OF CORRECTIONS

January 27, 2021

The Honorable Janelle Bynum, Chair  
House Judiciary Subcommittee on Equitable Policing

#### **Re: House Bill 2932**

Chair Bynum and members of the committee, for the record I am Rob Persson, Assistant Director of the Operations Division for the Oregon Department of Corrections (DOC). I am here to share information related to HB 2932.

#### **What the Bill Does:**

HB 2932, in part, directs the Oregon Criminal Justice Commission to establish a statewide database of the use of physical force or threats of physical force by peace officers and corrections officers.

#### **Background Information:**

The [DOC Use of Force, rule 13](#), directs corrections staff to “consider all types and amounts of force available and begin with the lowest type and amount that is reasonable and de-escalate and terminate as soon as possible. Non-force alternatives, such as talking the AIC into compliance, giving a warning, verbal command or demonstrating a show of force, should be used before actual physical force, if time and circumstance permit.” These directives work very well in correctional settings and in nearly every circumstance result in the restoration of order without the use of physical force.

When physical force is used, DOC’s Unusual Incident Report is the primary document used for all use of force situations. This detailed report includes written memorandums from all employees witnessing or directly involved in the incident as well as a use of force preliminary review summary. Supervisors including the Functional Unit Manager are notified. Prior authorization is given for planned use of force incidents. The use of force packet is forwarded to the Institutions Administrator for review within five days of the incident. Further review of the use of force incident is conducted in accordance with rule.

#### **Concerns:**

DOC may not be able to provide some of the information required under HB 2932. Age, race, and gender are requested during the application/hiring process. However, providing race and gender is completely voluntary and at the discretion of the applicants to answer.

HB 2932 would require DOC to obtain information regarding affected correctional officers’ (CO) race and gender in order to report the information to the CJC, even if that information is not on

file with DOC. Requiring CO applicants provide this information to DOC may raise some labor and employment discrimination issues.

Use of the term “perceived” in HB 2932 indicates the information DOC would be required to report to CJC is not the actual or factual characteristics and data regarding the person. Rather, the characteristics of the person as perceived by the officer or as recorded by the law enforcement unit would be reported. Perception of race and gender is subjective, rather than an objective enterprise or fact.

If every perceived incident or threat must be reported and investigated, the sheer quantity would be overwhelming for DOC. Perceived threats may include directing AICs to stop fighting, come closer, sit down or any directive. Even presence is considered on the force continuum. The bill could apply to everything from being present to verbal commands, etc. Clarification of any vague terms is necessary for DOC to comply.

Thank you for your time and consideration. I am happy to answer any questions you may have.

*Submitted by:*

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