



STATEMENT: HB 2936
(DPSST BACKGROUND CHECKS INTO OFFICER CHARACTER)

To: House Committee on Judiciary
From: Michael Selvaggio, Oregon Coalition of Police and Sheriffs
Date: February 2, 2021

Chair Bynum and Members of the Committee:

For the record, my name is Michael Selvaggio, representing the Oregon Coalition of Police and Sheriffs (ORCOPS). ORCOPS welcomes the opportunity to provide comments on HB 2936, which provides for background checks into a person's character.

First: ORCOPS is unwavering in its sentiment that there is no place for racism, bias, or discrimination in policing or in any public service. We offer these thoughts and suggestions in the hopes that the Committee's objective in passing this measure is accurately carried out as the bill is implemented.

- **With regard to DPSST background checks:**

Given that DPSST currently has the discretion to conduct background checks but lacks the staff to regularly investigate each recruit (a duty that falls to the hiring agency), we hope that the Committee considers charging DPSST with establishing a statewide "floor" of standards that local employers would have to abide by. In addition, we hope that the vague terminology is tightened up enough to allow for both an equitable examination as well as a reasonable freedom of association. For example, without knowing what is meant by a "racial bias and sympathy test," we would caution that many subjective examinations (such as polygraphs) often skew against persons of color, especially if those conducting the test are predominantly white. In addition, it is unclear what elements of a person's "financial dealings" would trigger a concern; would a political donation to a candidate that espoused prejudices be disqualifying?

- **With regard to prohibited behaviors:**

Some of these elements are obvious, such as participation in white supremacist groups. But other elements should be more carefully defined. Participation in the Boy Scouts in the 1990s might have meant drilling in a military-inspired uniform while regularly heading

to an isolated compound in the woods to learn firearms proficiency and survival skills, but I doubt this is what is meant by “militant group.” A small gift shop in Reykjavik, Iceland sells American tourists a Christmas tree ornament shaped like a stylized “Thor’s hammer,” but the symbol has also been appropriated by neo-Nazis, which is why the Anti-Defamation League recommends that “one should carefully judge the symbol in the context in which it appears.” As the content of the measure becomes more subjective, it becomes even more vital to ensure careful application of it so as to adhere to the intent.

- **With regard to provision of information to the District Attorney:**

This should happen in accordance with the already well-fleshed-out *Brady* standards. As written, the measure requires the provision of “evidence” of unsanctioned behavior within 14 days, but this could easily include any unsustained allegation. The provision should be triggered upon the agency’s sustaining of the allegations.

- **With regard to the convening of the Governor’s task force:**

We would like to see each local law enforcement agency have minimum standards policies for anti-bias and discrimination in the spirit of this element. With regard to the specific language, the measure talks about both “removing” officers as well as “retraining.” We would suggest a focus on investigations with retraining as an option for addressing an implicit bias issue. If an officer learns that they engaged in conduct that reflects an implicit bias that they were unaware of, they may benefit from the education.

- **With regard to the involvement of BOLI:**

As per our testimony on HB 2929, we are not opposed to BOLI as a reporting avenue, but to avoid establishing a tangle of separate databases that overlap in varying degrees, we request that the concept instead be considered in tandem with a more comprehensive discussion of data collection and use. We feel this would especially be useful in this budget-constrained environment.

Generally speaking, we also suggest that the Committee ensures that these standards exist not merely at the state level, but within each local agency as well, as those accountability systems will be closer to emerging issues and likely more effective at preventing bad actions.

Additionally, although the relating clause on this particular bill is applicable only to law enforcement officers, we would ask the Committee to consider whether it would be valuable to similarly extend standards to other classes of public servants, including elected officials.

ORCOPS is happy to work with the Committee, DPSST, and other stakeholders to continuously improve this bill as warranted, and to ensure that its implementation aligns with the Committee’s intent.