

March 25, 2021

The Honorable Janelle Bynum, Chair
Oregon House Committee on Judiciary
State Capitol, 900 Court St. NE
Salem Oregon 97301

Madam Chair and Members of the Committee:

Thank you for the opportunity to submit written testimony in support of House Bill 3265, relating to immigration. For the record, I'm Bruce Bishop, a constituent in the West Slope neighborhood of Rep. Helm's district in Washington County.

My support for HB 3265 stems from the opportunity I've had over the last several years to be a volunteer legal observer at the Washington County Courthouse in Hillsboro. This involved spending three hours most Mondays, particularly in 2019, walking around the courthouse grounds and throughout the building, in the event that armed federal immigration officers sought to detain a person suspected of being in the country without authorization.

I'm happy to report that never happened while I was at the courthouse. But, sadly, it has happened more than once in Hillsboro. In fact, it seemed like federal officers targeted this courthouse. There are numerous documented examples of such incidents there. This article provides a good overview:

<https://aclu-or.org/en/news/federal-immigration-agents-caught-video-racially-profiling-hillsboro-man>

Whether they occurred in Hillsboro, McMinnville, Portland, Astoria, or Bend, such civil arrests are the primary reason HB 3265 is before you today. But this practice has an even longer, and regrettable, history in Oregon.

In 1987, then State Representative Rocky Barilla (D-Salem) sponsored legislation to prohibit the use of state and local resources for immigration enforcement purposes, which are a federal responsibility. As a lawyer, Rep. Barilla had represented a client who was improperly detained by federal

officers based on his racial profile. Such practices are intimidating and deter people from seeking assistance from law enforcement officers or going to court. (Much of the confusion between state law enforcement and federal immigration enforcement stems from the federal decision that immigration officers often wear uniforms identifying them as “ICE Police.” They are not police officers.) Rep. Barilla’s bill became landmark legislation, which for over 30 years has “disentangled” state and local public officials in Oregon from federal immigration enforcement actions. (It passed the House 54-3 and the Senate 29-1.) The law does not interfere with federal officers’ carrying out their immigration enforcement responsibilities; it directs that state and local resources not be diverted from higher state criminal and civil priorities.

It’s time for that law to be updated and that’s what HB 3265 proposes to do.

Most importantly, the bill continues the policy in Oregon that state and local resources are not to be used to carry out or facilitate federal immigration laws. It is not a crime for a person to be in the US without documentation. The federal criminal code does punish “crossing” the country’s border without authorization.

Longstanding federal immigration policy direct federal officers not to take a person into custody in certain “sensitive locations”. These include schools, hospitals, and churches. Regrettably, the policy does not specify state courthouses, so federal immigration officials have felt at liberty to enter such places to detain people suspected of having entered the country without authorization. In fact, they have sometimes preferred courthouses because they may be “safer” for them.

To help assure that all Oregonians’ rights to life, liberty, and the pursuit of happiness are protected, a number of organizations came together in 2018 to ask the chief justice of the Oregon Supreme Court (who has executive authority over all state courts) to direct that federal immigration officers not make arrests in state courthouses. This request was grounded in the Oregon law that Rep. Barilla had sponsored years before. In late 2018, Chief Justice Walters adopted an emergency rule to keep immigration enforcement actions outside courthouses. That decision triggered a letter from US Attorney General objecting to the state court rule, and the following link provides a history and the text of that communication.

<https://www.opb.org/news/article/us-attorney-general-william-barr-oregon-rule-ice-court-house-arrests/>

The chief justice's decision has since been incorporated into the Uniform Trial Court Rules, following public hearings and a decision by the responsible state judicial committee.

<https://mbabar.org/about/mba-news/from-the-multnomah-lawyer--oregon-chief-justice-enacts-rule-to-keep-ice-out-of-court-houses/>

The rule specifically reads:

3.190 CIVIL ARRESTS

(1) No person may subject an individual to civil arrest without a judicial warrant or judicial order when the individual is in a courthouse or within the environs of a courthouse.

(2) "Courthouse" means any building or space used by a circuit court of this state.

(3) "Environs of a courthouse" means the vicinity around a courthouse, including all public entryways, driveways, sidewalks, and parking areas intended to serve a courthouse.

Section 6 of HB 3265 codifies this judicial policy for courthouses. While the bill contains other important provisions to build on the Oregon legal foundation set by Rep. Barilla and his 1987 legislative colleagues, I wanted to highlight one aspect of the legislation that's particularly important to me and will advance the cause of assuring justice for all.

Thank you for your support of HB 3265.

Sincerely yours,

Bruce A. Bishop
