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M E M O R A N D U M

TO: Honorable Sen. Prozanski, Chair

FROM: Aaron Knott, MCDA Policy Director

SUBJECT: Testimony on Senate Bill 779

DATE: 2/14/23

The Multnomah County District Attorney's Office is the largest District Attorney office in the State of Oregon. We employ XX investigators within that office. These investigators are tasked with a range of sensitive activities, including serving subpoenas on witnesses who may be reluctant, evasive or criminally involved, performing follow-up interviews and investigations into pending criminal matters, and assembling and reviewing technical evidence as needed. They are also absolutely critical to locating witnesses and victims in very old cases, including commutation cases and cases remanded by the court due to a non-unanimous jury verdict. In these cases, it is common for witnesses and victims to have moved multiple times, changed their names, and otherwise through the natural course of time increased the amount of effort needed to locate them.

All of these duties require specialized expertise, including deep experience with the legal structures of interviews, investigation and evidence gathering and interpretation. And so it is not surprising that these positions are typically held by retired police officers, who bring the unique expertise necessary to perform these unique duties.

Senate Bill 779 would create new educational requirements for any law enforcement office which employs fewer than 50 police officers, corrections officers, parole and probation officers, regulatory specialists and reserve officers. Because there is no provision which would allow for existing staff to be exempted from these requirements, existing staff would be required to obtain two years of additional education, while working full time, after having retired from active service as a police officer.

It is not immediately clear whether investigators working for District Attorney's offices would be subject to these requirements. The statutory definition of "law enforcement" varies significantly across the criminal code, and the treatment of DA investigators is not entirely consistent. SB 779 modifies ORS 181A.395. Under that statutory provision, an investigator of a district attorney's office is considered a "police officer," and so the most immediate conclusion is that the bill would apply to investigators as well.¹

Because DA investigators are almost universally retired members of law enforcement who are unlikely to be able to meet these additional educational requirements so late in their careers, their inclusion in the bill has the potential to significantly reduce the current roster of DA investigators available across the state, greatly impairing our ability to provide justice to the victims of crime, especially in older and more complex cases. These investigators are highly skilled and deeply experienced in the work – replacing them would be nearly impossible, so the loss of expertise they provide would likely be permanent. While we do not believe that this is the intention of SB 779, we would ask the bill sponsor to provide an amendment and clear legislative history clarifying that DA investigators are not subjected to these additional educational requirements.

Contact:

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¹ ORS 181A.355(14)(b). See also ORS 131.915(2), which defines police officer and DA investigator as separate entities.