

HOUSE COMMITTEE ON JUDICIARY SUBCOMMITTEE ON CRIME AND CORRECTIONS

March 10, 1993      Hearing Room H-170 3:00 p.m.      Tapes 42 - 44

MEMBERS PRESENT:    Rep. Bob Tiernan, Chair Rep. Peter Courtney Rep. Veral Tarno

MEMBER EXCUSED:    Rep. Kate Brown

STAFF PRESENT:      Julie Nolta, Committee Clerk Holly Robinson,  
Committee Counsel

MEASURES CONSIDERED:            HB 2750 - Relating to release of offenders  
HB 3052 - Relating to reporting of child abuse HB 3319 - Relating to  
knives HB 2011 - Relating to crimes involving motor vehicles HB 2223 -  
Relating to evidence

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These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes. [--- Unable To Translate Graphic ---]

TAPE 42, SIDE A

005      CHAIR TIERNAN:    Calls meeting to order at 3:05 p.m.

HB 2223 - WORK SESSION

008      HOLLY ROBINSON, COMMITTEE COUNSEL: HB 2223 allows criminal evidence that was lawfully recorded on inmate phone calls by corrections officials and on persons detained in county jails by law enforcement public officials to be admissible in court proceedings.

024      MOTION:    REP. COURTNEY:    Moves to ADOPT LC AMENDMENTS TO HB 2223.  
VOTE: Hearing no objections the amendments are ADOPTED.    Rep. Brown is excused.

028      HOLLY ROBINSON, COMMITTEE COUNSEL:    Rep. Brown had concerns about constitutional right to privacy in the bill. Amendments drafted to address this concern.

041      MOTION:    REP. COURTNEY:    Moves HB 2223 AS AMENDED TO FULL COMMITTEE with a DO PASS recommendation.

VOTE: 3-0      MOTION PASSES AYE:    Courtney, Tarno, Tiernan NO:    None  
EXCUSED:    Brown

HB 2011 - PUBLIC HEARING

Witnesses: Lt. Bill Johnson, Oregon State Police

049 REP. COURTNEY: States that HB 2011 was formerly HB 2693. New bill was needed because relating to clause of HB 2693 was too narrow to allow for the desired amendments. Moves to adopt testimony from HB 2693 to HB 2011.

063 LT. BILL JOHNSON, OREGON STATE POLICE: Submits and reviews written testimony in favor of HB 2011. (EXHIBIT A)

067 REP. TARNO: Asks witness if this will take care of our problems.

JOHNSON: Yes.

REP. COURTNEY: Asks if there are amendments or if current draft addresses past concerns.

073 HOLLY ROBINSON, COMMITTEE COUNSEL: HB 2011 as written is the set of adopted amendments which enhances penalties for motor vehicle robbery.

Does not address issue of unauthorized use of a motor vehicle (UUMV).

Committee could enhance UUMV penalties. However, this would increase the fiscal impact which is already high.

097 REP. TARNO: Asks Counsel for distinction between UUMV and armed robbery.

HOLLY ROBINSON, COMMITTEE COUNSEL: UUMV is taking a car for the purposes of going for a ride only. In robbery a threat or coercion that causes fear in the victim is required. Problem lies in cases of robbery for purposes of joy riding.

118 REP. TARNO: Discusses intent of bill and states need for distinction between UUMV and armed robbery.

129 CHAIR TIERNAN: Discusses how fiscal impact statement is put together. Intent of bill was to have a strong sentence for violent motor vehicle

theft as a deterrence.

151 JOHNSON: UUMV and robbery in the third degree are Class C felonies. In HB 2011 if guidelines of robbery in the third degree are violated and object of theft is a motor vehicle, then charged with robbery in the second degree which is a Class B felony.

162 HOLLY ROBINSON, COMMITTEE COUNSEL: Reads from HB 2011 regarding departure sentencing.

CHAIR TIERNAN: How many car-jackings took place in 1992?

JOHNSON: Twelve or 14 in Portland and Salem areas.

HB 2011 - WORK SESSION

181 MOTION: REP. COURTNEY: Moves HB 2011 TO FULL COMMITTEE with a DO PASS recommendation and the bill be referred to the Committee on Ways and Means.

VOTE: 3-0 MOTION PASSES AYE: Courtney, Tarno, Tiernan NO: None  
EXCUSED: Brown

HB 2759 - PUBLIC HEARING

Witnesses: Rep. Peter Courtney, District 33 Sylvia LaVoie Joyce Boles Wendy Schildmeyer Danny Santos, Parole Board Michael Jesse

(HB 2759 establishes the requirement that the State Board of Parole and Post-Prison supervision notify each person who owns property within an urban growth boundary and which is also within a 1,400 foot radius of a sex offenders residence of the date of the offender's release and expected address.)

200 REP. PETER COURTNEY, DISTRICT 33: Submits and reviews written testimony in favor of HB 2759. (EXHIBIT B)

306 CHAIR TIERNAN: How should notice be sent? Actually sent to the household?

REP. COURTNEY: Written notice is sent to the households, not posted.

CHAIR TIERNAN: Is there notice procedure we could borrow from?

REP. COURTNEY: Not in Oregon. Washington lets each neighborhood decide. Won't rely on a phone call for notification.

CHAIR TIERNAN: Assumes we will direct mail the households. Are there other suggestions for notifying agencies?

335 REP. COURTNEY: Department of Parole won't want to do it. Will have to wait until after discussion. Chair of Parole Board thinks notification is punitive. Hopes some other group will back it. Assumes there will

be a fiscal impact but it hasn't come in yet.

366 REP. TARNO: Agrees with what Rep. Courtney is trying to do with HB 2759. Supports the bill.

383 SYLVIA LA VOIE: Submits and reviews written testimony in favor of HB

2759. (EXHIBIT C)

425 CHAIR TIERNAN: Do you think this bill will help you?

LA VOIE: Would have helped. Didn't have information on this man for one year. Could have warned each other and our children.

CHAIR TIERNAN: Does the 1,400 foot distance specified in the bill cover

enough area?

LA VOIE: Thinks it should be more.

452 REP. TARNO: Is there a community agreement about your concerns?

LA VOIE: Trying to organize. Nothing at this point. Have put out information on own. Everyone keeps watch.

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025 JOYCE BOLES, N.E. REFORM COMMITTEE: Submits and reviews written testimony in favor of HB 2759. (EXHIBIT D)

087 WENDY SCHILDMEYER: Submits and reviews written testimony in favor of HB 2759. (EXHIBIT E)

212 CHAIR TIERNAN: Is 1,400 feet or a quarter mile enough?

SCHILDMEYER: A quarter mile in my case would be more than enough in my neighborhood. Five hundred feet would do it. Or even just neighborhoods on each side, and the word would be spread.

232 CHAIR TIERNAN: How far away is the closest park to you?

SCHILDMEYER: Within a quarter mile and we also live near an elementary school.

CHAIR TIERNAN: Asks for witness' comments on notification.

SCHILDMEYER: Notification through mail would be adequate. Would be hard to administer other than through mail. Wouldn't want municipalities to be liable if someone wasn't notified.

CHAIR TIERNAN: Committee's position is to make the bill as good as possible.

SCHILDMEYER: Have learned not to assume that a problem will get fixed.

314 DANIEL SANTOS, VICE CHAIR, BOARD OF PAROLE: Submits and reviews written testimony on HB 2759. (EXHIBIT F)

339 HOLLY ROBINSON, COMMITTEE COUNSEL: You have made the assumption that

this is personal notification and not mail notification?

SANTOS: Assumption is that it is personal notification.

HOLLY ROBINSON, COMMITTEE COUNSEL: Asks witness if he is aware that measurements are available without department having to do it?

SANTOS: Can go with personal mailing or personal contact.

HOLLY ROBINSON, COMMITTEE COUNSEL: Did you investigate whether other agencies or companies have those distances measured? Are you aware that they are available other places?

354 SANTOS: Not aware of that. It would still be an issue of mailings.

HOLLY ROBINSON, COMMITTEE COUNSEL: Wants clarification because there are a large number of assumptions when making up this fiscal impact statement which are not in the bill. Statement is based on personal notification versus other more efficient methods.

SANTOS: Issue is who is within that 1,400 feet. Is it residents or property owners? Number of people within that distance is also variable. Real position is to stand ready to provide notification but bound to indicate the cost involved. Limiting the distance would probably serve the purpose.

418 CHAIR TIERNAN: Doesn't disagree but would rather make a mistake notifying too many people than not enough.

SANTOS: Part of board's responsibility is to indicate that there is cost involved. Can meet the need with a more restricted distance.

429 CHAIR TIERNAN: Bill refers to notification within 30 days prior to release. How does bill provide for notification when the person relocates?

SANTOS: Bill does not allow for relocation. Sex offenders are registered which follows them, but notification does not move with the individual. Another issue is probation.

466 CHAIR TIERNAN: When a sex offender moves, who does he notify?

SANTOS: Local law officials and state police who maintain the sex offender hotline.

CHAIR TIERNAN: So we could make the bill better by requiring the offender to reregister and send out a notice to the people in the new neighborhood. Asks Mr. Santos if he has any idea how often these people move around.

TAPE 42, SIDE B

026 SANTOS: Most people stay in the same neighborhood for the period of supervision but a number do relocate. Don't have specific number. The board's position was to notify of concerns and reservations because of implementation.

049 REP. COURTNEY: Included in testimony an analysis of Washington's program. Sex offender in his neighborhood lives next door to home day care. Wants the Parole Board to philosophically endorse the concept. Will help from a standpoint of deterrence.

082 SANTOS: No philosophical difference between board and public but board needs to voice implications. May need to limit distance because of fiscal impact.

101 REP. TARNO: Fiscal impact statement indicates 50 such offenders released each month. Are the numbers growing?

SANTOS: Will be stabilized because of uniformity under sentencing guidelines and extension of supervision period for sex offenders.

115 REP. TARNO: Oregon honors other state's registration laws. When offenders come into Oregon from other states, how are they tracked? Or are they?

SANTOS: The board is not notified. The parole officer is made aware and then contacts law enforcement.

139 MICHAEL JESSE: Submits and reviews written testimony in favor of HB 2759. (EXHIBIT G)

295 CHAIR TIERNAN: Is the 1,400 foot distance enough?

JESSE: Yes.

HB 2759 - WORK SESSION

336 REP. COURTNEY: The 1,400 foot distance doesn't seem to be a problem.

Wants to discuss with state police about who can best notify.

363 REP. TARNO: Law Enforcement Data System, LEDS, would be a good source for information since they are responsible for the sex offender registration.

HOLLY ROBINSON, COMMITTEE COUNSEL: Value to trying to hook this up with the registry. They receive the information. Notification after moves needs to be added to the bill.

379 REP. COURTNEY: Clark County in Washington notifies schools, community

groups and neighborhoods. Also maintains book of offenders and their criminal history. Need to remove some of the confidentiality of the issue.

CHAIR TIERNAN: Asks if Rep. Courtney's staff can do some of this work.

HOLLY ROBINSON, COMMITTEE COUNSEL: Can get back with amendments in a week.

CHAIR TIERNAN: There are probably some simple ways we can notify based upon current records.

420 HOLLY ROBINSON, COMMITTEE COUNSEL: Need to add release of liability for failure to notify.

TAPE 43, SIDE B

HB 3319 - PUBLIC HEARING

Witnesses: Jackie Bloom, City of Portland John Anderson, Portland Police Bureau Tom Williams, Senior Deputy City Attorney Bob Keyser, Oregon Council of Police Associations

(HB 3319 prohibits carrying concealed knives that have fixed or locking blade at least three and one-half inches long, as well as ballistic and push knives. Adds definition of "ballistic knife" and "push knife" to definition section of certain public order offenses.)

023 JACKIE BLOOM, CITY OF PORTLAND, GOVERNMENT RELATIONS: Testifies in favor of HB 3319.

038 JOHN ANDERSON, PORTLAND POLICE BUREAU: Submits and reviews written testimony in favor of HB 3319. (EXHIBIT I)

067 CHAIR TIERNAN: A buck knife has a length of 3 1/2" or longer. If kept in a case is that considered concealed?

ANDERSON: Not considered concealed because the case indicates what is inside it.

073 CHAIR TIERNAN: What if you can't see the case?

ANDERSON: If the blade was a locking blade over 3 1/2" long and you could not see the case. Shows a variety of knives and explains legality of each.

146 ANDERSON: Safe reaction time distance for a police office is 21 feet

when talking about knives.

157 REP. TARNO: A problem will be packing a cased buck knife under a coat, especially for hunters.

ANDERSON: A blade is only measured from sharpened point to tip. The majority of knives people use would fall into that legal category.

CHAIR TIERNAN: This law applies all over Oregon and though it may be unusual for Portland, it may be standard operating procedure for people in eastern Oregon to carry such a knife.

182 ANDERSON: Several ways to work with the issue. Sportsmen and fishermen may cooperate. Maybe the individual officer can be given some discretion. These knives are a menace to the officer and the public.

198 CHAIR TIERNAN: Would it be proper to confine to city limits?

BLOOM: Refers to drive by shooting bill. Used urban growth boundary language instead of city limits.

CHAIR TIERNAN: A hiker would be remiss not to carry a buck knife when out in the woods.

218 ANDERSON: A very few knives in Portland Police property room had

a measurement of 3 1/2". The average individual's knife would not fall under illegal category.

234 REP. TARNO: There is an exemption in statutes for packing concealed

firearm and knives if going to or from hunting.

CHAIR TIERNAN: Would look at any outdoor activity.

246 TOM WILLIAMS, PORTLAND CITY ATTORNEYS OFFICE: (EXHIBIT J) An alternative to the proposed amendment would be to say "nothing in ORS 166.240 prohibits local government from banning these types of knives."

281 BOB KEYSER, OREGON COUNCIL OF POLICE ORGANIZATIONS: Testifies in support of HB 3319.

HB 3052 - PUBLIC HEARING

Witnesses: John Stratford, Washington Co. Sheriff's Office Teri Poppino, Portland Police Bureau

(HB 3052 deletes requirement that public or private official must come into

contact with the child in an official capacity in order to have a duty to report abuse.)

354 JOHN STRATFORD, WASHINGTON CO. SHERIFF'S OFFICE: Submits and reviews

written testimony in favor of HB 3052. (EXHIBIT K)

TERI POPPINO, DIRECTOR OF CHILD'S SAFETY PROGRAM, PORTLAND POLICE BUREAU: Supports HB 3052.

419 REP. TARNO: Didn't this bill come up last session?

HOLLY ROBINSON, COMMITTEE COUNSEL: Believes Rep. Tarno is referring to the training issue of mandatory reporters.

REP. TARNO: Would like witnesses to come back before the full subcommittee because it is an important bill.

464 CHAIR TIERNAN: Asks witnesses if they are proposing amendments to add "acting in official duties?"

STRATFORD: To remove that.

CHAIR TIERNAN: So if an off-duty police officer receives a report that someone might be molesting someone, he has to report that person?

STRATFORD: Under existing law, he would have no legal obligation to report that.

481 CHAIR TIERNAN: Who does "public official" refer to?



HOLLY ROBINSON, COMMITTEE COUNSEL: Schools, doctors, lawyers, EMT's, fire fighters, teachers, administrators. I would have a duty to report if it is someone with whom I have official contact.

TAPE 44, SIDE A

032 HOLLY ROBINSON, COMMITTEE COUNSEL: If you are on the list of mandatory reporters, you only have to report on those situations that you come into contact with as part of your official duties.

STRATFORD: As it reads now.

HOLLY ROBINSON, COMMITTEE COUNSEL: Public or private official is an all-encompassing term. Statute doesn't distinguish between the two.

CHAIR TIERNAN: Agrees that witnesses should come back because the issue is important.

055 CHAIR TIERNAN: Adjourns meeting at 5:04 p.m.

Submitted by:

Reviewed by:

Julie Nolta  
Committee Assistant

Anne May Committee Clerk

EXHIBIT LOG:

A - Testimony on HB 2011 - Oregon State Police - 3 pages B - Testimony on HB 2759 - Rep. Peter Courtney - 3 pages C - Testimony on HB 2759 - Sylvia La Voie - 1 page D - Testimony on HB 2759 - N.E. Reform Committee - 5 pages E - Testimony on HB 2759 - Wendy Schildmeyer - 3 pages F - Testimony on HB 2759 - Board of Parole and Post-Prison Supervision - 2

pages G - Testimony on HB 2759 - Michael Jesse - 3 pages H - Testimony on HB 2759 - Susan Beem - 2 pages I - Testimony on HB 3319 - Portland Police Bureau - 2 pages J - Testimony on HB 3319 - Portland City Attorney's Office - 2 pages K - Testimony on HB 3052 - Washington County - 6 pages