



Idaho Sheriffs' Association

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*Idaho Farm Bureau
PO Box 4848
Pocatello, ID 83205-4848*

[RE: OPPOSITION TO FARM BUREAU BILL REGARDING GOVERNMENT AGENT TRESPASS]

The Idaho Sheriff's Association has reviewed the most recent draft regarding trespass on private property. After a long discussion and thorough review of the draft, the Idaho Sheriff's Association (ISA) has voted to oppose the current draft and the concept at hand.

We appreciate the Farm Bureau's collaboration with us regarding your concern of government agents trespassing on private property. We have come to the conclusion that such a bill, regardless of language, is not necessary and the language being used in the multiple drafts we have reviewed, creates unintended consequences for law enforcement interactions and the citizens of Idaho.

As elected sheriffs in our state, our members take great pride in training our deputies to understand the complicated nuances of the Fourth Amendment and upholding our duties under the federal and state constitutions. We focus our training on ensuring our deputies honor Idahoan's constitutional rights to be free from unreasonable search and seizure. This is already a large component of every deputy's training to adhere to constitutional provisions and interpret the case law related to this issue in order to uphold the Fourth Amendment. This is something we expect all law enforcement officers to engage in and take seriously as part of their sworn oath.

Additionally, there has been no evidence of a pattern or even specific instances showing a problem of deputies disregarding the Fourth Amendment when it comes to a private landowner's rights, nor a disregard by our deputies to hold other another person (even a government agent such as an assessor) for a violation of the current trespass or other state laws concerning entering private property.

The Idaho Sheriffs Association believes that without any proof that a systemic problem exists within our interpretation of how to honor of a citizen's constitutional property and privacy rights, it is patently unfair for the Farm Bureau to pit landowners against local sheriffs as if we are currently doing something wrong in this regard.

Idaho Sheriffs maintain good relationships with private landowners in our county jurisdictions. Typically, when a county sheriff is called by a property owner that an individual (government agent or not) is disrespecting property rights or violating a person's right to be free from an unreasonable search, we have adhered responsibly. To ask us to support this bill is asking to admit to a problem that does not exist and to artificially create a conflict between the sheriff and landowners when none exists, as the need for this bill is based on a world where the Fourth Amendment is repeatedly being dishonored. There is just no factual basis to support any kind of singular or systemic problem in this regard.

The Sheriff's Association is concerned that the most current language creates unintended consequences for law enforcement investigations. Specifically, language in the bill which replaces the strict rule of suppression of evidence with now invalidating "any arrest, enforcement action or property seizure" creates a new world of penalties for a Fourth Amendment violation which previously did not exist. Doing this will cause confusion in criminal courts and create unnecessary litigation as criminal defendants will pursue all possible remedies to have a case dismissed on procedural grounds, even if they know doing so is frivolous and unlikely. In turn, this clause unintentionally implies that a violation of the Fourth Amendment (even an unintentional one) is now grounds for a civil lawsuit for false arrest. Also, the draft language as we have reviewed does not begin to take into account the common situation where the government could have a piece of evidence properly suppressed but can still proceed with prosecution using other lawfully obtained evidence. The current language is so broad it could be read that any violation under the chapter results in the entire case being thrown out of criminal court.

Finally, the Idaho Sheriff's Association strongly objects to there being a need for any civil penalty for violating a person's constitutional rights in any form, other than what already exists in the Idaho Tort Claims Act. The most recent language we have reviewed reads as if this civil cause of action is to be a new and separate line of cases in magistrate court akin to small claims court which creates confusion and diversion from a time-tested and properly working system for the state of Idaho.

We appreciate the conversations but for all the above reasons, the Idaho Sheriff's Association opposes this draft and concept.

Sincerely,



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