

PRINTS WITHOUT A CAUSE

New fingerprinting process at Eugene Municipal Court raises concerns

Local attorneys say a new fingerprinting process at Eugene Municipal Court is being performed without state authority and may infringe on the rights of defendants as well as endanger undocumented immigrants.

The new process requires fingerprinting for all misdemeanors, rather than just DUIs, according to an email sent to Eugene defense attorneys. The Jan. 24 email, sent by Erin Danaher, a court operations specialist, explains the process: "During your client's appearance in the courtroom, the judge will order your client to get their fingerprints processed ASAP."

Clayton Tullos is one of the defense attorneys who objects to the new process. "I do not believe any court in this state has the authority to order fingerprints for a defendant who has not yet been convicted," he wrote in a Jan 24 emailed reply to the court and defense attorneys.

"The court doesn't have the authority to do it," Tullos tells *Eugene Weekly*, pointing to a 2015 Oregon statute that requires fingerprinting for those convicted of felonies, sex crimes and Class A misdemeanors. He points out that the law requires a conviction and that it doesn't apply at all to Class B and C misdemeanors.

Tullos says the new process infringes on a defendant's rights. "When someone is merely accused of a crime, with the presumption of innocence, they shouldn't have the collateral consequences that come along with being finger-



printed if they haven't been arrested."

Those consequences, he says, include arrests coming up during background checks while a person is looking for a job or when they're trying to cross the border. Fingerprinting before a conviction would also make it easier for federal agencies like ICE to find undocumented immigrants.

"It just kind of opens up exposure to people," Tullos says. "They don't deserve it and they don't need it."

Even if the person is later found not guilty, the fingerprints could follow them. "It would show up on background checks if you didn't get it expunged," Tullos says, adding that expunging such a record can cost hundreds of dollars, even when the person is innocent.

Tullos says the court should not order fingerprinting because it's not a function of the courts but of the police. "The court is performing an executive function," he says. "They're using resources which they otherwise wouldn't need to."

In a reply to Tullos' concerns in the email chain, Eugene Municipal Court Operations Supervisor Cheri Coble wrote: "In an effort to conserve our valuable law enforcement resources they have chosen to fingerprint at the point of arraignment (or as early as possible) rather than at the point of arrest."

Tullos says he and several other attorneys are hoping to find a defendant who is willing to fight such fingerprinting in court, but it may be difficult to find a person who's sufficiently passionate about not being fingerprinted.

Ashlee Wiese, a local defense attorney, disagrees with Tullos and says the new Municipal Court procedure isn't a problem. "We should have been fingerprinting forever," Wiese says.

She says that, before the new procedure was implemented, "their criminal history isn't documented if they committed all their crimes in Eugene." She disagrees with Tullos' assessment that there are consequences to just being fingerprinted. "There aren't criminal consequences other than them being in a database."

When asked about the legality of the new fingerprinting process, Eugene Court Administrator Cheryl Stone wrote in an email, "Fingerprinting assures the right individual is associated with a particular criminal history." She adds that fingerprinting helps solve unsolved crimes and ensures accuracy in arrest warrants.

"It is more convenient to the officers and defendants to capture the prints when ordered by the court," Stone wrote.

When asked for further clarification about the legal basis for the process, Stone wrote, "Since this matter may be raised before the court I am unable to comment further."

Eugene Police Department also declined to comment.

"I don't believe the court has the authority over someone who hasn't been released from jail pre-conviction," Tullos says, "other than simply ordering a future court appearance. Getting someone fingerprinted doesn't do that, it just puts them further in the system." ■

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