

OREGON FRATERNAL ORDER OF POLICE



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Oregon State Senate
Oregon State House of Representatives
900 Court Street NE
Salem, Oregon 97031

To the Honorable Members of the Oregon Legislature:

Earlier this month, the Oregon State Lodge of the Fraternal Order of Police (Oregon FOP) wrote to each of you to express our collective response to the tragic death, in Minneapolis, of George Floyd. His death has created a wave of social unrest and reflection. In the weeks since his death, there has also been understandable and needed calls for equity in policing. In addition, some have called for widespread police reforms regarding the influence of organized police labor, use of force, use of non-lethal munitions and crowd control techniques.

Oregon FOP is ready, able and willing to work on effective and needed legislation. Oregon FOP represents nearly 900 law enforcement members from nearly every county in our state. Oregon FOP has a state-wide perspective on training, policy, use-of-force and police discipline. There is no doubt, that we need to reform our police policies, training, tactics and also police management.

FOP is committed to continual improvement and growth of modern, ethical policing. However, the police reform bills being considered this week, appear to be a rushed attempt to patch a much larger problem. The language of several of these bills is seriously flawed. If passed, several of these bills will be subject to immediate and obvious challenge in state or federal court, and some are impossible to implement. Oregon FOP implores the legislature to convene a working group to study needed Oregon-wide reform, to solicit input from all involved stakeholders, and to produce durable legislation which can meet the moment while surviving legal challenges.

For example, the current draft of the bill banning chokeholds is vague. As that bill is drafted, it would prevent a law enforcement officer from using pressure on the neck of a criminal suspect who is armed with a firearm or other weapon attempting to use deadly force. Hypothetically, what would happen if an officer is disarmed by a suspect, as happened to Rainer Police Chief Ralph Painter, and his/her only defense was to attempt to physically restrain a stronger and armed suspect?

Other proposed legislation directs the Oregon attorney general to investigate all deadly force or serious physical injuries caused by law enforcement. Has the legislature studied how many use-of-force incidents occur in Oregon on a yearly basis or how many use-of-force incidents involve serious physical injury? Is the legislature prepared to increase the Oregon DOJ budget to accommodate new investigators and prosecutors? Or will this be another unfunded mandate? This bill has a lot of merit, especially in a small state, but as currently worded, creates more questions than answers.

Oregon FOP is also concerned with the arbitration limitation bill passed last session by the Senate. Respectfully, this bill is a direct reaction to incidents in the City of Portland where officers were reinstated by an arbitrator after use-of-force terminations or discipline. Oregon FOP is unaware of one example outside of the City of Portland where an arbitrator has sustained serious misconduct yet reduced discipline. The legislature proposes to change how arbitration is handled in every corner of Oregon. This bill if passed, does not address how to deal with existing Collective Bargaining Agreements which establish criteria for grievance arbitration? There are many jurisdictions where management and labor do not agree to a discipline matrix, or even desire a discipline matrix. Will this bill apply to those jurisdictions? Perhaps most importantly the current drafting of the bill will force arbitrators who believe imposed discipline is unfair to sustain the grievance in whole rather than modifying the discipline. This could result in outcomes which are the opposite of what the legislature intends.

Ultimately all the approaches being considered by the legislature are aimed to address issues after they have arisen such as use-of-force review and modification to the ability to adjust discipline. What is missing from the discussion is how to prevent these problems in the first place. Proper training and hiring techniques which could prevent issues from ever arising are absent from the agenda. Also absent is the proliferation of cases in which executives are using D.A. witness designations as discipline. Good officers without a history of abuse or discipline are seeing their careers ended because of internal allegations of untruthfulness which turn out to be unfounded. Just this year alone Oregon FOP is aware of two officers with no prior history of discipline who were accused of dishonesty only to have an arbitrator conclude there was no factual basis for the allegations. By the time a grievance can work its way through arbitration it is far too late for those officers to rehabilitate their reputations.

Oregon FOP also urges the legislature to examine reforms to management and police executives. Currently DPSST has neither the budget or the legislative authority to investigate and take action against police executives, except limited authority over elected officials. This issue should be front and central in the discussion over police reform. Tone is set from the top and when management sets clear expectations, adopts progressive policies and provides proper training the entire state will benefit from better policing.

The Oregon FOP is committed to helping the legislature improve policing in Oregon. We are truly representative of all of Oregon. This issue is too important to make mistakes, too important to rush into, and too important not to have all the stakeholders working together. Thank you for your consideration.

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Sincerely,

A handwritten signature in blue ink that reads "Daniel E. Thenell". The signature is written in a cursive style with a large initial 'D'.

Daniel E. Thenell,
General Counsel
Oregon State Lodge
Fraternal Order of Police