



**STATEMENT RE: LC 748 (Also file under LC 746)
(RECORDS OF DISCIPLINE)**

To: Joint Committee On Transparent Policing and Use of Force Reform
From: Michael Selvaggio, Oregon Coalition of Police and Sheriffs
Date: July 29, 2020

Co-Chairs and Members of the Joint Committee:

For the record, my name is Michael Selvaggio, representing the Oregon Coalition of Police and Sheriffs (ORCOPS).

In the previous special session, the Legislature enacted a disclosure process with regard to standardized DPSST decertification records, with ORCOPS' express support. LC 748 aims to add local disciplinary records to that process.

ORCOPS has concerns about including a local process because the results will skew wildly across jurisdictions and officers. There is no universal standard for how strict local chiefs and sheriffs are in imposing such discipline, so **two officers exhibiting the same conduct in different jurisdictions might appear very different on such a database**. The elimination of “just cause” protections envisioned in LC 746 could further exacerbate the discrepancy by paving the way for selective and discretionary enforcement by commanding officers -- meting out frequent discipline for some in their agency while ignoring misconduct perpetrated by others.

As an example, consider the hypothetical case of four officers, two in each of two jurisdictions:

Officer	Jurisdiction	Actual Misconduct	Commander Action	Result in Database
Deputy Adams	County X	3x use of profanity	Harsh (does not like specific officer)	2 economic sanctions
Deputy Baker	County X	4x displaying badge for gain	Does not pursue (friendly with officer)	[No record]
Officer Charles	City Y	3x use of profanity	Harsh (generally)	2 economic sanctions
Officer Davis	City Y	4x displaying badge for gain	Harsh (generally)	4 economic sanctions

(These possible violations and sanctions are based on the existing advisory Discipline Guide used by the City of Portland.)

Regardless of whether LC 746 passes, LC 748 allows for the varied discipline styles of different commanding officers to be reflected in widely varying results on a DPSST database.

Case 1: If, for example, Deputy Baker and Officer Charles were both vying for the same position in another jurisdiction, the database envisioned here would reflect a cleaner record for Deputy Baker (who was under the command of a relatively lax sheriff who looked the other way on some significant misconduct) than for Officer Charles (under the command of a strict Chief who sternly disciplined even minor misconduct).

In the event that LC 746 passes as well, it creates an opportunity for intentional “gaming” of the system. Without a “just cause” standard in place to ensure that discipline is fairly brought to bear, chiefs and sheriffs would be free to engage in selective enforcement -- disciplining or not disciplining officers based on personal discretion rather than existing standards. (Currently, an arbitrator could make the case that a chief or sheriff was unfairly favoring or persecuting a particular officer, but not so under LC 746!)

Case 2: Consider the example of Deputy Adams and Deputy Baker both competing for the same position (... for example, running for Sheriff in a suburban county...). Despite more significant misconduct, Deputy Baker’s public record would appear squeaky-clean thanks to their favorable relationship with their commanding officer, while Deputy Adams’s record is peppered with records of misconduct.

Lastly, the concept’s definitions are so strictly written as to exclude Chiefs and Sheriffs from the accountability envisioned by the measure; Chiefs and Sheriffs typically do not impose discipline on themselves. In order to avoid creating an accountability system that grants a “pass” to those at the top of an organization, ORCOPS suggests exploring a more standardized framework for what should be included in such a database, along with ensuring that there continues to be due process for all through the maintenance of existing just cause disciplinary standards.