



July 29, 2020

Co-Chairs Senator Manning and Representative Bynum, and Members of the Committee:

The American Association of University Women (AAUW) of OR strongly supports Legislative Concept 746, with a few concerns which are articulated below.

The current system that purports to discipline Oregon's police officers clearly does not function. No matter the egregiousness of the misconduct and even when police agencies themselves have determined that misconduct has taken place, Oregon's arbitration process erects near impenetrable barriers to having sanctions actually imposed. The officer simply returns to his post and receives back pay, knowing that he and his or her fellow officers can repeatedly avoid responsibility for misconduct and the death or serious injury that misconduct has caused.

In Portland, every time a police chief or mayor has decided to discipline an officer for inappropriate use of deadly force, the police union has challenged the decision. The matter was then turned over to the arbitration process and on each occasion, the arbitrator overturned the decision of the police chief or mayor.¹ It is also the case that once an incident of alleged misconduct has not resulted in discipline, arbitrators have taken the position that future instances of such conduct must also remain undisciplined. This position represents a perversion of justice.

As presently practiced, the arbitration process is unconscionable and broken. It disincentivizes good behavior on the part of our officers who want to do a good job and serve our communities. Officers know only too well that regardless of misconduct, they will not be held accountable. The process reinforces a police culture that rewards keeping quiet and demonstrating loyalty at all costs. This process results in suffering for our entire community. If misconduct is not appropriately penalized, citizens are disincentivized from raising legitimate complaints, much less cooperating with the disciplinary process. It is no wonder that many of our citizens perceive that police officers have breached their oath and have therefore turned their back on police.

The selection of qualified and unbiased arbitrators by the Employment Relations Board is critically important to ensure that police misconduct is properly adjudicated. We do question, however, the inclusion of the word "indifferent" to describe a necessary qualification for an arbitrator.

Setting up a Commission on Statewide Law Enforcement Standards will ensure that both officers and the community members they serve will know what police misconduct is. We applaud the attempt to ensure a cross section of individuals that will serve on the Commission, but instead of restricting membership to three law enforcement officers, it should expand that restriction to three individuals who are serving or have served as law enforcement officers.

¹ Alex Zielinski, Can State Legislation Fix Portland Police's Accountability Problem?, Portland Mercury, Feb 27, 2020.

Finally, we wish to express our strong support for sanctioning police officer misconduct as set forth in LC 742 regardless of collective bargaining agreements entered into or renewed on or after July 1, 2021. Without this provision, change in the current arbitration process would likely be meaningless and yet another example of do-as-I-say and not-as-I-do. While officers should be able to bargain as a unit, this is not an area that can be subject to the to-and-fro of collective bargaining. Police officers stand in a different posture than other workers. They are professionals who owe a duty of service and protection to the citizens of Oregon.

Respectfully submitted,

Trish Garner

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