



**To: Members of the Joint Transparent Policing and Use of Force Reform Committee**

**From:** Chief Jim Ferraris, President  
Oregon Association Chiefs of Police

**Date:** July 29, 2020

**Re: LC 744 – Concerns Regarding Duty to Intervene Reporting Provisions**

**Good Morning Co-Chairs Bynum and Manning and Members of the Committee:**

For the record, my name is Jim Ferraris. I serve as the Chief of Police for the City of Woodburn and I am the President of the Oregon Association Chiefs of Police (OACP). As a 42 year police veteran in Oregon I have served 4 cities across our state and I have years of experience in the conducting and overseeing the investigation of police officers both under criminal law and during internal affairs investigations. I am offering testimony regarding LC 744.

The LC as drafted presents many challenges that will impede successful implementation.

HB 4205, passed in the 1<sup>st</sup> 2020 Legislative Special Session, gave DPSST authority to suspend or decertify law enforcement officers for failing to report misconduct, while the LC adds reporting obligations to BOLI; and to DOJ if the misconduct was against a civilian. Similar reporting obligations to CJC for profiling complaints already exist. Given the rarity of these occurrences, the complexity of having to decide which slightly variant report should go to which state agency precipitates problems. Officers and the public can already report misconduct to DPSST, and DPSST routes those complaints to the appropriate law enforcement agency. The LC unnecessarily complicates matters.

Under the LC, BOLI is required to compile reports of misconduct and create a database of the reports available to DOJ. Other than that, it's unclear what role BOLI will play. The database developed by BOLI is not dissimilar to that required of DPSST under HB 4207. Since people can already complain to DOJ, it's unclear if DOJ will accrue additional obligations. It would be better to completely remove BOLI and DOJ and perhaps replace those DPSST where appropriate.

There are elements of HB4205 and the LC that will make it difficult for management to conduct responsible, thorough, and timely investigations. Nothing in HB4205 compels a union member who witnesses and reports misconduct to cooperate in the investigation of another union member. The LC shields a reporting officer's information if he or she complained to BOLI. It is absolutely critical to know the identity of reporting officer so that person can be interviewed as part of the investigative process. Additionally, this shielding of the complainant's identity can create due process issues for the accused.

There are prescribed timelines that don't reflect what's always possible, especially within the other parameters prescribed by HB 4205 and LC744. 72 hours for officers to report alleged misconduct, 48 hours for management to open an investigation, 90 days to complete the investigation. These set timelines with no exceptions are unrealistic.

The bill's definition of misconduct is quite subjective. Tying a risk of decertification to such a subjective definition risks developing hostile workplaces in which officers are spying and reporting upon each other out of fear. Couple those elements with redacting a reporting officer's identifying information further decreases trust within an organization and among officers.

Thank you for your consideration.