

Thank you Madam Co-Chair and members of the Committee. My name is Joshua Marquis. I live in Astoria, Oregon, where I served for 25 years as District Attorney. I've been a lawyer for almost 40 years.

I'm here to address LC 825 - to abolish "Qualified Immunity,"

Normally when anyone speaks, they have no special protection or "immunity" from their comments. If they were to defame or libel someone they could be sued, and even if they were eventually determined NOT to have libeled, the cost can be devastating.

As legislators you enjoy TOTAL IMMUNITY when in session. You cannot be sued for any comment made in a speech or hearing, regardless of its truth

Some types of speech are considered so critical that they are protected, even if in some cases they turn out to be untrue. But so long as (1) the official believed in good faith that his conduct was lawful, and (2) the conduct was objectively reasonable . This principle was first set

down in a 1982 US Supreme Court Case of Harlow v. Fitzgerald

Importantly, the legislature cannot simply change this because they feel like it, it will need judicial approval.

At the moment the mob is at the door of the police, with everyone from the Governor, Atty. Gen, , Multnomah DA, and Portland City Council members making it clear they consider officers targets of prosecution, not defenders of the citizens.

Police officers lack other rights unionized government employees have. Simply refusing to speak about an incident can get an officer fired, but since their supervisors have a legitimate and pressing need to know what happened another set of rules go into play.

This LC is being hastily drafted during a special short session created to address the needs of the COVID Pandemic, but, if passed, the results will go on for years...decades.

you can expect much longer lasting results:

- 1) significant resignations from police work. The personal risk will be too great**
- 2) the "de-policing" we have already seen in some parts of America where officers, not out of protest but sheer fear, reduce their contacts to the absolute minimum necessary**
- 3) a massive rise in spurious lawsuits by every rapist and burglar who sees a potential payday from the municipality that arrested him, but failed to check a box on a literal or figurative form.**

The bottom line would mean more crime, less protection, particularly for poor people, people of color, those groups victimized at a rate 10 or 12 times higher than in a white upper class neighborhoods.

There are reasons for granting different levels of qualified protection to speech.

Because of the difficult decision you legislators have to make, you enjoy ABSOLUTE IMMUNITY, far beyond

Qualified Immunity.” This permits totally free flowing comments in public that may be false or even malicious

This LC is targeted at the women and men who protect our community by telling them that any mistake, even one made in good faith, endangers not only the arrest and community safety but also but their job, their, family, their home.