

Thank you for convening a special session to address these important issues. Swift and sweeping change is needed to correct decades of systemic abuse, and these bills are essential to moving forward and doing better for all of our citizens. People of color especially have long been targeted by our laws and justice system in Oregon, and it is time for history to reflect the true nature and intent of today's Oregonians. History is being made.

SB 1604: Discipline Guidelines and Arbitration Decisions In an effort to uphold agreed-upon discipline standards, the concept would prohibit an arbitrator from lessening a disciplinary action against a police officer if the arbitrator and the law enforcement agency determine that the officer has committed misconduct and was disciplined in a manner consistent with a disciplinary matrix adopted via collective bargaining.

While I am in support of the general concept of this bill, I have concerns that with the current language law enforcement agencies and police union bargaining teams will be incentivized to reduce discipline matrix outcomes in order to anchor arbitrators. It also continues to keep the public out of the conversation about appropriate officer accountability. I respectfully request for the bill to be amended to add a statewide floor on discipline and ensure discipline matrices are not subject to collective bargaining.

Attention should also be given to policy vs. contract wording, as pointed out by Michael Selvaggio, in order to accomplish the legislative intent.

HB 4207: Similar to the public transparency that educators are subject to through the Teacher Standards and Practices Commission disclosure process and public database, the concept would require the same for police officers (e.g., disclosure of officer name, bureau of employment, etc.), through the Oregon Department of Public Safety Standards and Training (DPSST) complaint review and integrity processes.

While I am in support of this bill, language needs to be added addressing the situations where an officer facing investigation could resign to avoid the process.

HB 4201: This concept would authorize Oregon's Attorney General to investigate and prosecute, if a criminal act is determined, any use of force by a police officer that results in death or serious physical injury. Investigations that do not result in a criminal prosecution would be released to the public.

Transparency and accountability are imperative for the public to have faith in our justice system. While I am in support of this bill, language should be added similar to ORS 161.015(8) for the definition of "serious physical injury" which states, "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ."

Language should also be added to include sexual assaults:

- ORS 163.375(1) for the definition of "rape in the first degree" which states, "A person who has sexual intercourse with another person commits the crime of rape in the first degree if: the victim is subjected to forcible compulsion by the person."
- ORS 163.405(1) for the definition of "sodomy in the first degree" which states, "A person who engages in oral or anal sexual intercourse with another person or causes another to engage

in oral or anal sexual intercourse commits the crime of sodomy in the first degree if the victim is subjected to forcible compulsion by the actor."

- ORS 163.411(1) for the definition of "unlawful sexual penetration in the first degree" which states, "Except as permitted under ORS 163.412 (Exceptions to unlawful sexual penetration prohibition), a person commits the crime of unlawful sexual penetration in the first degree if the person penetrates the vagina, anus or penis of another with any object other than the penis or mouth of the actor and the victim is subjected to forcible compulsion."

The bill should also be amended to ensure clarity that the Attorney General will be given the discretion to prosecute misconduct cases through their office or to assign that responsibility to another entity in cases where there may be conflict.

HB 4205: To ensure the highest level of professional conduct by police officers, the concept would require all police officers to intervene to prevent or stop any fellow officer from conducting any act that is unethical or that violates law or policy (e.g., excessive force, theft, fraud, inappropriate language, sexual misconduct, harassment, falsifying documents, inappropriate behavior, etc.). Intervention may be verbal and/or physical, and failure to intervene would be subject to disciplinary action. This bill focuses on the duty to intervene but fails to include the duty to report or provide stricter standards for the use of force.

In addition to adding a reporting requirement, the bill needs an accompanying concept that provides stricter standards for use of force. The LC should also be amended to ensure police officers are also notifying their superiors when:

- An officer breaks criminal law
- An officer breaches law enforcement code of ethics
- An officer uses excessive force.
- An officer targets any person based on their real or perceived age, race, ethnicity, color, national origin, language, sex, gender identity, sexual orientation, political affiliation, religion, homelessness or disability.

HB 4208: The concept would prohibit the use of weapons of war: tear gas and sound cannons. The use of flashbang grenades, other less-lethal projectiles or disbursement tools would need to be documented and information about usage must be made available to the public no later than 72 hours after use.

While I am in support of this bill, the concept should include restrictions on the use of ANY crowd control weapons when crowds are largely peaceful, so that current and future methods are not used indiscriminately against citizens. Police currently have too much discretion when deeming a gathering an "unlawful assembly" and then using weapons to disperse those gathered, and their methods of declaration do not take into consideration uninvolved pedestrians, Deaf, Deaf Blind and other disabled individuals or vehicles in the vicinity. Unlawful assembly declarations, curfew violations, or crowds engaged in passive resistance (e.g. refusing to disperse) should never justify use of crowd control weapons.

Specific language should be included specifying use of LRAD systems or Long Range Acoustic Device. The U.S. Court of Appeals for the 2nd Circuit rejected the appeals of two New York Police Department officers who had sought qualified immunity in a federal lawsuit that accuses them of using unconstitutionally excessive force when they deployed a Long Range Acoustic Device made by the LRAD

Corporation at a Black Lives Matter protest in 2014. The decision affirms a finding last year by U.S. District Judge Robert Sweet of the Southern District of New York, who ruled that LRADs are akin to so-called "distraction devices," like flash-bang and concussion grenades," which are potentially harmful. Lawyers for the plaintiffs called Wednesday's decision "precedential."

Portland and Salem Police Departments specifically have contributed to the deterioration of community support with their responses to protests. The health and safety of our residents is not being considered, and personal beliefs of the police are conflicting with their duty to serve and protect. Strict limits must be placed on all police use of weapons of war in response to citizens, and improved communication tools should be used.

HB 4203: This bill, which prohibits officers from using force that blocks a person's airway, should be passed. Chokeholds should be banned. Restricting someone's airway can cause serious injury and death. Law enforcement has alternatives available that are less dangerous. I strongly urge lawmakers to swiftly pass this bill.

Thank you all for your time and consideration.

Amanda Clark
Salem, OR