



MEDFORD
CITY ATTORNEY'S OFFICE

February 18, 2021

via email only
Cindy Robert
Rainmakers Government Strategies

Re: City of Medford opposition to HB 2487

Dear Ms. Robert,

The City of Medford respectfully opposes HB 2487. This bill ignores important public policy reasons that underpin the confidentiality of personnel investigations of public safety employees. This confidentiality ensures that witnesses who cooperate with an internal affairs investigation will not be subject to identification and retaliation by the subject officer (or the subject officer's community supporters). This confidentiality also allows the administration to provide constructive criticism to an officer whose performance in a situation warrants improvement, without fear that such candor could be quoted out of context in the newspaper the next day. This confidentiality also protects the privacy of crime victims and other private individuals whose circumstances may necessarily be discussed as part of evaluating the subject officer's performance or behavior.

This bill would supersede the well-considered balancing test articulated by the Oregon Supreme Court in *ACLU v. City of Eugene*. There, the Court recognized both community desires for transparency and municipal needs for confidentiality in personnel investigations, and articulated a public interest balancing test requiring disclosure of personnel investigations in appropriate situations after a court has considered the totality of the specific circumstances. Similarly, federal courts presiding over civil rights litigation have authority to review such records *in camera* and decide what disclosure is reasonable under the circumstances of the litigation. The bill allowing anyone to access personnel investigations for any reason is not needed to protect the public interest.

Sincerely,

Eric B. Mitton
Deputy City Attorney