

Chair Bynum, members of the committee, thank you for the opportunity to speak in favor of HB 2930.

My name is James Ofsink and I am representing Portland Forward this morning. Portland Forward supports meaningful police accountability. In order to achieve real police accountability, we must limit the ability of an arbitrator to overturn the misconduct determinations and the resulting discipline for law enforcement officers.

As long as it remains functionally impossible to discipline officers for misconduct, we will not have justice in our justice system.

As we have testified to prior legislatures, the primary reason arbitration is ineffective at the moment is because there is no clear standard of review. Arbitrators cherry-pick the evidence and then absolve the officers of any misconduct the agency found.

Here are several high-profile cases where the arbitrator used differing standards of whether misconduct occurred:

-Officer Frashour case (shot Aaron Campbell in the back and was fired by the City of Portland): preponderance but the arbitrator just disagreed there was misconduct. Officer reinstated with backpay

-Officer Humphreys and Sargent Nice case (beat James Chasse to death, were suspended by the City of Portland): preponderance, arbitrator disagreed there was misconduct. Discipline overturned with backpay.

-Officer Kaer case (shot and killed Dennis Lamar Young who had been sleeping in his car, and was fired by the City of Portland): arbitrator chose to use clear and convincing standard (more commonly used for punitive damages in civil cases) and disagreed there was misconduct using that standard. Officer reinstated with backpay.

This is the core reason we support HB 2930. We believe the addition of the reasonable person standard will aid police accountability and further equal justice throughout the state. Our preferred language for your consideration, would be:

"a reasonable person, given the original evidence in the record, could come to the same conclusion as the agency, even if the arbitrator disagrees with the findings. The limitation on changing findings shall apply to misconduct found in such cases even when that misconduct is not specifically about any uses of force."

It seems to us that ORS 243.706 subsection (3) should also be updated to reflect the limiting language in Section 2, subsection 1.

Finally in Section 4, subsection 3, it's possible that it is implied under "professionalism," but we think it is also important to explicitly delineate "evidence tampering" and "lying under oath" as circumstances that minimally need to be addressed by the new Commission.

In closing, Portland Forward supports HB 2930, and improvement of our ineffective law enforcement arbitration process. As long as it remains impossible to hold officers accountable for even egregious misconduct, mistrust between community and law enforcement will continue to deepen.

Justice delayed is justice denied, we must take action now to allow accountability mechanisms to work and to rebuild trust with the community.