

Innocence Project
HB 4008-4 – SUPPORT
House Committee on Judiciary
Feb 10, 2022

The Innocence Project is a national organization that exonerates the wrongfully convicted and passes legislation to address the causes and consequences of wrongful convictions. Since 1992, the Innocence Project has worked to exonerate 375 innocent men and women through DNA evidence.

Nationwide, 54% of wrongful convictions involve some form of official misconduct, according to the National Registry of Exonerations.¹ Lack of transparency and accountability around police misconduct increases the risk of wrongful convictions in two ways:

1. **Allows officers to continue engaging in the types of misconduct that lead to wrongful convictions:** Public scrutiny of officer complaints and how departments handle them will correct and deter misconduct that leads to wrongful convictions.
2. **Triers of fact cannot assess officer credibility:** Prosecutors, defense attorneys, judges and juries are left in the dark if an officer who built a case has a history of misconduct that would cast doubts on his/her credibility. As a result, triers of fact may not be able to reach accurate conclusions about a defendant's innocence or guilt.

Public access to police disciplinary files is critical for transparency and accountability. **13 states already provide complete access to all complaint records**, regardless of whether the complaint was sustained, including New York which changed its law summer of 2020 in response to the murder of George Floyd. Oregon increased transparency around these records last year after the passage of HB 1345, but there is still more to do to ensure unchecked misconduct does not result in wrongful convictions.

HB 4008-4

The Innocence Project supports the -4 amendment which would expand the existing police misconduct database to include records going back 30 years. The expanded database will improve the justice system by:

- Enabling innocence organizations to investigate more, and older, cases alleging misconduct. It is often difficult to investigate decades-old innocence cases that allege police misconduct because the records are kept secret – if they haven't been destroyed. The -4 will preserve these records going forward.
- Providing experts with more data to inform new strategies to detect and reduce misconduct.
- Building trust between law enforcement and the communities they police by demonstrating a commitment to transparency and meaningful accountability.

That said, the Innocence Project believes the -4 is just a start. The Oregon legislature should expand the database to include *all* allegations of misconduct, not just sustained complaints that resulted in an economic sanction. Further, Oregon law still keeps most complaints against police completely hidden due to exceptions in public records law (see ORS 192.345(12) and 181A.830(3)). That means that Oregon still has one

¹ Gross et al. "Government Misconduct and Convicting the Innocent: the Role of Prosecutors, Police, and Other Law Enforcement," *National Registry of Exonerations*. September 1, 2020.

of the most restrictive public records laws in the country.

We look forward to working with this committee to continue broadening transparency and accountability around police misconduct, and innocence reforms more broadly. Please do not hesitate to contact me if our expertise can be helpful.

A handwritten signature in black ink that reads "Laurie Roberts". The signature is written in a cursive, flowing style with a large initial "L" and "R".

Laurie Roberts
State Policy Advocate
Innocence Project