

## House Bill 2929-A4

**Juan Chavez, Civil Rights Project Director**

**Oregon Justice Resource Center**

Senate Committee On Judiciary and Ballot Measure 110 Implementation

May 11, 2021

Dear Chair Prozanski, Vice-Chair Thatcher, and Members of the Committee,

My name is Juan Chavez. I am an attorney and Project Director at the Oregon Justice Resource Center's Civil Rights Project.

The goal of the Oregon Justice Resource Center is to promote civil rights and improve legal representation for communities that have often been underserved in the past: people living in poverty and people of color among them. We work in collaboration with like-minded organizations to maximize our reach to serve underrepresented populations, to train future public interest lawyers, and to educate our community on issues related to civil rights and civil liberties.

**I am speaking in support of HB 2929-A4** because access to police disciplinary records is long overdue. For a profession as powerful and potentially dangerous as law enforcement, the public needs a way to access and track discipline and misconduct allegations levied against their police force. Enacting this bill would be a victory for transparency and civil rights.

I have represented people in both civil and criminal legal courts. You might think that it is easier to discover officer discipline issues if you are charged with a crime, but it's often not until the civil process has begun that litigants learn about officer disciplinary histories. As a defendant in a criminal case—when your liberty and name are on the line—it is crucial to your defense to know whether or not the officer who wrote a report that got you indicted has a history of misconduct. Or, let's say, that you were assaulted by an officer who later charges *you* with Resisting Arrest or Assault of Police Officer. Knowing whether that officer has a history of excessive force would help you build your defense.

Now if I had a suspicion that the doctor my insurance sent me to might not be that great of a doctor, I could look up their discipline history with the Oregon Medical Board. As a lawyer, I know it is important for our profession to have disciplinary histories available to the public. Our power and ability to potentially do harm are too great to allow otherwise. But good luck finding out if an officer has a history of misconduct and dishonesty.

If I were charged with a crime and wanted to know whether an officer has had past complaints over their use of force or ability to tell the truth, I would have to compel that information from the State, and a judge may not always grant such a motion. I know this because this happened to a client of mine. It was not until my client was acquitted and filed her own civil case against the police department that she received discovery about the officer. If we had access to police disciplinary records as envisioned by HB 2929-A4, DAs would not have to worry about the integrity of the convictions they get, municipalities would know who they are hiring, Courts

would not have to use resources on hearing motions to compel, and Defendants would not have to entirely rely on prosecutors to learn about these allegations. The State cannot hold all the cards. The constitution and the law say otherwise. But they still try keep every card.

It is those civil rights that are the most important consideration in passing this bill. If we are to trust a profession like policing, the public deserves to know more about them. Because we all know what happens when we let fester unchecked power and abuse. The story of Mr. Michael Fesser of Portland illustrates this.

Mr. Fesser was the victim of a conspiracy to arrest and silence him for speaking out against his boss, who happened to be the fishing buddy of West Linn's Police Chief. Mr. Fesser was charged and prosecuted at the insistence of the City of West Linn Police Department for a crime that he did not commit and that allegedly happened in Portland. It was not until the Multnomah County District Attorney's office finally turned over racist text exchanges between the investigator and the Chief's fishing buddy did they drop the case completely. And, it was not until Mr. Fesser sued the City of West Linn that he learned about misconduct investigations into this investigator over what he had done to Mr. Fesser.<sup>1</sup> And then, it wasn't until *after* Mr. Fesser settled his case that he learned that the City of West Linn had been sitting on a decade-old 100-page document about West Linn Police Chief's history of bias and racism.<sup>2</sup> If there was access to police disciplinary records as HB 2929-A4 proposes, Mr. Fesser could have learned that the West Linn Police Chief had been investigated for making racist and sexist remarks, including using acronyms like "NILO" to denote when he was investigating Black people in Lake Oswego.

Making police disciplinary records accessible to the public will not harm public safety. Continuing to ignore and hide officer misconduct will. We have chosen to ignore so much in the pursuit of tough on crime policies that do not improve public safety and are just a part of a thinly veiled racist mass internment project. We must disentrall ourselves of that pursuit, and part of doing that is telling the truth about ourselves. HB 2929-A4 is a commitment to telling the truth.

**The Oregon Justice Resource Center urges the Committee to vote in favor of HB 2929-A4.**

Sincerely,

Juan Chavez

---

<sup>1</sup> <https://www.oregonlive.com/crime/2020/02/west-linn-to-pay-600000-to-settle-wrongful-arrest-racial-discrimination-suit-stemming-from-former-chiefs-favor-for-a-friend.html>

<sup>2</sup> <https://www.oregonlive.com/crime/2020/02/west-linn-releases-100-page-report-on-former-chief-terry-timeus-filled-with-allegations-of-racist-sexist-and-homophobic-remarks-behavior.html>