

Seattle Mayor Jenny Durkan Written Testimony on SB 5055

Senate Labor, Commerce & Tribal Affairs Committee || January 14, 2021

Thank you so much Sen. Keiser, and thank you to all members of the Committee for the opportunity to testify this morning. Thank you also to Senators Sen. Solomon, Sen. Nguyen, Sen. Saldana for your leadership and bringing proposals forward on changes to the police discipline appeals process.

I also thank all Senators and members of this committee for your service during these very challenging times. We are in the midst of a global pandemic, resulting economic crisis and great political change. The events in our nations' capital make your work even more important. Your commitment to continue the work of the people during these challenges - and in this new Zoom format - is inspiring.

As elected leaders, we also are at a moment in history where we each have an obligation to reduce the racial inequities in policing. The racial reckoning experienced across our nation demands of each of us to make true on the promises of justice, equality and equity fundamental to our nation.

The changes the City of Seattle supports are for the collective bargaining rights of police only. Police perform an important role in our communities. We saw the bravery of police in our nation's capitol where an officer gave his life to protect our democracy. With this role come significant powers - the ability to restrict liberty or take life. These powers are sanctioned and exercised on behalf of the state and people, as such they must be subjected to exacting standards and oversight by the state and the people.

Over the decades, there have been major movements in police reform. In the 1990s, Seattle began removing investigations from under internal affairs to independent civilian oversight.

More recently, cities across the country began changing policies regarding the use of force including Seattle under the Consent Decree. In 2018, an unprecedented coalition in Washington made monumental changes through I-940 regarding de-escalation.

Now together we must continue to address police discipline. Our accountability system for law enforcement does not work when an officer who violates policy is terminated by the Police Chief or Sheriff - only to be reinstated by an arbitrator on appeal, who sometimes looks at different evidence, conducts a new hearing and supplants the judgment and discipline decisions of the Chief or Sheriff. This provides uncertainty in discipline, undermines public trust, and undermines a Chief's ability to maintain accountability in a department.

That's exactly what has occurred in Seattle and across the country. A new report found that arbitrators on appeal reduced or overturned police officer discipline in 52 percent of these cases, including forcing departments to rehire previously terminated officers.

In Seattle, we have already made some changes to our arbitration process, including how we select arbitrators, but under state law we are required to negotiate nearly every aspect of police discipline with our police union. In other words, police unions can maintain the status quo unless we create a statewide standard for appeals.

I am a strong, lifetime supporter of workers, unions and the critical importance of evening the playing field for workers through collective bargaining. As a former Teamster, I deeply believe in collective bargaining rights; however, I also believe that the significant powers and importance of police officers our community make their roles different from other workers. Again, their state sanctioned ability to deprive individuals of liberty and life requires us to ensure those powers are subject to clear and robust policies, oversight and accountability. I believe strongly they should maintain the rights of collective bargaining. But common-sense reforms to arbitration appeals will both protect workers' rights and promote public confidence and police accountability.

States like Oregon and Minnesota recently passed statewide changes to arbitration - similar to Sen. Nguyen's bill. I believe it is critical for his bill to be strengthened in four key ways: (1) give substantial deference to a Sheriff or Chief's discipline decision made after full due process rights, (2) add limitations on any new evidence used in the appeals process, unless the evidence is newly discovered and material to the decision (3) create a burden of proof of preponderance on appeal, and (4) add more public transparency measures.

If Olympia does not act on arbitration and strengthen the proposal, here are the real consequences: officers terminated or disciplined for significant misconduct will continue to be reinstated. Both the community and other officers will see these results. Community confidence will be diminished, making it more difficult for every officer to do their jobs. Discipline and accountability in Departments will be undermined, making it more difficult to ensure the proper cultures and actions in a department.

Only the state legislature can change the state law to ensure consistency across the state. We urge you to do that today.