

CITY OF OAKLAND  
BILL ANALYSIS

OFFICE OF THE CITY  
CLERK

2007 APR 19 PM 5:30



**Date:** May 3, 2007  
**Bill Number:** 1648  
**Bill Author:** Mark Leno

**DEPARTMENT INFORMATION**

**Contact:** Vicki Laden, Supervising Deputy City Attorney  
**Department:** City Attorney's Office  
**Telephone:** (510) 238-4941 **FAX** (510) 238-6500  
**E-mail:** vladen@oaklandcityattorney.org

**Contact:** Joyce M. Hicks, Executive Director  
**Department:** Citizens' Police Review Board – Office of the City Administrator  
**Telephone:** (510) 238-3702 **FAX** (510) 238-7582  
**E-mail:** jmhicks@oaklandnet.com

**RECOMMENDED POSITION:** (SUPPORT, SUPPORT IF AMENDED,  
NEUTRAL, WATCH, OPPOSE, NOT RELEVANT)

**Summary of the Bill:** Last year the California Supreme Court issued its decision in *Copley Press, Inc. v. Superior Court* (2006) 39 Cal.4<sup>th</sup> 1272, holding that records of administrative appeals to agencies outside the employing agency should not be open to the public under Penal Code sections 832.5 and 832.7.

AB 1648 would amend Penal Code sections 832.5 and 832.7 to allow civilian police review boards and oversight agencies that operate outside of a police department to hold public hearings regarding complaints about police misconduct, as was the practice of the Citizens' Police Review Board (the "CPRB") prior to the *Copley* decision. In addition to allowing for public hearings by civilian police review boards and oversight agencies, this bill also makes "not confidential" certain basic peace officer information about sustained cases where the discipline imposed is a suspension or greater. The information deemed "not confidential" in these sustained cases includes name, badge number, charges, allegations, factual findings, and disciplinary outcome. For cases that were not sustained, but where another government agency (police commission, civilian review board, or

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independent auditor) has found misconduct, the Police Chief would have the discretion to release information already released by the other agency, as well as a summary of the grounds for the department overturning the other agency's findings or not following its recommendation. Records and information that are disclosable under Section 832.7 would also be available to the public under the California Public Records Act.

**Positive Factors for Oakland:** The CPRB, established by City Council Ordinance on April 15, 1980, was created to provide the public with open hearings for police misconduct complaints. The purpose of holding public hearings is to enhance community/police relations by providing the public with access to citizen complaints of police misconduct. Council has repeatedly expressed its support for such hearings. If this legislation were adopted, the CPRB could resume holding open hearings for police misconduct complaints.

In the five years prior to the *Copley* decision, the CPRB held an average of 14 hearings a year, providing the public with a window on complaints against Oakland police officers and the resolution of those complaints. Several of the cases heard in public by the CPRB raised policy issues which resulted in the Oakland Police Department changing its practices and revising its training in areas such as strip searches, landlord/tenant law and conduct toward vehicle occupants whose cars are towed as the result of police action.

Under pre-*Copley* CPRB procedures, the CPRB conducted open misconduct hearings, deliberated behind closed doors and at the conclusion of its deliberations reconvened to open session and announced its findings and recommended discipline. *Copley* required the CPRB to close its hearings., Only the complainant and officers and their representatives are permitted behind closed doors to testify and conduct cross-examination. At the conclusion of testimony, the CPRB recesses to closed deliberations and no longer announces its findings and recommended discipline when it reconvenes to open session. The complainant is notified in writing whether allegations have been sustained, not sustained, exonerated or unfounded. The subject officers are not named in the letter so the complainant is unaware of which findings were made with regard to which officers in cases involving multiple officers. Also, the written notification is limited to whether discipline was recommended; it doesn't inform the complainant of the recommended discipline.

The Berkeley City Council, which faced a similar shutdown of open hearings of its Police Review Commissions as a result of *Copley*, has recently expressed its support for passage of AB 1648.

**Negative Factors for Oakland:** The Oakland Police Officers Association will likely oppose this legislation.

**PLEASE RATE THE EFFECT OF THIS MEASURE ON THE CITY OF OAKLAND:**


- Critical (top priority for City lobbyist, city position required ASAP)**  
 **Very Important (priority for City lobbyist, city position necessary)**  
 **Somewhat Important (City position desirable if time and resources are available)**  
 **Minimal or none (do not review with City Council, position not required)**

**Known support:** National Black Police Association, City of Berkeley, Oakland Citizens' Police Review Board, People United for a Better Oakland, California Newspaper Publisher's Association, *San Francisco Chronicle*, *Sacramento Bee*, American Civil Liberties Union of Northern and Southern California, Bay Area Police Watch, La Raza Centro Legal, Ella Baker Center for Human Rights, Asian Pacific Islander Legal Outreach, Transgender Law Center, Alameda County Democratic Central Committee, Mexican American Political Association (Richmond, CA), Asian Law Caucus, Lawyers Committee for Civil Rights, Chinese for Affirmative Action, Californians Aware, National Lawyers' Guild (SF Bay Area Chapter), *JK Recycling Group*, *Alice B. Toklas LGBT Democratic Club*, *Harvey Milk LGBT Democratic Club*, American Friends Service Committee, Peace and Freedom Party of Fresno County, Comite No Nos Vamos, Paul Robeson Chapter ACLU-NC, LULAC Bay Area Council 3096, Latino Peace Alliance, East Bay Community Law Center, California Partnership Los Angeles Chapter, Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA,) Central American Resource Center (CARECEN), Coalition L.A., Democratic Club of Central Orange County, *Homies Unidos*, *Hunger Action*, Los Angeles Islamic Shura Council, *Jobs for a Future/Homeboy Industries*, Korean Immigrant Workers Alliance (KIWA), Korean Resource Center (KRC), Los Amigos of Orange County, Los Angeles Coalition to End Hunger and Homelessness, National Korean American Service & Education Consortium (NAKASEC), National Lawyers Guild (LA Chapter), *Progressive Jewish Alliance (PJA)*, South Asian Network (SAN), Watts Labor Community Action Committee

**Known Opposition:** California Police Chief's Association (CPCA), California Peace Officers Association (CPOA), California Narcotic Officers Association (CNOA)

**Attach bill text and state/federal legislative committee analysis, if available.**  
The Bill is attached. There is no committee analysis. This bill will be first heard in the Assembly Public Safety Committee on April 17, 2007.

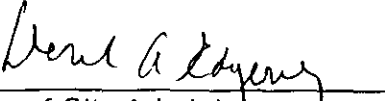
Respectfully Submitted,

  
John Russo  
City Attorney

  
Joyce M. Hicks  
Executive Director  
Citizens' Police Review Board

Approved for Forwarding to  
Rules Committee

  
City Attorney's Office

  
Office of City Administrator

Attachment

Attachment 1

BILL NUMBER: AB 1648 AMENDED  
BILL TEXT

AMENDED IN ASSEMBLY APRIL 10, 2007

INTRODUCED BY Assembly Member Leno

FEBRUARY 23, 2007

An act to amend ~~Sections 832.5 and~~ Section  
832.7 of the Penal Code, relating to peace officer records.

LEGISLATIVE COUNSEL'S DIGEST

AB 1648, as amended, Leno. Peace officer records.

Existing law generally regulates the confidentiality of various peace officer records, including records pertaining to disciplinary matters, as specified.

~~This would state the intent of the Legislature to abrogate the decision of the California Supreme Court in Copley Press v. Superior Court. The bill would provide that "department" or "agency" means the department or agency that directly employs peace or custodial officers and which has established a procedure to investigate complaints by members of the public against its personnel, and that is primarily responsible for the initial investigation of the complaints and the maintenance of its investigative records. The~~ This bill would provide that the ~~terms~~ confidentiality of peace officer records, as specified, ~~de~~ does not ~~include any other~~ apply to specified government ~~body~~ bodies that ~~reviews~~ review the investigations, findings, or employment actions of a department or agency. The bill would make specified information in certain disciplinary records pertaining to peace officers available to the public, as specified.

*This bill would state the intent of the Legislature to abrogate the decision of the California Supreme Court in Copley Press v. Superior Court.*

By imposing additional duties on local law enforcement agencies in connection with providing discipline records of peace officers, as specified, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that

reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

~~SECTION 1. Section 832.5 of the Penal Code is amended to read:~~

~~832.5. (a) (1) Each department or agency in this state that employs peace officers shall establish a procedure to investigate complaints by members of the public against the personnel of these departments or agencies, and shall make a written description of the procedure available to the public.~~

~~(2) Each department or agency that employs custodial officers, as defined in Section 831.5, may establish a procedure to investigate complaints by members of the public against those custodial officers employed by these departments or agencies, provided however, that any procedure so established shall comply with the provisions of this section and with the provisions of Section 832.7.~~

~~(b) Complaints and any reports or findings relating to these complaints shall be retained for a period of at least five years. All complaints retained pursuant to this subdivision may be maintained either in the peace or custodial officer's general personnel file or in a separate file designated and maintained by the department or agency as provided by department or agency policy, in accordance with all applicable requirements of law. However, prior to any official determination regarding promotion, transfer, or disciplinary action by an officer's employing department or agency, the complaints described by subdivision (c) shall be removed from the officer's general personnel file and placed in separate file designated by the department or agency, in accordance with all applicable requirements of law.~~

~~(c) Complaints by members of the public that are determined by the peace or custodial officer's employing agency to be frivolous, as defined in Section 128.5 of the Code of Civil Procedure, or unfounded or exonerated, or any portion of a complaint that is determined to be frivolous, unfounded, or exonerated, shall not be maintained in that officer's general personnel file. However, these complaints shall be retained in other, separate files that shall be deemed personnel records for purposes of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and Section 1043 of the Evidence Code.~~

~~(1) Management of the peace or custodial officer's employing agency shall have access to the files described in this subdivision.~~

~~— (2) Management of the peace or custodial officer's employing agency shall not use the complaints contained in these separate files for punitive or promotional purposes except as permitted by subdivision (f) of Section 3304 of the Government Code.~~

~~— (3) Management of the peace or custodial officer's employing agency may identify any officer who is subject to the complaints maintained in these files which require counseling or additional training. However, if a complaint is removed from the officer's personnel file, any reference in the personnel file to the complaint or to a separate file shall be deleted.~~

~~— (d) As used in this section, the following definitions apply:~~

~~— (1) "General personnel file" means the file maintained by the agency containing the primary records specific to each peace or custodial officer's employment, including evaluations, assignments, status changes, and imposed discipline.~~

~~— (2) "Unfounded" means that the investigation clearly established that the allegation is not true.~~

~~— (3) "Exonerated" means that the investigation clearly established that the actions of the peace or custodial officer that formed the basis for the complaint are not violations of law or department policy.~~

~~— (4) "Department" or "agency" means the department or agency that directly employs peace or custodial officers and which has established a procedure to investigate complaints by members of the public against its personnel pursuant to subdivision (a), and that is primarily responsible for the initial investigation of the complaints and the maintenance of its investigative records. The terms do not include any other government body that reviews the investigations, findings, or employment actions of a department or agency.~~

~~— (e) It is the intent of the Legislature by amendments to this section at the 2007-08 Regular Session to abrogate the holding of the California Supreme Court decision in Copley Press v. Superior Court (2006) 39 Cal.4th 1272, and to restore public access to peace officer records and to meetings and hearings that were open to the public prior to that decision.~~

~~— SEC. 2. —~~ SECTION 1. Section 832.7 of the Penal Code is amended to read:

832.7. (a) (1) Peace officer or custodial officer personnel records and records maintained by any state or local agency pursuant to Section 832.5, or information obtained from these records, are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code. This section shall not apply to investigations or proceedings concerning the conduct of peace officers or custodial officers, or an agency or department that employs those officers, conducted by a grand jury, a district attorney's office, ~~or~~ the

Attorney General's office , civilian review boards, personnel boards, Police Commissions, or civil service commissions.

(2) It is the intent of the Legislature in amending this section at the 2007-08 regular session to abrogate the holding of the California Supreme Court decision in *Copley v. Superior Court* (2006) 39 Cal.4th 1272 and to restore public access to peace officer records and to meetings and hearings that were open to the public prior to that decision.

(b) Notwithstanding subdivision (a), a department or agency shall release to the complaining party a copy of his or her own statements at the time the complaint is filed.

(c) Notwithstanding subdivision (a), a department or agency that employs peace or custodial officers may disseminate data regarding the number, type, or disposition of complaints (sustained, not sustained, exonerated, or unfounded) made against its officers if that information is in a form which does not identify the individuals involved.

(d) Notwithstanding subdivision (a), a department or agency that employs peace or custodial officers may release factual information concerning a disciplinary investigation if the officer who is the subject of the disciplinary investigation, or the officer's agent or representative, publicly makes a statement he or she knows to be false concerning the investigation or the imposition of disciplinary action. Information may not be disclosed by the peace or custodial officer's employer unless the false statement was published by an established medium of communication, such as television, radio, or a newspaper. Disclosure of factual information by the employing agency pursuant to this subdivision is limited to facts contained in the officer's personnel file concerning the disciplinary investigation or imposition of disciplinary action that specifically refute the false statements made public by the peace or custodial officer or his or her agent or representative.

(e) Notwithstanding subdivision (a), with respect to each complaint charge, disciplinary matter, or internal investigation ~~that results in either discipline, a sustained complaint or charge, or a finding that an officer's conduct was out of policy,~~ where the discipline imposed is either suspension, demotion, removal, or other separation of the peace officer from service with the department a department or agency that employs peace officers or custodial officers shall release:

(1) The name and badge number of the subject officer.

(2) The name and current address of the complainant, unless the complainant requests that they be kept confidential.



(3) A summary of the factual allegations contained in the complaint or other charging document.

(4) The charges brought against the officer.

(5) The factual findings with respect to the conduct at issue.

(6) The discipline imposed or corrective action taken.

(f) Notwithstanding subdivision (a), in cases in which a civilian review board or other government body outside the department or agency recommends imposition of discipline or makes or recommends a finding that an officer's conduct was out of policy or that a complaint was founded, and that finding is overturned or the recommendation is not followed by the department or agency that employs the peace officer, the department or agency may, in its discretion, release any information already released by the outside body, as well as a summary of the grounds for overturning the outside body's finding or not following its recommendation.

(g) (1) The department or agency shall provide written notification to the complaining party of the disposition of the complaint within 30 days of the disposition.

(2) The notification described in this subdivision shall not be conclusive or binding or admissible as evidence in any separate or subsequent action or proceeding brought before an arbitrator, court, or judge of this state or the United States.

(h) Nothing in this section shall affect the discovery or disclosure of information contained in a peace or custodial officer's personnel file pursuant to Section 1043 of the Evidence Code.

(i) Information disclosable pursuant to this section shall be made available upon request pursuant to Section 6253 of the Government Code.

~~SEC. 3.~~ SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

OFFICE OF THE CITY ADMINISTRATOR

CITY OF OAKLAND



2007 APR 19 PM 5:55

CITY HALL • 1 FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

Office of the City Administrator  
Deborah A. Edgerly  
City Administrator

(510) 238-3301  
FAX (510) 238-2223  
TDD (510) 238-2007

May 3, 2007

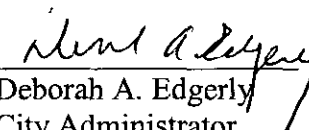
Rules & Legislation Committee  
Oakland City Council  
Oakland, California

RE: **Companion Report to the Bill Analysis of AB 1648 (Leno): Peace Officer Records**

Dear Chairperson De La Fuente and Members of the Committee:

At its meeting of April 5, 2007, the Rules & Legislation Committee requested a report from the City's State Lobbyist, Townsend Public Affairs, Inc., on AB 1648 (Leno): Peace Officer Records. Attached for the Committee's review is a memorandum from Townsend on the proposed legislation, which includes an analysis of the bill prepared by the League of California Cities, and an *italicized* / ~~strike through~~ version of the legislation.

Respectfully submitted,

  
Deborah A. Edgerly  
City Administrator

Prepared by: William Roy Uber  
Assistant to the City Administrator  
Office of the City Administrator

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Rules & Legislation Comte.  
May 3, 2007



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**MEMORANDUM**

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**To:** **Oakland City Council**  
**From:** Christopher Townsend, President  
Isaac Kos-Read, Director, Northern California  
Jennifer Thompson, Senior Associate  
**Date:** April 11, 2007  
**Subject:** **AB 1648 (Leno): Peace Officer Records**

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Assemblyman Mark Leno has introduced AB 1648 regarding peace officer records. This bill attempts to overturn a California Supreme Court Case, *Copley Press v. San Diego* (2006) and returns the public's access to peace officer records, meetings and disciplinary hearings. AB 1648 is one of three bills introduced by Assemblyman Leno who says that these measures will "make government more accessible to the public."

According to the author, AB 1648 would allow police commissions throughout the state to resume conducting their hearings in public, as was the case prior to the August 29, 2006 California Supreme Court's decision in *Copley Press v. San Diego*. This decision maintained that the public has no right to access discipline records of officers because they are private personnel records that are held by the officer's employing agency. In addition to allowing the hearings to be open to the public, AB 1648 would give the public access to the name of the disciplined officer, the complaint, the hearing's findings and the discipline that resulted from the hearing in sustained misconduct cases.

The following organizations have express an opinion on AB 1648:

Support: California Newspaper Publishers Association, American Civil Liberties Unions of Northern and Southern California, Bay Area Police Watch, La Raza Centro Legal, Ella Baker Center for Human Rights, Asian Pacific Islander Legal Outreach, Transgender Law Center, People United for a Better Oakland.

Opposition: California Police Chiefs Association (CPCA), California Peace Officers Association (CPOA), California Narcotic Officers Association (CNOA), California League of Cities.

Additionally, for your review, attached please find the analysis of the League of California Cities and the most current version of the legislation.

COMMITTEE ON PUBLIC SAFETY

March 2007  
(Action Item)

Staff: Liisa Lawson Stark, Legislative Representative  
Leticia Farris, Legislative Analyst

**AB 1648 (Leno). Peace Officer Records.**

**Policy Questions:**

- What position, if any, should the League take on AB 1648, which would essentially overturn a California Supreme Court case, *Copley Press v. Superior Court* (2006) regarding peace officers' records?
- Is AB 1648, which would allow public access to police officer disciplinary records, the best method to ensure stable police-community relations or is another mechanism available?
- Should police officer disciplinary records be open to the public?
- Would the disclosure of the name and badge number of a police officer allow an individual to take retaliatory actions or impose ill-will towards the officer?

**Staff Recommendation: Discussion.** While the League has existing policy that opposes measures that make it more difficult to discipline the misconduct of police officers, it is unclear whether this legislation can be applied to this principle. In addition, peace officer disciplinary actions can be sensitive issues that may require other considerations, such as the safety of peace officers threatened with retaliation or hostility towards law enforcement officials.

**Bill Summary:**

This bill would invalidate the decision of the California Supreme Court in *Copley Press v. Superior Court* (2006), thereby giving the public access to peace officer records, meetings and hearings that were open to the public prior to the Copley decision.

Specifically, AB 1648 would provide access to peace officer records by narrowly defining the employing department that directly employs peace or custodial officers and has established a procedure to investigate complaints by members of the public. It would also provide a list of specific times when information is to be made public:

- Allows civilian review boards and oversight agencies (Police Commissions) that operate outside of a police department to hold public hearings regarding complaints about police misconduct, as they were allowed to do prior to the Copley decision.
- Basic information (name, badge number, charges, allegations, factual findings, and the disciplinary outcome) would be public information on cases that were sustained.
- For cases that were not sustained, but where another government agency (Police Commission, Independent Auditor, etc) has found misconduct, would allow the Police Chief to release information already released by the other agency, as well as a summary of the

grounds for the department overturning the other agency's findings or not following its recommendation.

**Support/Opposition:** Support: California Newspaper Publishers Association, American Civil Liberties Unions of Northern and Southern California, Bay Area Police Watch, La Raza Centro Legal, Ella Baker Center for Human Rights, Asian Pacific Islander Legal Outreach, Transgender Law Center, People United for a Better Oakland.

**Opposition:**

California Police Chiefs Association (CPCA), California Peace Officers Association (CPOA), California Narcotic Officers Association (CNOA)

**Comments:**

- The League has existing policy which states that, "The League opposes legislation making it a misdemeanor to disclose peace officer personnel records and citizen complaint records, as well as prohibiting the use of documents or information obtained in violation of this procedure in any administrative proceeding against a peace officer, and any measure that makes it more difficult to discipline the misconduct of police officers."
- The Copley decision closed police officer disciplinary records from public review. It also closed Police Commission hearings and records that were previously open to the public because. The Court concluded that discipline records are private personnel records that are held by the officer's employing agency.
- Prior to *Copley Press*, Penal Code 832.7 prevented public access to complaint records held by the "employing agency." As a result, internal affairs records were confidential, while administrative appeals records to outside bodies were available to the public.
- Some jurisdictions do hold independent civilian review boards functioned in public and hear complaints separate and apart from the police department.
- The sponsor, ACLU, is concerned that a lack of transparency and openness makes it more difficult for police agencies to foster trust in the community and ultimately damages police-community relations. The ACLU argues that all other public employees, as well as doctors and lawyers, are subject to disclosure of serious misconduct issues and discipline actions as a result of misconduct. According to ACLU, if the public is unable to learn about problems that reside within a police department, the public is prevented from learning how law enforcement management addresses and resolves misconduct issues.
- The California Police Chiefs Association and other opponents of this legislation are extremely concerned about his legislation because they believe that by opening up peace officers' employee records, police officers will be placed in harms way, such as retaliatory purposes or general ill-will towards law enforcement officials.
- The California Commission on Peace Officers Standards and Training will review AB 1648 at its April 19, 2007, Commission Meeting.

AB 1648 Mock-Up

*The people of the State of California do enact as follows:*

SECTION 1. Section 832.5 of the Penal Code is amended to read:

~~832.5. (a) (1) Each department or agency in this state that employs peace officers shall establish a procedure to investigate complaints by members of the public against the personnel of these departments or agencies, and shall make a written description of the procedure available to the public.~~

~~(2) Each department or agency that employs custodial officers, as defined in Section 831.5, may establish a procedure to investigate complaints by members of the public against those custodial officers employed by these departments or agencies, provided however, that any procedure so established shall comply with the provisions of this section and with the provisions of Section 832.7.~~

~~(b) Complaints and any reports or findings relating to these complaints shall be retained for a period of at least five years. All complaints retained pursuant to this subdivision may be maintained either in the peace or custodial officer's general personnel file or in a separate file designated *and maintained* by the department or agency as provided by department or agency policy, in accordance with all applicable requirements of law. However, prior to any official determination regarding promotion, transfer, or disciplinary action by an officer's employing department or agency, the complaints described by subdivision (c) shall be removed from the officer's general personnel file and placed in separate file designated by the department or agency, in accordance with all applicable requirements of law.~~

~~(c) Complaints by members of the public that are determined by the peace or custodial officer's employing agency to be frivolous, as defined in Section 128.5 of the Code of Civil Procedure, or unfounded or exonerated, or any portion of a complaint that is determined to be frivolous, unfounded, or exonerated, shall not be maintained in that officer's general personnel file. However, these complaints shall be retained in other, separate files that shall be deemed personnel records for purposes of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and Section 1043 of the Evidence Code.~~

~~(1) Management of the peace or custodial officer's employing agency shall have access to the files described in this subdivision.~~

~~(2) Management of the peace or custodial officer's employing agency shall not use the complaints contained in these separate files for punitive or promotional purposes except as permitted by subdivision (f) of Section 3304 of the Government Code.~~

~~(3) Management of the peace or custodial officer's employing agency may identify any officer who is subject to the complaints maintained in these files which require counseling or additional training. However, if a complaint is~~

removed from the officer's personnel file, any reference in the personnel file to the complaint or to a separate file shall be deleted.

(d) As used in this section, the following definitions apply:

(1) "General personnel file" means the file maintained by the agency containing the primary records specific to each peace or custodial officer's employment, including evaluations, assignments, status changes, and imposed discipline.

(2) "Unfounded" means that the investigation clearly established that the allegation is not true.

(3) "Exonerated" means that the investigation clearly established that the actions of the peace or custodial officer that formed the basis for the complaint are not violations of law or department policy.

(4) "Department" or "agency" means the department or agency that directly employs peace or custodial officers and which has established a procedure to investigate complaints by members of the public against its personnel pursuant to subdivision (a), and that is primarily responsible for the initial investigation of the complaints and the maintenance of its investigative records. The terms do not include any other government body that reviews the investigations, findings, or employment actions of a department or agency.

(e) It is the intent of the Legislature by amendments to this section at the 2007-08 Regular Session to abrogate the holding of the California Supreme Court decision in *Copley Press v. Superior Court* (2006) 39 Cal.4th 1272, and to restore public access to peace officer records and to meetings and hearings that were open to the public prior to that decision.

**SEC. 2. SECTION 1.** Section 832.7 of the Penal Code is amended to read:

832.7. (a) (1) Peace officer or custodial officer personnel records and records maintained by any state or local agency pursuant to Section 832.5, or information obtained from these records, are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code. This section shall not apply to investigations or proceedings concerning the conduct of peace officers or custodial officers, or an agency or department that employs those officers, conducted by a grand jury, a district attorney's office, or the Attorney General's office, *civilian review boards, personnel boards, Police Commissions, or civil service commissions.*

*(2) It is the intent of the Legislature in enacting this legislation to overturn the California Supreme Court decision in Copley Press v. Superior Court, 39 Cal 4<sup>th</sup> 1272 (2006), and to restore public access to peace officer records and to restore public access to meetings and hearings that were open to the public prior to the Copley decision*

(b) Notwithstanding subdivision (a), a department or agency shall release to the complaining party a copy of his or her own statements at the time the complaint is filed.

(c) Notwithstanding subdivision (a), a department or agency that employs peace or custodial officers may disseminate data regarding the number, type, or disposition of

complaints (sustained, not sustained, exonerated, or unfounded) made against its officers if that information is in a form which does not identify the individuals involved.

(d) Notwithstanding subdivision (a), a department or agency that employs peace or custodial officers may release factual information concerning a disciplinary investigation if the officer who is the subject of the disciplinary investigation, or the officer's agent or representative, publicly makes a statement he or she knows to be false concerning the investigation or the imposition of disciplinary action. Information may not be disclosed by the peace or custodial officer's employer unless the false statement was published by an established medium of communication, such as television, radio, or a newspaper. Disclosure of factual information by the employing agency pursuant to this subdivision is limited to facts contained in the officer's personnel file concerning the disciplinary investigation or imposition of disciplinary action that specifically refute the false statements made public by the peace or custodial officer or his or her agent or representative.

(e) Notwithstanding subdivision (a), with respect to each complaint charge, disciplinary matter, or internal investigation *where the discipline imposed is either suspension, demotion, removal, or other separation of the peace officer from service with the department*, ~~that results in either discipline, a sustained complaint or charge, or a finding that an officer's conduct was out of policy~~, a department or agency that employs peace officers or custodial officers shall release:

- (1) The name and badge number of the subject officer.
- (2) The name and current address of the complainant, unless the complainant requests that they be kept confidential.
- (3) A summary of the factual allegations contained in the complaint or other charging document.
- (4) The charges brought against the officer.
- (5) The factual findings with respect to the conduct at issue.
- (6) The discipline imposed or corrective action taken.

(f) Notwithstanding subdivision (a), in cases in which a civilian review board or other government body outside the department or agency recommends imposition of discipline or makes or recommends a finding that an officer's conduct was out of policy or that a complaint was founded, and that finding is overturned or the recommendation is not followed by the department or agency that employs the peace officer, the department or agency may, in its discretion, release any information already released by the outside body, as well as a summary of the grounds for overturning the outside body's finding or not following its recommendation.

- (g) (1) The department or agency shall provide written notification to the complaining party of the disposition of the complaint within 30 days of the disposition.
- (2) The notification described in this subdivision shall not be conclusive or binding or admissible as evidence in any separate or subsequent action or proceeding brought before an arbitrator, court, or judge of this state or the United States.

(h) Nothing in this section shall affect the discovery or disclosure of information contained in a peace or custodial officer's personnel file pursuant to Section 1043 of the Evidence Code.

(i) Information disclosable pursuant to this section shall be made available upon request pursuant to Section 6253 of the Government Code.



SEC. 3 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Item: \_\_\_\_\_  
Rules & Legislation Comte.  
May 3, 2007