



Officer and citizen privacy sacrificed by signature of bill

For Immediate Release: October 1, 2018

Contact: Brian Marvel

(916) 947-6722

president@porac.org

Against the recommendations of law enforcement, Governor Brown signed AB 748 (Ting, D-San Francisco) into law. This legislation requires disclosure, with several tolling provisions and restrictions, of audio or video recordings when an officer discharges a firearm at a person or where the use of force by an officer results in death or great bodily injury.

Brian Marvel, President of the Peace Officers Research Association of California (PORAC), representing more than 70,000 public safety members, said AB 748 creates significant problems by doing the following:

- It jeopardizes the privacy of witnesses, which in today's society is exceedingly difficult to have them come forward, given the bullying tactics of certain activists groups.
- Witnesses have the potential to be stigmatized and harassed; they will be reluctant to come forward, especially knowing that their neighbors and community members will see their statement. Confidentiality is imperative in order to get candid statements and cooperation.
- It invites the media to interfere with investigations and prosecutions by contacting witnesses, second guessing determinations, and driving a false narrative regarding an incident, all to sell newspapers and get clicks on their websites.
- It shifts the release of burden onto the department by stating that all footage shall be released unless the department can show with clear and convincing reason why it should not be released.
- It does nothing to make our streets safer and instead of encouraging constructive discussion, the bill will exacerbate an already difficult situation.
- It includes contradicting language regarding the release of footage.

Marvel added, "PORAC supports transparency and the use of body-worn cameras, but we must find a responsible approach to releasing the footage. The safety of private citizens and law enforcement must remain paramount."

The Peace Officers Research Association of California (PORAC) was incorporated in 1953 as a professional federation of local, state and federal law enforcement agencies. Today, PORAC represents over 70,000 public safety members and 930 associations, making it the largest law enforcement organization in California and the largest statewide association in the nation.

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Governor signs bad bill on law enforcement privacy

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Governor Brown has signed SB 1421 by Senator Nancy Skinner (D-Berkeley). Brian Marvel, President of the Peace Officers Research Association of California (PORAC), representing more than 70,000 public safety members, said “We are disappointed at what we perceive to be a reckless decision by the governor.”

Marvel went on to say “PORAC has worked to ensure transparency with the public, without endangering the lives of witnesses, victims, officers and their families. PORAC sponsored, along with other rank and file organizations, AB 1428 by progressive Assemblymember Evan Low (D-Campbell), that would have mandated the publishing of the general information of all investigations relating to Officer Involved Shootings (OIS) and serious uses of force by an officer.” That measure was held by the Senate last year.

SB 1421 mandates the release of these investigations but adds “dishonesty” and “sexual misconduct” to the actions calling for the release of the records. Furthermore, the information mandates to be released in SB 1421 are so broad and overbreadth that it is unclear as to whether the data to be released would include all historic information in an officer’s personnel file, a public release that is not allowed anywhere else or for any other employee.

Below are additional concerns with SB 1421:

- This bill creates confusion and uncertainty in the administrative disciplinary process. Each department has its own process for investigating officers’ actions and/or complaints. Some processes are fair and thorough while in other departments an officer may have little opportunity for reasonable due process.
- The information that will be released because of this bill is already available to defendants in an action against the department through the “Pitchess” System that has been in law for 50 years, and through discovery.
- In a case with mixed allegations where a department chooses to “load up” the discipline while using numerous allegations of misconduct, some of the proposed misconduct would fall under this bill for disclosure and some would not. There is no way to parse out what should and should not be released.
- Should information about law enforcement discipline be publicized, a wave of habeas corpus petitions from convicted criminals would follow.

PORAC has brought thoughtful solutions to the issues facing law enforcement. We will continue doing so until change is made.

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