SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair
2021 - 2022 Regular

Bill No:	SB 2	**Hearing Date:**	April 13, 2021
Author:	Bradford		
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Urgency:	No	**Fiscal:**	Yes
Consultant:	GC		

Subject: ***Peace officers: certification: civil rights***

HISTORY

Source: Alliance for Boys and Men of Color
ACLU of California
Anti-Police Terror Project
Black Lives Matter Los Angeles
California Families United 4 Justice
Communities United for Restorative Youth Justice
PolicyLink
STOP Coalition
UDW/AFSCME Local 3930
Youth Justice Coalition

Prior Legislation: SB 731 (Bradford), not heard on Assembly Floor

Support: Alliance for Boys and Men of Color; American Civil Liberties Union/Northern California/Southern California/San Diego and Imperial Counties; Anti-Police Terror Project; Asian Prisoner Support Committee; Asian Solidarity Collective; Bend the Arc: Jewish Action; Black Lives Matter-California; Black Lives Matter Los Angeles; Brotherhood Crusade; California Alliance for Youth and Community Justice; California Coalition of School Safety Professionals; California Department of Insurance; California Immigrant Policy Center; California Families United 4 Justice; California Public Defenders Association (CPDA); Californians for Safety and Justice; Change for Justice; Children's Defense Fund – CA; Clergy and Laity United for Economic Justice; Communities United for Restorative Youth Justice (CURYJ); Community Advocates for Just and Moral Governance; Consumer Attorneys of California; Drug Policy Alliance; Ella Baker Center for Human Rights; Empowering Pacific Islander Communities (EPIC); Equal Rights Advocates; Families United 4 Justice; Fresno Barrios Unidos; Friends Committee on Legislation of California; Giffords; Indivisible East Bay; Indivisible South Bay LA; Indivisible Yolo; Initiate Justice; Justice Reinvestment Coaltion of Alameda County; Kern County Participatory Defense; Law Enforcement Accountability Network; League of Women Voters of California; Legal Services for Prisoners With Children; Los Angeles LGBT Center; Los Angeles School Police Association; Martin Luther King Jr Freedom Center; Mexican American Bar Association of Los Angeles County; Mid-city

Community Advocacy Network; National Association of Social Workers, California Chapter; National Institute for Criminal Justice Reform; Nextgen California; Northridge Indivisible; Orange County Emergency Response Coalition; Organizers in Solidarity; Pacifica Social Justice; People's Budget Orange County; Palos Verdes Police Officers Association; Pillars of The Community San Diego; PolicyLink; Prosecutors Alliance of California; Riverside Sheriffs' Association; Roots of Change; Salesforce; San Francisco Board of Supervisors; San Francisco Public Defender; San Jose State University Human Rights Institute; Santa Ana Police Officers Association; Santa Monica Coalition for Police Reform; Showing Up for Racial Justice (SURJ) Long Beach; Showing Up for Racial Justice (SURJ) San Diego; Showing Up for Racial Justice North County; Smart Justice California; Southeast Asia Resource Action Center; STOP Coalition; Team Justice; The Resistance Northridge Indivisible; Think Dignity; Together We Will/indivisible - Los Gatos; UDW/AFSCME Local 3930; We the People - San Diego; White People 4 Black Lives; Yalla Indivisible; Youth Justice Coalition

Opposition: Association of Los Angeles Deputy Sheriffs; Association of Orange County Deputy Sheriff's; California Association of Highway Patrolmen; California Coalition of School Safety Professionals; California Fraternal Order of Police; California Police Chiefs Association; California State Sheriffs' Association; California Statewide Law Enforcement Association; Long Beach Police Officers Association; Los Angeles School Police Association; Palos Verdes Police Officers Association; Peace Officers Research Association of California (PORAC); Riverside Sheriffs' Association; Sacramento County Deputy Sheriffs Association; San Bernardino County Safety Employees' Benefit Association; Santa Ana Police Officers Association

PURPOSE

The purpose of this legislation is to do the following: (1) grant new powers to the Commission on Peace Officer Standards and Training (POST) to investigate and determine peace officer fitness and to decertify officers who engage in "serious misconduct" and (2) make changes to the Bane Civil Rights Act to limit immunity as specified.

Existing law requires minimum training and moral character requirements for peace officers, as defined, while at the same time identifying certain disqualifying factors, including a felony conviction. (Penal Code Sections 830 *et seq.* and Government Code Sections 1029 and 1031.)

Existing law establishes the Commission on Peace Officer Standards and Training (POST) to set minimum standards for the recruitment and training of peace officers, develop training courses and curriculum, and establish a professional certificate program that awards different levels of certification based on training, education, experience, and other relevant prerequisites. Authorizes POST to cancel a certificate that was awarded in error or fraudulently obtained; however, POST is prohibited from canceling a properly-issued certificate. (Penal Code Sections 830-832.10 and 13500 *et seq.*)

This bill would disqualify a person from being employed as a peace officer if that person has been:

- Convicted of, or been adjudicated to have committed crimes against public justice, including falsifying records, bribery, or perjury;
- Certified as a peace officer by the Commission on Peace Officer Standards and Training (POST) and has surrendered that certification or had that certification revoked by POST, or has been denied certification;
- Previously employed in law enforcement in any state, US territory, or the federal government whose name is listed in the national decertification index; or
- Engaged in serious misconduct that would have resulted in their certification being revoked by the state.

This bill requires POST to adopt by regulation a definition of "serious misconduct" that shall serve as the criteria to be considered for ineligibility for, or revocation of, certification. The definition shall include the following:

- Dishonesty relating to the reporting, investigation, or prosecution of a crime, or relating to the reporting or investigation of misconduct by a peace officer.
- Abuses of power, including intimidating witnesses, knowingly obtaining a false confession, and knowingly making a false arrest.
- Physical abuse, including unauthorized use of force.
- Sexual assault.
- Demonstrating bias on the basis of race, national origin, religion, gender identity or expression, housing status, sexual orientation, mental or physical disability, or other protected status in violation of law or department policy or inconsistent with a peace officer's obligation to carry out their duties in a fair and unbiased manner.
- Violation of the law or other acts that are inconsistent with an officer's obligation to uphold the law or respect the rights of members of the public.
- Participation in a law enforcement gang or other organization that engages in a pattern of rogue on-duty behavior that violates the law or fundamental principles of professional policing, including, but not limited to, unlawful detention, use of excessive force, falsifying police reports, fabricating evidence, targeting persons for enforcement based solely on protected characteristics of those persons, theft, use of alcohol or drugs while on duty, protection of other members from disciplinary actions, and retaliation against other officers who threaten or interfere with the activities of the group.
- Failing to cooperate with an investigation into potential police misconduct, including an investigation conducted pursuant to the provisions of this bill.

This bill grants POST the power to investigate and determine the fitness of any person to serve as a peace officer in the state of California and to audit any law enforcement agency that employs peace officers without cause at any time by creating and empowering a new division.

- Creates the Peace Officer Standards Accountability Division (Division) within POST to investigate and prosecute proceedings to take action against a peace officer's certification.
- Requires the Division to review and investigate grounds for decertification and make findings as to whether the grounds for action against an officer's certification exist.
- Requires the Division to notify the officer subject to decertification of their findings and allow the officer to request review.

This bill creates the Peace Officer Standards Accountability Advisory Board (Advisory Board).

- Membership shall consist of 9-members to be appointed as follows:
    - 1 peace officer or former peace officer with substantial experience at a command rank – appointed by the Governor.
    - 1 peace officer or former peace officer with substantial experience at a management rank in internal investigations or disciplinary proceeding of peace officers – appointed by the Governor.
    - 2 members of the public, who are not former peace officers, who have substantial experience working at nonprofit or academic institutions on issues related to police misconduct – one appointed by the Governor and the other appointed by the Speaker of the Assembly.
    - 2 members of the public, who are not former peace officers, who have substantial experience working at community-based organizations on issues related to police misconduct – one appointed by the Governor and one by the Senate Rules Committee.
    - 2 members of the public, who are not former peace officers, who have been subject to wrongful use of force likely to cause death or serious bodily injury by a peace officer, or who are surviving family members of a person killed by the wrongful use of deadly force by a peace officer – appointed by the Governor.
- Members shall be appointed for 3-year terms as specified.

This bill requires that the Advisory Board hold public meetings to review the findings after an investigation made by the division and to make a recommendation to POST.

This bill requires that POST adopt the recommendation of the Advisory Board if supported by clear and convincing evidence and if action is to be taken against an officer's certification, return the determination to the Division to commence formal proceedings before an administrative law judge consistent with the Administrative Procedures Act. And provides that the determination of the administrative law judge shall be subject to judicial review. This bill also requires that POST notify the employing agency of the officer as well as the district attorney of the county in which the officer is employed of their decision.

This bill requires law enforcement agencies to report to POST:

- The employment, appointment, or separation from employment of a peace officer;
- Any complaint, charge, allegation, or investigation into the conduct of a peace officer that could render the officer subject to revocation;
- Findings of civil oversight entities; and
- Civil judgements that could affect the officer's certification.

This bill requires, in cases of separation from employment or appointment, each agency is required to execute an affidavit-of-separation form adopted by POST describing the reason for the separation. This affidavit is signed under penalty of perjury.

This bill declares that certificates or proof of eligibility awarded by POST to be the property of POST and would authorize POST to revoke a proof of eligibility or certificate on grounds including the use of excessive force, sexual assault, making a false arrest, or participating in a law enforcement gang.

This bill requires law enforcement agencies only employ peace officers with current, valid certification or pending certification.

This bill directs POST to issue or deny certification, including a basic certificate or proof of eligibility to a peace officer.

This bill requires POST to issue a proof of eligibility or basic certificate to persons employed as a peace officers on January 1, 2022, who not otherwise possess a certificate.

This bill requires renewal of proof of eligibility or basic certification at least every two years and requires that POST assess a fee for the application, renewal, and the annual certification fee.

This bill creates a Peace Officer Certification Fund for the fees to be deposited into and continuously appropriate those funds to POST for the administration and certification program.

Existing law states that except as specified, peace officer or custodial officer personnel records and records maintained by any state or local agency pursuant to citizens' complaints against personnel are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery. This section shall not apply to investigations or proceedings concerning the conduct of peace officers or custodial officers, or any agency or department that employ these officers, conducted by a grand jury, a district attorney's office, or the Attorney General's office. (Pen. Code, § 832.7, subd. (a).)

This bill makes all records related to the revocation of a peace officer's certification public and would require that records of an investigation be retained for 30 years.

Existing law provides, under the Tom Bane Civil Rights Act, that if a person or persons, whether or not acting under color of law, interfere or attempt to interfere, by threats, intimidation, or coercion, with the exercise or enjoyment of any rights secured by the Constitution or laws of the United States, or by the Constitution or laws of the state of California, the Attorney General, or any district attorney or city attorney, is authorized to bring a civil action for equitable relief and a civil penalty. (Civil Code Section 52.1 (b).)

Existing law permits a person whose exercise or enjoyment of rights were interfered with in violation of the Tom Bane Civil Rights Act to institute a civil action in their own name and on their own behalf for damages, as specified. (Civil Code Section 52.1 (c).)

Existing law provides, under the Government Claims Act, that unless a statute provides otherwise, a public entity is not liable for injury, whether such injury arises out of an act or omission of the public entity or a public employee or any other person. However, a public entity is liable for injury proximately caused by an act or omission of an employee of the public entity within the scope of their employment if the act or omission would otherwise have given rise to a cause of action against that employee. (Government Code Section 814 *et seq.*)

Existing law provides that public employees are not liable for injury caused by their instituting or prosecuting any judicial or administrative proceeding within the scope of their employment, even if they act maliciously and without probable cause. (Government Code Section 821.6.)

Existing law provides, subject to certain exemptions, that a public entity or public employee is not liable for an injury to a prisoner, or an injury caused by the failure of an employee, other than

a healing arts employee, to furnish or obtain medical care for a prisoner in their custody. However, nothing exonerates a public employee from injury proximately caused by their negligent or wrongful act or omission. Specifies that in such case the public entity may, but is not required to, pay any judgment, compromise, or settlement, but may be required to indemnify any public employee, in any case where the entity is immune from liability. (Government Codes Sections 844.6 and 845.6.)

This bill specifies that the threats, intimidation, or coercion as defined in the Tom Bane Civil Rights Act need not be separate or independent from, and may be inherent in, any interference or attempted interference with a right.

- A person bringing suit under this section need not prove that a person being sued under this section had specific intent to interfere or attempt to interfere with a right secured by the Constitution or law.
- For any person, public entity, or private entity sued under this section, intentional conduct to interfere or attempt to interfere with a constitutional right or right granted by law or deliberate indifference or reckless disregard for a constitutional right or right granted by law that interferes or attempts to interfere with that right, is sufficient to prove a violation of this section by threat, intimidation, or coercion.
- For purposes of this section, a person acts "intentionally" when the person acts with general intent or a conscious objective to engage in particular conduct.

This bill eliminates specified immunity provisions for peace and custodial officers, or public entities employing peace or custodial officers sued under the Tom Bane Civil Rights Act. This provisions are the following:

- A public employee for injury caused by his instituting or prosecuting any judicial or administrative proceeding within the scope of his employment, even if they act maliciously and without probable cause.
- Liability of peace or correctional officers for injuries caused to persons in custody.
- Failure to obtain medical care for a person in custody.
- Specified indemnification procedures by agencies on behalf of employees.

This bill authorizes persons who can otherwise bring actions for wrongful death to bring an action under the Tom Bane Civil Rights Act for the death of a person.

This bill makes a number of uncodified findings and declarations.

COMMENTS

1. Need for This Bill

According to the author:

> For years, there have been numerous stories of bad-acting officers committing misconduct and not facing any serious consequences. These officers remain on the force after pleading down to a lesser crime, if prosecuted and convicted at all. Other times, these problematic officers resign or are fired from their employer only to get rehired at another law enforcement agency and continue to commit

serious acts of misconduct. California does not have a uniform, statewide mechanism to hold law enforcement officers accountable. Allowing the police to police themselves has proven to be dangerous and leads to added distrust between communities of color and law enforcement.

Furthermore, the Bane Act has been under assault and its original intent undermined. Federal courts have made the doctrine of qualified immunity a more potent obstacle to achieving justice for violations of rights under the federal civil rights law. Revisions are needed to address and clarify a number of recent negative court decisions that brought the Bane Act further out of alignment with its counterpart in federal law. Given the federal issue of qualified immunity, the Bane Act must be a strong resource to defend California civil rights.

SB 2 creates a fair and impartial statewide process with due process safeguards to revoke a law enforcement officer's certification for a criminal conviction and certain acts of serious misconduct without regard to conviction. Additionally, the bill will correct misinterpretations and incongruences to full civil rights enforcement using the Bane Act and bringing it into alignment with federal law.

Law enforcement officers are entrusted with great powers to carry a firearm, stop and search, use force, and arrest; to balance this, they must be held to a higher standard of accountability.

2. Decertification of Peace Officers

California is one of only 4 states in the United States that does not have a process for the decertification of peace officers when they engage in acts of misconduct that could disqualify them from being employed as a peace officer. Other professions that involve a large degree of public trust have robust organizations that may decertify persons from practicing in a field (e.g. the State Bar of California for attorneys, or the Medical Board of California for doctors). In California we already have the Commission on Peace Officer Standards and Training (POST), but in 2003 POST lost the ability to deny or revoke an officers' certification by statute.

The Commission on Peace Officer Standards and Training, or POST, was established by legislative action in 1959. POST is responsible for setting minimum training standards for law enforcement in California. Currently, POST has a staff of over 130 and functions under an executive director that is appointed by the commission themselves. POST is funded through the general fund, and through the state penalty fund, which receives money from penalty assessments on criminal and traffic fines. This bill would create new duties for POST in requiring them to create a certification program, monitor those certifications, recertify, and create procedures for decertification of peace officers. Additionally, this bill will create a funding mechanism for this oversight in a similar way to the other oversight agencies (such as the State Bar of California) operate. POST will fund the certification and decertification process by passing a fee on to officers seeking certification and recertification.

This bill provides for certification of all peace officers in the state. Commencing January 1, 2022 peace officers who do not possess a basic certificate shall apply to POST for proof of eligibility. Agencies that employ peace officers shall only employ peace officers who have current valid certification unless they meet specified qualifications for provisional employment pending certification by POST. These certifications must be renewed every 24 months.

The bill creates a process for decertification by creating the Peace Officer Standards Accountability Division (Division) within POST. This Division has the responsibility of reviewing grounds for decertification, conducting investigations into serious misconduct, presenting findings in decertification procedures, and seeking revocation of certification of peace officers. The bill also creates a Peace Officer Standards Accountability Advisory Board (Advisory Board). The Advisory Board is tasked with hearing evidence of misconduct and making determinations as to the certification or decertification of peace officers. The Advisory Board conducts hearings publically and the bill makes the necessary amendments to California code to permit the discussion of peace officer personnel records introduced in these proceedings subject to public disclosure.

This bill requires revocation of peace officer certification if an investigation determines that the peace officer has (1) become ineligible to hold office as a police officer under the existing disqualification provisions or (2) been terminated for cause from employment as a peace officer or has otherwise engaged in any enumerated acts of "serious misconduct." Acts of "serious misconduct" will be defined by regulation by post POST and shall include the following:

- Dishonesty relating to the reporting, investigation, or prosecution of a crime, or relating to the reporting or investigation of misconduct by a peace officer.
- Abuses of power, including intimidating witnesses, knowingly obtaining a false confession, and knowingly making a false arrest.
- Physical abuse, including unauthorized use of force.
- Sexual assault.
- Demonstrating bias on the basis of race, national origin, religion, gender identity or expression, housing status, sexual orientation, mental or physical disability, or other protected status in violation of law or department policy or inconsistent with a peace officer's obligation to carry out their duties in a fair and unbiased manner.
- Violation of the law or other acts that are inconsistent with an officer's obligation to uphold the law or respect the rights of members of the public.
- Participation in a law enforcement gang or other organization that engages in a pattern of rogue on-duty behavior that violates the law or fundamental principles of professional policing, including, but not limited to, unlawful detention, use of excessive force, falsifying police reports, fabricating evidence, targeting persons for enforcement based solely on protected characteristics of those persons, theft, use of alcohol or drugs while on duty, protection of other members from disciplinary actions, and retaliation against other officers who threaten or interfere with the activities of the group.
- Failing to cooperate with an investigation into potential police misconduct, including an investigation conducted pursuant to the provisions of this bill.

Additionally this bill requires that agencies cooperate and communicate specified information with POST. Beginning January 1, 2023 law enforcement agencies must report information related to the employment of officers, appointment, termination or separation including involuntary termination resignation or retirement. They must also report to POST all complaints, charges, or allegations of misconduct that could render a peace officer subject to revocation. All findings by oversight agencies and final dispositions of investigations into misconduct must also be shared with POST.

3. Revisions to the Bane Act

California's Bane Act protects persons from threats, intimidation, or coercion and for attempts to interfere with someone's state or federal statutory constitutional rights. The Bane Act authorizes a cause of action against a person who, whether or not acting under "color of law," uses threats, intimidation, or coercion to interfere with the ability of another person in the exercise and enjoyment of any rights guaranteed under the U.S. or California constitutions, or any right guaranteed under federal or state statute. Some courts have more restrictively interpreted the Bane Act to require that threats, intimidation, or coercion must be committed with the specific intent to interfere with the person's rights. Other courts have found that only general intent is required. This bill would resolve these conflicting views in favor of not requiring the intent element.

The California Government Claims Act (Tort Claims Act) provides a general immunity from liability for harms that public employees may cause, unless another statute provides for liability. Government Code Section 825(a) provides that public entities must indemnify public employees for judgments of compensatory damages, and provides that they may indemnify public employees for punitive damages if they were acting in the course and scope of employment, acting in good faith, and payment would be in the best interests of the public entity.

Government Code Section 821.6 grants absolute immunity to public employees for any injury caused by their instituting or prosecuting any judicial or administrative proceeding within the scope of their employment, even if they act maliciously and without probable cause. Some courts have interpreted this immunity broadly to apply to conduct during an investigation leading up to institution of a proceeding. Government Code Sections 844.6, and 845.6 generally grant absolute immunity to public employees for injuries caused to a prisoner, or for failure to provide or obtain medical care for a person in custody.

This bill would expressly state that these immunities do not apply to any cause of action brought under the Bane Civil Rights Act brought against a peace officer or the peace officer's employing agency. In addition, the bill expressly states that it would not affect existing judicial and prosecutorial immunity for individual attorneys acting on behalf of a prosecutor's office in a prosecutorial capacity.

4. Argument in Support

According to the ACLU:

> The American Civil Liberties Union of California is pleased to co-sponsor Senate Bill 2 to increase accountability for peace officers who commit serious misconduct and violations of civil rights. Specifically, the bill would create a statewide process to revoke the professional certificates issued to peace officers for serious acts of misconduct. Additionally, the bill strengthens the Tom Bane Civil Rights Act (Bane Act) to correct misinterpretations and impediments to full civil rights enforcement under state law.
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> Nationwide, 46 states have the authority to revoke a peace officer's certificate for misconduct, commonly known as decertification. California is one of only four that do not. In 2003, under pressure from the law enforcement lobby, the legislature removed the authority of the California Commission on Peace Officer

Standards and Training (POST) to deny or cancel a peace officer's certification, leaving the continued employment of officers accused of misconduct or abuse of authority to local law enforcement agencies, and allowing many disreputable officers to jump from one local police department to another.

Following the enactment of SB 1421 (Skinner, Chapter 988, Statutes of 2018), which disclosed the hidden records of peace officer misconduct, there have been numerous revelations of officers committing misconduct without facing any real consequences. Many problem officers remain on the force after pleading down to a lesser crime, if they are prosecuted at all. Others resign or are fired by one department, only to get rehired at another and go one to commit further serious acts of misconduct. This bill would bring an end to the state's shameful dereliction of duty, returning California to the nearly universal recognition across the country that local law enforcement cannot be relied upon to protect our residents from people that should not be peace officers.

SB 2 would create a two-track process for decertification. If an officer is fired for serious misconduct, including excessive force, sexual misconduct or abuse, or concealing or fabricating evidence, decertification would be warranted as a matter of course. If an officer engages in misconduct without being terminated, decertification would be discretionary based on a further investigation and review. The states that have the most effective decertification schemes, Georgia and Florida, provide a discretionary process where the administering entity can look at other less serious misconduct not tied to a criminal conviction or an officer's firing.

Furthermore, the decertification process increases accountability of peace officers at the statewide level in various ways. The bill requires law enforcement agencies to report to POST all fired officers or officers that resign in lieu of a termination, requires hiring agencies to contact POST and inquire as to the facts and reasons for an officer being separated from their former employer before hiring the officer, and adds the names of decertified officers to a national database.

We appreciate that SB 2 has been improved from the final version of SB 731. Specifically, the composition of the Advisory Board has been changed from 6-3 to 7-2 to increase the numbers of civilians and reduce the law enforcement representation. Massachusetts, which just passed their own version of decertification, has a 6-3 civilian to law enforcement board. Our co-sponsor coalition wanted to ensure that California's law has the strongest public representation.

Furthermore, our coalition has made it clear that impacted families have a strong desire to hold previous bad actors accountable. SB 2 therefore allows the Commission to look back at specific instances of officer misconduct when the officer renews their certification in the future. Failure to do so would treat some officers differently for the same wrongdoing. The specific acts of misconduct align with those crimes highlighted in Penal Code section 832.7 under SB 1421. Those crimes are uses of force against a person that results in death or great bodily injury, sexual assault, and acts of dishonesty.

Relatedly, this bill seeks to correct a few problematic court decisions that have prevented people injured by police misconduct and their families from seeking meaningful redress for violations of their civil rights. The Bane Act is California's most broadly applicable and important civil rights law, protecting constitutional and other rights by public or private actors, most commonly by use of excessive force or false arrest.

State civil rights protections have become far more important because conservative federal judges have invented the concept of "qualified immunity" to block recovery for violations of rights under federal law. Without robust state civil rights protections, those who are injured, and their families have no way to hold officers accountable. But state protections have likewise been degraded by court interpretations that have watered-down the Bane Act's original objectives by requiring specific intent, allowing absolute state immunities, and denying any responsibility when victims are killed instead of merely injured.

SB 2 takes a targeted approach to correcting the most egregious of these immunities. The bill removes the following three immunities: police officer immunity for malicious prosecution, failure to provide medical care to prisoners, and injuries to a prisoner violating their rights often related to excessive use of force. The narrowed language clarifies that the immunities are barred for peace officers or the peace officer's employer.

Finally, the language makes clear that existing state law requiring indemnification of an employee or former employee of a public agency apply under these causes of action. This was a critical clarification because law enforcement falsely claimed that officers will not be able to do their jobs under the threat of being held personally liable for their actions.

The voices from the community are clear: the status quo must change, and the state must hold law enforcement officers accountable for the harm and terror inflicted on communities of color. SB 2 creates a statewide mechanism to hold peace officers accountable and protect the civil rights of Californians.

5. Argument in Opposition

According to PORAC:

I write you today on behalf of the Peace Officers' Research Association of California (PORAC), representing 77,000 public safety members and 930 public safety associations. We regret to inform you of our opposition to SB 2 relating to peace officers: certification: civil rights.

PORAC fully supports the license revocation of officers who demonstrate gross misconduct in law enforcement. We cannot allow this in our profession. In fact, PORAC has been at the table, proposing legislative solutions to create a fair and equitable process for revoking an officer's license to practice law enforcement. However, as written, SB 2 would over-ride due process, establishing a 9-person panel to oversee the license revocation process that includes 7 members of the public with no requirements for expertise power or prior experience in the practice of public safety or law enforcement, with one of the seven actually biased against the peace officer, and only 2 members with expertise or prior experience.

If a doctor's actions were being reviewed for potential discipline, would we want someone with no medical experience deciding whether that doctor's actions were reasonable?

In addition, this body will have complete investigatory authority to overturn local agency and District Attorney recommendations and discipline. Ultimately, it will have to end a peace officer's career with little or no due process for the officer.

No one wants to see bad officers removed from law enforcement more than good officers do. When an officer acts in a way that is grossly inconsistent with the missions and goals of our profession, it gives all law enforcement a bad name, and only harms our ability to build back the community trust we need to carry out our duties safely and effectively. However, SB 2 reaches far beyond the police licensing process. Ultimately, this bill creates an inherently amateurish and potentially biased panel to oversee the process of revoking an officer's license to practice law enforcement, ignoring our country's tradition of due process and subjecting officers to a biased review of their actions where guilt is assumed, and the deck is stacked against them.

Peace officers cannot possibly do their job if there's always a lingering fear that even if they do the job by the book and up to policy standard, they could still potentially face a civil action. No employee should have to work under those conditions. Again, PORAC is strongly opposed to SB 2.

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