



CALIFORNIA NEWS PUBLISHERS ASSOCIATION CNPA Services, Inc.

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ETHNIC MEDIA SERVICES

Promoting cross cultural communications



March 15, 2021

Honorable Thomas J. Umberg
Honorable Andreas Borgeas
Honorable Anna M. Caballero
Honorable Maria Elena Durazo
Honorable Lena A. Gonzalez
Honorable Robert M. Hertzberg
Honorable Brian W. Jones
Honorable John Laird
Honorable Henry I. Stern
Honorable Bob Wieckowski
Honorable Scott D. Wiener
California State Senate
State Capitol, Room, 2187
Sacramento, CA 95814

RE: Support SB 16 (Skinner)

Dear Chair Umberg and Senators of the Judiciary Committee,

We are writing to you on behalf of the California News Publishers Association California Black Media, Ethnic Media Services, the California Broadcasters Association, and the First Amendment Coalition in strong support of SB 16, which sets forth requirements for the disclosure of certain police personnel records. We respectfully urge your “Aye” vote on SB 16 (Skinner).

Recent events, like the deaths of George Floyd in Minneapolis, Stephon Clark in Sacramento, as well as other events seared into California’s history, like the beating of Rodney King in Los Angeles, underscore the immense public concern related to police and community interactions. After the passage of Senator Skinner’s landmark SB 1421 in 2018, the public now has a greater ability to access records related to police misconduct and use of force than it did for the previous three decades.

Unfortunately, law enforcement agencies have taken advantage of ambiguities in the law to stifle access to critical information that limits the ability of the public and journalists to fully investigate the activities of

California's most powerful public institutions. In some cases, law enforcement agencies have just ignored the law and refused to comply with requests for information about misconduct.

SB 16 would expand the types of police actions that would be subject to the California Public Records Act (CPRA) to include every incident of use of force, allegations of sexual assault, sustained findings of unlawful arrests and searches, as well as incidents involving prejudice or discrimination on the basis of specified protected classes. By specifying that all uses of force must be reported, records will not be withheld if one departments differ on what is a great bodily injury, such as a dislocated shoulder or broken bone. The bill would also impose a \$1,000 civil fine per day for each day beyond 30 days that records subject to disclosure are not disclosed. The bill would enable a member of the public who successfully files suit for the release of records to obtain twice the party's reasonable costs and attorney's fees thus establishing clear consequences for departments that intentionally ignore or delay disclosure which is essential to ensure that law enforcement agencies are not above the law.

SB 16 would also require every person employed as a peace officer to immediately report all uses of force by an officer to the officer's department or agency. This will help make certain that all incidents involving the use of force will be investigated and not ignored. Additionally, the bill would prohibit assertion of the attorney-client privilege to limit the disclosure of factual information provided by the public entity to its attorney, factual information discovered by any investigation done by the public entity's attorney, or billing records related to the work done by the attorney. This is another loophole that has been used to avoid disclosing important records.

The bill would also safeguard against a incidents where officers resign from their departments before the conclusion of an investigation into their conduct thereby ending the investigation before a sustained finding can be reached thereby limiting what information about an incident may be publicly disclosed.

Courts have long recognized that activity of police officers is of the highest public concern, particularly when they use serious or deadly force. Law enforcement officials wield immense power. For that reason, they should be subject to at least the same level of scrutiny as all other public employees whose personnel records are disclosable in cases of heightened public concern. In the case of police shootings, the public interest in disclosure is at its zenith, even when there is no claim of misconduct and a use of force is "within policy."

SB 16 provides a balanced framework for mandating the disclosure of records, while protecting investigatory and safety interests. The bill also presumes these records be publicly disclosed after 30 days, while allowing an agency a reasonable amount of time to delay disclosure if release would impair an important interest.

A lack of transparency results in distrust. SB 16 mandates transparency to help cure the problems secrecy has shown over this category of public information in the last 40 years. SB 16 further peels back the veil of secrecy that has shrouded this information from public view while providing enough flexibility for agencies to protect the rights of the officers that serve the public.

For these reasons, CNPA, California Black Media, Ethnic Media Services, the California Broadcasters Association, and the First Amendment Coalition support SB 16 (Skinner), and respectfully urge your "Aye" vote.

Sincerely,



Brittney Barsotti
CNPA General Counsel

Regina Brown Wilson

Regina Brown Wilson
Executive Director, California Black Media

Sandy Close

Sandy Close
Founder, Ethnic Media Services



David Snyder
Executive Director, First Amendment Coalition



Joe Berry
President and CEO, California Broadcasters Association

cc: Simon Grieve, CNPA Chairman of the Board, Publisher, Grunion Gazette, Long Beach
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