

Conflict shapes over Killea bill | Proposal would keep peace officers' records secret

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Opponents are gearing up to fight a controversial bill proposed by state Sen. Lucy Killea that they say would close one of the few arenas available to the public to get information about bad police officers.

The bill, dubbed the "more secrecy in government act" by one San Diego attorney, would force all public agencies and departments to keep peace officer personnel records secret.

Since these records take up the bulk of testimony at civil service and police commission hearings, opponents say this legislation effectively would close the proceedings statewide. It also would no longer allow these commissions to release the results of the investigations.

In San Diego, Senate Bill 2764 would create a state law in conflict with the city charter, which requires open civil service commission hearings for its police officers, said Deputy City Attorney Sharon Marshall.

Likewise, the county's civil service commission, which traditionally has held open forums on discipline involving sheriff's deputies, could be forced to close significant portions of its hearings, according to Deanna Spehn, president of the commission, which opposes the legislation.

While current law prohibits government personnel departments from releasing peace officer records, certain details are often revealed in open hearings, where all government employees, including peace officers, go to appeal discipline meted out by their superiors.

Killea, a San Diego Democrat, has long been an ally of law enforcement. The former San Diego councilwoman spent eight years in the Assembly before winning a Senate seat last year with the strong backing of five law enforcement associations in the county. She also received \$5,000 from the Peace Officers Research Association of California, and the Deputy Sheriffs Association produced a campaign mailer on her behalf.

Killea defends her proposed legislation, which would apply only to peace officers, arguing that officers need to be better protected. The nature of their work, she said, makes them different from other civil service employees.

"Many of these complaints (against officers) are from criminals and the criminal elements," Killea said. "To give these criminals some advantage where they can just pile on complaints against an officer who maybe is being complained about because he's being effective -- it just isn't the same as a typist."

Dismissing the critics, Killea said she knows from her many years in public service that the legislation is needed.

"I'm not doing this in a foolhardy way," said Killea, whose first test of the bill may come at a committee hearing next month. "I'm attempting to come up with a balance. Obviously there are others who don't agree."

One of those is San Diego attorney George Weingarten, who said it is foolhardy to further dilute the accountability of police departments whose officers "have the right to kill people -- and they've been doing a lot of that lately."

There have been nearly two dozen shootings so far this year involving law enforcement officers in San Diego County, a statistic that has drawn criticism from many quarters and prompted the Board of Supervisors to push ahead with plans for a citizen review board of the Sheriff's Department.

Weingarten said the Killea legislation would only protect the wrongdoer, to the detriment of both the public and the cop who is doing a good job. Police officers don't get to civil service hearings unless their supervisors find them at fault for something and they decide to challenge the discipline.

"We're only talking about public hearings dealing with records where a police officer is accused of doing something wrong and the department has already agreed that, yes, something wrong did occur," Weingarten said.

It was San Diego attorney Tom Adler who called the bill the "more secrecy in government act." Adler, who has won a number of large civil awards for people who allege that they have been battered by peace officers, said the Killea legislation would help keep the public in the dark about law enforcement practices and close an important door for public accountability.

Everett Bobbitt, an attorney who represents police officers in their disputes with management over discipline, supports the bill.

Bobbitt argues that the legislation is necessary to close a loophole in a current state law, the so-called police officers' bill of rights, that prohibits the release of a peace officer's personnel records. Because of the wording of the law, Bobbitt said, it has been interpreted to exclude commission hearings.

Bobbitt believes that allowing the public to attend the hearings is an invasion of privacy for any government employee.

"I only represent peace officers," he said. "If I represented other civil service employees, I would feel the same way. It's not our fault that their attorneys have not vigorously represented their clients."

Bobbitt said he intends to speak in favor of SB 2764 when it comes before the Public Safety Committee on Aug. 7. The bill still has to pass the full Senate and Assembly before going to the governor.

But Mike Dorias, a lobbyist for the California Newspaper Publishers Association, which opposes the legislation, fears it could be expedited and go to Gov. Deukmejian later next month.

"And you know 'The Duke' will sign it," said San Diego attorney Michael Crowley.

Killea notes that she worked out wording in the bill with both San Francisco -- a city on the cutting edge of public accountability for law enforcement -- and the American Civil Liberties Union.

Representatives for both, however, have said they agreed only to not oppose the bill and that after seeing the broad implications it could have statewide, they have since changed their positions.

The broad language, for example, would put an end to San Francisco's practice of announcing publicly all major disciplinary decisions at the end of its police commission hearings.

It would no longer be legal, said Bobbitt, for commissions to release the names of officers, what they were accused of and what the outcome was of their hearings. In San Francisco, the bill also would end the practice of letting police officers choose whether to have an open or closed disciplinary hearing, during the portions of the hearing that deal with

personnel records, he added.

Bobbitt said he has suggested an amendment to Killea's office that would exempt police review boards from any of the legislation's provisions. If amended that way, Bobbitt argues the bill would ensure that police conduct can still be appropriately reviewed.

Bobbitt also noted that the bill would not affect civil and criminal proceedings or grand jury investigations, all of which would continue to provide public accountability.

Like Killea, Bobbitt said the major reason the new legislation is to protect officers from unfair criticism so they can do their jobs without fear of public reprisal.

"They continually get complaints and most are unfounded," Bobbitt said. "If an officer wants to contest the fairness of discipline, he should be able to do that in private. Right now, if he gets a suspension, say, for beating someone, and he agrees, the public would never hear of it.

"But if he appeals, the first headline is that he's accused of brutality. If he's found innocent, it's buried inside the paper somewhere, if it's printed at all."

But opponents are not convinced. They counter that most California cities and counties do not have review boards and that grand juries seldom release the names of specific officers believed to be involved in wrongdoing.

Copley Press attorney Judy Fanshaw, who represents The San Diego Union, said she does not "understand why we want to give police officers greater secrecy."

Fanshaw, who has monitored the Killea legislation for the California Newspaper Publishers Association, said the practice should be "just the opposite.

"When you have people who are carrying nightsticks and flashlights and guns, you want to make sure that they're acting appropriately. Why is she telling the public that we don't have the right to maintain some sort of accountability?"

"If the public were to know what she was doing, I think they would be shocked."

Credit: Staff Writer

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Abstract (Document Summary)

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