

Killea police privacy bill called in conflict with present statutes

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If a police protection bill by State Sen. Lucy Killea is approved, the State Personnel Board could find itself in a difficult position.

On one hand, the board -- which reviews the discipline of all state-level peace officers -- is required under statute to hold open hearings and keep its records open to the public.

On the other, if the Killea bill became law, it could have the same effect on the personnel board as it likely would have on civil service commissions statewide -- that is, it would close portions of previously open hearings and seal records on alleged police misconduct.

"We can't come up with a concrete answer on what it would do because there would be conflicting statutes," said Walter Vaughn, assistant executive officer of the personnel board, which oversees the discipline of state police, highway patrol, traffic and correctional officers. "The bill has the potential of limiting the access that the press and the public would have to information about peace officers. But other statutes require that we have public hearings."

The controversy surrounds commissions and boards that have final jurisdiction over the discipline peace officers receive for misconduct ranging from falsification of records to brutality.

If an officer accepts department discipline, the issue is never aired in public. But the officer has the right to contest the discipline to a commission or board.

Local civil service commissions generally hear cases involving police officers, sheriff's deputies and probation officers, while the personnel board handles state peace officers.

Vaughn, who was unaware of the bill until he was contacted by The San Diego Union, said the personnel board staff is now reviewing the proposed legislation known as SB 2764 to see if the board should take a position.

His immediate interest was an indication of how what was once thought to be an innocuous piece of "clean-up" legislation is attracting increasing attention.

"No one was concerned about it because they didn't know what it would do," said Judith Fanshaw, an attorney for the Copley Press, which publishes The Union. Fanshaw tracks state legislation through her involvement with the California Newspaper Publishers Association.

Both the Copley Press and the publishers association have gone on record as opposing the Killea bill, which sailed

through initial hurdles and passed the Senate without a single dissenting vote earlier this year.

The bill now faces one of its final challenges in the Assembly Public Safety Committee on Aug. 7.

Meanwhile, newspaper stories describing its potential effects have caused increasing concern among a wide array of critics, including the San Diego Police Review Board, the Committee on Chicano Rights, a number of defense attorneys, the cities of San Diego and San Francisco, the San Diego County Civil Service Commission and the American Civil Liberties Union.

The gathering momentum has caused Killea to lash out at the press, saying, "I don't think our police officers should be tried in the press when it comes to personnel matters."

She added, "The press has unfairly branded the bill (as) an attempt at heightened secrecy when, in fact, it simply clarifies confidentiality laws already on the books."

"Baloney," said Michael Crowley, a San Diego attorney. "How could it just be clarifying? The public used to be able to go to Civil Service Commission hearings, and now they won't be able to. It changes what has been occurring."

The fact that the bill could have the same effect on the State Personnel Board "shows you how incredible the political system is," said Crowley. "We just go bumbling through approving things, and until there's some scrutiny by the press we don't even know what any of it means."

Even supporters of the bill, such as Everett Bobbitt, an attorney for a number of police officers' associations, have acknowledged that it would close portions of civil service and personnel board hearings and seal the corresponding records.

Bobbitt says the legislation is necessary to protect the privacy of peace officers and to prevent clever defense attorneys and reporters from slipping away with information they were never intended to have.

He has pointed out that the information presented at disciplinary hearings often includes testimony and exhibits that show how internal affairs officers investigate complaints.

Bobbitt says the exhibits can include entire personnel files.

Ordinarily, such information cannot be made public without a court order. But through the hearings and the corresponding records, it is possible to learn the histories of the officers who have appealed discipline.

Bobbitt said there should not be a "back door" to obtain information that has already been ruled private.

The right to privacy, he said, is just as important as the public's right to scrutinize government.

Countered attorney Tom Adler of San Diego: "I understand that there are reasons for keeping any employee personnel records private.

"The problem I have is when a citizen goes to the police department and says, 'A deputy sheriff beat me up,' or, 'A police officer beat me up,' there is no public interest in keeping those records secret. There is no public reason why citizens should not know how well their police department is investigating its officers and what action they're taking -- no rational reason."

Credit: Staff Writer

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Abstract (Document Summary)

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