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VIA PORTAL

Honorable Nick Schultz
Chair, Assembly Public Safety Committee
1020 N Street, Room 111
Sacramento, CA 95814

SUPPORT — AB 1388 (Bryan)

Dear Chairman Schultz:

The First Amendment Coalition and 11 journalism and press rights organizations write in support of AB 1388 (Bryan), which will ensure more transparency in policing by prohibiting law enforcement agencies from entering into secrecy pacts with problematic officers.

For years, California police agencies have used “clean-record agreements,” clandestine legal settlements that promise to obscure wrongdoing in exchange for the officer’s guarantee to leave an agency without a fight, [an investigation](#) published by the San Francisco Chronicle showed. The Chronicle’s “Right to Remain Secret” project documented how agreements were used to obscure egregious, and even illegal conduct, including when officers committed sexual assault, embezzled taxpayer dollars, destroyed evidence of sex crimes against minors, and falsified reports.

Journalists obtained records of these secret deals by filing more than 1,000 California Public Records Act requests to 501 police agencies. More than one-third of the departments refused to release some or all the agreements, making various legal arguments to shield the records, the Chronicle reported. Despite some agencies’ refusal to produce records, reporters were able to expose widespread use of clean-record agreements across the state, showing the need for legislative reform. The Chronicle’s [findings](#) include:

- In the past decade, at least 163 California agencies have executed clean-record agreements concealing misconduct allegations against 297 officers and deputies.
- While the terms of the agreements varied, most centered on secrecy, such as a promise to either destroy disciplinary records, hide them in confidential folders, or even to change them to reflect an alternate outcome.
- Agencies entered agreements to ensure that only certain information would be released to a potential future employer.
- At least five officers secured clean-record agreements from multiple employing agencies.
- More than half of the officers who secured clean-record agreements also received lump-sum payments as part of the deal, totalling tens of millions of dollars.

The full scale of the problem is unknown, due to barriers journalists faced uncovering the facts. AB 1388 would end this unjustifiable secrecy, giving Californians more insight into individualized

and systemic problems. The bill would prohibit employing agencies from entering into agreements that would restrict the disclosure of information about an allegation or investigation of misconduct; bar agencies from destroying, removing or concealing a record of a misconduct investigation; and ban the use of agreements to halt or dictate particular findings in a misconduct investigation. AB 1388 would also void existing secrecy provisions of agreements and emphasize existing duties for agencies to report to the Commission on Peace Officer Standards and Training, or POST, serious misconduct and recent separations.

Public oversight of policing is of the utmost importance to Californians. Clean-record agreements are designed to obstruct the press from informing the public, which erodes government accountability. These secrecy pacts have no place in California.

For these reasons, First Amendment Coalition and the undersigned organizations are pleased to support AB 1388.

Sincerely,

FIRST AMENDMENT COALITION



Ginny LaRoe
Advocacy Director

cc: The Honorable Isaac Bryan, California State Assembly
Honorable Members of the Assembly Committee on Public Safety

Joined by:

Brittney Barsotti, Legislative Advocate
California News Publishers Association

Robert J. Lopez, Vice President
CCNMA Latino Journalists of California

Seth Stern, Advocacy Director
Freedom of the Press Foundation

Adam Rose, Secretary & Press Rights Chair
Los Angeles Press Club

Mickey H. Osterreicher, General Counsel
National Press Photographers Association

Ismael M. Parra, Chapter Chair
National Writers Union, Southern California Chapter

Dan R. McCrory, Producer
Working Voices KPFK

David N. Young, President
Orange County Press Club

Annie Sciacca, President
Pacific Media Workers Guild (The NewsGuild-CWA Local 39521)

Dan Shelley, President & CEO
Radio Television Digital News Association

Sam Masunaga, President
Asian American Journalists Association, Los Angeles Chapter