
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguín, Chair
2025 - 2026 Regular

Bill No: AB 1388 **Hearing Date:** July 15, 2025
Author: Bryan
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Urgency: No **Fiscal:** Yes
Consultant: AB

Subject: *Law enforcement: settlement agreements*

HISTORY

Source: Author

Prior Legislation: SB 400 (Wahab), Ch. 3, Stats. of 2024
AB 2557 (Bonta), not heard in Assembly Judiciary Committee, 2022
SB 16 (Skinner), Ch. 402, Stats. of 2021
SB 2 (Bradford), Ch. 409, Stats. of 2021
AB 17 (Cooper), not heard in Assembly Public Safety Committee, 2021
SB 776 (Skinner), never heard on Senate concurrence, 2020
SB 1421 (Skinner), Ch. 988, Stats. of 2018
SB 1286 (Leno), held in Senate Appropriations, 2016
AB 1106 (Horton), Ch. 102, Stats. of 2003
AB 1873 (Koretz), Ch. 65, Stats. of 2002

Support: ACLU California Action; Afro Upris; Asian American Journalists Association, Los Angeles; California Broadcasters Association
California Innocence Coalition; California News Publishers Association
California Public Defenders Association; Californians for Safety and Justice (CSJ); Ccnma: Latino Journalists of California; Center on Juvenile and Criminal Justice; Chispa, a Project of Tides Advocacy; City of Pinole
Courage California; Debt Free Justice California; Ella Baker Center for Human Right; Felony Murder Elimination Project; First Amendment Coalition; Freedom of the Press Foundation; Friends Committee on Legislation of California; Initiate Justice; Initiate Justice Action; Justice2jobs Coalition; Kpfk; LA Defensa; League of Women Voters of California; Los Angeles Press Club; National Press Photographers Association; National Writers Union; Oakland Privacy; Orange County Press Club; Pacific Media Workers Guild (the Newsguild-communications Workers of America Local 39521); Radio Television Digital News Association; Rubicon Programs; Sister Warriors Freedom Coalition

Opposition: Los Angeles County Professional Peace Officers Association; Peace Officers Research Association of California

Assembly Floor Vote: 69 - 0

PURPOSE

The purpose of this bill is to prohibit a law enforcement agency from entering into an agreement with a peace officer that requires the agency to destroy, remove or conceal a record of a misconduct investigation, to halt or make particular findings in such an investigation, or to otherwise restrict disclosure of information about an allegation or investigation of misconduct; to render such agreements void and unenforceable; and to specify that agreements violative of this prohibition are subject to disclosure under the California Public Records Act.

Existing law establishes the people's right to transparency in government. ("The people have the right of access to information concerning the conduct of the people's business, and therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny...") (Cal. Const., art. I, Sec. 3.)

Existing law provides that a law impairing the obligation of contracts may not be passed. (Cal. Const., art. 1, Sec. 9.)

Existing law, in reference to contracts, states that that is not lawful which is contrary to an express provision of law, contrary to the policy of express law, though not expressly prohibited, or otherwise contrary to good morals. (Civ. Code, § 1667.)

Existing law establishes the California Public Records Act (CPRA), which generally provides that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state, and requires government agencies to disclose government records to the general public upon request, unless such records are exempted from disclosure. (Gov. Code, § 7920.000 et seq.)

Existing law provides that the CPRA does not require the disclosure of records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the Office of the Attorney General and the Department of Justice (DOJ), the Office of Emergency Services and any state or local police agency, or any investigatory or security files compiled by any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes. (Gov. Code, § 7923.600.)

Existing law provides that the CPRA does not require the disclosure of peace officer personnel files and background investigation files gathered by law enforcement agencies that are in the custody of the Commission on Peace Officer Standards and Training (POST) in connection with the commission's authority to verify eligibility for the issuance of certification and investigate grounds for decertification of a peace officer including any and all investigative files and records relating to complaints of, and investigations of, police misconduct, and all other investigative files and materials. (Gov. Code, § 7923.601.)

Existing law states that any department or agency in this state that employs peace officers shall establish a procedure to investigate complaints by members of the public against the personnel of these departments or agencies, and shall make a written description of the procedure available to the public. (Pen. Code, § 832.5, subd. (a)(1).)

Existing law states that any department or agency that employs custodial officers, as specified, may establish a procedure to investigate complaints by members of the public against those custodial officers employed by these departments or agencies, provided, however, that any procedure so established shall comply with rules pertaining to confidentiality of personnel records for peace officers. (Pen. Code, § 832.5, subd. (a)(2).)

Existing law requires any complaints and reports or findings relating to citizen complaints against law enforcement or custodial personnel, including all complaints and any reports currently in the possession of the department or agency, be retained for a period of no less than 5 years for records where there was not a sustained finding of misconduct and for not less than 15 years where there was a sustained finding of misconduct. (Pen. Code, § 832.5, subd. (b).)

Existing law prohibits any personnel record from being destroyed while a request related to that record is being processed or any process or litigation to determine whether the record is subject to release is ongoing. All complaints retained may be maintained either in the peace or custodial officer's general personnel file or in a separate file designated by the department or agency as provided by department or agency policy, in accordance with all applicable requirements of law. (Pen. Code, § 832.5, subd. (b).)

Existing law states that prior to any official determination regarding promotion, transfer, or disciplinary action by an officer's employing department or agency, the complaints deemed frivolous shall be removed from the officer's general personnel file and placed in a separate file designated by the department or agency, in accordance with all applicable requirements of law. (Pen. Code, § 832.5, subd. (b).)

Existing law requires each department or agency in this state that employs peace officers to make a record of any investigations of misconduct involving a peace officer in the officer's general personnel file or a separate file designated by the department or agency. A peace officer seeking employment with a department or agency in this state that employs peace officers shall give written permission for the hiring department or agency to view the officer's general personnel file and any separate file designated by a department or agency. (Pen. Code, § 832.12.)

Existing law sets forth the following definitions for the purpose of the provisions below:

- "Personnel records" means any file maintained under that individual's name by his or her employing agency and containing records relating to personal data, employee advancement, appraisal or discipline, complaints or investigations of complaints concerning specified events, and other specified topics. (Pen. Code, § 832.8, subd. (a).)
- "Sustained" means a final determination by an investigating agency, commission, board, hearing officer, or arbitrator, as applicable, following an investigation and opportunity for an administrative appeal pursuant to specified provisions of the Peace Officer's Bill of Rights, that the actions of the peace officer or custodial officer were found to violate law or department policy. (Pen. Code §832.8, subs. (a), (b).)

Existing law generally provides that the personnel records of peace officers and custodial officers and records maintained by a state or local agency or information obtained from these records, are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery. This provision does not apply to investigations or proceedings concerning the conduct of peace officers or custodial officers, or an agency or department that employs those officers, conducted

by a grand jury, a district attorney's office, the Attorney General's office, or POST. (Pen. Code, § 832.7, subd. (a).)

Existing law specifies that notwithstanding the above provision or any other law, the following peace officer or custodial officer personnel records and records maintained by a state or local agency are not confidential and shall be made available for public inspection pursuant to the CPRA:

- A record relating to the report, investigation, or findings of any of the following:
 - An incident involving the discharge of a firearm at a person by a peace officer or custodial officer.
 - An incident involving the use of force against a person by a peace officer or custodial officer that resulted in death or in great bodily injury.
 - A sustained finding involving a complaint that alleges unreasonable or excessive force.
 - A sustained finding that an officer failed to intervene against another officer using force that is clearly unreasonable or excessive.
- Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in sexual assault involving a member of the public.
- Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency involving dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including, but not limited to, any false statements, filing false reports, destruction, falsifying, or concealing of evidence, or perjury.
- Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in conduct including, but not limited to, verbal statements, writings, online posts, recordings, and gestures, involving prejudice or discrimination against a person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.
- Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that the peace officer made an unlawful arrest or conducted an unlawful search. (Pen. Code, § 832.7, subd. (b)(1).)

Existing law specifies which types of documents and records shall be released pursuant to the provision above and that records that must be released also include those relating to an incident in which the peace officer resigned before the law enforcement agency or oversight agency concluded its investigation into the alleged conduct. (Pen. Code, § 832.7, subd. (b)(3).)

Existing law provides that an agency may withhold a record of an incident otherwise subject to disclosure if there is an active criminal or administrative investigation, as specified. (Pen. Code § 832.7, subd. (b)(8).)

Existing law requires, prior to employing any peace officer, each agency in this state that employs peace officers to request, and the hiring agency to review, any records made available pursuant to the above paragraph. (Pen. Code, § 13510.8, subd. (a).)

Existing law authorizes POST to suspend or revoke the certification of a peace officer if the person has been terminated for cause from employment as a peace officer for, or has, while employed as a peace officer, otherwise engaged in, any serious misconduct, as specified. (Pen. Code, § 13510.8, subd. (a).)

Existing law requires each law enforcement agency to be responsible for the completion of investigations of allegations of serious misconduct by a peace officer, regardless of their employment status. (Pen. Code, § 13510.8, subd. (c).)

Existing law authorizes the Peace Officer Standards Accountability Division to review any agency or other investigative authority file, as well as to conduct additional investigation for purposes of decertification. (Pen. Code, § 13510.8, subd. (c).)

Existing law requires records of an investigation of any person by POST to be retained for 30 years following the date that the investigation is deemed concluded by POST. (Pen. Code, § 13510.8, subd. (e).)

Existing law requires any agency employing peace officers to report to POST any of several specified events, including the employment, appointment or termination or separation of a peace officer, any complaint, charge, or allegation of misconduct against a peace officer, as specified, and any finding or recommendation by a civilian oversight entity that a peace officer engaged in misconduct, as specified, among others. (Pen. Code, § 13510.9, subd. (a).)

Existing law provides that in a case of separation from employment or appointment as a peace officer, the employing agency shall execute and maintain an affidavit-of-separation form and shall include whether the separation is part of the resolution of any criminal, civil, or administration charge or investigation. (Pen. Code, § 13510.9, subd. (c).)

This bill provides that an agency employing a peace officer shall not enter into an agreement with a peace officer that requires any of the following:

- The agency to destroy, remove or conceal a record of a misconduct investigation.
- The agency to halt or make particular findings in a misconduct investigation.
- The agency to otherwise restrict the disclosure of information about an allegation or investigation of misconduct pursuant to any provision of law.

This bill provides that an agreement inconsistent with this prohibition is contrary to law and public policy and is void and unenforceable.

This bill provides that agreements prohibited under the bill are subject to disclosure under the CPRA.

This bill includes a severability clause.

This bill includes various legislative findings and declarations.

COMMENTS

1. Need for This Bill

According to the Author:

Every year, harmful police misconduct goes overlooked and concealed, leaving those affected without justice. Across the state, numerous officers have reached settlements with law enforcement agencies through non-disclosure agreements (NDAs), allowing their misconduct to remain hidden in exchange for a quiet departure. As a direct result, these officers are effectively shielded from accountability, allowing them to continue working in other law enforcement agencies. AB 1388 seeks to end the unjustifiable practice of law enforcement agencies entering into police misconduct nondisclosure agreements (NDAs), ensuring that dangerous and dishonest police officers are held accountable. It also ensures that these NDAs are made readily accessible to the public, prioritizing the safety and well-being of our communities and those they are meant to serve over the protection of officers who departments have already self-identified as problematic.

2. Access to Police Personnel Records

In 1968, the Legislature passed the California Public Records Act (CPRA), declaring that “access to information concerning the conduct of the people’s business is a fundamental and necessary right of every person in the state.”¹ The purpose of the CPRA is to prevent secrecy in government and to contribute significantly to the public understanding of government activities.² Under the law, virtually all public records are open to public inspection unless expressly exempted in statute. However, even if a record is not expressly exempted, an agency may refuse to disclose records if on balance, the interest of nondisclosure outweighs disclosure. Generally, “records should be withheld from disclosure only where the public interest served by not making a record public outweighs the public interest served by the general policy of disclosure.”³

In the context of peace officer records, the CPRA contains several relevant exemptions to the general policy requiring disclosure, namely 1) records of complaints to, or investigations conducted by any state or local police agency, 2) personnel records, if disclosure would constitute an unwarranted invasion of personal privacy, and 3) records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including records deemed confidential under state law.⁴

¹ Gov. Code, § 7921.000

² *City of San Jose v. Superior Court* (1999) 74 Cal.App.4th 1008, 1016-1017.

³ Gov. Code, § 7922.000

⁴ Gov. Code, §§ 7923.600; 7927.700, 7927.705

In 1974, the California Supreme Court decided *Pitchess v. Superior Court* (1974) 11 Cal. 3d 531, which allowed a criminal defendant to access to certain kinds of information in citizen complaints against law enforcement officers contained in the officers' personnel records. After *Pitchess* was decided, several law enforcement agencies launched record-destruction campaigns, leading the Legislature to enact record-retention laws and codify the privileges and discovery procedures related to *Pitchess* motions.⁵ In a natural response, law enforcement agencies began pushing for stronger confidentiality measures, many of which are currently still in effect. The relevant Penal Code provisions define peace officer "personnel records" and, prior to 2018, provided that such records are confidential and subject to discovery only pursuant to the procedures set forth in the Evidence Code.

In 2006, the California Supreme Court, in *Copley Press, Inc. v. Superior Court* (2006) 39 Cal.4th 1272, re-interpreted a key Penal Code provision, Section 832.7, to hold that the record of a police officer's administrative disciplinary appeal from a sustained finding of misconduct was confidential and could not be disclosed to the public. This decision had the practical effect of preventing the public from learning the extent to which police officers had been disciplined as a result of misconduct, and closed to the public all independent oversight investigations, hearings and reports. This decision also rendered California one of the most secretive states in the nation in terms of transparency into peace officer misconduct, and carved out a unique confidentiality exception for law enforcement that does not exist for public employees, doctors and lawyers, whose records on misconduct and resulting discipline are public records.

3. Recent Legislation Required Increased Transparency into Personnel Records and Accountability for Police Misconduct

In 2018, the Legislature passed SB 1421 (Skinner, Ch. 988, Stats. of 2018), which represented a paradigm shift in the public's ability to access previously confidential peace officer personnel records. SB 1421 removed *Pitchess* protection from records pertaining to officer-involved shootings, uses of force resulting in death or great bodily injury, and sustained findings of sexual assault or dishonesty, and SB 1421 required agencies to redact specified personal information, information the release of which "would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about possible misconduct," and information that, if unredacted, would pose a significant danger to the physical safety of the peace officer or another person.⁶

In 2021, the Legislature passed SB 16 (Skinner, Ch. 402, Stats. of 2021), building upon the transparency provisions enacted by SB 1421, and responding to widespread criticism that law enforcement agencies were flouting the law via litigation and other tactics to delay the release of records. SB 16 exempted four additional categories of peace officer records from the confidentiality requirement in Penal Code Section 832.7, including those pertaining to sustained findings of unreasonable or excessive use of force, sustained findings that an officer failed to intervene in another officer's unreasonable or excessive use of force, sustained findings that an officer engaged in prejudice or discrimination on the basis of a protected characteristic, and sustained findings that an officer made an unlawful arrest or conducted an unlawful search. Central to these provisions is the requirement that, to be subject to disclosure, these findings be "sustained," which is defined as a final determination by an investigating agency, commission,

⁵ These were primarily codified in Penal Code §§ 832.7 and 832.8, and Evidence Code §§1043 through 1045.

⁶ Pen. Code § 832.7, subd. (b)(6).

board, hearing officer, or arbitrator following an investigation and opportunity for an administrative appeal, as specified, that the actions of the peace officer or custodial officer were found to violate the law.⁷ SB 16 also added a provision to Section 832.7 requiring that disclosable records include any records related to an incident that falls within the exempted categories in which the peace officer resigned before the law enforcement agency or oversight agency concluded its investigation into the alleged incident.

Also in 2021, the Legislature passed sweeping legislation requiring POST to create a new, mandatory certification process for peace officers (SB2, Bradford, Ch. 409, Stats. of 2021). SB 2 required POST to create a certification program for peace officers, who must receive a proof of eligibility and a basic certificate in order to serve in that capacity.⁸ Additionally, SB 2 provided a new mechanism by which POST may investigate and review allegations of “serious misconduct” against an officer, and defined “serious misconduct” to include a host of behaviors unbecoming a peace officer, such as dishonesty, abuse of power, criminal behaviors, demonstration of bias, participation in a law enforcement gang, and others.⁹ The measure empowered POST to make a determination on whether, at the conclusion of that investigation, to suspend or revoke the officer’s certification, thereby precluding them from obtaining employment as a peace officer in California. SB 2 also amended Penal Code Section 832.7 by making it inapplicable to investigations or proceedings concerning the conduct of peace officers or custodial officers, or an agency or department that employs those officers, conducted by a grand jury, a district attorney’s office, the Attorney General’s office, or the Commission on Peace Officer Standards and Training, rendering those records subject to disclosure under CPRA.

In addition, SB 2 created two new entities within POST: the Peace Officer Standards Accountability Division (POSAD), which is tasked with conducting and reviewing investigations into serious misconduct and bringing proceedings seeking revocation or suspension of certifications, and the Peace Officer Standards Accountability Advisory Board (the “Board”), which is tasked with making recommendations on the decertification of peace officers to the POST Commission.¹⁰ Existing law expressly provides that hearings of the board and review of decertification recommendations by the POST Commission, and any records introduced during those proceedings, shall be public, except that records may be redacted in accordance with redaction requirements in Section 832.7.¹¹

4. Clean Record Agreements and Effect of This Bill

The impetus for this bill is a recent investigation by the San Francisco Chronicle in conjunction with UC Berkeley’s Investigative Reporting Program revealing the prevalence of “clean record agreements,” which are secret legal settlements used by law enforcement agencies to conceal allegations of misconduct. Under these agreements, which are effectively non-disclosure agreements (NDAs), officers agree to resign quietly in exchange for having disciplinary records destroyed, sealed, or amended to look like a simple resignation. According to the San Francisco Chronicle’s report:

⁷ Pen. Code, § 832.8, subd. (b).

⁸ Penal Code § 13510.1; for more information on certification, see <https://post.ca.gov/Certification>

⁹ The full list is codified at Pen. Code, § 13510.8, subd. (b)(1)-(9).

¹⁰ Pen. Code, §§ 13509.5, 13509.6

¹¹ Pen. Code, § 13510.85, subd. (b).

At least 163 California police agencies have executed separation agreements concealing misconduct allegations against at least 297 officers and deputies, records obtained by this investigation show. The actual numbers are likely much higher, because one-third of police agencies asked to release the agreements refused, citing privacy laws [...] More than half of the officers who secured clean-record agreements uncovered by the investigation also received lump-sum payments as part of the deals, totaling \$23.7 million. One officer got \$3.1 million. At least five officers have secured multiple clean-record agreements [...] In many cases, police departments hid alleged misconduct even while maintaining it occurred. In every case where reporters could establish the outcome of a department's internal investigation through documents or interviews, they found that clean-record agreements were given after police agencies had fired the officer, or had begun the process of doing so, based on what they saw as clear evidence of wrongdoing.

In interviews, police chiefs said they reluctantly approve clean-record agreements because it is expensive and difficult to fire even the worst officers. California public employees have the right to appeal any disciplinary action, including termination. Police officers, however, are entitled to a second appeal, typically through evidentiary hearings in front of an arbitrator or civil service commission [...] The clean-record agreements obtained by this investigation were in most cases signed between 2012 and 2022, though some were executed as far back as 1995. They often were negotiated by the same attorneys and share identical terms, structures and language, even those that were approved years apart or by agencies at opposite ends of the state.¹²

This bill seeks to prohibit clean record agreements by specifically prohibiting a law enforcement agency from entering into an agreement with a peace officer that requires the agency to destroy, remove or conceal a record of a misconduct investigation, to halt or make particular findings in such an investigation, or to otherwise restrict the disclosure of information about an allegation or investigation of misconduct. The bill goes further and states that a provision of an agreement inconsistent with this prohibition is contrary to law and public policy and is void and unenforceable. Additionally, the bill amends Penal Code Section 832.7, adding to the list of disclosable police personnel records established by SB 1421 and SB 16 any agreement prohibited by its provisions.

It is unclear whether the bill applies retroactively. Generally, statutes are presumed to apply only prospectively, and every statute will be construed to operate prospectively unless contrary legislative intent is clearly expressed.¹³ This well-established common law rule is codified in Penal Code Section 3, which states that “No part of the Penal Code is retroactive unless expressly so declared.” While the bill's central prohibition against clean record agreements, taken alone, can be assumed to apply prospectively, the applicability of the other provisions is murky, as they include no language specifying retroactivity. It is reasonable to infer, from materials provided to the Committee by the Author, that the provision of the bill rendering clean record agreements “void and unenforceable,” as well as the provision rendering prohibited agreements subject to disclosure under the CPRA, are intended to apply to agreements entered

¹² Rusch, Katey, and Casey Smith. “This is the secret system that covers up police misconduct – and ensures problem officers can get hired again.” *San Francisco Chronicle*. 24 September 2024. [This is the secret system that covers up police misconduct — and ensures problem officers can get hired again](#)

¹³ *People v. Superior Court (Lara)* (2018) 4 Cal.5th 299, 307; *People v. Daniels* (1963), 222 Cal.App 2d 99.

into prior to the effective date of the bill, January 1, 2026. If this is indeed the case, the Author should consider stating more explicitly that said provisions apply to past agreements. It should be noted, however, that such a retroactivity clause may raise constitutional concerns, particularly with the Contracts Clauses of the United States and California Constitutions, which prohibit laws impairing the obligation of contracts.¹⁴

5. Argument in Support

According to Californians for Safety and Justice:

[AB 1388 will] end the unjustifiable practice of law enforcement agencies signing police misconduct nondisclosure agreements (NDAs). Instead of holding unfit officers accountable, these NDAs reward bad cops and make our communities less safe. AB 1388 will ensure that dishonest and dangerous officers are held accountable. The misconduct these agreements obscure is egregious, and oftentimes illegal. NDAs have been given to officers who have sexually assaulted people, embezzled taxpayer dollars, destroyed evidence of sex crimes against minors, and falsified police reports. These officers are shielded by their NDAs from civil liability, criminal charges, and any other accountability. The scale of the problem is immense – a recent exposé by the San Francisco Chronicle revealed that 163 law enforcement agencies in California had signed NDAs covering hundreds of officers. Yet the true scale of the problem is even larger as 168 of the 501 police agencies investigated affirmatively refused to produce documents in response to the researcher’s public records requests, including the state’s ten largest police agencies. Highlighting the terrible scale of the problem, the Commission on Peace Officer Standards and Training (POST) told the Legislature that there could be at least 10,000 misconduct records covered up by these NDAs.

These NDAs have led some agencies to destroy evidence of misconduct or enter an exonerated disciplinary finding, obscuring future employers’ ability to identify past misconduct and allowing these officers to protect their reputations at the expense of the public. Other agencies mistakenly claim that the NDAs prohibit them from reporting bad cops to POST, as required by existing laws like SB 2 (Bradford, Police Decertification), or releasing records of such agreements to the public, as required under the California Public Records Act, SB 1421 (Skinner, Police Misconduct Records) and SB 16 (Skinner, Police Misconduct Records). These police misconduct NDAs put our communities at risk, preventing police officer misconduct from showing up in future employers’ background checks, and allowing police officers who have abused their authority to continue assuming positions of power. Even when dangerous and dishonest officers apply to work for a neighboring law enforcement agency, seek to work with children, or run for public office – these NDAs keep their misconduct shrouded. Nearly a third of the officers reported in the Chronicle investigation went on to work as officers at another law enforcement agency and three were even elected or appointed to public office. Some police benefit from multiple NDAs over the course of their career. Californians, especially those who have been victimized by police, deserve better.

¹⁴ See U.S. Const., art. I, Sec. 10, cl. 1 (“no state shall [...] pass any [...] law impairing the obligation of contracts.”); (Cal. Const. art. I, § 9) (“A [...] law impairing the obligation of contracts may not be passed.”)

6. Argument in Opposition

According to the Los Angeles County Professional Peace Officers Association:

Prohibiting confidentiality in settlements related to pending complaints may undermine due process rights of peace officers. Officers are entitled to a fair and impartial investigation, and premature disclosure of allegations could lead to public judgment before the completion of due process. A settlement does not necessarily imply guilt, and confidentiality may be an important aspect of protecting reputations. Public disclosure of pending complaints, which may later be found unsubstantiated, could damage the reputations and careers of officers unjustly. This could also affect morale within law enforcement agencies and hinder effective policing. While transparency and accountability are important in law enforcement, AB 1388 would create unintended consequences that harm officers, agencies, and even the public.

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