

AMENDED IN SENATE MARCH 26, 2007

SENATE BILL

No. 1019

Introduced by Senator Romero

February 23, 2007

An act to amend Section ~~4~~ 832.7 of the Penal Code, relating to ~~crime~~
peace officer records.

LEGISLATIVE COUNSEL'S DIGEST

SB 1019, as amended, Romero. ~~Crime: Penal Code. Peace officer records: confidentiality.~~

Existing law generally regulates the confidentiality of various personnel records relating to peace and custodial officers.

This bill would state the intent of the Legislature to abrogate the California Supreme Court decision in Copley Press, Inc. v. Superior Court and to restore public access to peace officer records and meetings that were open prior to the Copley Press decision.

This bill would provide that notwithstanding specified statutory provisions or the holding in Copley Press, Inc. v. Superior Court, any charter city may elect, through an ordinance duly enacted, as specified, to follow the practices it followed before the Copley Press decision with respect to the release of limited information regarding certain personnel investigations.

This bill would provide that notwithstanding the confidential nature of peace and custodial officer complaints, as specified, the employing agency may release other specified information.

This bill would specify the means by which requests for disclosure of confidential information shall be made.

By imposing additional duties on local law enforcement agencies in connection with peace and custodial officer discipline, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~Existing law designates specified statutes to be known as The Penal Code of California, and is divided into four parts.~~

~~This bill would make a technical, nonsubstantive change to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 832.7 of the Penal Code is amended to*
2 *read:*

3 832.7. (a) (1) Peace officer or custodial officer personnel
4 records and records maintained by any state or local agency
5 pursuant to Section 832.5, or information obtained from these
6 records, are confidential and shall not be disclosed in any criminal
7 or civil proceeding except by discovery pursuant to Sections 1043
8 and 1046 of the Evidence Code. This section shall not apply to
9 investigations or proceedings concerning the conduct of peace
10 officers or custodial officers, or an agency or department that
11 employs those officers, conducted by a grand jury, a district
12 attorney’s office, or the Attorney General’s office, *civilian review*
13 *boards, personnel boards, police commissions, or civil service*
14 *commissions.*

15 (2) *It is the intent of the Legislature in enacting the act amending*
16 *this section to abrogate the California Supreme Court case of*
17 *Copley Press, Inc. v. Superior Court (2006) 39 Cal.4th 1272, to*
18 *restore public access to peace officer records, and to restore public*
19 *access to meetings and hearings that were open to the public prior*
20 *to the Copley Press decision.*

1 (b) Notwithstanding subdivision (a), a department or agency
2 shall release to the complaining party a copy of his or her own
3 statements at the time the complaint is filed.

4 (c) Notwithstanding subdivision (a), a department or agency
5 that employs peace or custodial officers may disseminate data
6 regarding the number, type, or disposition of complaints (sustained,
7 not sustained, exonerated, or unfounded) made against its officers
8 if that information is in a form which does not identify the
9 individuals involved.

10 (d) Notwithstanding subdivision (a), a department or agency
11 that employs peace or custodial officers may release factual
12 information concerning a disciplinary investigation if the officer
13 who is the subject of the disciplinary investigation, or the officer's
14 agent or representative, publicly makes a statement he or she knows
15 to be false concerning the investigation or the imposition of
16 disciplinary action. Information may not be disclosed by the peace
17 or custodial officer's employer unless the false statement was
18 published by an established medium of communication, such as
19 television, radio, or a newspaper. Disclosure of factual information
20 by the employing agency pursuant to this subdivision is limited
21 to facts contained in the officer's personnel file concerning the
22 disciplinary investigation or imposition of disciplinary action that
23 specifically refute the false statements made public by the peace
24 or custodial officer or his or her agent or representative.

25 (e) *Notwithstanding any provision of this chapter or the holding*
26 *in Copley Press, Inc. v. Superior Court (2006) 39 Cal.4th 1272*
27 *interpreting any provision of this chapter, any charter city may*
28 *elect, through an ordinance duly enacted, to follow the practices*
29 *it followed before the Copley Press decision with respect to the*
30 *release of limited information regarding certain personnel*
31 *investigations. If a charter city so elects, the city's legislative body*
32 *must find, based on the presentation of substantial evidence, that*
33 *the practices to be enacted and followed were followed by the city*
34 *before the Copley Press decision was final.*

35 (f) *Notwithstanding subdivision (a), with respect to each*
36 *sustained complaint, charge, disciplinary matter, or internal*
37 *investigation where the discipline imposed is either suspension,*
38 *demotion, removal, or other separation of the peace officer from*
39 *service with the department (other than by resignation), a*

1 department or agency that employs peace or custodial officers
2 may release any of the following:

- 3 (1) The name and badge number of the subject officer.
- 4 (2) The charges brought against the officer.
- 5 (3) The discipline sought by the office.
- 6 (4) The name and current address of the complainant, unless
7 the complainant requests it be kept confidential.
- 8 (5) The factual findings with respect to the conduct at issue.
- 9 (6) The discipline imposed or corrective action taken.
- 10 (g) Notwithstanding subdivision (a), in cases in which a civilian
11 review board or other governmental body outside the department
12 or agency recommends imposition of discipline or makes or
13 recommends a finding that an officer's conduct was out of policy
14 or that a complaint was founded, and the finding is overturned or
15 the recommendation is not followed by the department or agency
16 that employs the peace officer, the department or agency may, in
17 its discretion, release any information already released by the
18 outside body, as well as a summary of the grounds for overturning
19 the outside body's finding or not following its recommendation.

20 (e)

21 (h) (1) The department or agency shall provide written
22 notification to the complaining party of the disposition of the
23 complaint within 30 days of the disposition.

24 (2) The notification described in this subdivision shall not be
25 conclusive or binding or admissible as evidence in any separate
26 or subsequent action or proceeding brought before an arbitrator,
27 court, or judge of this state or the United States.

28 (f)

29 (i) Nothing in this section shall affect the discovery or disclosure
30 of information contained in a peace or custodial officer's personnel
31 file pursuant to Section 1043 of the Evidence Code.

32 (j) Information disclosable pursuant to this section shall be
33 made available upon request pursuant to Section 6250 of the
34 Government Code and following.

35 SEC. 2. If the Commission on State Mandates determines that
36 this act contains costs mandated by the state, reimbursement to
37 local agencies and school districts for those costs shall be made
38 pursuant to Part 7 (commencing with Section 17500) of Division
39 4 of Title 2 of the Government Code.

40 SECTION 1. ~~Section 1 of the Penal Code is amended to read:~~

1 1. ~~This Act shall be known as, and may be cited as, The PENAL~~
2 ~~CODE OF CALIFORNIA, and is divided into four parts, as follows:~~
3 ~~—I.—OF CRIMES AND PUNISHMENTS.~~
4 ~~—II.—OF CRIMINAL PROCEDURE.~~
5 ~~III.—OF THE STATE PRISON AND COUNTY JAILS.~~
6 ~~IV.—OF PREVENTION OF CRIMES AND APPREHENSION~~
7 ~~OF CRIMINALS.~~

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