Making families suffer

Gov. Jerry Brown signed Penal Code 832.7 into law in 1977, making secret any information about the advancement, appraisal, or discipline of a peace officer. That means all records related to an investigation into an officer, including for serious misconduct, is confidential. Today, it is widely reported that California is among the most secret of any state with respect to police records. California also has more police shootings resulting in death annually than any other state.

Recent events, like the death of Stephon Clark in Sacramento, and those seared into California’s history, like the beating of Rodney King in Los Angeles, underscore the immense public concern related to police and community interactions. But under current law, the public has little ability to access records related to police misconduct and use of force, depriving the press of the ability to fully investigate the activity of one of the most powerful public institutions.

That’s why SB 1421 by Sen. Nancy Skinner should pass. The bill would make certain police records disclosable under the California Public Records Act, in three instances: 1) when there is a serious use of force which could lead to injury or death, 2) where there is a sustained finding of an act of dishonestly like perjury, falsifying evidence, or other similar act that compromises an individual’s due process rights, and 3) where there is a sustained finding of sexual misconduct.

Courts have long recognized that activity of police officers is of the highest public concern, particularly when they use serious or deadly force. Law enforcement officials wield immense power. For that reason, they should be subject to the same level of scrutiny as all other public employees, whose personnel records are disclosable in cases of public concern. The same reasoning applies to the substantiated cases of sexual misconduct or proven dishonestly against a police officer as this conduct represents a serious abuse of power.

In the case of police shootings, the public interest in disclosure is at its zenith, even when there is no claim of misconduct and a use of force is “within policy.” The Sacramento Bee reported that 172 people died in law enforcement custody last year. There should be a report issued on each death.

The current lack of transparency results in distrust which SB 1421 seeks to cure. The bill’s disclosure scheme, which is not opposed by the California District Attorneys Association does not oppose, provides flexibility for public agencies to disclose information and gives certainty to families and the public who seek to know, “What happened?”

The Los Angeles Times [recently reported](http://www.latimes.com/local/crime/la-me-police-shooting-aftermath-20180623-story.html) on the questions lingering for John Weber whose 16-year-old son was killed by sheriff’s deputies in February. “What exactly happened in the moments before Anthony Weber was shot in a South L.A. apartment courtyard? Was he wounded in the back as he was running away? Did he lie on the ground struggling for life, or die instantly? Who were the deputies? How long had they been on the job? What were their records?”

The sheriff’s department responded that it would remain silent on the case. But that’s because the law facilitates, even demands such silence. Peace officer personnel records are confidential and can be disclosed only in very limited circumstances. This adds insult to injury when families are left to plan funerals and mourn children without understanding the facts surrounding their death.

The Sacramento Bee [reported](https://www.sacbee.com/latest-news/article213804094.html) that Brigett McIntyre filed a federal civil rights lawsuit in an attempt to force disclosure of details of how and why her only child, Mikel Laney McIntyre, was fatally shot in 2017. The Bee reported that police have not contacted McIntyre since the day of her son's death. This silence leaves McIntyre and communities across the state feeling that police are above the law and unworthy of public trust.

By changing the law to ensure that the public has a right to know what police agencies are doing about the state’s record number of deaths at the hands of law enforcement, SB 1421 would bring comfort to those who are currently in the dark.