



July 5, 2017

**VIA EMAIL**

California Senate Public Safety Committee  
State Capitol, Room 2031  
Sacramento, CA 95814

The Honorable Nancy Skinner, Chair, Joel Anderson, Vice-Chair, Steven Bradford, Hannah-Beth Jackson, Holly Mitchell, Jeff Stone, Scott Weiner

**AB 1298 – Letter of Opposition**

Dear Honorable Senators on the Senate Public Safety Committee,

We write to you today to express concern about Assembly Bill 1298, which seeks to elevate the burden of proof in public safety peace officer disciplinary proceedings from a preponderance of the evidence to the higher clear and convincing evidence standard.

Oakland Privacy is a citizen's coalition that works regionally to defend the right to privacy and enhance public transparency and increase oversight of law enforcement, particularly regarding the use of surveillance techniques and equipment.

Here in our city of Oakland, California, we have experienced 14 consecutive years of federal monitoring of our municipal police department. It has cost our city \$13.6 million dollars from 2003 to 2016. <sup>1</sup> Taxpayers have paid out over \$75 million dollars for more than 400 police misconduct settlements. <sup>2</sup> The federal monitoring began after 118 African-Americans had evidence planted on them by members of the police department "Riders" unit. Almost a decade and a half later, the Oakland Police Department continues to experience scandal after scandal, the latest being the sexual exploitation of a minor by multiple department officers spanning not only Oakland, but also the Richmond and San Francisco departments, as well as the Alameda County Sheriff's office.

I am sure that many of you have already read the Court-Appointed Investigator's Report issued by Edward Swanson and Audrey Barron on June 21, 2017. If you have not done so, the 33 page report is available on-line. <sup>3</sup> In short, the independent investigator described the department's internal investigation as "seriously deficient". Swanson added "He believes Oakland police didn't investigate the matter more thoroughly "because of an implicit but evident bias against the victim, based on the type of victim she was". U.S. District Court Judge Thelton Henderson has ordered the City of Oakland to a court hearing on July 10 to address the troubling conclusions in the report.

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1 <http://www.mercurynews.com/2016/07/13/oakland-police-in-13th-year-of-federal-oversight/>

2 <https://www.prisonactivist.org/alerts/oakland-ca-spent-74-million-settling-417-police-brutality-lawsuits>

3 <http://kron4.com/2017/06/21/official-oakland-mayor-bungled-police-sex-misconduct-probe/>

Given the direct costs to our city and its finances, the national embarrassment, and the high price paid in fractured relationships between law enforcement and the residents of our city, Oaklanders have a strong interest in improvements to the police disciplinary system to make it more effective in preventing and addressing problematic behavior and in internal affairs investigations that are thorough, accurate and prompt. That interest is exacerbated by the recent settlement of \$969,000 to the sexually exploited victim, funds sorely needed by the City of Oakland for social services of importance to the community.

Unfortunately, what we see in the Legislature and in front of your committee today, is a bill that strives to make it more difficult to conduct internal affairs investigations and to address false allegations from members of law enforcement when they are made.

Elevating the standard of proof beyond that required to convict a non-peace officer in a civil court of law creates a double standard that enables false allegations with impunity, from those officers who may be inclined to make them. This tacit sanction of problematic behavior from the Legislature can only work to further trouble the already troubled internal investigation system and frustrate the many efforts at reform.

We would prefer to see the Legislature working in tandem with federal monitors and communities to implement meaningful reforms that will prevent recurrences of scandals and misconduct scenarios. The best scenario is more effective internal disciplinary proceedings. We want to avoid more federal monitoring of California police departments, more expensive misconduct settlements and more public distrust of law enforcement.

We respectfully ask you not to advance AB-1298.

Sincerely,

*Tracy Rosenberg*

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