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California Senate Bill 1421 helps hold bad cops accountable

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Of all 50 states, California has enacted perhaps the most stringent legislative barriers to police accountability. Not only do state laws protect misconduct findings against officers from the public, but the law also keeps that information out of the hands of prosecutors who need to trust the police to ensure justice. A prosecutor cannot put an officer on the witness stand that she knows has a history of lying. But if that prosecutor cannot easily get access to the officer's disciplinary record, as California law currently ensures, then she may be relying on bad police information or, even worse, prosecuting an innocent person on the word of a dishonest officer. As both a matter of principle and practicality, the government should do its best to maintain the honesty and integrity of its police officers.

For police to be effective in their job to protect and serve the public, they require the trust of the communities they serve. Without trust, witnesses will not cooperate and provide testimony to bring criminal perpetrators to justice. Without witness cooperation, perpetrator apprehension becomes less likely — negating the greatest deterrent to committing crime — and thus public safety suffers. When police are not held accountable for their actions and misconduct against the community, then, the public suffer twice: first, the community is damaged by the misconduct itself and second, the community's security is compromised by the diminished trust that comes from misbehaving police who remain on the streets.

There is currently a bill before the California Legislature that would ease the burden for the prosecutors and the public to know whether the officers in their communities are trustworthy. SB1421 would require police departments to release information about, inter alia, sustained findings of dishonesty in the course of criminal cases and other instances of police misconduct. This bill would also require police departments to release information about serious uses of force, including officer-involved shootings, to increase transparency.

Law-and-order conservatives can support SB1421 because it may restore a level of legitimacy to criminal prosecutions. When dishonest officers are found out after many years of misconduct, hundreds or thousands of prosecutions in which they played a role may be jeopardized because of their misdeeds. The criminal justice system relies upon honest police officers and shielding the dishonest among them, as California law currently does, undermines the integrity and, ultimately, the final disposition of criminal prosecutions.

Officers who honor the badge and have no history of lying or other serious misconduct — which, in most departments, should be a large majority of officers — have nothing to fear from the identification of problem officers who tarnish the reputation of their colleagues. Police shootings and other serious uses of force, while often tragic, are part of the job and the departments should be as open as they can be while preserving the integrity of the investigation into those incidents. Withholding the names of officers who shoot and kill someone can create the perception of a cover-up, whether or not the shooting was justified, again tarring officers who are doing their jobs correctly.

At bottom, current California law protects the worst officers by hiding their identities from the public and makes them indistinguishable from the bulk of the officers who do their jobs faithfully in accordance with the Constitution. Restoring community trust in police and the justice system writ large will require more transparency from departments and more accountability for those officers who have abused their positions. The California legislature should not maintain laws that make that trust systemically impossible.

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