

# National Police Accountability Project

A Project of the National Lawyers Guild

**SUPPORT LB 882 – An Act That Will Ensure Community Access to Information about Police Misconduct.**

**Written Comment** by National Lawyers Guild-National Police Accountability Project, Lauren Bonds, Legal Director

**Legislature Judiciary Committee**– Wednesday, February 9, 2022

Dear Chair Lathrop and Members of Judiciary Committee,

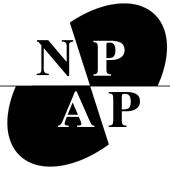
Thank you for the opportunity to provide written comment on this important issue. The National Lawyers Guild National Police Accountability Project (“NPAP”) is a nonprofit organization dedicated to holding law enforcement and corrections officers accountable to constitutional and professional standards. We strongly support the passage of LB 882. This bill will guarantee public access to information about police officer misconduct and empower communities to protect themselves from abuse.

LB 882 would play a critical role in enhancing police accountability and guaranteeing integrity of the criminal legal system. First, public access to lists naming officers who have engaged in harmful behavior can help those facing criminal charges focus their pre-trial investigation on misconduct that would justify evidence suppression or dismissal. Depriving criminal defendants of information about prior officer misconduct undermines their ability to effectively contest charges and denigrates the fairness of their prosecution.<sup>1</sup> This bill will guarantee that defendants and their attorneys can promptly and easily access misconduct information early in criminal legal proceedings.

The bill’s requirement that police agencies permanently retain records of misconduct also ensures integrity of the criminal legal system by preserving

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<sup>1</sup> See Eg. Rachel Moran, *Contesting Police Credibility*, 93 Wash. L. Rev. 1339, 1383 (2018)l See Jonathan Abel, *Brady's Blind Spot: Impeachment Evidence in Police Personnel Files and the Battle the Prosecution Team*, 67 Stan. L. Rev. 743, 746 (2015).



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information for use in post-hoc proceedings. Many people are convicted and currently incarcerated because of police officer misconduct that did not emerge during their initial prosecutions.<sup>2</sup> Transparency about officers who violated policies or otherwise participated in deprivations of individual rights often signals to attorneys and other advocates to scrutinize past convictions that may have been tainted by investigatory or other misconduct.<sup>3</sup>

Additionally, public disclosure of lists of police officers who engaged in misconduct, promote accountability. Public lists can help communities identify dangerous officers and apply public pressure on their employing agencies to take corrective action.<sup>4</sup> This information about misconduct may also help expose agency tolerance and ratification of harmful behavior.

The changes in LB 882 will ensure the transparency that is critical to accountability and fair legal process. We urge you pass this important piece of legislation and thank you for the opportunity to provide comment on this important issue.

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<sup>2</sup> *What You Need to Know About Police Misconduct and Wrongful Convictions*, The Innocence Project, Sept. 30, 2020, <https://innocenceproject.org/police-misconduct-wrongful-convictions-what-you-should-know/>.

<sup>3</sup> Barry Scheck, *The Integrity of Our Convictions: Holding Stakeholders Accountable in An Era of Criminal Justice Reform*, 48 Geo. L. J. Ann. Rev. Crim. Proc. iii (2019).

<sup>4</sup> Barry Friedman and Maria Ponomarenko, *Democratic Policing*, 90 NYU L. Rev. 1827, 1838 (2015)(describing how transparency allows police to monitor police and exert political pressure to push for changes).