

SAMPLE BILL

**Introduced by Senator Hill
(Coauthor – Senator Leno)**

Existing law provides that the law will be uniformly and adequately enforced and that no person in the state shall be denied equal protection of the law and that victims of crime will have their complaints appropriately and thoroughly investigate and the perpetrators of the criminal acts appropriately prosecuted and punished so that the public safety is protected and encouraged as a goal of highest importance.

There exist systemic flaws in the criminal justice system that prevents the law from being uniformly and adequately enforced depriving those accused of crimes or those victimized by peace officers and prosecutors equal protection of the law.

This bill would enact the Peace Officers’ and Prosecutors’ Victims’ Bill of Rights and Fairness Act which would provide that no person’s rights, privileges, or equal protection of the law may be denied or abridged because he or she has been accused of a crime or victimized by a peace officer or prosecutor misconduct.

**Independent Special Prosecutor’s Office
&**

“Peace Officers’ and Prosecutors’ Victims’ Bill of Rights and Fairness Act.”

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Part One: Introduction

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1.

This act shall be known and may be cited as the Peace Officers' and Prosecutors' Victims' Bill of Rights and Fairness Act.

SECTION 2.

The Legislature finds and declares all of the following:

It is found that peace officers and prosecutors routinely victimize private citizens by violating obstruction of justice laws. It is found that the peace officers and prosecutors who violate these obstruction of justice laws are rarely if ever held accountable. This lack of accountability undermines the Rule of Law and lessens the liberty for all Californians.

For the purpose of the legislation a "peace officer" is defined by California Penal Code 830.1. (a).

For the purpose of this legislation a "prosecutor" is the Attorney General, any attorney or investigator employed by and working under the supervision and direction of the Attorney General; or any District Attorney, any attorney or investigator employed by and working under the supervision of any District Attorney and any attorney of any County Counsel's Office or City Attorney's Office.

There exists an ideology held by members of the criminal justice system that promotes the obstruction of justice through the violation of current laws in order to arrest and convict as many persons as possible even if a small percentage of those arrested are innocent. This ideology enables its adherents to justify using false statements, false testimony, falsified and destroyed evidence to ensure convictions of those whom they prosecute. These actions result in thousands people being convicted of crimes they did not commit costing tax payers millions of dollars unnecessarily. The lives of persons who have been erroneously and or overly charged and prosecuted are negatively impacted socially and financially causing harm to society as a whole.

Those in charge of the mechanisms used to check and prevent this unlawful activity not only do not check or prevent the unlawful acts but actually condone and promote its usage.

Internal Affairs, Police Commissions, Independent Police Auditors, Special Prosecutors are all ornamental mechanisms used more to appease the complaints and fears of the public rather than hold peace officers and prosecutors accountable. They present a disguise of conflict free objectivity and accountability when in fact they are neither. Many receive their compensation and status from the very agencies and municipalities that they are supposed to hold accountable. It is impossible to remove the actual conflict of interest and when that is not the case the appearance of one when the person who is charged with finding fault earns his/her living or status from the person whom they are to hold accountable. These mechanisms are stacked with members that share the interests of peace officers and prosecutors over the Rule of Law. Relegated to public admonishment, even when these mechanisms desire to hold peace officers or prosecutors accountable they lack the investigative and prosecutorial power to do so.

Those persons working in the justice system who do not hold the corrupt ideology do possess the common bias along with all others in the justice system for fellow members and prejudice toward all those persons whom the justice system prosecutes due to the common bond of being members of the same fraternity. This inherent conflict of interest prevents District Attorneys and the Attorney General from holding members of their own fraternity accountable over to what they believe are harmless or mild offenses.

These seemingly harmless offenses produce inaccurate and wrongful convictions that send innocent people to prison costing tax payers millions of dollars unnecessarily.

Furthermore there is the psychological damage that is done to those persons who are victimized by police misconduct and brutality. When peace officers use false statements to falsely portray citizens and are not called to task on it an atmosphere of hostility is generated exacerbating the distrust between law enforcement certain segments of the public. This unnecessary hostility and distrust makes policing our communities more difficult than it needs to be.

It is found that there exists an innate human trait common to all persons, a social and psychological bond for members of a common group that seeks to protect fellow members from accountability even at the expense of justice; a trait that exaggerates the offenses committed by non-members upon members while simultaneously minimizing the offenses members of the group commit upon non-members. Furthermore the threat of political and professional destruction by some members of the group gestured toward those fellow members who consider holding fellow members accountable coerces many well intentioned members into deaf, dumb and blind witnesses.

This natural bias and prejudice effects the decisions of members of the law enforcement group including the Governor, Attorney General and District Attorneys. Due to this inherent conflict of interest; supervisors in policing agencies, prosecutors' offices, the Attorney General's Office and the Governor are incapable of holding peace officers and prosecutors accountable for violating numerous obstruction of justice laws including but not limited to: Penal Codes 32, 118, 118.1, 132, 133, 134, 135, 141b and 182.

The Governor is required to see that the law is faithfully executed, Article 5 Section 1 of the California Constitution. It is the Duty of the Attorney General and every District Attorney to see that the laws of the state are uniformly and adequately enforced, Article 5 Section 13 of the California Constitution and Government Code 26500. The Governor, the Attorney General and every District Attorney are not capable of fulfilling the duties of their offices due to their natural conflict of interest and the current structure and framework of the justice system. This natural allegiance to fellow teammates of the law enforcement community supersedes any allegiance to the Rule of Law, rendering the laws and Constitutions that govern and direct the Governor, the Attorney General, District Attorneys and every peace officer to second place status.

Thousands of victims of crime have their complaints go uninvestigated and un-enforced enabling the perpetrators to escape accountability solely because the perpetrators are members of the law enforcement fraternity. This is in direct violation of Article 1 Section 28. of the California Constitution, the California Victim's Bill of Rights.

It is found that in order to faithfully execute California law through uniform enforcement in accordance with the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution and Article 1 Section 7 of the California Constitution that this legislation and these mechanisms for the justice system be enacted.

The monopoly of the evidence by prosecutors and peace officers creates an unfair advantage for prosecutors and peace officers over their opponent the accused/defendant in the contest to produce truth. This disparity in the powers between the prosecution and the defense creates an environment susceptible to producing miscarriages of justice and wrongful convictions. This advantage for prosecutors and peace officers places those accused of crimes at a disadvantage which runs afoul of the equal protection clause of the California and U.S. Constitutions.

If the accused do not have equal access to the evidence that the prosecution has then the accused are not receiving equal protection of the law. Defendants should have equal access to all of the evidence in the prosecution's possession at all times including the investigating agencies and any person or entity aiding the prosecution and investigating agencies.

Peace officers routinely contravene the 4th Amendment of persons who lack the resources to challenge the peace officers or seek relief from the courts. These blatant violations by themselves are not lucrative enough to warrant an action by attorneys who would otherwise take on such cases leaving those violated without any recourse of relief for damages allowing these violations to go un-checked. Unchecked, peace officers are at liberty to violate the 4th Amendment repeatedly. A single violation is minor in scope and damage however the repeated offense committed again and again has a cumulative and adverse affect on the welfare of the public.

Peace officers routinely damage the characters of the accused with false statements made in official reports, court testimony and public statements that are picked up and broadcast by the media.

Pursuant to California Government Code § 821.6., public employees, that includes peace officers, are citizens who have been granted the immunity to make false and defamatory statements about any person even if the public employee is acting out of maliciousness so long as the person harmed by the defamation was being investigated by the public employee for an offense. This immunity is not provided to all citizens. This immunity provides a license to assassinate the character of any person whom a public employee desires to turn into a pariah. Conversely this privilege that public employees have in making false and defamatory statements motivated from a malicious intent is specifically denied to all other citizens as codified in California Civil Code: 47.5.

Article 1 sec 7 (b) of the California Constitution states that, ***“A citizen or class of citizens may not be granted privileges or immunities not granted on the same terms to all citizens.”***

Public employees and peace officers are citizens and are a class of citizens. Separately and jointly Government Code §821.6 and Civil Code 47.5 are antithetical to the California Constitution and violate the Equal Protection Clause, Article 1 Section 7 (a), of the California Constitution and the Fourteenth Amendment of the U.S. Constitution.

This legislation will remove the conflict of interest that prevents members of the law enforcement group from holding its own members accountable when they violate the law. This legislation will reduce the number of innocent people who are convicted of crimes they did not commit. This legislation shall secure the rights found in Article 1 Section 28. of the California Constitution, the California Victim’s Bill of Rights, to those who have been victimized by police and prosecutorial misconduct regardless of whether the person victimized is justly or unjustly also charged of a crime.

The problem of prosecutor bias and prejudice is exacerbated by the "adversarial" system of justice that pits the prosecutor's team against the defendant's team in game of wills with the intent that the truth of the matter being contested will be revealed

before the trier of facts enabling the trier of facts to apply the law based upon the truth.

It is a fact that prosecutors are under no legal obligation to reveal truth in regards to any prosecution they bring forth, their legal obligation is to present a case based upon the evidence that they use to prove their position. Often times this evidence used by prosecutors is false evidence, or inaccurate evidence, or incomplete evidence which results in the truth not being revealed before the trier of facts to which the trier of facts renders a decision not based on the truth of the matter but on an inaccurate reality created by erroneous, incomplete and faulty evidence.

The framework of this adversarial system is to create opponents who want to win the case, the contest. It is the innate nature of opponents who are competing in a contest, a game, to be prejudice toward their opponent and bias for themselves. The adversarial system of justice creates a natural prejudice on the part of prosecutors towards defendants that enables prosecutors to justify cheating to win.

It is time that our law makers acknowledge this prejudice and this unfair advantage that prosecutors have over defendants and that this prejudice is a major factor in innocent people being convicted of crimes they did not commit.

This problem is further compounded by the prosecuting team having a monopoly of the evidence creating a tremendous and unfair advantage for the prosecuting team over defendants. Even with this initial advantage, prosecuting teams regularly breach evidentiary rules, they cheat the system, to gain an even greater advantage. Because there is little to no consequence for violating these evidentiary rules, these laws, prosecuting teams are essentially free to violate them their pleasure.

The "adversarial" system of justice used by our courts is supposed to generate the truth. This can only happen when the rules of the game, the system, are adhered to.

The goal of this legislation is to make the contest in courts fairer and more equal by providing defendants the same rights that prosecutors have with regard to accessing the evidence against them which has already been ratified in Article 1 sec. 7 of the California Constitution.

All too often peace officers and prosecutors violate the rules of the system, they cheat, to win the contest, because the current consequences of violating the rules are insufficient to deter the cheating. This provides peace officers and prosecutors an unfair advantage over defendants. This legislation shall create consequences to cheating sufficient enough to deter the cheating committed by prosecutors and peace officers alike by removing the unfair advantage they have over their opponents.

The extensive advantage over the evidence coupled with the natural prejudice toward defendants and the circumvention of the rules of the game leads to miscarriages of justice and innocent people being convicted of crimes they did not commit which all Californians end up having to pay for.

If we want the truth to be revealed in our courts through the use of the adversarial system of justice then it is absolutely necessary to create a system in which both opponents abiding by the rules and that neither opponent is given an advantage that the opposing opponent does not have.

The goal of this legislation is not to punish as many peace officers and prosecutors as possible for violating the law and rights of citizens, the intent and goal of this legislation is to deter as many peace officers and prosecutors from violating the law and rights of citizens in the first place. It is a fact that innocent people convicted of crimes they did not commit is a significant problem in the criminal justice system.

"Insanity: doing the same thing over and over again and expecting different results." - Albert Einstein

We've had 200 years to eliminate or at least significantly reduce the use of false statements and false evidence by police officers and prosecutors yet the use of false statements and false evidence not only persists it has become pervasive. We have the ability to reduce the number of innocent people who are wrongfully convicted of crimes they did not commit if we want to. If we want it to stop we need to try a different solution than what has been used to date. This legislation will help reduce the number of innocent people wrongfully convicted of a crime.

Part Two: Independent Special Prosecutor

SECTION 3.

The following Amendment shall be made to PART 3. OTHER OFFICERS of the Government Code:

CHAPTER 16. Independent Special Prosecutor

Article 1. Duties, Qualifications and Restrictions as Independent Special Prosecutor:

27760. The Independent Special Prosecutor is the public prosecutor, except as otherwise provided by law. The public prosecutor shall attend the courts, and within his or her discretion shall initiate and conduct on behalf of the people prosecutions for public offenses that are committed by peace officers and prosecutors. The Independent Special Prosecutor and Assistant Independent Special Prosecutors shall be licensed attorneys and be in good standing with the California Bar prior to taking office. The Independent Special Prosecutor and Assistant Independent Special Prosecutors shall have a minimum of 6 years of experience working as an attorney in the State of California prior to taking office.

27761. The Independent Special Prosecutor may sponsor, supervise, or participate in any project or program to improve the administration of justice.

27762. The Independent Special Prosecutor shall institute proceedings before magistrates for the arrest of peace officers and prosecutors charged with or reasonably suspected of public offenses when he has information that such offenses have been committed. For that purpose, when not engaged in criminal proceedings in the superior court or in civil cases on behalf of the people, he shall attend upon the magistrates in cases of arrest when required by them and shall attend before and give advice to the grand jury whenever cases are presented to it for its consideration.

27763. The Independent Special Prosecutor shall be empowered with: the power to subpoena and prosecute to the full extent of the law; the ability to independently investigate, without impediment, allegations of peace officer and prosecutor wrongdoing, and the resources and complete support of the Attorney General and every District Attorney and their staffs.

27764. The Independent Special Prosecutor shall draw all indictments and informations.

27765. The Independent Special Prosecutor shall deliver receipts for money or property received in his official capacity and file duplicates with the Attorney General and State Treasurer.

27766. The Budget of the Independent Special Prosecutor's Office shall be kept separate from the budget of the Attorney General's office. The Independent Special Prosecutor shall provide an accounting of all fees and monies received and expenses incurred once a year to the Attorney General and State Treasurer.

27767. Not more than 90 days of the Attorney General taking office the State Legislature shall provide the Attorney General not less than three, (3), and not more than five, (5), applicants to choose from for the position of Independent Special Prosecutor.

27768. Not more than 120 days of the Attorney General taking office the Attorney General shall choose one Independent Special Prosecutor and two Assistant Independent Special Prosecutors from the applicants provided by the State Legislature to serve a term of four, (4), years. The Independent Special Prosecutor and two Assistant Independent Special Prosecutors shall begin their term 180 days after the Attorney General has taken office. The Independent Special Prosecutor's and two Assistant Independent Special Prosecutors' term shall end 180 days after the Attorney General has taken office during the fourth, (4th), year of the term.

27769. No person shall serve more than one term as an Independent Special Prosecutor or Assistant Independent Special Prosecutor.

27770. Subject to the powers and duties of the Governor, the Independent Special Prosecutor shall have equal powers and authority to that of the Attorney General with the exception of holding the Independent Special Prosecutor and employees of the Independent Special Prosecutor accountable for violating any law or rule. The Independent Special Prosecutor shall have the power and authority to prosecute government prosecutors and attorneys for violating State Bar Rules.

27771. It shall be the duty of the Independent Special Prosecutor to investigate and prosecute all violations of law committed by peace officers, prosecutors, district attorneys, agents of law enforcement agencies, or any other persons or agencies which prosecuting attorneys or investigating agencies have employed to assist them in performing their duties.

27772. The Independent Special Prosecutor's power and authority shall be limited to investigating and prosecuting peace officers, prosecutors, district attorneys, agents of law enforcement agencies, or any other persons or agencies which prosecuting

attorneys or investigating agencies have employed to assist them in performing their duties and government attorneys of local, county and state agencies.

27773. The Independent Special Prosecutor shall not have any power, authority or duty to investigate or prosecute any private citizen not associated with a prosecuting agency for the purpose of prosecuting the private citizen for violating a public offense.

27774. The Attorney General is the chief law officer of the state. It shall be the duty of the Attorney General to ensure that personnel within the Independent Special Prosecutor's are held accountable for violating any laws. The Attorney General is prohibited from supervising or working with the Independent Special Prosecutor or those persons under the Independent Special Prosecutor's supervision.

27775. The Independent Special Prosecutor shall be the supreme authority in the Independent Special Prosecutor's Office. The Assistant Independent Special Prosecutors shall possess all of the powers of the Independent Special Prosecutor with the exception of final authority in directing the affairs of the Independent Special Prosecutor's Office.

27776. The Independent Special Prosecutor and Assistant Independent Special Prosecutors shall not have been employed by any law enforcement agency prior to being employed in the Independent Special Prosecutor's Office.

27777. The Independent Special Prosecutor and Assistant Independent Special Prosecutors shall not have any personal relationships with personnel employed by any law enforcement agency. Close personal relationships includes: grandfather, grandmother, father, mother, son, daughter, brother, sister, uncle, aunt, niece, nephew, cousin, grandson, granddaughter, wife, husband, spouse, live-in spouse, common law spouse, father in-law, mother in-law, sister in-law and brother in-law.

27778. The Independent Special Prosecutor and Assistant Independent Special Prosecutors shall be prohibited from professionally or personally or socially fraternizing with any personnel of any local, county or state law enforcement personnel.

27779. The salary of the Independent Special Prosecutor shall be 90% of the Attorney General's for any given year. The salary of the Assistant Independent Special Prosecutors shall be 90% of the Independent Special Prosecutor's for any given year.

Article 2. Other Duties:

27780.1. It shall be the duty of the Independent Special Prosecutor and all employees and agents under the Independent Special Prosecutor's supervision to investigate all complaints of peace officer and prosecutor misconduct pursuant to Article 1 Section 8 of the California Constitution.

27780.2. It shall be the duty of the Independent Special Prosecutor to provide an easy and readily accessible means to contact the Independent Special Prosecutor by persons seeking to file complaint including those persons who have been incarcerated in local or state facilities.

27780.3. It shall be the duty of agents of the Independent Special Prosecutor to keep complainants apprised of ongoing investigations in addition to the final disposition of investigation.

27780.4. It shall be the duty of agents of the Independent Special Prosecutor to complete a final report on every investigation and complaint in which the conclusions are supported with articulable facts.

27780.5. It shall be the duty of agents of the Independent Special Prosecutor to inform, produce and provide all information and evidence obtained as a result of any investigation to any complainant upon request and without delay.

27780.6. It shall be the duty of agents of the Independent Special Prosecutor to inform and provide all relevant evidence obtained from any investigation or complaint to any party that is directly affected by the matter that initiated the investigation or the investigation.

27780.7. When prosecuting agencies disclose material and information regarding an arrest and prosecution of any defendant to the local Independent Special Prosecutor's Office pursuant to 1054.1. (b) of the penal code to comply with the 48 hour time limit, it shall be the duty of agents of the Independent Special Prosecutor to contact any defendant or his or her attorney who is being prosecuted by a prosecuting agency for a public offense to inform the defendant of the existence of the materials and information and the defendants right to obtain it.

Article 3. Staffing:

27780.8. The Independent Special Prosecutor, (ISP), shall maintain a minimum of one office in each county of the state. These offices shall be fixed, brick and mortar places of business with regular hours of operation Monday through Friday. These offices shall not be associated with any local, county or state law enforcement agency.

27780.9. Each office shall be staffed with Deputy Independent Special Prosecutors and Independent Special Prosecutor Investigators.

27780.10. **Deputy Independent Special Prosecutors** shall be attorneys lawfully entitled to practice law in California Superior Courts.

27780.11. **Independent Special Prosecutor Investigators** shall possess all of the powers that peace officers possess as required to enforce the laws of the state. Independent Special Prosecutor Investigators shall have graduated from a state recognized police academy and have been sufficiently trained to carrying out their duties prior to commencing their employment in the Independent Special Prosecutor's Office.

27780.12. **Agents** of the Independent Special Prosecutor shall consist of every employee working under the supervision of the Independent Special Prosecutor.

27780.13. Each office shall be staffed with a number of attorneys and investigators of not less than 2% of the total number of peace officers and prosecutors employed in the county that the ISP office is located. In such cases when the 2% total of the peace officers and prosecutors employed in the county is less than two, (2), the ISP shall staff the county office with two employees.

27780.14. Sixty percent, (60%), of the persons employed in the Independent Special Prosecutor's Office shall not have been employed by any law enforcement agency prior to being employed in the Independent Special Prosecutor's Office.

27780.15. Sixty percent, (60%), of the persons employed in the Independent Special Prosecutor's Office shall not have any personal relationships with personnel employed by any law enforcement agency. Close personal relationships includes: grandfather, grandmother, father, mother, son, daughter, brother, sister, uncle, aunt, niece, nephew, cousin, grandson, granddaughter, wife, husband, spouse, live-in spouse, common law spouse, father in-law, mother in-law, sister in-law and brother in-law.

27780.16. Persons employed in the Independent Special Prosecutor's Office shall be prohibited from professionally or personally or socially fraternizing with any personnel of any local, county or state law enforcement personnel.

Article 4. Funding:

27790. Every municipality and local government entity that maintains a policing agency shall be assessed a yearly fee equivalent to two and one half percent, (.025%), of that municipality's policing agency's yearly budget including the city attorney's office and county counsel's office. This fee shall be paid directly to the Independent Special Prosecutor's Office no sooner than the last Monday of June and no later than the first Monday of July of any given year.

27791. Every county that maintains a district attorney's office shall be assessed a yearly fee equivalent to two and one half percent, (.025%), of that county's District Attorney Office's yearly budget. This fee shall be paid directly to the Independent Special

Prosecutor's Office no sooner than the last Monday of June and no later than the first Monday of July of any given year.

27792. The Attorney General shall be assessed a yearly fee equivalent to ten percent, (.10%), of the Attorney General's yearly budget. This fee shall be paid directly to the Independent Special Prosecutor no sooner than the last Monday of June and no later than the first Monday day of July of any given year.

27793. Nothing shall prohibit the state legislature from appropriating funding to the Independent Special Prosecutor's yearly budget in order for the Independent Special Prosecutor to accomplish its mission.

Part Three: Criminal and Other Penalties

SECTION 4.

Criminal and Other Penalties:

Section 118 of the Penal Code shall be amended added as follow:

“...willfully and contrary to the oath, states as true any material matter which he or she knows to be false, or any peace officer who states as true any material matter which he or she has no articulable facts to support the statement, and every person who testifies,

Section 118 (c) shall be added to the Penal Code:

118 (c) If a prosecutor, or a public employee, or an attorney of a public entity uses the false testimony of another person in any matter before the courts as delineated in penal code 118 in which the prosecutor, or the public employee, or the attorney of a public entity knows or should know through diligent investigation that the testimony provided by the person is false is guilty of perjury punishable by imprisonment in the county jail for up to one year, or in the state prison for one, two, or three years.

Section 118 (d) shall be added to the Penal Code:

118 (d) If it is discovered and proved that a witness used by a prosecutor, or a public employee, or an attorney of a public entity committed perjury during any proceeding pursuant to penal code 118 (a) and the prosecutor, the district attorney of the county in which the perjury was committed in refuses to prosecute the witness for committing perjury shall himself be guilty of perjury punishable by imprisonment in the county jail for up to one year, or in the state prison for one, two, or three years.

Section 118.1 of the Penal Code shall be amended added as follow:

“...if he or she knowingly and intentionally makes any statement regarding any material matter in the report which the officer knows to be false, or knowingly and intentionally makes a statement regarding any material matter in a report which the officer does not have any articulable facts to support the statement, whether or not the statement is certified or otherwise expressly reported as true, is guilty of filing a false report

Section 135.1 shall be added to the Penal Code:

135.1 (a) Any peace officer who, knowing that any book, paper, record, instrument in writing, or other matter or thing, is about to be produced in evidence upon any trial, inquiry, or investigation whatever, authorized by law, willfully fails to book it into evidence with the intent thereby to prevent it from being produced, is guilty of a misdemeanor.

(b) Any peace officer who, knowing that any book, paper, record, instrument in writing, or other matter or thing, could be produced in evidence upon any trial, inquiry, or investigation whatever, authorized by law, that may be material to either the guilt or punishment of the accused, willfully fails to book it into evidence with the intent thereby to prevent it from being produced, is guilty of a misdemeanor.

California Penal Code 148 shall be amended to include the following:

148.

(g) It shall be the duty of every peace officer, prosecutor, policing agency and public entity that maintains a policing agency to cooperate fully and completely in any investigation initiated by the Independent Special Prosecutor or the Independent Special Prosecutor's agents.

(h) It shall be the duty of every peace officer, prosecutor, policing agency and public entity that maintains a policing agency to produce all relevant real evidence, reports, documents, statements, recordings, digital information, electronic information, photographs, videos, witnesses and any thing seized or obtained as a part of the related to any detention or any arrest or any prosecution without delay that has been requested by the Independent Special Prosecutor or the Independent Special Prosecutor's agents.

(i) Any peace officer, prosecutor, district attorney, agent of a policing agency, agent of a public entity that maintains a policing agency who willfully resists, delays, or obstructs the investigation of the Independent Special Prosecutor or any agent of the Independent Special Prosecutor in the discharge or attempt to discharge any duty of his or her office or employment by any act or by suppressing evidence, reports, documents, statements, recordings, digital information, electronic information, photographs, videos, witnesses or any thing related to any investigation, or any detention or any arrest or any prosecution shall be guilty of a misdemeanor and shall be punished by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment.

(1) Nothing in this section shall preclude prosecution under both this section and any other provision of law.

(j) Any peace officer, prosecutor, district attorney, agent of a policing agency, agent of a public entity that maintains a policing agency who deliberately delays the investigation of the Independent Special Prosecutor or the Independent Special Prosecutor's agents in the discharge or attempt to discharge any duty of his or her office or employment by suppressing: evidence; reports; documents; statements; recordings; digital information; electronic information; photographs; videos; witnesses or any thing related to any investigation, or any detention or any arrest or any prosecution in an attempt to conceal any other public offense is guilty of a felony punishable by two, three, or five years in the state prison.

(1) Nothing in this section shall preclude prosecution under both this section and any other provision of law.

Penal Code 1054 shall be amended to include the following:

1054.1. (a) The prosecuting attorneys, law enforcement agencies which investigated or prepared the case against the defendant, or any other persons or agencies which the prosecuting attorney or investigating agency may have employed to assist them in performing their duties, (the prosecuting agencies), shall disclose to the defendant or his or her attorney or **any person who has been investigated** all of the following materials and information not more than 48 hours after it has been obtained by the prosecuting attorney, law enforcement agencies which investigated or prepared the case against the defendant, or any other persons or agencies which the prosecuting attorney or investigating agency may have employed to assist them in performing their duties:

(1) The names and addresses of persons the prosecutor intends to or may call as witnesses at trial.

(2) Statements of all defendants.

(3) All relevant real evidence seized or obtained as a part of the investigation of the offenses charged.

(4) The existence of a felony conviction of any material witness whose credibility is likely to be critical to the outcome of the trial.

(5) Any exculpatory evidence.

(6) Relevant written or recorded statements of witnesses or reports of the statements of witnesses whom the prosecutor intends to or may call at the trial, including any reports or statements of experts made in conjunction with the case, including the results of physical or mental examinations, scientific tests, experiments, or comparisons which the prosecutor intends to offer in evidence at the trial.

(b) If for any reason the prosecuting attorneys and agencies are unable to contact the defendant or his or her attorney to disclose the relevant materials and information the prosecuting attorneys and agencies shall disclose the information to the local office of the Independent Special Prosecutor within 48 hours of the prosecuting attorneys and agencies obtaining relevant materials and information.

(c) Should any prosecuting agency or any investigating agency willingly fail to disclose the relevant materials and information by the 48 hour deadline to the defendant or his or her attorney or the local office of the Independent Special Prosecutor the prosecuting agency shall be fined \$1,000.00 a day for every day that the relevant material and information was not disclosed.

(1) This fine shall be paid to the Independent Special Prosecutor.

(2) Failure to comply with this section does not release prosecuting attorneys or prosecuting/investigating agencies from any other lawful requirements regarding the transfer of relevant materials or information to the defendant or his or her attorney.

(d) Should any peace officer, prosecutor, district attorney, agent of a law enforcement agency which investigated or prepared the case against the defendant, or any other persons which the prosecuting attorney or investigating agency may have employed to assist them in performing their duties willingly suppresses and or conceals any relevant material, information, book, paper, record, instrument in writing, photograph, video recording, audio recording, document, or other matter or thing from the defendant or his or her attorney or the Independent Special Prosecutor for more than 10 days from the date it was known to be disclosed is guilty of a misdemeanor and shall be punished by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment.

(e) Nothing in this section shall preclude prosecution under both this section and any other provision of law.

Section 143 shall be added to the Penal Code:

143. (a) It shall be the duty of any peace officer or prosecutor or person working for peace officer or prosecutor or any public agency or any public entity who records any citizen with an audio recording device and or any video recording device and or both to provide an unedited, unadulterated copy of the original recording[s], (if it is a digital recording the copy shall be an exact bit for bit duplicate containing the original creation date and time that the recording was made) to any person, the petitioner, captured on the recording who requests a copy of the recording. The copy of the recording shall be provided to the petitioner upon request and without delay.

(1) For purposes of this section any recording shall include "routine video monitoring as defined in 340.90.6 (c) of the Government Code.

(b) It shall be the duty of all prosecuting and investigating agencies that employ peace officers and or prosecutors and or other persons to have in place a policy that identifies an agent and or employee of the prosecuting and or investigating agency whose lawful duty is to ensure that copies of audio and or video recordings made by other peace officers and or agents and or employees of the same agency are available to petitioners who request a copy. The identification of this agent and or employee shall include agent's and or employee's name, title and contact information. This agent and or employee shall be available to petitioners 24 hours a day 7 days a week at the agency's business address. This agent shall have the ability to produce the copy of the recording requested 24 hours a day 7 days a week at the agency's business address.

(c) Any prosecuting or investigating agency that employs peace officers or prosecutors willingly fail to create a policy which identifies an agent and or employee whose duty it is to provide copies of audio and or video recordings to petitioners shall be fined \$1,000.00 a day for every day that the policy is not enacted.

(1) This fine shall be paid to the Independent Special Prosecutor.

(2) Failure to comply with this section does not release prosecuting attorneys or prosecuting/investigating agencies from any other lawful requirements regarding the transfer of relevant materials or information to a person, or to a defendant or his or her attorney.

(d) When the peace officer or other person who made the recording is unavailable to provide a copy of the recording the duty to provide a copy of the recording shall belong to the agent and or employee identified by the prosecuting and or investigating agency as delineated in the agency's policy.

(e) Should any peace officer or any prosecutor or any agent or any employee of a prosecuting or investigating agency whose duty is to provide copies of audio or video recordings pursuant to 143 (b) of this section willingly or negligently fail to provide a copy of a recording upon request to the petitioner shall be guilty of a misdemeanor and shall be punished by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment.

(1) Nothing in this section shall preclude prosecution under both this section and any other provision of law.

(e) Should any petitioner of an audio or video recording who has a lawful right to the recording[s] be physically unable to submit a request for and obtain the recording[s] the petitioner may appoint any person or representative as a proxy to submit a request for and obtain the recording[s] on the petitioner's behalf. To be qualified as a proxy, the proxy need only present articulable facts to the prosecuting or investigating agency's agent or employee in control of the recording[s] that the proxy has the permission of the petitioner to obtain the recording[s] on the petitioner's behalf.

Note: (There is no legal or ethical justification on the part of the law enforcement community to deny audio/video recording upon request regardless if the recording is a part of an investigation or not. See U.S. DOJ's position of recording police officers:

http://www.wired.com/images_blogs/threatlevel/2012/05/united_states_letter_re_photography_5_14_2012_0.pdf

Section 144 shall be added to the Penal Code:

144 (a) Pursuant to Section Article 1 Section 1 (b)(1) of the California Constitution which states: *"The people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny,"* any person who is identified in or is a subject in any document, or any writing, or any recording, or any other thing that the person is a subject of regarding any investigative process or any other matter conducted by a peace officer, or a prosecutor, or a policy agency, or any public agency or any public entity shall be disclosed to the person and a copy provided to the person without redaction or editing and without delay upon request by the person who is a subject of the particular investigation, document, writing, recording or any other thing.

(1) For purposes of this section any document includes but is not limited to police reports, or administrative reports, or investigative notes or unfinished reports or unpublished reports by any peace officer or public employee.

(2) For purposes of this section recordings include the actual recording and transcript of: calls or service, 911 calls, calls to emergency/fire/police/ambulance dispatchers, any calls to public employees in which the call makes a reference to the subject.

(b) It shall be the duty of all public entities, public agencies, prosecuting agencies, investigating agencies and public entities that employ peace officers and or prosecutors and or other persons to have in place a policy that identifies an agent and or employee of the public entity or the public agency or the prosecuting agency or the investigating agency whose lawful duty is to ensure that copies of the cited materials are provided to persons who requests it without delay.

(c) Should any peace officer, or any prosecutor, or any agent or any employee of a public, or prosecuting or investigating agency or any employee of a public entity whose duty it is to provide copies of the materials cited in this section willingly or negligently fail to provide a copy of a document or recording or any other thing to the petitioner without delay shall be guilty of a misdemeanor and shall be punished by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment.

(1) Nothing in this section shall preclude prosecution under both this section and any other provision of law.

(d) Should any petitioner of any document or recording or any thing who has a lawful right to the materials be physically unable to submit a request for and obtain the materials the petitioner may appoint any person or representative as a proxy to submit a request for and obtain the materials on the petitioner's behalf. To be qualified as a proxy, the proxy need only present articulable facts to the prosecuting agency's or investigating agency's or public entity's agent or employee in control of the materials that the proxy has permission of the petitioner to obtain the materials on the petitioner's behalf.

(e) Any prosecuting or investigating agency or any public agency or any public entity that employs peace officers or prosecutors or persons willingly fail to create a policy which identifies an agent and or employee whose duty it is to provide the materials cited in this section to petitioners shall be fined \$1,000.00 a day for every day that the policy is not enacted.

(1) This fine shall be paid to the Independent Special Prosecutor.

(2) Failure to comply with this section does not release prosecuting attorneys or prosecuting/investigating agencies from any other lawful requirements regarding the transfer of relevant materials or information to a person, or to a defendant or his or her attorney.

Section 238 shall be added to the Penal Code:

238 (a) Any peace officer who detains a person to investigate a crime who justifies the detainment of the person in part on natural "human emotions" or the "physical responses" that result from those emotions by the person detained be guilty of a misdemeanor and shall be punished by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment and shall be guilty of false imprisonment to which the peace officer shall be liable for damages to the person detained pursuant to 52.8 (p) of the Civil Code.

(1) Physical emotions include but are not limited to: happiness; euphoria; joy; fear; anger; agitation, irritation, and frustration.

(2) Physical responses include but are not limited to: clinched fists; flexing muscles; shaking; stuttering, loud or animated speech and facial expressions.

Part Four: Civil Remedies

SECTION 5.

Civil Remedies

Code of Civil Procedure 116.220 (a) shall be amended to include the following:

116.220. (a) The small claims court has jurisdiction in the following actions:

(1) Except as provided in subdivisions (c), (e), (f), and (h) for recovery of money, if the amount of the demand does not exceed five thousand dollars (\$5,000).

(h) Any claim brought by a petitioner who has cited the Peace Officers' and Prosecutors' Victims' Bill of Rights and Fairness Act, or, "PPVBRFA," as the means to seek relief of damages.

(1) For any action brought by a natural person against a defendant pursuant to the rights and privileges secured in the Peace Officers' and Prosecutors' Victims' Bill of Rights and Fairness Act the amount of damages shall not exceed twenty thousand dollars (\$20,000).

116.221. In addition to the jurisdiction conferred by Section 116.220, the small claims court has jurisdiction in an action brought by a natural person, if the amount of the demand does not exceed ten thousand dollars (\$10,000), except for actions specified in Sections 116.220. (h)(1). and 116.224, or otherwise prohibited by subdivision (c) of Section 116.220 or subdivision (a) of Section 116.231.

116.231. (a) Except as provided in subdivisions (d) and (e), no person may file more than two small claims actions in which the amount demanded exceeds two thousand five hundred dollars (\$2,500), anywhere in the state in any calendar year.

(e) The limitation on the number of filings exceeding two thousand five hundred dollars (\$2,500) does not apply to filings to where the claim seeks damages or relief pursuant to the Peace Officers' and Prosecutors' Victims' Bill of Rights and Fairness Act, or "PPVBRFA."

(1) A person who files a claim under this section may seek other injunctive relief.

(2) No person may file more than ten small claims actions pursuant to the Peace Officers' and Prosecutors' Victims' Bill of Rights and Fairness Act, or, "PPVBRFA," in a calendar year. The party making the demand shall file a declaration under penalty of

perjury attesting to the fact that not more than five small claims actions pursuant to the Peace Officers' and Prosecutors' Victims' Bill of Rights and Fairness Act, or, "PPVBRFA," have been filed by that party in this state within the calendar year.

52.8 shall be added to the Code of Civil Procedure

52.8 (a) This section shall be known, and may be cited, as the "Peace Officers' and Prosecutors' Victims' Bill of Rights and Fairness Act."

(b) The Legislature finds and declares that this section is essential to establish and preserve the rights and privileges secured by this state's constitution and the United States' Constitution to persons who have been victimized by peace officers, prosecutors and public employees.

(c) A person who is a victim of peace officer, prosecutor or public employee misconduct that violates the person's constitutionally held rights secured by this state and the United States may initiate an action for relief and damages under this section.

(d) A person filing a claim for damages under this section is limited to filing in this state's small claims courts, 116.220 of the Civil Code of Procedure.

(e) No other statute, law, case law, court ruling, rule or any other thing shall deny the rights, privileges and remedies provided to all persons in this section.

(1) No other statute, law, case law, court ruling, rule or any other thing shall prevent a person from obtaining relief of damages pursuant to this section.

(f) Filing a claim under this section does not prohibit persons from seeking relief of damages in superior court that are not settled in small claims court under this section pursuant to the laws that regulate actions filed in superior court.

(g) Claims filed under this section must be filed not more than two years after the date the damages occurred.

(1) In instances which a defendant takes actions to delay, or to conceal, or to obstruct, the knowledge of his or her harmful act from the petitioner the date of damages shall be stayed to the date in which the petitioner first becomes aware of the harm caused by defendant, or the date of the last act to delay, or to conceal, or to obstruct the information of the matter becoming known to petitioner which ever is latter.

(h) No person may file more than ten small claims actions pursuant to the limitations of this section.

(1) No person may name more than one defendant in any one claim filed in small claims court pursuant to this section.

(i) Peace officers, prosecutors, public employees shall not have any immunity from prosecution under this section.

(1) No statute, law, case law, court ruling, rule or any other thing shall provide immunity from prosecution to a peace officer, or to a prosecutor, or to a public employee, who is prosecuted under this section whether the peace officer, prosecutor, public employee committed the injury within the scope of his employment or not.

(2) Government Code 821.6 shall not provide immunity to a public employee who is prosecuted under this section.

(3) A public entity is not liable for injury proximately caused by an act or omission of an employee of the public entity within the scope of his employment pursuant to a prosecution under this section.

(A) A prosecution under this section does not release a public entity from liability for an injury that is not settled in small claims court pursuant to this section and other statute.

(4) A peace officer, or a prosecutor, or a public employee who is prosecuted under this section shall be personally responsible for any liability, any injury, any damages, any judgment rendered by a court or any other consequences as a result of the peace officer's, or prosecutor's, or public employee's acts.

(j) A person who files a claim under this section:

(1) Shall submit a demand letter that cites this section as a cause of action to the defendant requesting appropriate relief and or restitution prior to filing a claim with the court. This demand letter must specify the harm done and damage caused by the defendant. This demand letter may be delivered in person, or via first class mail, to an appropriate agent of defendant's employer who has a supervisory authority over defendant or the defendant's home address.

(2) Shall submit a discovery request, request of information and evidence, simultaneously with the demand letter.

(3) Shall submit a claim with the small claims court of the proper jurisdiction if after 21 days from the date the demand letter was delivered or mailed the defendant has not provided relief and or restitution for damages. If the defendant has refused to provide the discovery requested by plaintiff, plaintiff shall provide the court a list of the discovery sought along with the claim.

(4) Shall serve the defendant with a copy of the claim pursuant to small claims court rules and statute.

(5) Shall make oral argument for discovery at an initial appearance before the court if defendant refused to produce discovery prior to filing claim. If there is no discovery dispute the initial court appearance shall be the trial to argue the merits of the claim.

(6) Shall be entitled to amend the claim for more or less relief for damages if material information is discovered as a result of the court issuing an order to defendant to produce discovery.

(7) Shall be entitled to seek a contempt of court charge should defendant fail to produce discovery ordered by the court.

(8) Shall file an amended claim upon the court's order at the resolution of the discovery process.

(9) Shall serve the defendant with a copy of the amended claim pursuant to small claims court rules and statute.

(10) Shall argue merits of claim before the court at the set date and time.

(11) Shall be entitled to move for judgment in plaintiff's favor should defendant fail to appear at the trial to which the court must grant.

(12) Shall be entitled to request an immediate order for injunctive relief and or restitution to be provided by defendant within 14 days of the court's ruling.

(13) Shall be entitled to obtain a court order enforcing the judgment pursuant to small claims court rules and statute 15 days after the court's ruling if the defendant/debtor has not complied with the judgment.

(14) Shall abide by the rules and laws that govern small claims court when there is no specific statute provided by this section.

(k) False Statements Reports

(1) Making a false statement in any official capacity, or any official document, or any official document, or any official writing, or any official report, or any official medium to disseminate the information of a public entity or a prosecuting agency or an investigating agency is hereby declared to be a violation of the Fourteenth Amendment of the United States Constitution and Article 1 Section 7(a) of the California Constitution regarding due process and is consistent with violating Penal Code 118.1.

(2) Peace officers, prosecutors and public employees are entitled a defense of human error.

(3) Peace officers, prosecutors and public employees are not entitled to asserting the truth of a statement in official business, reports, investigative reports, police reports, indictments, or whatever in which there is no articulable fact supporting the statement.

"I believe it is an established maxim in morals that he who makes an assertion without knowing whether it is true or false, is guilty of falsehood; and the accidental truth of the assertion, does not justify or excuse him. This maxim ought to be particularly held in view, when we contemplate an attack upon the reputation of our neighbor." Abraham Lincoln

(5) A person who is the subject of any false statement in any public document, report, police report, indictment, or whatever may seek damages from the public employee who made the false statement as a violation of the person's Fourteenth Amendment Rights.

(6) Any person who is a peace officer or prosecutor or public employee who makes a false statement in any official document or report or any other medium to impart or disseminate information shall be liable for damages to the person whom the statement identifies as being the subject of the false statement.

(A) For purposes of this section, identification does not require that the person's name be used; identification requires only that a reasonable person can conclude that the statement was made about the specific person or persons and no other.

(B) The person who makes the false statement shall be liable for each and every act that the false statement is repeated by others in official business or the media or any other medium.

(C) Any person who repeats a false statement in any official capacity, official report, or official document or the media or any other medium who knows or who should know through diligent investigation that the statement was false shall be liable for making a false a statement in addition to the original author.

Note: When the media repeats the false statements made in the official reports, statements and press releases of peace officers, prosecutors and employees of public agencies the public becomes influenced by the false statement to the prejudice of the person whom the false statement is the subject of. This violates the person's Fourteenth Amendment right to due process for the members of the public who are influenced by the false statement may end up sitting on a jury or other commission that declares a judgment about the person.

(D) The damage of each specific false statement whether made in a one or more reports or whether repeated by secondary parties, (the media, etc.), under this section is fixed at one thousand dollars, (\$1,000). Persons who make a false statement under this section shall be liable for each and every instance that the false statement is made at a rate of one thousand dollars, (\$1,000), for each time that the false statement is repeated in an official capacity or an official report, or an official statement or by the media or any other medium.

(E) If the false statement is made in a police report or any other investigative report which seeks to charge a person of a crime the damages will be three thousand dollars, (\$3,000), for each individual statement whether or not there are more than one statement made on any one individual report.

(I) Perjury

(1) It is established that it is a violation of the due process clause of the Fourteenth Amendment of the United States Constitution and Article 1 Section 7(a) of the California Constitution of the defendant in any proceeding or any other person who is the subject of any false testimony given by any peace officer, prosecutor or public employee or an attorney of a public entity who, in any affidavit taken before any person authorized to administer oaths, swears, affirms, declares, deposes, or certifies that he will testify, declare, depose, or certify before any competent tribunal, officer, or person, in any case then pending or thereafter to be instituted, in any particular manner, or to any particular fact, and in such affidavit willfully and contrary to such oath states as true any material matter which he knows to be false, or states as true any material matter which is false which there is no articulable fact to support the false statement shall be liable for damages to the defendant and or any person who is the subject of the false statement.

(A) The damage of each specific false statement under this section is fixed at one thousand dollars, (\$1,000). Persons who make a false statement under this section shall be liable for each and every instance that the false statement is made at a rate of one thousand dollars, (\$1,000), for each time that the false statement is repeated in an official capacity or an official report, or an official statement or by the media or any other medium.

(2) It is established that it is a violation of the due process clause of the Fourteenth Amendment of the United States Constitution and Article 1 Section 7(a) of the California Constitution of the defendant or any other person who is the subject of the false testimony if it is discovered and proved that a witness used by a peace officer, or a prosecutor, or a district attorney, or a public employee, or an attorney of a public entity committed perjury during any proceeding with the knowledge of the peace officer, or prosecutor or district attorney or public employee or an attorney for a public entity. There is no defense to liability if the person using the false testimony of another person could have discovered that it was false through diligent investigation. If the peace officer, or prosecutor, or district attorney, or attorney of a public entity, or public employee who used the false testimony did so ignorantly and innocently yet refuses to prosecute the person for making the false statement upon being informed of the false testimony shall be liable as if he used the false testimony knowingly. The person who uses the false testimony of another person shall be liable for damages to the harmed party in addition to the person who actually made the false statement.

(A) The damage of each specific false statement made under this section is fixed at three thousand dollars, (\$3,000). Persons who make a false statement under this section shall be liable for each and every instance that the false statement is repeated made at a rate of one thousand dollars, (\$1,000), for each time that the false statement is repeated in an official capacity or an official report, or an official statement or by the media or any other medium.

(3) No person shall be convicted of perjury where proof of falsity rests solely upon contradiction by testimony of a single person other than the defendant. Proof of falsity may be established by direct or indirect evidence.

(4) In any prosecution under this section, the subsequent testimony of such person, in any action involving the matters in such affidavit contained, which is contrary to any of the matters in such affidavit contained, shall be prima facie evidence that the matters in such affidavit were false.

(m) Suppression and Destruction of Evidence:

(1) It is established that it is a violation of the due process clause of the Fourteenth Amendment of the United States Constitution and Article 1 Section 7(a) of the California Constitution to violate the elements of penal codes 135, 135.1, 141 (b) and therefore any peace officer or prosecutor, or public employee or attorney of a public entity who violates these elements shall be liable for damages to the person or persons in which the illegal act[s] were directed at or to affect.

(A) The damage of each specific act of suppressing, or concealing, or falsifying, or altering, or destroying any physical matter or any evidence or any thing under this section is fixed at three thousand dollars, (\$3,000). Persons who are found to have violated this section shall be liable for each and every separate act that this section is violated.

(n) The peace officer or public employee found to be in violation of Penal Code 143 shall be liable to the person harmed; the person entitled to the materials sought, in the amount of five thousand dollars, \$5,000, for each act of refusing to comply with the demands in Penal Code 143.

(o) The peace officer or public employee found to be in violation of Penal Code 144 shall be liable to the person harmed; the person entitled to the materials sought, in the amount of five thousand dollars, \$5,000, for each act of refusing to comply with the demands in Penal Code 144.

Note: Fourth Amendment Violations:

Civil Code 52.3. (a) states: *"No governmental authority, or agent of a governmental authority, or person acting on behalf of a governmental authority, shall engage in a pattern or practice of conduct by law enforcement officers that deprives any person of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States or by the Constitution or laws of California."*

(p) Unlawful Detainment

(1) Under this section an unlawful detainment committed for any duration of time upon any person by a peace officer shall result in five thousand dollars, (\$5,000), of damages.

(2) Unlawful detainment includes but is not limited to when a peace officer takes a physical position closer than ten feet, (10ft.), to a person, which intimidates the person into complying with any request for personal information by the peace officer when there are no articulable facts supporting reasonable suspicion to investigate a crime.

(q) Unlawful Arrest

Should any peace officer execute an unlawful arrest in which the person arrested is taken into custody and booked into jail for a violation of the law the peace officer shall be liable for damages of ten thousand dollars, (\$10,000) upon proof that the arrest was not supported by articulable facts or in which the arrest was supported by the use of a false statement by any person or by the use of false evidence produced by any person.

(r) Threats of Violence – Instigating and Escalating Violence

Should any peace officer make any physical or verbal gesture toward any person to cause the person to fear for person's physical safety when the person has not been

lawfully detained or directed by the peace officer the peace officer shall be liable for damages of five thousand dollars, (\$5,000), to the person threatened.