

June 3, 2009

Honorable Ellen Corbett, Chair
Senate Judiciary Committee
State Capitol, Room 2187
Sacramento, CA 95814

RE: AB 653 – SUPPORT

Dear Senator Corbett:

The Riverside Sheriffs' Association, which represents over 3,200 rank and file deputy sheriffs, sheriffs, deputy probation officers, law enforcement investigators and counselors, coroners and bailiffs – the entire law enforcement team in Riverside County – is pleased to co-sponsor and support AB 653. AB 653 addresses the “married cop penalty.”

Presently in *Riverside County Sheriffs' Department v Zigman* (2008) 169 Cal App 4th 763, the 4th District Court of Appeal held that the marital privilege found in Evidence Code Section 980 did not apply to a peace officer who was under investigation and required to provide information regarding a marital communication, or to a peace officer whose spouse was under investigation and was required to reveal a marital communication. Prior to *Zigman*, privileged communications (i.e. marital privileges, priest penitent privilege, attorney-client privilege) had not been admitted into, or made part of, a peace officer's administrative disciplinary proceedings.

AB 653 abrogates, in part, the *Zigman* decision, and creates a “qualified marital privilege.” In lieu of an absolute marital privilege in administrative disciplinary proceedings, AB 653 sets forth several reasonable conditions that must be addressed *before* an officer or an officer's spouse can be interrogated regarding marital confidential communications.


The marital privilege protects one of society's most valued institutions. This privilege has been utilized in other circumstances where it has been balanced against even horrific conduct, where society had an interest in seeking the truth regarding an event, but the privilege prevented revelation of the marital communication.

California's peace officers should not be unfairly penalized simply because they choose to marry a fellow peace officer. AB 653 balances against unwarranted abuses or unreasonable intrusion by management.

On behalf of California's peace officers, thank you for considering this important legislation.

Very truly yours,


Pat McNamara
President


Timothy H. B. Yaryan
Legislative Counsel and Advocate

cc: Members, Consultants – Senate Judiciary Committee
RSA
Assemblymember Mike Feuer