



Testimony of Representative Garey Bies
Senate Committee on Transportation, Public Safety, and Veterans and
Military Affairs
Assembly Bill 409 – Investigation Officer-Involved Deaths

Chairman Petrowski, committee members. Thank you for the opportunity to testify in support of Assembly Bill 409.

Before you consider this bill, ask yourself...if a death of a person occurs and a law enforcement officer is involved, should their own agency investigate the incident? This is what I asked myself before I began drafting this bill over 18 months ago.

I came to the conclusion that the law enforcement officer(s) - involved, should have peace of mind that all questions were answered leaving no cloud of suspicion. The victim's family should have the assurance the investigation was complete and accurate. And the public should have confidence that the investigation was handled properly and without bias.

Throughout the drafting process, I met with different law enforcement organizations, sought advice from District Attorneys, law professors, DOJ and talked with families of the deceased. My goal from the very beginning was to bring legislation forward that both law enforcement and the public could embrace as good policy. I'm proud to say that the bill as amended in ASA2 has the support of the 5 law enforcement organizations.

The bill as amended does the following:

- Creates a definition of an "officer-involved death"
- Requires each law enforcement agency (including a law enforcement agency in a 1st class city) to have a written policy that states the investigation shall be conducted by at least two investigators, one of whom is the lead investigator and neither of whom is employed by the law enforcement agency that employs the officer involved
- If the officer-involved death being investigated is traffic-related, it allows a state law enforcement agency (state patrol) to use a crash reconstruction unit from the same state law enforcement agency
- Requires the investigators to conduct the investigation in an expeditious manner and provide a complete report to the DA of the county in which the officer-involved death occurred
- Requires the investigators conducting the investigation to release the report if the DA determines there is no basis to prosecute the law officer involved

First for Wisconsin!

Capitol: P.O. 8952, Madison, WI 53708-8952 • (608) 266-5350 • Fax: (608) 282-3601
Toll-Free: (888) 482-0001 • Rep.Bies@legis.wi.gov
www.legis.state.wi.us/assembly/asm01/news/

Home: 2520 Settlement Road, Sister Bay, WI 54234 • (920) 854-2811

- Creates a right under the Victim's Basic Bill of Rights for a victim of an officer-involved death to be informed about all of the following: 1) the process by which they may file either a complaint charging a person with a crime, if permitted by a judge; 2) the process by which they may file a complaint under the John Doe investigation proceedings; and 3) the process of an inquest, commonly referred to as a "coroner's inquest".

The bill passed earlier this month on a voice vote in the Assembly. I'm hopeful the Senate will continue to move the bill forward and send to the Governor.

Once again thank you for the opportunity to testify on Assembly Bill 409. I am happy to answer any questions you may have.



Testimony in support of AB-409

Senate Committee on Transportation, Public Safety, and Veterans and Military Affairs

By: Rep. Chris Taylor

February 27, 2014

Thank you, Chairman Petrowski, for holding a public hearing on Assembly Bill 409 and for the opportunity to speak in support of this bill today. I also would like to thank Rep. Bies for his leadership and work on AB-409.

Out of all the bills I work on, AB-409 is really one of the most important. It is important to families whose loved ones have been impacted by officer involved deaths. It is important to our communities and neighborhoods to make sure the investigation of officer involved deaths is as transparent, independent and unbiased as possible. And I believe it is extremely important to law enforcement, who have the hardest job in the world and whose job is dependent on the trust of our communities.

When I was first elected to the Assembly, I never thought I would spend so much time on law enforcement issues. But then Paul Heenan was shot by a Madison police officer not far from my home in the early morning hours of November 12, 2012. Mr. Heenan was unarmed, intoxicated and had entered the wrong home. This incident, and the subsequent police investigation and response, shook my community and shook the law enforcement community as well. Mr. Heenan's death joins a list of others, including Derek Williams, a man who suffocated to death in the backseat of a police car after being taken in to custody in Milwaukee, and Michael Bell, Jr., who was unarmed but shot in the head by a Kenosha police officer in front of his home.

Representative Bies and I have worked together on this bipartisan legislation to make sure that more independence is introduced into the investigations of officer involved deaths. The heart of this bill, which has not changed since its original introduction, is that these incidents must be investigated by outside investigators, including the lead investigator. This bill also provides that families are informed about their legal options and that the actual investigation be released if there are no charges brought against officers involved in these incidents.

This bill has gone through a lot of changes and has traveled a long road to get to you today. Along the way, we have consulted with law enforcement officials, advocates, family members and friends of individuals killed by law enforcement, prosecutors, law professors, and representatives from other state agencies in order to reach ASA2, which is now a consensus bill.

This bill aims to provide a reasonable framework to make sure that, when an officer involved death occurs, the subsequent process is fair, independent and unbiased. If passed by the Senate and signed by Governor Walker, Wisconsin would become the first state in the country to enact an independent investigatory framework for officer-involved deaths.

I ask that you please support this bill and send it to the full Senate for consideration as soon as possible. Thank you for your time and I would be happy to answer any questions you have.

Memorandum

To: Rep. Garey Bies

Cc: Speaker Robin Vos
Rep. Joel Kleefisch
Rep. Chris Taylor

From: Badger State Sheriffs Association
Wisconsin Chiefs of Police Association
Wisconsin County Police Association
Wisconsin Professional Police Association
Wisconsin Sheriff and Deputy Sheriffs Association

Date: February 13, 2014

Re: Law Enforcement Position on Proposed Amendment to Assembly Bill 409

On behalf of the Badger State Sheriffs' Association, Wisconsin Chiefs of Police Association, Wisconsin County Police Association, Wisconsin Professional Police Association, and Wisconsin Sheriffs and Deputy Sheriffs Association (law enforcement associations), we want to thank you for your work on Assembly Bill 409. Specifically, we appreciate your willingness to listen to the concerns we have raised throughout the process.

After reviewing the latest proposed amendment to AB 409, the law enforcement associations no longer have concerns with the bill. Again, we thank you for your willingness to work with us throughout this process and to craft a bill that will provide meaningful investigations of officer-involved deaths, while at the same time ensuring that law enforcement is able to carry out its job of protecting the safety of Wisconsin citizens.

Please feel free to contact us if you have any questions.

Nathan Royko Maurer
509 S. Baldwin St. Apt. 2
Madison, WI. 53703
608-217-7453

Committee on Transportation, Public Safety and Veterans and Military Affairs
c/o Senator and Chair Jerry Petrowski
Room 123 South
State Capitol
P.O. Box 7882
Madison, WI. 53708

Members of the Senate,

My name is Nathan Royko Maurer.

I grew up in Madison and have lived here for most of my life.

I have family all over the state and will always call this place my home.

Because of this, I am here to speak in support of the Citizens and Law Enforcement Safety Act, a law that will benefit anyone who chooses to call Wisconsin their home.

I will keep my statements brief.

It is rare that an opportunity such as this arises.

It is rare that a bill with merits as clear and obvious as AB409's comes before you, with unanimous support from the Assembly and, for as controversial as it could be, strong support from both the civilian and law enforcement interests it seeks to protect.

This bill forms the cornerstone of an effort to legally enshrine a relationship of irrefutable trust between law enforcement and the public, trust that is so hard to build and, as we saw with my friend Paul Heenan's killing by MPD officer Steven Heimsness in 2012, so easy to destroy.

With the requirement that police involved deaths be investigated by credibly independent law officers with little to gain or lose from the outcomes of their investigations, this bill removes one of the most volatile threats to that trust, the public's perception of conflicted interests.

Moreover, it significantly reduces the risk that actual bias, whether intentional or accidental, can corrupt what must be a dispassionate and sober accounting of facts in an otherwise emotionally charged situation.

Even if 99% of all internal investigations are done honestly and bear no trace of bias, that 1% the public doubts can cause the whole house of cards to come down and

with it any hope that police and civilians can work together to ensure one another's safety.

The families of those slain by police, and the police who are asked to make difficult life or death decisions deserve to have the pain they've suffered and the decisions they've made measured against the true facts of what happened.

Trust in those measurements shouldn't be a matter of faith; it should be embedded in the investigatory process itself.

AB409 gets us there.

AB409 makes it harder for doubt to creep in and rob us of the trust we deserve to have in our law enforcement officers. And, it brings relief to all those good officers who fear their actions will not be judged fairly by the public should those actions prove necessary but unpopular.

I urge the members of the Senate to study the obvious merits of this bill, to gauge the overwhelming support for it, and to pass it this session.

Thank you.

Amelia Royko Maurer
509 S. Baldwin St #2
Madison, WI 53703
608-332-5042
roykomaurer@mac.com

Committee on Transportation, Public Safety and Veterans
and Military Affairs
c/o Senator and Chair Jerry Petrowski
Room 123 South
State Capitol
P.O. Box 7882
Madison, WI 53708

Dear Committee on Transportation, Public Safety and
Veterans and Military Affairs,

My name is Amelia Royko Maurer. I was born in Brookfield,
WI and grew up here in Madison.

I grew up in a family that depended on and appreciated law
enforcement more than your average family.

My mother had a stalker for 37 years and in those days,
stalking laws left my mother and our family relying heavily on
the protection of law enforcement and if need be, our own
means for self-defense.

I know what it feels like to have someone dedicate their life
to harming my family and I grew up pro-law enforcement.

On November 9th 2012, a Madison Police officer with a bad history, shot and killed a young man named Paulie Heenan, my dearest friend, whom I referred to as the little brother I always wanted, who shared a home with my family of three.

I believed that Madison police department would operate in an objectively impartial manner no matter who was watching, no matter who was investigating who.

That is the very definition of integrity isn't it?

Sadly, the very first statement I made to an officer was changed significantly, as means to incriminate my dead friend. I saw that badge and it made me feel safe and the man behind that badge dishonored it to grave proportions. How dare he, do that to Paulie, to me and to that badge?

Bias can be employed on purpose but it can also be subconscious and one should expect it to, on occasion, occur in incidents involving coworkers and friends.

That's why our system for jury selection intentionally roots out those jurors with potential conflicts of interest with the parties involved in a trial. Bias is only natural in situations involving people who care for one another.

Tresa Martinez - Head of Critical Incident Stress Management for Madison's Police Department said it perfectly:

"Just the culture of the police department, people care very much about each other they depend upon each other so

when something happens to one officer within a department, it effects everyone.”

At the beginning of this month, my husband and I sat with state law enforcement associations heads along with police chiefs, district attorneys, retired law enforcement, law enforcement scholars, and a representative from the Wisconsin Professional Police Association.

The strongest civilian Ab-409 advocates, USAF retired LT Col Michael Bell, researcher Mark Caras and retired Kenosha police detective Russell Beckman were also there.

At this meeting, the civilians and former law enforcement conveyed to current law enforcement how the original version of Assembly Bill 409 with all of it's components, aimed to fortify trust in the process of an officer-involved fatality investigation.

We asked the question: Shouldn't everything possible be done to insure that those having the power of life and death in their hands don't misuse that power?

To accomplish that we were suggesting

#1 Let us ensure a clear frame of mind when someone takes a life, not only of the deceased, but of the officer involved. We can only gain in knowing this.

#2 An external investigation of the occurrence. (Departments not investigating themselves)

#3 An independent review of the investigation (retired law

professionals reviewing law enforcement)

Michael Bell explained first hand, why a man, who is pro-law enforcement would want to know that if his son had to die at the hands of police officers that they, themselves were obeying the law, were of sound and sober minds and he explained why detectives ought not have an emotional or professional connection to those they're investigating for homicide.

No one disagreed.

I explained, how a review board of retired law enforcement professionals could see the investigation through a lens with less pressure than those currently employed by law enforcement.

Their impartiality and expertise would lend confidence to the officer involved that the review was done credibly and I can say first hand, that too would secure the public's trust that the investigation was done as unbiased as possible.

No one disagreed.

Michael Bell shared expert research done by the son of a police chief, supporting AB409 stemming from 120 oversight agencies around the U.S., with a focus on 6 locations: Boise, Idaho; Chandler, Arizona; Cincinnati, Ohio; Eugene, Oregon; Las Vegas/Clark County, Nevada; and San Diego, California.

In our meeting I saw heart and commitment from both sides of the table.

I saw responsible and caring association heads who came as representatives to listen and contribute.

I heard a Chief speak to the mental undertaking and emotional challenges endured by officers who take a life.

I heard a retired police detective speak to evidence that proves that one department's integrity does not protect anyone from the potential corruption with-in another department and that corruption does go unchecked and quite literally ruins the lives of police officers and civilians alike.

I witnessed former law enforcement bridging the gap of understanding between those who wear a badge, those who never have, those who've lost loved ones to law enforcement and those with in law enforcement who have never been part of an officer-involved death.

I saw the parent of a dead child say from across the table, I respect you, I am one of you, but it's not just about you or me, my child or your department, praise or blame.

- This is about making investigations of officer involved fatalities as competent and unbiased as possible, in both reality and appearance.
- This is about taking the pressure off of friends within the department.
- This is about placing a buffer between the District Attorney and the departments they are close to.
- This is about letting a family know what every family must know when they lose a loved one - everything.

- This is about respecting a family's need to grieve and not making them fight to gain access to the whole truth through unworkable back up systems, in the midst of such crippling, irreversible loss.
- This is about fully restoring trust in the officer who had no other choice and taking full responsibility for the officer who could be justified but perhaps, shouldn't have pulled the trigger.

AB 409 with all of its components, minimizes both the potential and the appearance of bias. It protects everyone.

The majority of us agreed that the current form of this bill, which preserves the external investigative requirement only, is a positive and workable step forward.

Doing all we can to minimize the potential for bias in officer-involved death investigations is good for all and it should not be an option for a chief or a sheriff, it must be written into our laws.

As we've seen in Madison, a different Chief means a different culture and department with different mechanisms for oversight.

As we saw in Milwaukee with the Derek Williams case, a trusted medical examiner surprised a trusting police department by leaving the thorough and honest investigative duties to the Milwaukee Journal Sentinel.

No Chief or Sheriff or loved one of the deceased wants that kind of surprise.

Please, stand with Wisconsin Citizens and Law Enforcement
and pass Assembly Bill 409, the Citizens and Law
Enforcement Safety Act.