

COLUMNS

Grumet: Voters, not lawmakers, should decide police oversight issues on May ballot

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In a few weeks, Austin voters will cast ballots on two dueling, high-stakes propositions affecting the way our city handles allegations of police misconduct. The main issue is whether the public can have a representative in the investigative process — someone to conduct initial reviews of complaints, gather evidence and ask questions as the Police Department's Internal Affairs Unit examines a case.

Proposition A would allow that level of civilian oversight.

Proposition B would not.

Voters should get to decide on May 6. But there is a troubling effort aiming to settle the matter at the Capitol, regardless of what the people of Austin have to say.

Sen. Kelly Hancock, R-Fort Worth, has proposed Senate Bill 2209, which would block civilian entities, such as Austin's Office of Police Oversight, from any role in investigating officers' conduct.

Clearly this is aimed at Austin. In explaining his bill, Hancock said that “anti-police activists are using the petition process to place propositions on the ballot to hamper police effectiveness.”

That argument didn't go over well with a roomful of people who largely testified against the bill at an April 3 hearing before the Senate Committee on Local Government.

“This bill just flies in the face of the very name of this committee,” Austin resident Grace Pankl said. “To pass this bill just completely negates the voice of the people and says that the state knows better than the people that live in it.”

It's especially revealing that the Austin Police Association — which bankrolled Proposition B, a measure plainly designed to confuse Austin voters — is also pushing SB 2209 to make voters' views in the May 6 election irrelevant. Talk about leaving nothing to chance.

Austin Police Association President Thomas Villarreal did not respond to my request to discuss the issue. In his testimony on SB 2209, however, he rejected the suggestion that the police union is “scared of transparency.”

“It couldn't be further from the truth,” Villarreal said.

Sen. Sarah Eckhardt, D-Austin, asked Villarreal: What role should civilians have in the investigation of officer misconduct?

“If I didn't have to negotiate contracts, if that wasn't a thing, I would say they have no role,” Villarreal said.

Proposition A vs. Proposition B

That's the heart of the matter.

For years, the public's access to transparency and accountability with the police has fluctuated with the terms of each union contract. Proposition A aims to make some protections a constant, something the public can count on.

Proposition A is the original “Austin Police Oversight Act,” proposed by Equity Action, a group of criminal justice reform advocates. Among other things, the measure would allow the Office of Police Oversight to conduct an initial review of complaints and participate in investigations of officer conduct.

Proposition A still has some provisions that could be accomplished only if the police union agrees to them in a contract, such as making certain records public and extending the period in which an officer can be disciplined from 180 days to 365 days after the incident. It's hard to imagine the Austin Police Association agreeing to that.

That brings us to Proposition B. It also will appear on the May 6 ballot as the “Austin Police Oversight Act,” copying the Proposition A name in an attempt to muddy the waters for voters. In fact, Proposition B is a gutted version of Proposition A.

Proposition B would prevent the Office of Police Oversight from conducting initial reviews of complaints or participating in the fact-finding phase of an investigation, though it could still

offer disciplinary recommendations at the end.

The group behind Proposition B, the Voters for Oversight and Police Accountability, has received 98% of its funding from the political arm of the Austin police union.

Oversight must be independent

Now we have SB 2209, which could override whatever Austin voters decide May 6. The particulars of the bill align with parts of Proposition B.

Will SB 2209 pass? For now, it is sitting in committee. But we're entering the phase of the legislative session where a stalled bill can roar back to life as an amendment to another bill. Anything can happen.

And while there's political gamesmanship going on here, the stakes go far beyond that. Police are entrusted with extraordinary powers — to use force, even deadly force; to search people's properties; to make arrests that impact people's lives.

When an officer's conduct comes into question, that officer deserves a fair process. So does the public.

"If it's not independent oversight, then it's just not oversight," Austin resident Kathryn McArdle told senators April 3.

Sen. Roland Gutierrez, D-San Antonio, put the need for independent oversight in even starker terms, noting there has been no civilian review of the botched law enforcement response to last year's school shooting in Uvalde.

"I had to sign a nondisclosure agreement to review what happened," Gutierrez said during the committee hearing. "So when I saw the hours and hours of police officer failure, and I saw children maimed — the public hasn't seen any of that. And so we need to see it, on some level, because this is how we correct police behavior. This is how we correct negligence.

"Someone has to look at it," Gutierrez continued. "We can't just let cops tell us, 'I promise, we weren't negligent here.'"

Regardless of whether SB 2209 gains traction, the police union's support of a bill that would bypass Austin voters speaks volumes.

Normally in this phase of an election cycle, people with opposing campaigns become something of a traveling roadshow, appearing at many of the same public forums to debate

the issues.

Not so with the group behind Proposition B.

“We’ve been invited to meetings and forums where (Proposition B supporters) have also been invited ... and they are a no-show,” Kathy Mitchell, of the Proposition A group Equity Action, told the American-Statesman’s Editorial Board this past week.

But she added, “They’re absolutely *not* a no-show at the Capitol.”

Grumet is the Statesman’s Metro columnist. Her column, ATX in Context, contains her opinions. Share yours via email at bgrumet@statesman.com or via Twitter at [@bgrumet](https://twitter.com/bgrumet). Find her previous work at statesman.com/news/columns.

How they compare

Although they're both called the "Austin Police Oversight Act," Proposition A and Proposition B differ in important ways. Some distinctions:

Anonymous complaints: Proposition A, as well as existing city code, allows anyone to file an anonymous complaint with the Office of Police Oversight, a civilian-led agency. Proposition B cuts the anonymous option.

Investigative role: Proposition A would empower the Office of Police Oversight to participate in investigations into officer misconduct, with the ability to gather evidence and interview witnesses — something an independent arbitrator in 2021 said the agency could not do under the police contract in effect at that time. City code allows the Office of Police Oversight to *observe* investigations; Proposition B removes even that role.

Time frame for discipline: Under Proposition A, the police chief could discipline an officer within 365 days of learning about the alleged misconduct, if the union contract agrees to that larger window. Proposition B does not provide a time frame, but state law sets the window at 180 days.

Community Police Review Commission: Both proposals keep this 11-member body to provide recommendations about specific disciplinary cases and broader policy issues. Who should have a voice on it? Proposition A says no one with police ties may serve on the board. Proposition B cuts that prohibition and instead disqualifies anyone who has been charged with a felony or a Class A or Class B misdemeanor.

Greater transparency: Proposition A would prohibit the city from having "a secret police department personnel file" related to officer conduct. Proposition B cuts out that language. Still, the police union would need to agree in its contract to make certain records available.