



**President**  
Mr. Dave Warren  
City of Rio Vista

**Vice President**  
Mr. Jose Jasso  
City of Rio Vista

**Treasurer**  
Ms. Jen Lee  
City of Rio Vista

**Secretary**  
Ms. Jennifer Styczynski  
City of Marysville

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## NORTHERN CALIFORNIA CITIES SELF INSURANCE FUND POLICE RISK MANAGEMENT COMMITTEE MEETING AGENDA

**DATE:** Thursday, November 4, 2021

**TIME:** 10:00 a.m.- 11:30 a.m.  
Training Session at noon – 2:00 p.m.

**LOCATION:** Rocklin Event Center - Garden Room  
2650 Sunset Blvd.  
Rocklin, CA 95677

**A - Action**  
**I - Information**

**1 - Attached**  
**2 - Hand Out**  
**3 - Separate Cover**  
**4 - Verbal**

### MISSION STATEMENT

*The Northern California Cities Self Insurance Fund, or NCCSIF, is an association of municipalities joined to protect member resources by stabilizing risk costs in a reliable, economical and beneficial manner while providing members with broad coverage and quality services in risk management and claims management.*

**A. CALL TO ORDER**

**B. ROLL CALL**

**C. PUBLIC COMMENTS**

*This time is reserved for members of the public to address the Police Risk Management Committee on NCCSIF matters that are of interest to them.*

pg. 3 **D. CONSENT CALENDAR**

**A 1**

*All matters listed under the consent calendar are considered routine with no separate discussion necessary. Any member of the public or the Police Risk Management Committee may request any item to be considered separately.*

pg. 4 1. Police Risk Management Committee Meeting Minutes - August 5, 2021

**E. RISK MANAGEMENT**

pg. 7 1. **Police Risk Management Grant Fund**

**I 1**

*The Committee will receive an update on grant balances and discuss the use of grant funds for body worn cameras or other risk management needs.*



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pg. 11	<b>2. Legislative Update and Presentation</b> <i>The Committee members will receive an update legislation recently signed in to law that will impact police operations.</i>	<b>I 1</b>
pg. 87	<b>3. Technology Discussion</b> <i>The Committee will provide feedback on their experiences with body cameras, robots, drones, vehicles, artificial intelligence, vehicle pursuits, and other new technologies.</i>	<b>I 4</b>
pg. 88	<b>4. Law Enforcement EAP Discussion</b> <i>The Committee will receive and discuss their experiences with EAP providers and counseling services specific to Law Enforcement.</i>	<b>I 4</b>
pg. 99	<b>5. Round Table Discussion</b> <i>The floor will be open to Police Risk Management Committee members for any topics or ideas that members would like to address including future training topics.</i>	<b>I 1</b>
	<b>F. INFORMATION ITEMS</b>	<b>I 1</b>
pg. 112	1. NCCSIF 2021-22 Organizational Chart	
pg. 113	2. NCCSIF 2021 -22 Meeting Calendar	

**G. ADJOURNMENT**

**UPCOMING MEETING**

Police Risk Management Committee Meeting - February 3, 2022  
Police Risk Management Committee Meeting – May 5, 2022

*11:30 Break for provided lunch*

pg. 114 **TRAINING SESSION at from noon – 2:00 p.m.**  
**Transparency Engagement –The Next Step in Communicating with the Public**  
*Presented by Stefanie Cruz of Cole Pro Media*

*Per Government Code 54954.2, persons requesting disability related modifications or accommodations, including auxiliary aids or services in order to participate in the meeting, are requested to contact Jenna Wirkner at Alliant Insurance Services at (916) 643-2741.*

*The Agenda packet will be posted on the NCCSIF website at [www.nccsif.org](http://www.nccsif.org). Documents and material relating to an open session agenda item that are provided to the NCCSIF Board of Directors less than 72 hours prior to a regular meeting will be available for public inspection and copying at 2180 Harvard Street, Suite 460, Sacramento, CA 95815.*

*Access to some buildings and offices may require routine provisions of identification to building security. However, NCCSIF does not require any member of the public to register his or her name or to provide other information, as a condition to attendance at any public meeting and will not inquire of building security concerning information so provided. See Government Code section 54953.*



BACK TO AGENDA

**Northern California Cities Self Insurance Fund  
Police Risk Management Committee Meeting  
November 4, 2021**

**Agenda Item D.**

**CONSENT CALENDAR**

**ACTION ITEM**

**ISSUE:** The Police Risk Management Committee (PRMC) reviews items on the Consent Calendar, and if any item requires clarification or discussion a Member should ask that it be removed for separate action. The PRMC should then consider action to approve the Consent Calendar excluding those items removed. Any items removed from the Consent Calendar will be placed later on the agenda in an order determined by the Chair.

**RECOMMENDATION:** Adoption of the Consent Calendar after review by the PRMC.

**FISCAL IMPACT:** None.

**BACKGROUND:** The following items are placed on the Consent Calendar for approval. The PRMC may approve the Consent Calendar items as presented, or any individual may request that an item be removed for discussion and separate action may be taken during the meeting.

**ATTACHMENT(S):** Police Risk Management Committee Meeting Minutes - August 5, 2021



**NORTHERN CALIFORNIA CITIES SELF INSURANCE FUND  
POLICE RISK MANAGEMENT COMMITTEE MINUTES  
TELECONFERENCE-ZOOM  
AUGUST 5, 2021**

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**MEMBERS PRESENT**

Chief Robert Thompson, City of Dixon  
Chief Tod Stockman, City of Galt  
Chief Matt Alves, City of Lincoln  
Chief Kyle Sanders, City of Red Bluff  
Lt. Anthony Borgman, Town of Paradise

Chief Rick Hillman, City of Folsom  
Chief Rodney Harr, City of Gridley  
Chief Joseph Wren, City of Placerville  
Chief Chad Butler, City of Rocklin

**GUESTS & CONSULTANTS**

Raychelle Maranan, Alliant Insurance Services  
Jenna Wirkner, Alliant Insurance Services  
Tom Kline, Sedgwick

Marcus Beverly, Alliant Insurance Services  
Dori Zumwalt, Sedgwick  
Eric Lucero, Sedgwick

**A. CALL TO ORDER**

Chief Sanders called the meeting to order at 10:03 a.m.

**B. ROLL CALL**

The above members listed were present.

**C. PUBLIC COMMENTS**

There were no public comments.

**D. CONSENT CALENDAR**

1. Police Risk Management Committee Meeting Minutes – February 11, 2021
2. Police Risk Management Committee Meeting Minutes – May 6, 2021

**A motion was made to approve the Consent Calendar as presented.**

**MOTION:** Rick Hillman

**SECOND:** Robert Landon

**MOTION CARRIED**

Ayes: Thompson, Hillman, Stockman, Harr, Alves, Wren, Sanders, Butler, Borgman

Nays: None

**E. RISK MANAGEMENT**

**E.1. Police Risk Management Grant Funds**

Mr. Beverly discussed the Police Risk Management Grant Funds, the Committee voted to continue the use of the Grant Funds for 2021-2022. The priority is to use the funds for Body Cameras first. If the Department does have a Body Camera Program in place, they can use the funds for other Risk Management items or trainings. We encourage members to use the funds. Information only.





**NORTHERN CALIFORNIA CITIES SELF INSURANCE FUND  
POLICE RISK MANAGEMENT COMMITTEE MINUTES  
TELECONFERENCE-ZOOM  
AUGUST 5, 2021**

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**E.2. General Liability Claims Analysis for Police**

Dori Zumwalt from Sedgwick discussed the NCCSIF General Liability Trending Report for Fiscal Years 2016-2021. The 2016-2018 claims are about what they will be. As claims develop they will get more expensive. Public works is one of the most frequent claims but also one that house a lower average claim. The severity of the claims for Public Works and Police are still open claims and haven't been settled. The number one claim that we see come in is due to vehicles and slip and falls. The three types of claims with the most frequency and severity are bodily injury, employment practices. We have about 40 Police Liability claims on average per year. The top 5 cause of Police Liability Claims Fiscal Year 2016-2021 are Civil rights, Vehicle, False Arrest, Property Damage, Excessive Force. Dori Zumwalt also reviewed the total number of claims for the Cities and the average number of claims.

Information only.

**E.3. Legislative Update**

Tom Kline from Sedgwick gave a Legislative update on bills relating to law enforcement.

**AB 1475:** This was approved and filed by the governor in July of 2021. This prevents departments or sheriff's office from sharing, on social media, booking photos of an individual arrested on suspicion of committing a nonviolent crime.

**AB 26:** Holden. Peace officers: use of force.

**AB 270:** This relates to the 988-suicide prevention phone number and behavioral health.

**AB 594:** This bill has to do with deadly use of force being required to be investigated by the Attorney General.

**AB 603:** Municipalities will be required to post law enforcement settlements and judgements,

**AB 931:** Peace officer training to intercede

**AB 958:** Law Enforcement gang, a group of law enforcement officers within and agency that engages in a pattern of specified.

**H.R. 7120:** George Floyd Justice Policing Act of 2020. They had originally wanted to have the Bill passed by the one-year calendar anniversary of the event. Limits qualified immunity as a defense to liability in a private civil action against a law enforcement officer

No discussion. Information only.



**NORTHERN CALIFORNIA CITIES SELF INSURANCE FUND  
POLICE RISK MANAGEMENT COMMITTEE MINUTES  
TELECONFERENCE-ZOOM  
AUGUST 5, 2021**

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**E.4 TECHNOLOGY DISCUSSION**

**911 At Ease International** – 911 at Ease International is free & confidential Trauma informed counseling resource.

**Rippleworx** – Jeff Kingsfield- The idea is to help advance the skills, knowledge, attitudes of the officers. The basic idea is to work on training plans and keep officers informed and engaged. Gives an overview of officer performance.

**Dummies Unlimited:** The City of Red Bluff Police Department uses dummies for various things.

The Folsom Police Department is planning to purchase more than 100 Axon cameras and 72 tasers for approx. \$1.2 million.

**The California City that Sends a Drone almost every time police is dispatched to a call.**

**Cordico Presentation – Cordico Shield-** The idea of the App is to provide officer and the officers family with wellness resources. The big issue that it is trying to address is the stress from the job and how to handle it. Cordico has a peer and Chaplin support and a therapist finder. They also have a physical fitness component to the app.

Information only. No discussion.

**E.5. ROUND TABLE DISCUSSION**

Tom Kline discussed trainings for upcoming meetings.

**F. INFORMATION ITEMS**

1. NCCSIF 2021-22 ORGANIZATIONAL CHART
2. NCCSIF 2021-22 MEETING CALENDAR

**G. ADJOURNMENT**

The meeting was adjourned at 10:58 a.m.

**Next Meeting Date:** November 4, 2021

Respectfully Submitted,

\_\_\_\_\_  
Jennifer Styczynski, Secretary

Date: \_\_\_\_\_



**Northern California Cities Self Insurance Fund  
Police Risk Management Committee Meeting  
November 4, 2021**

**Agenda Item E.1.**

**POLICE RISK MANAGEMENT GRANT FUNDS**

**INFORMATION ITEM**

**ISSUE:** Over the last seven years, the Board has approved a total of \$350,000 in grant funds for Police Risk Management, primarily for Body Worn Cameras (BWC) and associated equipment. If members have a BWC program they can use the grant funds for other risk management needs.

The Grant Funds Historic Usage Report is included to ensure members are aware of the available grants for their agencies. Members are encouraged to share their experiences with their BWC programs and suggestions for improvement as well as use of grant funds for other needs.

**RECOMMENDATION:** Information item for review, discussion and direction as needed.

**FISCAL IMPACT:** None – the grant funds are available based on the attached.

**BACKGROUND:** The Board approved a FY 14/15 budget of \$50,000 for the purchase of Body Worn Cameras (BWC) for NorCal Cities' police agencies. The funds were initially used to purchase a total of 58 cameras at a quantity discount. Since then each year a budget of \$50,000 has been allocated to members to fund their BWC programs. If the BWC program is fully funded then member agencies have the option to use the funds for other safety and risk management uses such as personal protective devices and load-bearing vests. The FY 21/22 budget of \$50,000 has been allocated to the member police agencies as reflected in the attached Usage Report.

**ATTACHMENT(S):**

1. Police Risk Management Grant Funds Historic Usage Report
2. Police Risk Management Grant Request Form

NCCSIF POLICE RISK MANAGEMENT GRANT FUNDS HISTORIC USAGE REPORT

	Member	FY 14/15 \$50,000 Grant Camera Allocation	FY 15/16 \$50,000 Grant Fund Allocation	FY 16/17 \$50,000 Grant Fund Allocation	FY 17/18 \$50,000 Grant Fund Allocation	FY 18/19 \$50,000 Grant Fund Allocation	FY 19/20 \$50,000 Grant Fund Allocation	FY 20/21 \$50,000 Grant Fund Allocation	FY 21/22 \$50,000 Grant Fund Allocation	FY 21/22 Member Specific Police Fund	TOTAL GRANTS	YTD Reimbursements Made	REMAINING FUNDS 6/1/21	Reimbursement Notes/Plan Usage
1	Anderson	2	\$1,515	\$1,515	\$1,515	\$1,515	\$1,515	\$1,515	\$1,515		\$9,090		\$10,605	
2	Auburn	4	\$3,030	\$3,030	\$3,030	\$3,030	\$3,030	\$3,030	\$3,030		\$18,180	\$18,118	\$3,092	4/25/17 \$6,280.56 (12 VieVu LE4 mini body worn cameras) 9/8/17 \$3,029.18 (4 VieVu LE4mini & 1 multi-dock LE4) 2/5/19 \$2,810.26 portion of invoice (16 VieVu LE5 body worn cameras) 3/24/21 \$5,998.49 Body Cameras
3	Colusa	2	\$1,515	\$1,515	\$1,515	\$1,515	\$1,515	\$1,515	\$1,515		\$9,090	\$3,030	\$7,575	7/27/17 \$3,030 (concealable vests with load bearing carriers)
4	Corning	2	\$1,515	\$1,515	\$1,515	\$1,515	\$1,515	\$1,515	\$1,515		\$9,090	\$5,592	\$5,013	9/6/16 \$3,291.26 (4 VieVu LE4 body cameras) 2/15/19 \$2,301.12 firewall
5	Dixon	4	\$3,030	\$3,030	\$3,030	\$3,030	\$3,030	\$3,030	\$3,030	\$5,000	\$18,180	\$15,926	\$10,284	4/20/17 \$6,060 (30 Wolfcom Vision 1080p body camera with rotatable camera head and 32GB memory) 6/1/18 \$2,934.38 (3 Wolfcom Vision 1080p body camera + training cost for force options simulator) 3/6/20 \$2,631.63 (5 Wolfcom Body Camera + 1 docking port) 8/26/20 IA PRO Program
6	Elk Grove*	4	\$3,030	\$3,030	\$3,030	\$3,030	\$3,030	\$3,030	\$3,030		\$18,180	\$15,150	\$6,060	1/11/18 \$9,090 (WatchGuard Vista HD body cameras) 3/20/19 \$3,030 (portion of Cordico Wellness Program) 11/4/19 \$3,030 (portion of 2019 BWC purchase/Vista HD)
7	Folsom	5	\$3,788	\$3,788	\$3,788	\$3,788	\$3,788	\$3,788	\$3,788	\$400,000	\$22,725	\$22,725	\$403,788	10/5/16 \$7,576 (8 VieVu LE4 body camera and 1 multi-dock network station) 12/16/20 \$15,150 lapro software
8	Galt	4	\$3,030	\$3,030	\$3,030	\$3,030	\$3,030	\$3,030	\$3,030		\$18,180		\$21,210	1/25/18 <i>Plan to use fund /BWC program under consideration</i>
9	Gridley	2	\$1,515	\$1,515	\$1,515	\$1,515	\$1,515	\$1,515	\$1,515		\$9,090	\$4,543	\$6,062	9/6/16 \$3,291.26 (4 VieVu LE4 body cameras) 3/28/18 \$1,252 (one VieVu LE5 camera and seven Public Safety Vests) 8/7/20 \$2,700.41 (load bearing vests and flashlights)
10	Ione	2	\$1,515	\$1,515	\$1,515	\$1,515	\$1,515	\$1,515	\$1,515		\$9,090	\$9,021	\$1,584	11/2/16 \$1,655.23 (2 VieVu LE4 body camera) 9/8/17 \$1,736.24 balance (2 VieVu LE4 body cameras and 2 LE4 Cradle) 5/21/18 \$1,234.14 (2 VieVu LE5 body camera and license for Veripatrol Software) 5/28/21 Lava Dog Fire and Police Supply ( Riot helmets, batons, gas masks and filters)
11	Jackson	2	\$1,515	\$1,515	\$1,515	\$1,515	\$1,515	\$1,515	\$1,515		\$9,090	\$9,090	\$1,515	4/20/20 <i>Jackson PD in process of acquiring new body cams.</i> 1/7/2021 \$9,090 Vista HD Wearable Camera User Guide
12	Lincoln	4	\$3,030	\$3,030	\$3,030	\$3,030	\$3,030	\$3,030	\$3,030		\$18,180	\$18,181	\$3,030	10/5/16 \$6,060 (8 VieVu LE4 body cameras) 2/25/21 \$11,632 (14 Watchguard body worn cameras)
13	Marysville	3	\$2,273	\$2,273	\$2,273	\$2,273	\$2,273	\$2,273	\$2,273		\$13,635	\$4,920	\$10,988	8/18/17 \$4,919.87 (6 VieVu LE4 body cameras)
14	Nevada City	2	\$1,515	\$1,515	\$1,515	\$1,515	\$1,515	\$1,515	\$1,515		\$9,090	\$7,575	\$3,030	2/6/18 \$4,545 (Body Camera Storage and Equipment cost for 2015-2017) 7/15/19 \$1,515 (Axon Body Camera Storage) 4/17/20 \$1,515.00 (Body Camera Storage Fees) 3/31/21 \$1,515.00 (Body Camera Storage Fees)
15	Oroville	4	\$3,030	\$3,030	\$3,030	\$3,030	\$3,030	\$3,030	\$3,030		\$18,180	\$12,120	\$9,090	9/23/16 \$3,010 (Video Storage Buffalo Terastation) 10/5/16 \$3,050 (5 VieVu LE4 body cameras) 11/20/17 \$1,174.00 (1 Tactical Armor-Ballistic Vest) 9/4/18 \$4,886 (20 VieVu LE5s body cameras)
16	Paradise	3	\$2,273	\$2,273	\$2,273	\$2,273	\$2,273	\$2,273	\$2,273		\$13,635	\$9,141	\$6,767	11/15/16 \$762.14 (5 flashlights) + \$1,477.28 (1 VieVu LE4 multi-dock station) 3/14/17 \$2,305.58 (Ballistic Vests) 5/3/19 \$1,895.50 (five load bearing vests) 8/7/20 \$2,700.41 (load bearing vests and flashlights)

NCCSIF POLICE RISK MANAGEMENT GRANT FUNDS HISTORIC USAGE REPORT

	Member	FY 14/15 \$50,000 Grant Camera Allocation	FY 15/16 \$50,000 Grant Fund Allocation	FY 16/17 \$50,000 Grant Fund Allocation	FY 17/18 \$50,000 Grant Fund Allocation	FY 18/19 \$50,000 Grant Fund Allocation	FY 19/20 \$50,000 Grant Fund Allocation	FY 20/21 \$50,000 Grant Fund Allocation	FY 21/22 \$50,000 Grant Fund Allocation	FY 21/22 Member Specific Police Fund	TOTAL GRANTS	YTD Reimbursements Made	REMAINING FUNDS 6/1/21	Reimbursement Notes/Plan Usage
17	Placerville*	2	\$1,515	\$1,515	\$1,515	\$1,515	\$1,515	\$1,515	\$1,515		\$9,090	\$10,105	\$500	12/28/17 \$3,970.32 (4 Tactical Armor-Ballistic Vests) 10/3/19 \$3,674.75 (Fitness Equipment) 11/18/20 \$1,077.49 (Treadmill) 9/29/21 \$1,382.87 (Kettlebell, Resistance bands, under desk bike pedal, weight bench, battle rope)
18	Red Bluff	3	\$2,273	\$2,273	\$2,273	\$2,273	\$2,273	\$2,273	\$2,273		\$13,635	\$11,359	\$4,548	2/17/17 \$1,473.74 (Apex Body cam storage remediation) 10/18/17 \$3,071.26 (5 VieVu LE4 body cameras) 1/25/18 Plan to use to purchase more BWC & future funds to replace old cameras. 3/27/20 Red Bluff PD BWC is fully funded; plan to use funds for fitness equipment.
19	Rio Vista	2	\$1,515	\$1,515	\$1,515	\$1,515	\$1,515	\$1,515	\$1,515		\$9,090	\$4,241	\$6,364	5/26/20 \$6,814.17 (Fitness Slam Balls, ball rack, cable machine, dumbbell rack, kettlebell racks, kettlebells and bumper rack)
20	Rocklin	4	\$3,030	\$3,030	\$3,030	\$3,030	\$3,030	\$3,030	\$3,030		\$18,180	\$18,180	\$3,030	11/16/17 \$4,241.15 (9 VieVu LE5 body cameras) 10/5/16 \$6,516.24 (4 VieVu LE4 body cameras, 1 LE4 multi-dock, 1 LE3 multi-dock) 1/3/19 \$5,603.76 (58 Lenslock bwc cameras and 25 in car dash cameras) 11/9/20 \$6.060 (Lenslock software)
21	Willows	2	\$1,515	\$1,515	\$1,515	\$1,515	\$1,515	\$1,515	\$1,515		\$9,090	\$8,595	\$2,010	6/18/18 \$2,130 for 18/19 Lexipol-Fire Policy Service annual fee 7/2/19 \$2,130 for 19/20 Lexipol-Fire Policy Service annual fee 7/1/20 \$2,157 for 20/21 Lexipol-Fire Policy Service annual fee 6/15/21 \$2,178 21/22 Lexipol-Fire Policy Service annual fee
22	Yuba City	4	\$3,030	\$3,030	\$3,030	\$3,030	\$3,030	\$3,030	\$3,030		\$18,180	\$9,759	\$11,451	5/5/17 \$6,060 (Data911 body-worn cameras) 7/12/21 \$3,699.05 (Treadmill)
	<b>TOTAL</b>	<b>58</b>	<b>\$49,995</b>	<b>\$49,995</b>	<b>\$49,995</b>	<b>\$49,995</b>	<b>\$49,995</b>	<b>\$49,995</b>	<b>\$49,995</b>	<b>\$405,000</b>	<b>\$299,970</b>	<b>\$217,372</b>	<b>\$132,593</b>	

\*Opted for Cash Allocation to purchase other than VieVu Camera  
Fund Allocation is based on cost of camera at \$757.50 each



## POLICE RISK MANAGEMENT GRANT REQUEST FORM

Member Entity Name: \_\_\_\_\_

Submitted by: \_\_\_\_\_ Submission Date: \_\_\_\_\_

Available Funds: \_\_\_\_\_ Requested Funds: \_\_\_\_\_

Please use the following lines to describe the proposed use for your funds, and be sure to attach any applicable backup data such as purchase order, receipts, etc.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(If additional room is needed, please attach separate sheet.)

Check Payable to: \_\_\_\_\_

Mail Check to: \_\_\_\_\_

\_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Please e-mail the completed form to: Jenna Wirkner at [Jenna.Wirkner@alliant.com](mailto:Jenna.Wirkner@alliant.com)

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### STAFF USE ONLY

Program Administrator Approval: \_\_\_\_\_

Total Amount Subject to Reimbursement: \$ \_\_\_\_\_



**Northern California Cities Self Insurance Fund  
Police Risk Management Committee Meeting  
November 4, 2021**

**Agenda Item E.2.**

**LEGISLATIVE UPDATE**

**INFORMATION ITEM**

**ISSUE:** There were many bills introduced in the California 2020-2021 Regular Session that were signed into law that will affect police agencies. There is also the House of Representatives bill H.R. 7120 that was passed by the House on 6/25/20 and moved to the Senate.

Members will receive an overview of the new legislation for discussion of its impacts on their agencies and provide direction regarding new initiatives, services, or training topics the new laws may engender.

**RECOMMENDATION:** Information only. Provide direction on new training topics or services.

**FISCAL IMPACT:** None.

**BACKGROUND:** The Program Administrators continue to monitor the impact of these new laws on police agencies.

**ATTACHMENT(S):**

1. FERGUSON, PRAET & SHERMAN – Client Alert September 30, 2021
2. SB 2. Bradford. Peace Officers: Certification: Civil Rights
3. SB 16. Skinner. Peace Officers: Release of Records
4. SB 98. McGuire. Public Peace: Media Access
5. AB 26. Holden. Peace Officers: Use of Force
6. AB 48. Gonzalez. Law Enforcement: Use of Force
7. AB 89. Jones-Sawyer. Peace Officers: Minimum Qualifications
8. AB 481. Chui. Peace Officers: Law Enforcement and state agencies: military equipment: funding, acquisition, and use.
9. AB 490. Gipson. Law Enforcement Agency Policies: Arrests: Positional Asphyxia
10. AB 603. McCarty. Law Enforcement Settlements and Judgments Reporting
11. AB 958. Gipson. Peace Officers: Law Enforcement Gangs
12. AB 1475. Low Law Enforcement: Social Media
13. H.R.7120 - George Floyd Justice in Policing Act of 2020



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CLIENT ALERT  
September 30, 2021

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TO: All Police Chiefs and Sheriffs

FROM: Bruce D. Praet, Attorney at Law

RE: **Major Police Reform Legislation Enacted**  
**Senate Bill 2 - Decertification of Peace Officers & Bane Act**  
**Senate Bill 16 - Expansion of PRA Access to Peace Officer Files**  
**Assem. Bill 603 - Mandatory Reporting of Judgments/Settlements**  
**Senate Bill 98 - Media Access to Closed Areas**  
**Assem. Bill 26 - Duty to Intercede Policy**  
**Assem. Bill 490 - "Positional Asphyxia" Policy**

**Senate Bill 2 - Decertification of Peace Officers & Bane Act**

The recent passage of Senate Bill 2 substantially expands California's continuing effort for police reform on multiple levels. Although I'll try to keep this update as brief and simple as possible, there are a lot of important changes.

**Bane Act [Civil Code § 52.1]**

Recognizing that states cannot impact the application of the very well reasoned federal doctrine of qualified immunity, California permits individuals to concurrently pursue constitutional claims under the so-called Bane Act for which qualified immunity is not available. Making it equally attractive to pursue such claims under both federal statutes and the Bane Act is the availability of an award of attorneys' fees to the prevailing party under both theories. Although the original version of Senate Bill 2 had sought to lower the standard for Bane Act claims from the current requirement of "specific intent", this standard remains applicable (for

now) thanks to substantial lobbying by law enforcement interests. [See: *Reese v. Cty. of Sacramento*, 888 F3d 1030 (9<sup>th</sup> Cir. 2018)] While it is likely that future legislation will attempt to further expand Bane Act claims, the only present changes are the elimination of state immunities under Govt. Code § 821.6 (malicious prosecution), 844.6 (injury by or to a prisoner) and 845.6 (failure to furnish medical care to a prisoner) to any Bane Act claims.

### **POST De-Certification of Peace Officers**

We are not at all opposed to the de-certification of bad cops on a state and even national level and now, commencing Jan. 1, 2022, all POST certificates will become the property of POST like any other professional license (e.g. no longer the property of an individual like a diploma). Penal Code § 13510.1. However, it is the complex system created by SB2 and going into effect no later than Jan. 1 2023, which greatly expands the powers of POST and which continues to reduce the protections of peace officer personnel records.

- POST will now establish an Accountability Division (hereafter “Division”) which will be charged with investigating potentially disqualifying allegations against all peace officers whether obtained from an agency or directly from members of the public. [Penal Code § 13509.5] The Division will be permitted to re-open certain qualifying cases from any agency [See: 13510.8 (g)] and the employing agency’s disposition will not preclude de-certification proceedings.  
13510.8(c)(6)
- Correspondingly, Penal Code § 13510.9 will require all agencies to notify POST within ten (10) days of all allegations which might qualify for disqualification as set forth in 13510.8 [see below for qualifying allegations] regardless of the status of the agency’s own investigation. Each agency must also provide POST with its entire IA investigation.
- Agencies will also be required to report to POST all recommendations of any oversight board or civilian review panel regarding qualifying allegations regardless of whether discipline was imposed.

- Agencies must also notify POST of any civil judgment or settlement of any qualifying claim against an officer or the agency.
- Conversely, POST must notify any agency of any Division investigation of one of its officers (unless it would interfere with the investigation). POST must also notify the agency of any findings, including any temporary suspension of an officer's certificate. [POST must also notify the local DA of officer status under certain qualifying investigations.] 13510.9 (f)
- All agencies will also now be required to complete all IA's regardless of whether an officer resigns, retires or otherwise separates prior to completion. 13510.8(c)(1)
- The Governor will now appoint a 9 member Advisory Board (hereafter "Board") which may recommend that the POST Division investigate any officer for potential de-certification. Penal Code § 13509.6. Here's the interesting part: The Board will consist of one current or former command rank officer, one current or former IA management officer, two (non-cop) members of the public with academic or non-profit "police accountability" experience, two (non-cop) members of the public from community based "police accountability" organizations, two (non-cop) members of the public subjected to excessive force or family members of anyone killed by the police, and one (non-cop) attorney with police oversight experience. Although these folks will be required to undergo a whole 40 hours of training, this Board seems pretty heavily weighted against law enforcement.
- If the Division determines that an officer's certificate should be revoked or even suspended, it must notify the officer in writing who may then appeal to the Board within thirty (30) days. Penal Code § 13510.85. The Board shall hold public hearings on such appeals no less than four times per year and support its recommendations by "clear and convincing" evidence.

- Thereafter POST must adopt or modify an Board recommendations by at least a 2/3 vote under the same evidentiary burden.
- Any appeals beyond the POST commission will be before an Administrative Law Judge.

OK, so now what will qualify for de-certification:

By Jan. 1, 2023, Penal Code § 13510.8 will require POST to define “serious misconduct” which will lead to the de-certification of officers and must minimally include (remember, these need NOT be sustained by the agency) :

1. Dishonesty (including false reports, false statements, tampering with evidence or BWC data to conceal misconduct, etc.)
2. Abuse of Power (including witness intimidation or false arrest)
3. Physical abuse or excessive force.
4. Sexual assault (as defined in 832.7 - NOTE: The Legislature didn't bother to clarify this definition which now still includes “any on duty sex” - e.g. presumably even consensual sex with a significant other.)
5. Bias toward any protected class.
6. Egregious or repeated violations of any law inconsistent with a peace officer's duties (whatever that means?).
7. Participation in a law enforcement gang as defined.
8. Failure to cooperate with any IA or POST investigation except when exercising constitutional rights.
9. Failure to intervene when present and observing clear excessive force by another officer.

Also qualifying for de-certification will be conviction or plea for any felony even if subsequently expunged or vacated unless reversed by a finding of factual innocence by a court. Effective Jan. 1, 2022, such convictions shall preclude re-certification. Government Code § 1029

- DOJ will be charged with notifying POST of all qualifying convictions and such information will thereafter become public.
- As soon as any officer is either arrested for or placed on administrative leave for any offense qualifying under 13510.8, POST will immediately suspend an officer's certificate pending a final determination. 13510.8(d)

In its continuing effort to promote “transparency” by expanding the types of peace officer personnel records now subject to public disclosure, Penal Code § 832.7 now expressly adds POST to those authorized to access confidential peace officer personnel records and continues to expand those categories previously made public under AB1421(i.e. OIS, GBI\*, sustained dishonesty or sexual assault) to also include:

[\*NOTE: Although the Legislature could have provided clarity to the current ambiguous definition of GBI, no such effort was made.]

- Any sustained finding of excessive or unreasonable force.
- Any sustained finding that an officer in discriminatory prejudicial conduct based on race, religion, sexual or gender expression, mental or physical disability, etc. (including statements, writings, online posts, gestures, etc.)
- Any sustained finding of an unlawful search or arrest.

[NOTE: “Sustained” now includes the findings of any oversight agency even if different from the agency findings.]

These records will now become public even if the officer resigns or retires prior to an agency's completion of its investigation. 832.7(b)(1)(E)(3). Without addressing all of the nuances allowing for various production delays, the burden

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will remain on the agency to justify such conditions. [NOTE: As we've emphasized in the past, PRA requests must not be ignored or taken lightly since substantial legal fees may be imposed for failure to comply.]

While agencies will still be required to redact personal information, whistleblowers, complainants, victims and witnesses, the agency may only charge actual duplication fees and may NOT charge for editing or redacting records.

For those agencies utilizing in-house or outside legal counsel to conduct IA investigations, "factual" information and billing records will NOT be protected by the attorney-client privilege.

### **Senate Bill 16 - Expansion of PRA Access to Peace Officer Files**

While all public complaints must still be retained for no less than five (5) years under Penal Code 832.5, "sustained" complaints must now be retained no less than fifteen (15) years.

Further expanding the elimination of confidentiality for peace officer personnel files, SB16 also adds another category of misconduct which will now be subject to PRA disclosure (i.e. no need for Pitchess motions any more):

- Any sustained finding that an officer engaged in verbal comments, writings, online posts, gestures, etc. involving prejudice or discrimination based on any protected class (including gender identity, gender expression, etc.)

### **Assem. Bill 603 - Mandatory Reporting of Judgments/Settlements**

Following a legislative declaration that George Floyd was murdered by police and that Californians have experienced decades of "horrific civil rights violations, injuries and death at the hands of peace officers", AB603 is adding Government Code 12525.4 to require:

- Every law enforcement agency (including PD's, SO's and CHP) must post an annual report on its website no later than February 1<sup>st</sup> of each year listing all civil judgments AND settlements resulting from allegations of use of force, false arrest, etc. including the following:

- The court in which the action was filed.
- Name of Plaintiff's law firm
- Name of law firm defending the agency/officers
- Date action was filed.
- Whether police misconduct was alleged.
- Date, manner and amount of resolution.

### **Senate Bill 98 - Media Access to Closed Areas**

In a rehash and only slightly watered down version of last year's attempt to allow unrestricted media access to closed areas, Penal Code 409.7 is now added to:

- Allow any "duly authorized media representative" (unfortunately not defined) access to any closed area at any demonstration, march, protest or rally where individuals are engaging in constitutionally protected activities. [Presumably, but not expressly stated, this access will no longer be permitted if individuals are no longer "engaged in protected activities - e.g. unlawful assembly, riot, looting, etc.]
- Officer may not intentionally interfere with or obstruct such media reps from gathering information for the public and they may not be cited for failure to disperse, curfew or PC 148. If they are detained, they must be allowed to immediately contact a supervisory officer to challenge the detention unless it would be "impossible" due to circumstances.

### **Assem. Bill 26 - Duty to Intercede Policy**

Expanding upon last year's [SB230] additions to Government Code 7286 requiring agency policies to include a laundry list of force related issues, AB26 adds the following policy requirements:

- An expanded definition of "intercede" to include physically stopping "excessive force" [now defined consistent with Penal Code 835a], documenting with BWC (if available), de-escalating other officer's use of force, immediate reporting any refusal by involved officers in order to "establish a duty".



- Prohibiting retaliation against any officer who reports any misconduct by another officer.
- Any officer found to have used excessive force may not train any other officer for at least three (3) years and any (trained) officer who fails to intercede must receive equal or greater discipline than the officer using excessive force.

### **Assem. Bill 490 - “Positional Asphyxia” Policy**

After already prohibiting agencies from “authorizing” the carotid restraint or choke holds, Government Code 7286.5 now prohibits agencies from “authorizing” any technique or transport method involving a “substantial risk of positional asphyxia”. Although this legislation seeks to define “positional asphyxia” as “situating a person in a manner that compresses their airway and reduces the ability to sustain adequate breathing”, positional asphyxia is a highly disputed condition not even recognized by most leading medical experts. Moreover in most so-called incidents of “positional asphyxia”, the actual cause of death is attributable to cardiac arrest due to drug/alcohol intoxication, enlarged hearts and other conditions. It is also completely impractical to avoid situating a combative subject in a position which will not compress or reduce their ability to breath.

While we fully support training and efforts by officers to monitor suspects for signs of asphyxia or any other sort of medical distress and utilizing transportation methods which minimize any risk to an arrestee, legislating a controversial subject like “positional asphyxia” is ill-advised.

While there are several more detailed provisions under these new statutory schemes, this outline will hopefully provide you with a basic overview of the upcoming de-certification system, the continuing elimination of protections for peace officer personnel file and other police reform legislation. As always, we will continue to bring you the latest legal developments impacting your agencies, but you are encouraged to consult with your own legal counsel for specific guidance. If you should have any questions about this or any other legal issues, please don’t hesitate to call us at (714) 953-5300 (no charge). Lexipol will be incorporating all of these changes for subscribing agencies well in advance of effective dates, but if you have any questions about Lexipol, please call (949) 309-3894 or (844) 312-9500 or visit the Lexipol website at [www.lexipol.com](http://www.lexipol.com).

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**Senate Bill No. 2**  
CHAPTER 409

An act to amend Section 52.1 of the Civil Code, to amend Section 1029 of the Government Code, and to amend Sections 832.7, 13503, 13506, 13510, 13510.1, and 13512 of, to amend the heading of Article 2 (commencing with Section 13510) of Chapter 1 of Title 4 of Part 4 of, and to add Sections 13509.5, 13509.6, 13510.8, 13510.85, and 13510.9 to, the Penal Code, relating to public employment.

[Approved by Governor September 30, 2021. Filed with Secretary of State September 30, 2021.]

legislative counsel's digest

SB 2, Bradford. Peace officers: certification: civil rights.

(1) Under existing law, the Tom Bane Civil Rights Act, if a person or persons, whether or not acting under color of law, interferes or attempts to interfere, by threats, intimidation, or coercion, with the exercise or enjoyment by any individual or individuals of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state, the Attorney General, or any district attorney or city attorney, is authorized to bring a civil action for injunctive and other appropriate equitable relief in the name of the people of the State of California, in order to protect the exercise or enjoyment of the right or rights secured. Existing law also authorizes an action brought by the Attorney General, or any district attorney or city attorney, to seek a civil penalty of \$25,000. Existing law also allows an individual whose exercise or enjoyment of rights has been interfered with to prosecute a civil action for damages on their own behalf.

The bill would eliminate certain immunity provisions for peace officers and custodial officers, or public entities employing peace officers or custodial officers sued under the act.

(2) Existing laws defines persons who are peace officers and the entities authorized to appoint them. Existing law requires certain minimum training requirements for peace officers including the completion of a basic training course, as specified. Existing law prescribes certain minimum standards for a person to be appointed as a peace officer, including moral character and physical and mental condition, and certain disqualifying factors for a person to be employed as a peace officer, including a felony conviction.

This bill would prohibit a person who has been convicted of a felony, as specified, from regaining eligibility for peace officer employment based upon any later order of the court setting aside, vacating, withdrawing, expunging or otherwise dismissing or reversing the conviction, unless the court finds the person to be factually innocent of the crime for which they

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were convicted at the time of entry of the order. The bill would disqualify a person from being employed as a peace officer if that person has been convicted of, or has been adjudicated in an administrative, military, or civil judicial process as having committed, a violation of certain specified crimes against public justice, including the falsification of records, bribery, or perjury. The bill would also disqualify any person who has been certified as a peace officer by the Commission on Peace Officer Standards and Training and has surrendered that certification or had that certification revoked by the commission, or has been denied certification. The bill would disqualify any person previously employed in law enforcement in any state or United States territory or by the federal government, whose name is listed in the national decertification index, or any other database designated by the federal government, or who engaged in serious misconduct that would have resulted in their certification being revoked in this state. The bill would require a law enforcement agency employing certain peace officers to employ only individuals with a current, valid certification or pending certification.

(3) Existing law establishes the Commission on Peace Officer Standards and Training to set minimum standards for the recruitment and training of peace officers and to develop training courses and curriculum. Existing law authorizes the commission to establish a professional certificate program that awards basic, intermediate, advanced, supervisory, management, and executive certificates on the basis of a combination of training, education, experience, and other prerequisites, for the purpose of fostering the professionalization, education, and experience necessary to adequately accomplish the general police service duties performed by peace officers. Existing law authorizes the commission to cancel a certificate that was awarded in error or obtained through misrepresentation or fraud, but otherwise prohibits the commission from canceling a certificate that has properly been issued.

This bill would require the Department of Justice to provide the commission with necessary disqualifying felony and misdemeanor conviction data for all persons known by the department to be current or former peace officers, as specified. The bill would grant the commission the power to investigate and determine the fitness of any person to serve as a peace officer in the state. The bill would direct the commission to issue or deny certification, which includes a basic certificate or proof of eligibility, to a peace officer in accordance with specified criteria. The bill would require the commission to issue a proof of eligibility or basic certificate, as specified, to certain persons employed as a peace officer on January 1, 2022, who do not otherwise possess a certificate. The bill would declare certificates or proof of eligibility awarded by the commission to be property of the commission and would authorize the commission to suspend or revoke a proof of eligibility or certificate on specified grounds, including the use of excessive force, sexual assault, making a false arrest, or participating in a law enforcement gang, as defined.

The bill would create the Peace Officer Standards Accountability Division within the commission to review investigations conducted by law

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enforcement agencies and to conduct additional investigations into serious misconduct that may provide grounds for suspension or revocation of a peace officer's certification, as specified. The bill would require the division to review grounds for decertification and make findings as to whether grounds for action against an officer's certification exist. The bill would require the division to notify the officer subject to decertification of their findings and allow the officer to request review. The bill would also create the Peace Officer Standards Accountability Advisory Board with 9 members to be appointed as specified. The bill would require the board to hold public meetings to review the findings after an investigation made by the division and to make a recommendation to the commission. The bill would require the commission to review the recommendation made by the board based on whether there is evidence that reasonably supports the board's conclusion that misconduct has been established and, if action is to be taken against an officer's certification, return the determination to the division to commence formal proceedings consistent with the Administrative Procedure Act. The bill would require the commission to notify the employing agency and the district attorney of the county in which the officer is employed of this determination, as specified.

The bill would make all records related to the revocation of a peace officer's certification public and would require that records of an investigation be retained for 30 years.

The bill would require an agency employing peace officers to report to the commission the employment, appointment, or separation from employment of a peace officer, any complaint, charge, allegation, or investigation into the conduct of a peace officer that could render the officer subject to suspension or revocation, findings by civil oversight entities, and civil judgements that could affect the officer's certification. In case of a separation from employment or appointment, the bill would require each agency to execute an affidavit-of-separation form adopted by the commission describing the reason for separation. The bill would require the affidavit to be signed under penalty of perjury. By creating a new crime, this bill would impose a state-mandated local program.

The bill would require the board to report annually on the activities of the division, board, and commission, relating to the certification program, including the number of applications for certification, the events reported, the number of investigations conducted, and the number of certificates surrendered or revoked.

By imposing new requirements on local agencies, this bill would impose a state-mandated local program.

This bill would incorporate additional changes to Section 832.7 of the Penal Code proposed by SB 16 to be operative only if this bill and SB 16 are enacted and this bill is enacted last.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

*The people of the State of California do enact as follows:*

SECTION 1. This act shall be known as the Kenneth Ross Jr. Police Decertification Act of 2021.

SEC. 2. The Legislature finds and declares all of the following:

(a) As the Legislature and courts of this state have repeatedly recognized, police officers, sheriffs' deputies, and other peace officers hold extraordinary powers to detain, to search, to arrest, and to use force, including deadly force. The state has a correspondingly strong interest in ensuring that peace officers do not abuse their authority, including by ensuring that individual peace officers who abuse their authority are held accountable.

(b) California is one of the last few states that does not have a process for revoking peace officer certificates as a result of misconduct. Nationwide, 46 states have the authority to decertify peace officers. Four states do not have decertification authority: California, Hawaii, New Jersey, and Rhode Island.

(c) In 2017, 172 Californians were killed by the police, and our state's police departments have some of the highest rates of killings in the nation. Of the unarmed people California police killed, three out of four were people of color. Black and Latino families and communities of color are disproportionately vulnerable to police violence, creating generations of individual and community trauma.

(d) More than 200 professions and trades, including doctors, lawyers, and contractors are licensed or certified by the State of California, in order to maintain professional standards and to protect the public. Law enforcement officers are entrusted with extraordinary powers including the power to carry a firearm, to stop and search, to arrest, and to use force. They must be held to the highest standards of accountability, and the state should ensure that officers who abuse their authority by committing serious or repeated misconduct, or otherwise demonstrate a lack of fitness to serve as peace officers, are removed from the streets.

(e) To ensure public trust that the system for decertification will hold peace officers accountable for misconduct and that California's standards for law enforcement reflect community values, it is the intent of the Legislature that the entities charged with investigating and rendering decisions on decertification shall be under independent civilian control and maintain independence from law enforcement.

(f) Civil courts provide a vital avenue for individuals harmed by violations of the law by peace officers to find redress and accountability. But the

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judicially created doctrine of qualified immunity in federal courts, and broad interpretations of California law immunities and restrictive views on the cause of action under the Tom Bane Civil Rights Act, too often lead to officers escaping accountability in civil courts, even when they have broken the law or violated the rights of members of the public. The civil court process should ensure that peace officers are treated fairly, but that they can be held accountable for violations of the law that harm others, especially the use of excessive force.

**SEC. 3.** Section 52.1 of the Civil Code is amended to read:

52.1. (a) This section shall be known, and may be cited, as the Tom Bane Civil Rights Act.

(b) If a person or persons, whether or not acting under color of law, interferes by threat, intimidation, or coercion, or attempts to interfere by threat, intimidation, or coercion, with the exercise or enjoyment by any individual or individuals of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state, the Attorney General, or any district attorney or city attorney may bring a civil action for injunctive and other appropriate equitable relief in the name of the people of the State of California, in order to protect the peaceable exercise or enjoyment of the right or rights secured. An action brought by the Attorney General, any district attorney, or any city attorney may also seek a civil penalty of twenty-five thousand dollars (\$25,000). If this civil penalty is requested, it shall be assessed individually against each person who is determined to have violated this section and the penalty shall be awarded to each individual whose rights under this section are determined to have been violated.

(c) Any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, as described in subdivision (b), may institute and prosecute in their own name and on their own behalf a civil action for damages, including, but not limited to, damages under Section 52, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured, including appropriate equitable and declaratory relief to eliminate a pattern or practice of conduct as described in subdivision (b).

(d) An action brought pursuant to subdivision (b) or (c) may be filed either in the superior court for the county in which the conduct complained of occurred or in the superior court for the county in which a person whose conduct complained of resides or has their place of business. An action brought by the Attorney General pursuant to subdivision (b) also may be filed in the superior court for any county wherein the Attorney General has an office, and in that case, the jurisdiction of the court shall extend throughout the state.

(e) If a court issues a temporary restraining order or a preliminary or permanent injunction in an action brought pursuant to subdivision (b) or (c), ordering a defendant to refrain from conduct or activities, the order

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issued shall include the following statement: VIOLATION OF THIS ORDER IS A CRIME PUNISHABLE UNDER SECTION 422.77 OF THE PENAL CODE.

(f) The court shall order the plaintiff or the attorney for the plaintiff to deliver, or the clerk of the court to mail, two copies of any order, extension, modification, or termination thereof granted pursuant to this section, by the close of the business day on which the order, extension, modification, or termination was granted, to each local law enforcement agency having jurisdiction over the residence of the plaintiff and any other locations where the court determines that acts of violence against the plaintiff are likely to occur. Those local law enforcement agencies shall be designated by the plaintiff or the attorney for the plaintiff. Each appropriate law enforcement agency receiving any order, extension, or modification of any order issued pursuant to this section shall serve forthwith one copy thereof upon the defendant. Each appropriate law enforcement agency shall provide to any law enforcement officer responding to the scene of reported violence, information as to the existence of, terms, and current status of, any order issued pursuant to this section.

(g) A court shall not have jurisdiction to issue an order or injunction under this section, if that order or injunction would be prohibited under Section 527.3 of the Code of Civil Procedure.

(h) An action brought pursuant to this section is independent of any other action, remedy, or procedure that may be available to an aggrieved individual under any other provision of law, including, but not limited to, an action, remedy, or procedure brought pursuant to Section 51.7.

(i) In addition to any damages, injunction, or other equitable relief awarded in an action brought pursuant to subdivision (c), the court may award the petitioner or plaintiff reasonable attorney's fees.

(j) A violation of an order described in subdivision (e) may be punished either by prosecution under Section 422.77 of the Penal Code, or by a proceeding for contempt brought pursuant to Title 5 (commencing with Section 1209) of Part 3 of the Code of Civil Procedure. However, in any proceeding pursuant to the Code of Civil Procedure, if it is determined that the person proceeded against is guilty of the contempt charged, in addition to any other relief, a fine may be imposed not exceeding one thousand dollars (\$1,000), or the person may be ordered imprisoned in a county jail not exceeding six months, or the court may order both the imprisonment and fine.

(k) Speech alone is not sufficient to support an action brought pursuant to subdivision (b) or (c), except upon a showing that the speech itself threatens violence against a specific person or group of persons; and the person or group of persons against whom the threat is directed reasonably fears that, because of the speech, violence will be committed against them or their property and that the person threatening violence had the apparent ability to carry out the threat.

(l) No order issued in any proceeding brought pursuant to subdivision (b) or (c) shall restrict the content of any person's speech. An order

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restricting the time, place, or manner of any person's speech shall do so only to the extent reasonably necessary to protect the peaceable exercise or enjoyment of constitutional or statutory rights, consistent with the constitutional rights of the person sought to be enjoined.

(m) The rights, penalties, remedies, forums, and procedures of this section shall not be waived by contract except as provided in Section 51.7.

(n) The state immunity provisions provided in Sections 821.6, 844.6, and 845.6 of the Government Code shall not apply to any cause of action brought against any peace officer or custodial officer, as those terms are defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or directly against a public entity that employs a peace officer or custodial officer, under this section.

(o) Sections 825, 825.2, 825.4, and 825.6 of the Government Code, providing for indemnification of an employee or former employee of a public entity, shall apply to any cause of action brought under this section against an employee or former employee of a public entity.

**SEC. 4. Section 1029 of the Government Code is amended to read:**

1029. (a) Except as provided in subdivision (b), (c), (d), or (e), each of the following persons is disqualified from holding office as a peace officer or being employed as a peace officer of the state, county, city, city and county or other political subdivision, whether with or without compensation, and is disqualified from any office or employment by the state, county, city, city and county or other political subdivision, whether with or without compensation, which confers upon the holder or employee the powers and duties of a peace officer:

(1) Any person who has been convicted of a felony.

(2) Any person who has been convicted of any offense in any other jurisdiction which would have been a felony if committed in this state.

(3) Any person who has been discharged from the military for committing an offense, as adjudicated by a military tribunal, which would have been a felony if committed in this state.

(4) (A) Any person who, after January 1, 2004, has been convicted of a crime based upon a verdict or finding of guilt of a felony by the trier of fact, or upon the entry of a plea of guilty or nolo contendere to a felony. This paragraph applies regardless of whether, pursuant to subdivision (b) of Section 17 of the Penal Code, the court declares the offense to be a misdemeanor or the offense becomes a misdemeanor by operation of law.

(B) For purposes of this paragraph, a person has been "convicted of a crime" immediately upon entry of a plea of guilty or nolo contendere to, or upon being found guilty by a trier of fact of, a felony offense, including an offense that may be charged as a misdemeanor or felony and that was charged as a felony at the time of the conviction.

(C) Effective January 1, 2022, any person who has been convicted of a crime in accordance with this paragraph shall not regain eligibility for peace officer employment based upon the nature of any sentence ordered or imposed. In addition, no such person shall regain eligibility for peace officer employment based upon any later order of the court setting aside, vacating,

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withdrawing, expunging or otherwise dismissing or reversing the conviction, unless the court finds the person to be factually innocent of the crime for which they were convicted at the time of entry of the order.

(5) Any person who has been charged with a felony and adjudged by a superior court to be mentally incompetent under Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code.

(6) Any person who has been found not guilty by reason of insanity of any felony.

(7) Any person who has been determined to be a mentally disordered sex offender pursuant to Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(8) Any person adjudged addicted or in danger of becoming addicted to narcotics, convicted, and committed to a state institution as provided in Section 3051 of the Welfare and Institutions Code.

(9) Any person who, following exhaustion of all available appeals, has been convicted of, or adjudicated through an administrative, military, or civil judicial process requiring not less than clear and convincing evidence, including a hearing that meets the requirements of the administrative adjudication provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2), as having committed, any act that is a violation of Section 115, 115.3, 116, 116.5, or 117 of, or of any offense described in Chapter 1 (commencing with Section 92), Chapter 5 (commencing with Section 118), Chapter 6 (commencing with Section 132), or Chapter 7 (commencing with Section 142) of Title 7 of Part 1 of the Penal Code, including any act committed in another jurisdiction that would have been a violation of any of those sections if committed in this state.

(10) Any person who has been issued the certification described in Section 13510.1 of the Penal Code, and has had that certification revoked by the Commission on Peace Officer Standards and Training, has voluntarily surrendered that certification pursuant to subdivision (f) of Section 13510.8, or having met the minimum requirement for issuance of certification, has been denied issuance of certification.

(11) Any person previously employed in law enforcement in any state or United States territory or by the federal government, whose name is listed in the National Decertification Index of the International Association of Directors of Law Enforcement Standards and Training or any other database designated by the federal government whose certification as a law enforcement officer in that jurisdiction was revoked for misconduct, or who, while employed as a law enforcement officer, engaged in serious misconduct that would have resulted in their certification being revoked by the commission if employed as a peace officer in this state.

(b) (1) A plea of guilty to a felony pursuant to a deferred entry of judgment program as set forth in Sections 1000 to 1000.4, inclusive, of the Penal Code shall not alone disqualify a person from being a peace officer unless a judgment of guilty is entered pursuant to Section 1000.3 of the Penal Code.

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(2) A person who pleads guilty or nolo contendere to, or who is found guilty by a trier of fact of, an alternate felony-misdemeanor drug possession offense and successfully completes a program of probation pursuant to Section 1210.1 of the Penal Code shall not be disqualified from being a peace officer solely on the basis of the plea or finding if the court deems the offense to be a misdemeanor or reduces the offense to a misdemeanor.

(c) Any person who has been convicted of a felony, other than a felony punishable by death, in this state or any other state, or who has been convicted of any offense in any other state which would have been a felony, other than a felony punishable by death, if committed in this state, and who demonstrates the ability to assist persons in programs of rehabilitation may hold office and be employed as a parole officer of the Department of Corrections and Rehabilitation or the Division of Juvenile Justice, or as a probation officer in a county probation department, if the person has been granted a full and unconditional pardon for the felony or offense of which they were convicted. Notwithstanding any other provision of law, the Department of Corrections and Rehabilitation or the Division of Juvenile Justice, or a county probation department, may refuse to employ that person regardless of their qualifications.

(d) This section does not limit or curtail the power or authority of any board of police commissioners, chief of police, sheriff, mayor, or other appointing authority to appoint, employ, or deputize any person as a peace officer in time of disaster caused by flood, fire, pestilence or similar public calamity, or to exercise any power conferred by law to summon assistance in making arrests or preventing the commission of any criminal offense.

(e) This section does not prohibit any person from holding office or being employed as a superintendent, supervisor, or employee having custodial responsibilities in an institution operated by a probation department, if at the time of the person's hire a prior conviction of a felony was known to the person's employer, and the class of office for which the person was hired was not declared by law to be a class prohibited to persons convicted of a felony, but as a result of a change in classification, as provided by law, the new classification would prohibit employment of a person convicted of a felony.

(f) The Department of Justice shall supply the commission with necessary disqualifying felony and misdemeanor conviction data for all persons known by the department to be current or former peace officers. The commission shall be permitted to use the information for decertification purposes. The data, once received by the commission, shall be made available for public inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), including documentation of the person's appointment, promotion, and demotion dates, as well as certification or licensing status and the reason or disposition for the person leaving service.

**SEC. 5. Section 832.7 of the Penal Code is amended to read:**

832.7. (a) Except as provided in subdivision (b), the personnel records of peace officers and custodial officers and records maintained by any state

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or local agency pursuant to Section 832.5, or information obtained from these records, are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code. This section shall not apply to investigations or proceedings concerning the conduct of peace officers or custodial officers, or an agency or department that employs those officers, conducted by a grand jury, a district attorney's office, the Attorney General's office, or the Commission on Peace Officer Standards and Training.

(b) (1) Notwithstanding subdivision (a), subdivision (f) of Section 6254 of the Government Code, or any other law, the following peace officer or custodial officer personnel records and records maintained by any state or local agency shall not be confidential and shall be made available for public inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code):

(A) A record relating to the report, investigation, or findings of any of the following:

(i) An incident involving the discharge of a firearm at a person by a peace officer or custodial officer.

(ii) An incident in which the use of force by a peace officer or custodial officer against a person resulted in death, or in great bodily injury.

(B) (i) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in sexual assault involving a member of the public.

(ii) As used in this subparagraph, "sexual assault" means the commission or attempted initiation of a sexual act with a member of the public by means of force, threat, coercion, extortion, offer of leniency or other official favor, or under the color of authority. For purposes of this subparagraph, the propositioning for or commission of any sexual act while on duty is considered a sexual assault.

(iii) As used in this subparagraph, "member of the public" means any person not employed by the officer's employing agency and includes any participant in a cadet, explorer, or other youth program affiliated with the agency.

(C) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency of dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including, but not limited to, any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence.

(2) Records that shall be released pursuant to this subdivision include all investigative reports; photographic, audio, and video evidence; transcripts or recordings of interviews; autopsy reports; all materials compiled and presented for review to the district attorney or to any person or body charged

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with determining whether to file criminal charges against an officer in connection with an incident, or whether the officer's action was consistent with law and agency policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take; documents setting forth findings or recommended findings; and copies of disciplinary records relating to the incident, including any letters of intent to impose discipline, any documents reflecting modifications of discipline due to the Skelly or grievance process, and letters indicating final imposition of discipline or other documentation reflecting implementation of corrective action.

(3) A record from a separate and prior investigation or assessment of a separate incident shall not be released unless it is independently subject to disclosure pursuant to this subdivision.

(4) If an investigation or incident involves multiple officers, information about allegations of misconduct by, or the analysis or disposition of an investigation of, an officer shall not be released pursuant to subparagraph (B) or (C) of paragraph (1), unless it relates to a sustained finding against that officer. However, factual information about that action of an officer during an incident, or the statements of an officer about an incident, shall be released if they are relevant to a sustained finding against another officer that is subject to release pursuant to subparagraph (B) or (C) of paragraph (1).

(5) An agency shall redact a record disclosed pursuant to this section only for any of the following purposes:

(A) To remove personal data or information, such as a home address, telephone number, or identities of family members, other than the names and work-related information of peace and custodial officers.

(B) To preserve the anonymity of complainants and witnesses.

(C) To protect confidential medical, financial, or other information of which disclosure is specifically prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about misconduct and serious use of force by peace officers and custodial officers.

(D) Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the peace officer, custodial officer, or another person.

(6) Notwithstanding paragraph (5), an agency may redact a record disclosed pursuant to this section, including personal identifying information, where, on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosure of the information.

(7) An agency may withhold a record of an incident described in subparagraph (A) of paragraph (1) that is the subject of an active criminal or administrative investigation, in accordance with any of the following:

(A) (i) During an active criminal investigation, disclosure may be delayed for up to 60 days from the date the use of force occurred or until the district attorney determines whether to file criminal charges related to the use of

force, whichever occurs sooner. If an agency delays disclosure pursuant to this clause, the agency shall provide, in writing, the specific basis for the agency's determination that the interest in delaying disclosure clearly outweighs the public interest in disclosure. This writing shall include the estimated date for disclosure of the withheld information.

(ii) After 60 days from the use of force, the agency may continue to delay the disclosure of records or information if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against an officer who used the force. If an agency delays disclosure pursuant to this clause, the agency shall, at 180-day intervals as necessary, provide, in writing, the specific basis for the agency's determination that disclosure could reasonably be expected to interfere with a criminal enforcement proceeding. The writing shall include the estimated date for the disclosure of the withheld information. Information withheld by the agency shall be disclosed when the specific basis for withholding is resolved, when the investigation or proceeding is no longer active, or by no later than 18 months after the date of the incident, whichever occurs sooner.

(iii) After 60 days from the use of force, the agency may continue to delay the disclosure of records or information if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against someone other than the officer who used the force. If an agency delays disclosure under this clause, the agency shall, at 180-day intervals, provide, in writing, the specific basis why disclosure could reasonably be expected to interfere with a criminal enforcement proceeding, and shall provide an estimated date for the disclosure of the withheld information. Information withheld by the agency shall be disclosed when the specific basis for withholding is resolved, when the investigation or proceeding is no longer active, or by no later than 18 months after the date of the incident, whichever occurs sooner, unless extraordinary circumstances warrant continued delay due to the ongoing criminal investigation or proceeding. In that case, the agency must show by clear and convincing evidence that the interest in preventing prejudice to the active and ongoing criminal investigation or proceeding outweighs the public interest in prompt disclosure of records about use of serious force by peace officers and custodial officers. The agency shall release all information subject to disclosure that does not cause substantial prejudice, including any documents that have otherwise become available.

(iv) In an action to compel disclosure brought pursuant to Section 6258 of the Government Code, an agency may justify delay by filing an application to seal the basis for withholding, in accordance with Rule 2.550 of the California Rules of Court, or any successor rule thereto, if disclosure of the written basis itself would impact a privilege or compromise a pending investigation.

(B) If criminal charges are filed related to the incident in which force was used, the agency may delay the disclosure of records or information until a verdict on those charges is returned at trial or, if a plea of guilty or

no contest is entered, the time to withdraw the plea pursuant to Section 1018.

(C) During an administrative investigation into an incident described in subparagraph (A) of paragraph (1), the agency may delay the disclosure of records or information until the investigating agency determines whether the use of force violated a law or agency policy, but no longer than 180 days after the date of the employing agency's discovery of the use of force, or allegation of use of force, by a person authorized to initiate an investigation, or 30 days after the close of any criminal investigation related to the peace officer or custodial officer's use of force, whichever is later.

(8) A record of a civilian complaint, or the investigations, findings, or dispositions of that complaint, shall not be released pursuant to this section if the complaint is frivolous, as defined in Section 128.5 of the Code of Civil Procedure, or if the complaint is unfounded.

(c) Notwithstanding subdivisions (a) and (b), a department or agency shall release to the complaining party a copy of the party's own statements at the time the complaint is filed.

(d) Notwithstanding subdivisions (a) and (b), a department or agency that employs peace or custodial officers may disseminate data regarding the number, type, or disposition of complaints (sustained, not sustained, exonerated, or unfounded) made against its officers if that information is in a form which does not identify the individuals involved.

(e) Notwithstanding subdivisions (a) and (b), a department or agency that employs peace or custodial officers may release factual information concerning a disciplinary investigation if the officer who is the subject of the disciplinary investigation, or the officer's agent or representative, publicly makes a statement that they know to be false concerning the investigation or the imposition of disciplinary action. Information may not be disclosed by the peace or custodial officer's employer unless the false statement was published by an established medium of communication, such as television, radio, or a newspaper. Disclosure of factual information by the employing agency pursuant to this subdivision is limited to facts contained in the officer's personnel file concerning the disciplinary investigation or imposition of disciplinary action that specifically refute the false statements made public by the peace or custodial officer or their agent or representative.

(f) (1) The department or agency shall provide written notification to the complaining party of the disposition of the complaint within 30 days of the disposition.

(2) The notification described in this subdivision shall not be conclusive or binding or admissible as evidence in any separate or subsequent action or proceeding brought before an arbitrator, court, or judge of this state or the United States.

(g) This section does not affect the discovery or disclosure of information contained in a peace or custodial officer's personnel file pursuant to Section 1043 of the Evidence Code.

(h) This section does not supersede or affect the criminal discovery process outlined in Chapter 10 (commencing with Section 1054) of Title 6

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of Part 2, or the admissibility of personnel records pursuant to subdivision (a), which codifies the court decision in *Pitchess v. Superior Court* (1974) 11 Cal.3d 531.

(i) Nothing in this chapter is intended to limit the public's right of access as provided for in *Long Beach Police Officers Association v. City of Long Beach* (2014) 59 Cal.4th 59.

**SEC. 5.5. Section 832.7 of the Penal Code is amended to read:**

832.7. (a) Except as provided in subdivision (b), the personnel records of peace officers and custodial officers and records maintained by a state or local agency pursuant to Section 832.5, or information obtained from these records, are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code. This section does not apply to investigations or proceedings concerning the conduct of peace officers or custodial officers, or an agency or department that employs those officers, conducted by a grand jury, a district attorney's office, or the Attorney General's office, or the Commission on Peace Officer Standards and Training.

(b) (1) Notwithstanding subdivision (a), subdivision (f) of Section 6254 of the Government Code, or any other law, the following peace officer or custodial officer personnel records and records maintained by a state or local agency shall not be confidential and shall be made available for public inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code):

(A) A record relating to the report, investigation, or findings of any of the following:

(i) An incident involving the discharge of a firearm at a person by a peace officer or custodial officer.

(ii) An incident involving the use of force against a person by a peace officer or custodial officer that resulted in death or in great bodily injury.

(iii) A sustained finding involving a complaint that alleges unreasonable or excessive force.

(iv) A sustained finding that an officer failed to intervene against another officer using force that is clearly unreasonable or excessive.

(B) (i) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in sexual assault involving a member of the public.

(ii) As used in this subparagraph, "sexual assault" means the commission or attempted initiation of a sexual act with a member of the public by means of force, threat, coercion, extortion, offer of leniency or other official favor, or under the color of authority. For purposes of this subparagraph, the propositioning for or commission of any sexual act while on duty is considered a sexual assault.

(iii) As used in this subparagraph, "member of the public" means any person not employed by the officer's employing agency and includes any

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participant in a cadet, explorer, or other youth program affiliated with the agency.

(C) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency involving dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including, but not limited to, false statements, filing false reports, destruction, falsifying, or concealing of evidence, or perjury.

(D) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in conduct including, but not limited to, verbal statements, writings, online posts, recordings, and gestures, involving prejudice or discrimination against a person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.

(E) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that the peace officer made an unlawful arrest or conducted an unlawful search.

(2) Records that are subject to disclosure under clause (iii) or (iv) of subparagraph (A) of paragraph (1), or under subparagraph (D) or (E) of paragraph (1), relating to an incident that occurred before January 1, 2022, shall not be subject to the time limitations in paragraph (8) until January 1, 2023.

(3) Records that shall be released pursuant to this subdivision include all investigative reports; photographic, audio, and video evidence; transcripts or recordings of interviews; autopsy reports; all materials compiled and presented for review to the district attorney or to any person or body charged with determining whether to file criminal charges against an officer in connection with an incident, or whether the officer's action was consistent with law and agency policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take; documents setting forth findings or recommended findings; and copies of disciplinary records relating to the incident, including any letters of intent to impose discipline, any documents reflecting modifications of discipline due to the Skelly or grievance process, and letters indicating final imposition of discipline or other documentation reflecting implementation of corrective action. Records that shall be released pursuant to this subdivision also include records relating to an incident specified in paragraph (1) in which the peace officer or custodial officer resigned before the law enforcement agency or oversight agency concluded its investigation into the alleged incident.

(4) A record from a separate and prior investigation or assessment of a separate incident shall not be released unless it is independently subject to disclosure pursuant to this subdivision.

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(5) If an investigation or incident involves multiple officers, information about allegations of misconduct by, or the analysis or disposition of an investigation of, an officer shall not be released pursuant to subparagraph (B), (C), (D), or (E) of paragraph (1), unless it relates to a sustained finding regarding that officer that is itself subject to disclosure pursuant to this section. However, factual information about that action of an officer during an incident, or the statements of an officer about an incident, shall be released if they are relevant to a finding against another officer that is subject to release pursuant to subparagraph (B), (C), (D), or (E) of paragraph (1).

(6) An agency shall redact a record disclosed pursuant to this section only for any of the following purposes:

(A) To remove personal data or information, such as a home address, telephone number, or identities of family members, other than the names and work-related information of peace and custodial officers.

(B) To preserve the anonymity of whistleblowers, complainants, victims, and witnesses.

(C) To protect confidential medical, financial, or other information of which disclosure is specifically prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about possible misconduct and use of force by peace officers and custodial officers.

(D) Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the peace officer, custodial officer, or another person.

(7) Notwithstanding paragraph (6), an agency may redact a record disclosed pursuant to this section, including personal identifying information, where, on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosure of the information.

(8) An agency may withhold a record of an incident described in paragraph (1) that is the subject of an active criminal or administrative investigation, in accordance with any of the following:

(A) (i) During an active criminal investigation, disclosure may be delayed for up to 60 days from the date the misconduct or use of force occurred or until the district attorney determines whether to file criminal charges related to the misconduct or use of force, whichever occurs sooner. If an agency delays disclosure pursuant to this clause, the agency shall provide, in writing, the specific basis for the agency's determination that the interest in delaying disclosure clearly outweighs the public interest in disclosure. This writing shall include the estimated date for disclosure of the withheld information.

(ii) After 60 days from the misconduct or use of force, the agency may continue to delay the disclosure of records or information if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against an officer who engaged in misconduct or used the force. If an agency delays disclosure pursuant to this clause, the agency shall, at 180-day intervals as necessary, provide, in writing, the specific basis for the agency's determination that disclosure could reasonably be expected to

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interfere with a criminal enforcement proceeding. The writing shall include the estimated date for the disclosure of the withheld information. Information withheld by the agency shall be disclosed when the specific basis for withholding is resolved, when the investigation or proceeding is no longer active, or by no later than 18 months after the date of the incident, whichever occurs sooner.

(iii) After 60 days from the misconduct or use of force, the agency may continue to delay the disclosure of records or information if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against someone other than the officer who engaged in misconduct or used the force. If an agency delays disclosure under this clause, the agency shall, at 180-day intervals, provide, in writing, the specific basis why disclosure could reasonably be expected to interfere with a criminal enforcement proceeding, and shall provide an estimated date for the disclosure of the withheld information. Information withheld by the agency shall be disclosed when the specific basis for withholding is resolved, when the investigation or proceeding is no longer active, or by no later than 18 months after the date of the incident, whichever occurs sooner, unless extraordinary circumstances warrant continued delay due to the ongoing criminal investigation or proceeding. In that case, the agency must show by clear and convincing evidence that the interest in preventing prejudice to the active and ongoing criminal investigation or proceeding outweighs the public interest in prompt disclosure of records about misconduct or use of force by peace officers and custodial officers. The agency shall release all information subject to disclosure that does not cause substantial prejudice, including any documents that have otherwise become available.

(iv) In an action to compel disclosure brought pursuant to Section 6258 of the Government Code, an agency may justify delay by filing an application to seal the basis for withholding, in accordance with Rule 2.550 of the California Rules of Court, or any successor rule, if disclosure of the written basis itself would impact a privilege or compromise a pending investigation.

(B) If criminal charges are filed related to the incident in which misconduct occurred or force was used, the agency may delay the disclosure of records or information until a verdict on those charges is returned at trial or, if a plea of guilty or no contest is entered, the time to withdraw the plea pursuant to Section 1018.

(C) During an administrative investigation into an incident described in of paragraph (1), the agency may delay the disclosure of records or information until the investigating agency determines whether misconduct or the use of force violated a law or agency policy, but no longer than 180 days after the date of the employing agency's discovery of the misconduct or use of force, or allegation of misconduct or use of force, by a person authorized to initiate an investigation.

(9) A record of a complaint, or the investigations, findings, or dispositions of that complaint, shall not be released pursuant to this section if the complaint is frivolous, as defined in Section 128.5 of the Code of Civil Procedure, or if the complaint is unfounded.

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(10) The cost of copies of records subject to disclosure pursuant to this subdivision that are made available upon the payment of fees covering direct costs of duplication pursuant to subdivision (b) of Section 6253 of the Government Code shall not include the costs of searching for, editing, or redacting the records.

(11) Except to the extent temporary withholding for a longer period is permitted pursuant to paragraph (8), records subject to disclosure under this subdivision shall be provided at the earliest possible time and no later than 45 days from the date of a request for their disclosure.

(12) (A) For purposes of releasing records pursuant to this subdivision, the lawyer-client privilege does not prohibit the disclosure of either of the following:

(i) Factual information provided by the public entity to its attorney or factual information discovered in any investigation conducted by, or on behalf of, the public entity's attorney.

(ii) Billing records related to the work done by the attorney so long as the records do not relate to active and ongoing litigation and do not disclose information for the purpose of legal consultation between the public entity and its attorney.

(B) This paragraph does not prohibit the public entity from asserting that a record or information within the record is exempted or prohibited from disclosure pursuant to any other federal or state law.

(c) Notwithstanding subdivisions (a) and (b), a department or agency shall release to the complaining party a copy of the complaining party's own statements at the time the complaint is filed.

(d) Notwithstanding subdivisions (a) and (b), a department or agency that employs peace or custodial officers may disseminate data regarding the number, type, or disposition of complaints (sustained, not sustained, exonerated, or unfounded) made against its officers if that information is in a form that does not identify the individuals involved.

(e) Notwithstanding subdivisions (a) and (b), a department or agency that employs peace or custodial officers may release factual information concerning a disciplinary investigation if the officer who is the subject of the disciplinary investigation, or the officer's agent or representative, publicly makes a statement that they know to be false concerning the investigation or the imposition of disciplinary action. Information may not be disclosed by the peace or custodial officer's employer unless the false statement was published by an established medium of communication, such as television, radio, or a newspaper. Disclosure of factual information by the employing agency pursuant to this subdivision is limited to facts contained in the officer's personnel file concerning the disciplinary investigation or imposition of disciplinary action that specifically refute the false statements made public by the peace or custodial officer or their agent or representative.

(f) (1) The department or agency shall provide written notification to the complaining party of the disposition of the complaint within 30 days of the disposition.

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(2) The notification described in this subdivision is not conclusive or binding or admissible as evidence in any separate or subsequent action or proceeding brought before an arbitrator, court, or judge of this state or the United States.

(g) This section does not affect the discovery or disclosure of information contained in a peace or custodial officer's personnel file pursuant to Section 1043 of the Evidence Code.

(h) This section does not supersede or affect the criminal discovery process outlined in Chapter 10 (commencing with Section 1054) of Title 6 of Part 2, or the admissibility of personnel records pursuant to subdivision (a), which codifies the court decision in *Pitchess v. Superior Court* (1974) 11 Cal.3d 531.

(i) Nothing in this chapter is intended to limit the public's right of access as provided for in *Long Beach Police Officers Association v. City of Long Beach* (2014) 59 Cal.4th 59.

**SEC. 6. Section 13503 of the Penal Code is amended to read:**

13503. In carrying out its duties and responsibilities, the commission shall have all of the following powers:

(a) To meet at those times and places as it may deem proper.

(b) To employ an executive secretary and, pursuant to civil service, those clerical and technical assistants as may be necessary.

(c) To contract with other agencies, public or private, or persons as it deems necessary, for the rendition and affording of those services, facilities, studies, and reports to the commission as will best assist it to carry out its duties and responsibilities.

(d) To cooperate with and to secure the cooperation of county, city, city and county, and other local law enforcement agencies in investigating any matter within the scope of its duties and responsibilities, and in performing its other functions.

(e) To develop and implement programs to increase the effectiveness of law enforcement and when those programs involve training and education courses to cooperate with and secure the cooperation of state-level peace officers, agencies, and bodies having jurisdiction over systems of public higher education in continuing the development of college-level training and education programs.

(f) To investigate and determine the fitness of any person to serve as a peace officer within the Peace Officer Standards and Training program or as defined in Section 13510.1 in the State of California.

(g) To cooperate with and secure the cooperation of every department, agency, or instrumentality in the state government.

(h) To audit any law enforcement agency that employs peace officers described in subdivision (a) of Section 13510.1, without cause and at any time.

(i) To do any and all things necessary or convenient to enable it fully and adequately to perform its duties and to exercise the power granted to it.

**SEC. 7. Section 13506 of the Penal Code is amended to read:**

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13506. The commission may adopt those regulations as are necessary to carry out the purposes of this chapter.

**SEC. 8. Section 13509.5 is added to the Penal Code, to read:**

13509.5. (a) There is within the commission a Peace Officer Standards Accountability Division, hereafter referred to in this chapter as the division.

(b) The primary responsibilities of the division shall be to review investigations conducted by law enforcement agencies or any other investigative authority and to conduct additional investigations, as necessary, into serious misconduct that may provide grounds for suspension or revocation of a peace officer's certification, present findings and recommendations to the board and commission, and bring proceedings seeking the suspension or revocation of certification of peace officers as directed by the board and commission pursuant to this chapter.

(c) The division shall be staffed with a sufficient number of experienced and able employees that are capable of handling the most complex and varied types of decertification investigations, prosecutions, and administrative proceedings against peace officers.

(d) The commission shall establish procedures for accepting complaints from members of the public regarding peace officers or law enforcement agencies that may be investigated by the division or referred to the peace officers' employing agency or the Department of Justice.

**SEC. 9. Section 13509.6 is added to the Penal Code, to read:**

13509.6. (a) No later than January 1, 2023, the Governor shall establish the Peace Officer Standards Accountability Advisory Board, hereafter referred to in this chapter as the board.

(b) The purpose of the board shall be to make recommendations on the decertification of peace officers to the commission.

(c) The protection of the public and all constitutional and statutory rights shall be the highest priority for the board as it upholds the standards for peace officers in California.

(d) The board shall consist of nine members, as follows:

(1) One member shall be a peace officer or former peace officer with substantial experience at a command rank, appointed by the Governor.

(2) One member shall be a peace officer or former peace officer with substantial experience at a management rank in internal investigations or disciplinary proceedings of peace officers, appointed by the Governor.

(3) Two members shall be members of the public, who shall not be former peace officers, who have substantial experience working at nonprofit or academic institutions on issues related to police accountability. One of these members shall be appointed by the Governor and one by the Speaker of the Assembly.

(4) Two members shall be members of the public, who shall not be former peace officers, who have substantial experience working at community-based organizations on issues related to police accountability. One of these members shall be appointed by the Governor and one by the Senate Rules Committee.

- (5) Two members shall be members of the public, who shall not be former peace officers, with strong consideration given to individuals who have been subject to wrongful use of force likely to cause death or serious bodily injury by a peace officer, or who are surviving family members of a person killed by the wrongful use of deadly force by a peace officer, appointed by the Governor.
- (6) One member shall be an attorney, who shall not be a former peace officer, with substantial professional experience involving oversight of peace officers, appointed by the Governor.
- (e) Except as otherwise provided in subdivision (f), each member shall be appointed for a term of three years and shall hold office until the appointment of the member's successor or until one year has elapsed since the expiration of the term for which the member was appointed, whichever occurs first. Vacancies occurring shall be filled by appointment for the unexpired term of a person with the same qualification for appointment as the person being replaced. No person shall serve more than two terms consecutively. The Governor shall remove from the board any peace officer member whose certification as a peace officer has been revoked. The Governor may, after hearing, remove any member of the board for neglect of duty or other just cause.
- (f) Of the members initially appointed to the board, three shall be appointed for a term of one year, three for a term of two years, and three for a term of three years. Successor appointments shall be made pursuant to subdivision (e).
- (g) The Governor shall designate the chair of the board from among the members of the board. The person designated as the chair shall serve as chair of the board at the pleasure of the Governor. The board shall annually select a vice chair from among its members. A majority of the members of the board shall constitute a quorum.
- (h) Each member of the board shall receive a per diem of three hundred fifty dollars (\$350) for each day actually spent in the discharge of official duties, including any required training and reasonable time spent in preparation for public hearings, and shall be reimbursed for travel and other expenses necessarily incurred in the performance of official duties. Upon request of a member based on financial necessity, the commission shall arrange and make direct payment for travel or other necessities rather than providing reimbursement.
- (i) All members of the board shall complete a 40-hour decertification training course, as developed by the commission, which shall include, but not be limited to, subjects regarding the decertification process, internal investigations, evidentiary standards, use of force standards and training, and local disciplinary processes.
- SEC. 10. The heading of Article 2 (commencing with Section 13510) of Chapter 1 of Title 4 of Part 4 of the Penal Code is amended to read:
- Article 2. Field Services, Standards, and Certification
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**SEC. 11. Section 13510 of the Penal Code is amended to read:**

13510. (a) (1) For the purpose of raising the level of competence of local law enforcement officers, the commission shall adopt, and may from time to time amend, rules establishing and upholding minimum standards relating to physical, mental, and moral fitness that shall govern the recruitment of any city police officers, peace officer members of a county sheriff's office, marshals or deputy marshals, peace officer members of a county coroner's office notwithstanding Section 13526, reserve officers, as defined in subdivision (a) of Section 830.6, police officers of a district authorized by statute to maintain a police department, peace officer members of a police department operated by a joint powers agency established by Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, regularly employed and paid inspectors and investigators of a district attorney's office, as defined in Section 830.1, who conduct criminal investigations, peace officer members of a district, safety police officers and park rangers of the County of Los Angeles, as defined in subdivisions (a) and (b) of Section 830.31, or housing authority police departments.

(2) The commission also shall adopt, and may from time to time amend, rules establishing minimum standards for training of city police officers, peace officer members of county sheriff's offices, marshals or deputy marshals, peace officer members of a county coroner's office notwithstanding Section 13526, reserve officers, as defined in subdivision (a) of Section 830.6, police officers of a district authorized by statute to maintain a police department, peace officer members of a police department operated by a joint powers agency established by Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, regularly employed and paid inspectors and investigators of a district attorney's office, as defined in Section 830.1, who conduct criminal investigations, peace officer members of a district, safety police officers and park rangers of the County of Los Angeles, as defined in subdivisions (a) and (b) of Section 830.31, and housing authority police departments.

(3) These rules shall apply to those cities, counties, cities and counties, and districts receiving state aid pursuant to this chapter and shall be adopted and amended pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The commission shall conduct research concerning job-related educational standards and job-related selection standards to include vision, hearing, physical ability, and emotional stability. Job-related standards that are supported by this research shall be adopted by the commission prior to January 1, 1985, and shall apply to those peace officer classes identified in subdivision (a). The commission shall consult with local entities during the conducting of related research into job-related selection standards.

(c) For the purpose of raising the level of competence of local public safety dispatchers, the commission shall adopt, and may from time to time amend, rules establishing minimum standards relating to the recruitment and training of local public safety dispatchers having a primary responsibility

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for providing dispatching services for local law enforcement agencies described in subdivision (a), which standards shall apply to those cities, counties, cities and counties, and districts receiving state aid pursuant to this chapter. These standards also shall apply to consolidated dispatch centers operated by an independent public joint powers agency established pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code when providing dispatch services to the law enforcement personnel listed in subdivision (a). Those rules shall be adopted and amended pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. As used in this section, "primary responsibility" refers to the performance of law enforcement dispatching duties for a minimum of 50 percent of the time worked within a pay period.

(d) This section does not prohibit a local agency from establishing selection and training standards that exceed the minimum standards established by the commission.

**SEC. 12. Section 13510.1 of the Penal Code is amended to read:**

13510.1. (a) The commission shall establish a certification program for peace officers described in Section 830.1, 830.2 with the exception of those described in subdivision (d) of that section, 830.3, 830.32, or 830.33, or any other peace officer employed by an agency that participates in the Peace Officer Standards and Training (POST) program. A certificate or proof of eligibility issued pursuant to this section shall be considered the property of the commission.

(b) Basic, intermediate, advanced, supervisory, management, and executive certificates shall be established for the purpose of fostering professionalization, education, and experience necessary to adequately accomplish the general police service duties performed by peace officer members of city police departments, county sheriffs' departments, districts, university and state university and college departments, or by the California Highway Patrol.

(c) (1) Certificates shall be awarded on the basis of a combination of training, education, experience, and other prerequisites, as determined by the commission.

(2) In determining whether an applicant for certification has the requisite education, the commission shall recognize as acceptable college education only the following:

(A) Education provided by a community college, college, or university which has been accredited by the department of education of the state in which the community college, college, or university is located or by a recognized national or regional accrediting body.

(B) Until January 1, 1998, educational courses or degrees provided by a nonaccredited but state-approved college that offers programs exclusively in criminal justice.

(d) Persons who are determined by the commission to be eligible peace officers may make application for the certificates, provided they are employed by an agency which participates in the POST program. Any

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agency appointing an individual who does not already have a basic certificate as described in subdivision (a) and who is not eligible for a certificate shall make application for proof of eligibility within 10 days of appointment.

(e) The commission shall assign each person who applies for or receives certification a unique identifier that shall be used to track certification status from application for certification through that person's career as a peace officer.

(f) The commission shall have the authority to suspend, revoke, or cancel any certification pursuant to this chapter.

(g) (1) An agency that employs peace officers described in subdivision (a) shall employ as a peace officer only individuals with current, valid certification pursuant to this section, except that an agency may provisionally employ a person for up to 24 months, pending certification by the commission, provided that the person has received certification and has not previously been certified or denied certification.

(2) In accordance with subdivision (b) of Section 832.4, deputy sheriffs described in subdivision (c) of Section 830.1 shall obtain valid certification pursuant to this section upon reassignment from custodial duties to general law enforcement duties.

(h) (1) Notwithstanding subdivision (d), the commission shall issue a basic certificate or proof of eligibility to any peace officer described in subdivision (a) who, on January 1, 2022, is eligible for a basic certificate or proof of eligibility but has not applied for a certification.

(2) Commencing on January 1, 2023, any peace officer described in subdivision (a) who does not possess a basic certificate and who is not yet or will not be eligible for a basic certificate, shall apply to the commission for proof of eligibility.

(i) As used in this chapter, "certification" means a valid and unexpired basic certificate or proof of eligibility issued by the commission pursuant to this section.

**SEC. 13. Section 13510.8 is added to the Penal Code, to read:**

13510.8. (a) (1) A certified peace officer shall have their certification revoked if the person is or has become ineligible to hold office as a peace officer pursuant to Section 1029 of the Government Code.

(2) A peace officer may have their certification suspended or revoked if the person has been terminated for cause from employment as a peace officer for, or has, while employed as a peace officer, otherwise engaged in, any serious misconduct as described in subdivision (b).

(b) By January 1, 2023, the commission shall adopt by regulation a definition of "serious misconduct" that shall serve as the criteria to be considered for ineligibility for, or revocation of, certification. This definition shall include all of the following:

(1) Dishonesty relating to the reporting, investigation, or prosecution of a crime, or relating to the reporting of, or investigation of misconduct by, a peace officer or custodial officer, including, but not limited to, false statements, intentionally filing false reports, tampering with, falsifying, destroying, or concealing evidence, perjury, and tampering with data

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- recorded by a body-worn camera or other recording device for purposes of concealing misconduct.
- (2) Abuse of power, including, but not limited to, intimidating witnesses, knowingly obtaining a false confession, and knowingly making a false arrest.
  - (3) Physical abuse, including, but not limited to, the excessive or unreasonable use of force.
  - (4) Sexual assault, as described in subdivision (b) of Section 832.7.
  - (5) Demonstrating bias on the basis of race, national origin, religion, gender identity or expression, housing status, sexual orientation, mental or physical disability, or other protected status in violation of law or department policy or inconsistent with a peace officer's obligation to carry out their duties in a fair and unbiased manner. This paragraph does not limit an employee's rights under the First Amendment to the United States Constitution.
  - (6) Acts that violate the law and are sufficiently egregious or repeated as to be inconsistent with a peace officer's obligation to uphold the law or respect the rights of members of the public, as determined by the commission. Whether a particular factual or legal determination in a prior appeal proceeding shall have preclusive effect in proceedings under this chapter shall be governed by the existing law of collateral estoppel.
  - (7) Participation in a law enforcement gang. For the purpose of this paragraph, a "law enforcement gang" means a group of peace officers within a law enforcement agency who may identify themselves by a name and may be associated with an identifying symbol, including, but not limited to, matching tattoos, and who engage in a pattern of on-duty behavior that intentionally violates the law or fundamental principles of professional policing, including, but not limited to, excluding, harassing, or discriminating against any individual based on a protected category under federal or state antidiscrimination laws, engaging in or promoting conduct that violates the rights of other employees or members of the public, violating agency policy, the persistent practice of unlawful detention or use of excessive force in circumstances where it is known to be unjustified, falsifying police reports, fabricating or destroying evidence, targeting persons for enforcement based solely on protected characteristics of those persons, theft, unauthorized use of alcohol or drugs on duty, unlawful or unauthorized protection of other members from disciplinary actions, and retaliation against other officers who threaten or interfere with the activities of the group.
  - (8) Failure to cooperate with an investigation into potential police misconduct, including an investigation conducted pursuant to this chapter. For purposes of this paragraph, the lawful exercise of rights granted under the United States Constitution, the California Constitution, or any other law shall not be considered a failure to cooperate.
  - (9) Failure to intercede when present and observing another officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, taking into account the possibility that other officers may have additional information regarding the threat posed by a subject.

- (c) (1) Beginning no later than January 1, 2023, each law enforcement agency shall be responsible for the completion of investigations of allegations of serious misconduct by a peace officer, regardless of their employment status.
- (2) The division shall promptly review any grounds for decertification described in subdivision (a) received from an agency. The division shall have the authority to review any agency or other investigative authority file, as well as to conduct additional investigation, if necessary. The division shall only have authority to review and investigate allegations for purposes of decertification.
- (3) (A) The board, in their discretion, may request that the division review an investigative file or recommend that the commission direct the division to investigate any potential grounds for decertification of a peace officer. Those requests and recommendations from the board to the division or commission must be based upon a decision by a majority vote.
- (B) The commission, in its discretion, may direct the division to review an investigative file. The commission, either upon its own motion or in response to a recommendation from the board, may direct the division to investigate any potential grounds for decertification of a peace officer.
- (C) The division, in its discretion, may investigate without the request of the commission or board any potential grounds for revocation of certification of a peace officer.
- (4) The division, in carrying out any investigation initiated pursuant to this section or any other duty shall have all of the powers of investigation granted pursuant to Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.
- (5) Notwithstanding any other law, the investigation shall be completed within three years after the receipt of the completed report of the disciplinary or internal affairs investigation from the employing agency pursuant to Section 13510.9, however, no time limit shall apply if a report of the conduct was not made to the commission. An investigation shall be considered completed upon a notice of intent to deny, suspend, or revoke certification issued pursuant to subdivision (e). The time limit shall be tolled during the appeal of a termination or other disciplinary action through an administrative or judicial proceeding or during any criminal prosecution of the peace officer. The commission shall consider the peace officer's prior conduct and service record, and any instances of misconduct, including any incidents occurring beyond the time limitation for investigation in evaluating whether to revoke certification for the incident under investigation.
- (6) An action by an agency or decision resulting from an appeal of an agency's action does not preclude action by the commission to investigate, suspend, or revoke a peace officer's certification pursuant to this section.
- (d) Upon arrest or indictment of a peace officer for any crime described in Section 1029 of the Government Code, or discharge from any law enforcement agency for grounds set forth in subdivision (a), or separation from employment of a peace officer during a pending investigation into allegations of serious misconduct, the executive director shall order the

immediate temporary suspension of any certificate held by that peace officer upon the determination by the executive director that the temporary suspension is in the best interest of the health, safety, or welfare of the public. The order of temporary suspension shall be made in writing and shall specify the basis for the executive director's determination. Following the issuance of a temporary suspension order, proceedings of the commission in the exercise of its authority to discipline any peace officer shall be promptly scheduled as provided for in this section. The temporary suspension shall continue in effect until issuance of the final decision on revocation pursuant to this section or until the order is withdrawn by the executive director.

(e) Records of an investigation of any person by the commission shall be retained for 30 years following the date that the investigation is deemed concluded by the commission. The commission may destroy records prior to the expiration of the 30-year retention period if the subject is deceased and no action upon the complaint was taken by the commission beyond the commission's initial intake of such complaint.

(f) Any peace officer may voluntarily surrender their certification permanently. Voluntary permanent surrender of certification pursuant to this subdivision shall have the same effect as revocation. Voluntary permanent surrender is not the same as placement of a valid certification into inactive status during a period in which a person is not actively employed as a peace officer. A permanently surrendered certification cannot be reactivated.

(g) (1) The commission may initiate proceedings to revoke or suspend a peace officer's certification for conduct which occurred before January 1, 2022, only for either of the following:

(A) Serious misconduct pursuant to paragraphs (1) or (4) of subdivision (b), or pursuant to paragraph (3) of subdivision (b) for the use of deadly force that results in death or serious bodily injury.

(B) If the employing agency makes a final determination regarding its investigation of the misconduct after January 1, 2022.

(2) Nothing in this subdivision prevents the commission from considering the peace officer's prior conduct and service record in determining whether revocation is appropriate for serious misconduct.

SEC. 14. Section 13510.85 is added to the Penal Code, immediately following Section 13510.8, to read:

13510.85. (a) (1) When, upon the completion of an investigation conducted pursuant to subdivision (c) of Section 13510.8, the division finds reasonable grounds for revocation or suspension of a peace officer's certification, it shall take the appropriate steps to promptly notify the peace officer involved, in writing, of its determination and reasons therefore, and shall provide the peace officer with a detailed explanation of the decertification procedure and the peace officer's rights to contest and appeal.

(2) Upon notification, the peace officer may, within 30 days, file a request for a review of the determination by the board and commission. If the peace officer does not file a request for review within 30 days, the peace officer's

certification shall be suspended or revoked, consistent with the division's determination, without further proceedings. If the peace officer files a timely review, the board shall schedule the case for hearing.

(3) The board shall meet as required to conduct public hearings, but no fewer than four times per year.

(4) At each public hearing, the board shall review the findings of investigations presented by the division pursuant to paragraph (1) and shall make a recommendation on what action should be taken on the certification of the peace officer involved. The board shall only recommend revocation if the factual basis for revocation is established by clear and convincing evidence. If the board determines that the facts and circumstances revealed by the investigation warrant a sanction other than revocation, it may recommend that a peace officer's certification be suspended for a period of time. The board shall issue a written decision explaining its reasons for decertification or suspension.

(5) The commission shall review all recommendations made by the board. The commission's decision to adopt a recommendation by the board to seek revocation shall require a two-thirds vote of commissioners present and shall be based on whether the record, in its entirety, supports the board's conclusion that serious misconduct has been established by clear and convincing evidence. In any case in which the commission reaches a different determination than the board's recommendation, it shall set forth its analysis and reasons for reaching a different determination in writing.

(6) The commission shall return any determination requiring action to be taken against an individual's certification to the division, which shall initiate proceedings for a formal hearing before an administrative law judge in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), which shall be subject to judicial review as set forth in that Act.

(b) Notwithstanding Section 832.7, the hearings of the board and the review by the commission under this section, administrative adjudications held pursuant to paragraph (6) of subdivision (a), and any records introduced during those proceedings, shall be public.

(c) The commission shall publish the names of any peace officer whose certification is suspended or revoked and the basis for the suspension or revocation and shall notify the National Decertification Index of the International Association of Directors of Law Enforcement Standards and Training of the suspension or revocation.

**SEC. 15. Section 13510.9 is added to the Penal Code, to read:**

13510.9. (a) Beginning January 1, 2023, any agency employing peace officers shall report to the commission within 10 days, in a form specified by the commission, any of the following events:

(1) The employment, appointment, or termination or separation from employment or appointment, by that agency, of any peace officer. Separation from employment or appointment includes any involuntary termination, resignation, or retirement.

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(2) Any complaint, charge, or allegation of conduct against a peace officer employed by that agency that could render a peace officer subject to suspension or revocation of certification by the commission pursuant to Section 13510.8.

(3) Any finding or recommendation by a civilian oversight entity, including a civilian review board, civilian police commission, police chief, or civilian inspector general, that a peace officer employed by that agency engaged in conduct that could render a peace officer subject to suspension or revocation of certification by the commission pursuant to Section 13510.8.

(4) The final disposition of any investigation that determines a peace officer engaged in conduct that could render a peace officer subject to suspension or revocation of certification by the commission pursuant to Section 13510.8, regardless of the discipline imposed.

(5) Any civil judgment or court finding against a peace officer based on conduct, or settlement of a civil claim against a peace officer or an agency based on allegations of officer conduct that could render a peace officer subject to suspension or revocation of certification by the commission pursuant to Section 13510.8.

(b) By July 1, 2023, any agency employing peace officers shall report to the commission any events described in subdivision (a) that occurred between January 1, 2020, and January 1, 2023.

(c) An agency employing peace officers shall make available for inspection or duplication by the commission any investigation into any matter reported pursuant to paragraph (2) of subdivision (a), including any physical or documentary evidence, witness statements, analysis, and conclusions, for up to two years after reporting of the disposition of the investigation pursuant to paragraph (3) of subdivision (a).

(d) (1) In a case of separation from employment or appointment, the employing agency shall execute and maintain an affidavit-of-separation form adopted by the commission describing the reason for separation and shall include whether the separation is part of the resolution or settlement of any criminal, civil, or administrative charge or investigation. The affidavit shall be signed under penalty of perjury and submitted to the commission.

(2) A peace officer who has separated from employment or appointment shall be permitted to respond to the affidavit-of-separation, in writing, to the commission, setting forth their understanding of the facts and reasons for the separation, if different from those provided by the agency.

(3) Before employing or appointing any peace officer who has previously been employed or appointed as a peace officer by another agency, the agency shall contact the commission to inquire as to the facts and reasons a peace officer became separated from any previous employing agency. The commission shall, upon request and without prejudice, provide to the subsequent employing agency any information regarding the separation in its possession.

(4) Civil liability shall not be imposed on either a law enforcement agency or the commission, or any of the agency's or commission's agents, for

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providing information pursuant to this section in a good faith belief that the information is accurate.

(e) The commission shall maintain the information reported pursuant to this section, in a form determined by the commission, and in a manner that may be accessed by the subject peace officer, any employing law enforcement agency of that peace officer, any law enforcement agency that is performing a preemployment background investigation of that peace officer, or the commission when necessary for the purposes of decertification.

(f) (1) The commission shall notify the head of the agency that employs the peace officer of all of the following:

(A) The initiation of any investigation of that peace officer by the division, unless such notification would interfere with the investigation.

(B) A finding by the division, following an investigation or review of the investigation, of grounds to take action against the peace officer's certification or application.

(C) A final determination by the commission as to whether action should be taken against a peace officer's certification or application.

(D) An adjudication, after hearing, resulting in action against an officer's certification or application.

(2) If the certificate of a peace officer is temporarily suspended pursuant to subdivision (d) of Section 13510.8, or revoked, the commission shall also notify the district attorney of the county in which the peace officer is or was employed of this fact.

(3) Each notification required by this subdivision shall include the name of the peace officer and a summary of the basis for the action requiring notification.

**SEC. 16. Section 13512 of the Penal Code is amended to read:**

13512. (a) The commission shall make such inquiries as may be necessary to determine whether every city, county, city and county, and district receiving state aid pursuant to this chapter is adhering to the standards for recruitment, training, certification, and reporting established pursuant to this chapter.

(b) The board shall prepare an annual report on the activities of the commission, board, division, and subject agencies regarding peace officer certification under this chapter. The report shall include, without limitation, all of the following:

(1) The number of applications for certification and the number of certifications granted or denied.

(2) The number of events reported pursuant to paragraphs (1) to (5), inclusive, of subdivision (a) of Section 13510.9.

(3) The criteria and process for review and investigation by the division, the number of reviews, and the number of investigations conducted by the division.

(4) The number of notices sent by the division pursuant to paragraph (1) of subdivision (a) of Section 13510.85, the number of requests for review received, and the number of suspensions or revocations or denials made pursuant to paragraph (2) of subdivision (a) of Section 13510.85.

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- (5) The number of review hearings held by the board and commission and the outcomes of those review hearings.
- (6) The number of administrative hearings held on suspensions or revocations and the number of suspensions or revocations resulting from those hearings.
- (7) Any cases of judicial review of commission actions on suspension or revocation and the result of those cases.
- (8) The number of certifications voluntarily surrendered and the number placed on inactive status.
- (9) Any compliance audits or reviews conducted pursuant to this chapter and the results of those audits.
- (10) Any other information the board deems relevant to evaluating the functioning of the certification program, the decertification process, and the staffing levels of the division.

SEC. 17. Section 5.5 of this bill incorporates amendments to Section 832.7 of the Penal Code proposed by both this bill and Senate Bill 16. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, (2) each bill amends Section 832.7 of the Penal Code, and (3) this bill is enacted after Senate Bill 16, in which case Section 5 of this bill shall not become operative.

SEC. 18. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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**Senate Bill No. 16**  
**CHAPTER 402**

An act to amend Section 1045 of the Evidence Code, and to amend Sections 832.5, 832.7, and 832.12 of, and to add Section 832.13 to, the Penal Code, relating to peace officers.

[ Approved by Governor September 30, 2021. Filed with Secretary of  
State September 30, 2021. ]

**LEGISLATIVE COUNSEL'S DIGEST**

**SB 16, Skinner. Peace officers: release of records.**

(1) Existing law makes peace officer and custodial officer personnel records and specified records maintained by any state or local agency, or information obtained from these records, confidential and prohibits these records from being disclosed in any criminal or civil proceeding except by discovery. Existing law sets forth exceptions to this policy, including, among others, records relating to specified incidents involving the discharge of a firearm, sexual assault, perjury, or misconduct by a peace officer or custodial officer. Existing law makes a record related to an incident involving the use of force against a person resulting in death or great bodily injury subject to disclosure. Existing law requires a state or local agency to make these excepted records available for inspection pursuant to the California Public Records Act, subject to redaction as specified.

This bill would make a sustained finding involving force that is unreasonable or excessive, and any sustained finding that an officer failed to intervene against another officer using unreasonable or excessive force, subject to disclosure. The bill would require records relating to sustained findings of unlawful arrests and unlawful searches to be subject to disclosure. The bill would also require the disclosure of records relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in conduct involving prejudice or discrimination on the basis of specified protected classes. The bill would make the limitations on delay of disclosure inapplicable until January 1, 2023, for the described records relating to incidents that occurred before January 1, 2022. The bill would require the retention of all complaints and related reports or findings currently in the possession of a department or agency, as specified. The bill would require that records relating to an incident in which an officer resigned before an investigation is completed to also be subject to release. For purposes of releasing records, the bill would exempt from protection under the lawyer-client privilege, the disclosure of factual information provided by the public entity to its attorney, factual information discovered by any investigation by the public entity's attorney, or billing records related to the work done by the attorney. The bill would expand the authorization to redact records to allow redaction to preserve the anonymity of victims and whistleblowers. The bill would require records subject to disclosure to be provided at the earliest possible time and no later than 45 days from the date of a request for their disclosure, except as specified. By imposing additional duties on local law enforcement agencies, the bill would impose a state-mandated local program.

(2) Existing law authorizes an agency to delay the release of a record involving the discharge of a firearm or the use of force during an active criminal investigation, as provided.

This bill would expand the authorization to delay the release of records during an investigation to include records of incidents involving sexual assault and dishonesty by officers, and the records of incidents involving prejudice or discrimination, wrongful arrests, and wrongful searches that are required to be made public by this bill.

(3) Existing law requires a court, in determining the relevance of evidence, to exclude from trial any information consisting of complaints concerning peace officer conduct that is more than 5 years older than the subject of the litigation.

This bill would delete that provision.

(4) Existing law requires an agency or department employing peace officers to make a record of any investigations of misconduct. Existing law requires a peace officer seeking employment with a department or agency to give written permission to the hiring agency or department to view that file.

This bill would require each department or agency to request and review that file prior to hiring a peace officer. The bill would also require every person employed as a peace officer to immediately report all uses of force by the officer to the officer's department or agency. By imposing additional duties on local law enforcement, the bill would impose a state-mandated local program.

(5) The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

## DIGEST KEY

Vote: MAJORITY Appropriation: NO Fiscal Committee: YES Local Program: YES

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## BILL TEXT

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

### SECTION 1.

Section 1045 of the Evidence Code is amended to read:

#### 1045.

(a) This article does not affect the right of access to records of complaints, or investigations of complaints, or discipline imposed as a result of those investigations, concerning an event or transaction in which the peace officer or custodial officer, as defined in Section 831.5 of the Penal Code, participated, or which the officer perceived, and pertaining to the manner in which the officer performed the officer's duties, provided that information is relevant to the subject matter involved in the pending litigation.

(b) In determining relevance, the court shall examine the information in chambers in conformity with Section 915, and shall exclude from disclosure both of the following:

(1) In any criminal proceeding the conclusions of any officer investigating a complaint filed pursuant to Section 832.5 of the Penal Code.

(2) Facts sought to be disclosed that are so remote as to make disclosure of little or no practical benefit.

(c) In determining relevance where the issue in litigation concerns the policies or pattern of conduct of the employing agency, the court shall consider whether the information sought may be obtained from other records maintained by the employing agency in the regular course of agency business which would not necessitate the disclosure of individual personnel records.

(d) Upon motion seasonably made by the governmental agency which has custody or control of the records to be examined or by the officer whose records are sought, and upon good cause showing the necessity thereof, the court may make any order which justice requires to protect the officer or agency from unnecessary annoyance, embarrassment or oppression.

(e) The court shall, in any case or proceeding permitting the disclosure or discovery of any peace or custodial officer records requested pursuant to Section 1043, order that the records disclosed or discovered may not be used for any purpose other than a court proceeding pursuant to applicable law.

## **SEC. 2.**

Section 832.5 of the Penal Code is amended to read:

### **832.5.**

(a) (1) Each department or agency in this state that employs peace officers shall establish a procedure to investigate complaints by members of the public against the personnel of these departments or agencies, and shall make a written description of the procedure available to the public.

(2) Each department or agency that employs custodial officers, as defined in Section 831.5, may establish a procedure to investigate complaints by members of the public against those custodial officers employed by these departments or agencies, provided however, that any procedure so established shall comply with the provisions of this section and with the provisions of Section 832.7.

(b) Complaints and any reports or findings relating to these complaints, including all complaints and any reports currently in the possession of the department or agency, shall be retained for a period of no less than 5 years for records where there was not a sustained finding of misconduct and for not less than 15 years where there was a sustained finding of misconduct. A record shall not be destroyed while a request related to that record is being processed or any process or litigation to determine whether the record is subject to release is ongoing. All complaints retained pursuant to this subdivision may be maintained either in the peace or custodial officer's general personnel file or in a separate file designated by the department or agency as provided by department or agency policy, in accordance with all applicable requirements of law. However, prior to any official determination regarding promotion, transfer, or disciplinary action by an officer's employing department or agency, the complaints described by subdivision (c) shall be removed from the officer's general personnel file and placed in a separate file designated by the department or agency, in accordance with all applicable requirements of law.

(c) Complaints by members of the public that are determined by the peace or custodial officer's employing agency to be frivolous, as defined in Section 128.5 of the Code of Civil Procedure, or unfounded or exonerated, or any portion of a complaint that is determined to be frivolous, unfounded, or exonerated, shall not be maintained in that officer's general personnel file. However, these complaints shall be retained in other, separate files that shall be deemed personnel records for purposes of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and Section 1043 of the Evidence Code.

(1) Management of the peace or custodial officer's employing agency shall have access to the files described in this subdivision.

(2) Management of the peace or custodial officer's employing agency shall not use the complaints contained in these separate files for punitive or promotional purposes except as permitted by subdivision (f) of Section 3304 of the Government Code.

(3) Management of the peace or custodial officer's employing agency may identify any officer who is subject to the complaints maintained in these files which require counseling or additional training. However, if a complaint is removed from the officer's personnel file, any reference in the personnel file to the complaint or to a separate file shall be deleted.

(d) As used in this section, the following definitions apply:

(1) "General personnel file" means the file maintained by the agency containing the primary records specific to each peace or custodial officer's employment, including evaluations, assignments, status changes, and imposed discipline.

(2) "Unfounded" means that the investigation clearly established that the allegation is not true.

(3) "Exonerated" means that the investigation clearly established that the actions of the peace or custodial officer that formed the basis for the complaint are not violations of law or department policy.

## **SEC. 3.**

Section 832.7 of the Penal Code is amended to read:

### **832.7.**

(a) Except as provided in subdivision (b), the personnel records of peace officers and custodial officers and records maintained by a state or local agency pursuant to Section 832.5, or information obtained from these records, are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code. This section does not apply to investigations or proceedings concerning the conduct of peace officers or custodial officers, or an agency or department that employs those officers, conducted by a grand jury, a district attorney's office, or the Attorney General's office.

(b) (1) Notwithstanding subdivision (a), subdivision (f) of Section 6254 of the Government Code, or any other law, the following peace officer or custodial officer personnel records and records maintained by a state or local agency shall not be confidential and shall be made available for public inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code):

(A) A record relating to the report, investigation, or findings of any of the following:

(i) An incident involving the discharge of a firearm at a person by a peace officer or custodial officer.

(ii) An incident involving the use of force against a person by a peace officer or custodial officer that resulted in death or in great bodily injury.

(iii) A sustained finding involving a complaint that alleges unreasonable or excessive force.

(iv) A sustained finding that an officer failed to intervene against another officer using force that is clearly unreasonable or excessive.

(B) (i) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in sexual assault involving a member of the public.

(ii) As used in this subparagraph, "sexual assault" means the commission or attempted initiation of a sexual act with a member of the public by means of force, threat, coercion, extortion, offer of leniency or other official favor, or under the color of authority. For purposes of this definition, the propositioning for or commission of any sexual act while on duty is considered a sexual assault.

(iii) As used in this subparagraph, "member of the public" means any person not employed by the officer's employing agency and includes any participant in a cadet, explorer, or other youth program affiliated with the agency.

(C) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency involving dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including, but not limited to, any false statements, filing false reports, destruction, falsifying, or concealing of evidence, or perjury.

(D) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in conduct including, but not limited to, verbal statements, writings, online posts, recordings, and gestures, involving prejudice or discrimination against a person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.

(E) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that the peace officer made an unlawful arrest or conducted an unlawful search.

(2) Records that are subject to disclosure under clause (iii) or (iv) of subparagraph (A) of paragraph (1), or under subparagraph (D) or (E) of paragraph (1), relating to an incident that occurred before January 1, 2022, shall not be subject to the time limitations in paragraph (8) until January 1, 2023.

(3) Records that shall be released pursuant to this subdivision include all investigative reports; photographic, audio, and video evidence; transcripts or recordings of interviews; autopsy reports; all materials compiled and presented for review to the district attorney or to any person or body charged with determining whether to file criminal charges against an officer in connection with an incident, whether the officer's action was consistent with law and agency policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take; documents setting forth findings or recommended findings; and copies of disciplinary records relating to the incident, including any letters of intent to impose discipline, any documents reflecting modifications of discipline due to the Skelly or grievance process,

and letters indicating final imposition of discipline or other documentation reflecting implementation of corrective action. Records that shall be released pursuant to this subdivision also include records relating to an incident specified in paragraph (1) in which the peace officer or custodial officer resigned before the law enforcement agency or oversight agency concluded its investigation into the alleged incident.

(4) A record from a separate and prior investigation or assessment of a separate incident shall not be released unless it is independently subject to disclosure pursuant to this subdivision.

(5) If an investigation or incident involves multiple officers, information about allegations of misconduct by, or the analysis or disposition of an investigation of, an officer shall not be released pursuant to subparagraph (B), (C), (D), or (E) of paragraph (1), unless it relates to a sustained finding regarding that officer that is itself subject to disclosure pursuant to this section. However, factual information about that action of an officer during an incident, or the statements of an officer about an incident, shall be released if they are relevant to a finding against another officer that is subject to release pursuant to subparagraph (B), (C), (D), or (E) of paragraph (1).

(6) An agency shall redact a record disclosed pursuant to this section only for any of the following purposes:

(A) To remove personal data or information, such as a home address, telephone number, or identities of family members, other than the names and work-related information of peace and custodial officers.

(B) To preserve the anonymity of whistleblowers, complainants, victims, and witnesses.

(C) To protect confidential medical, financial, or other information of which disclosure is specifically prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about possible misconduct and use of force by peace officers and custodial officers.

(D) Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the peace officer, custodial officer, or another person.

(7) Notwithstanding paragraph (6), an agency may redact a record disclosed pursuant to this section, including personal identifying information, where, on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosure of the information.

(8) An agency may withhold a record of an incident described in paragraph (1) that is the subject of an active criminal or administrative investigation, in accordance with any of the following:

(A) (i) During an active criminal investigation, disclosure may be delayed for up to 60 days from the date the misconduct or use of force occurred or until the district attorney determines whether to file criminal charges related to the misconduct or use of force, whichever occurs sooner. If an agency delays disclosure pursuant to this clause, the agency shall provide, in writing, the specific basis for the agency's determination that the interest in delaying disclosure clearly outweighs the public interest in disclosure. This writing shall include the estimated date for disclosure of the withheld information.

(ii) After 60 days from the misconduct or use of force, the agency may continue to delay the disclosure of records or information if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against an officer who engaged in misconduct or used the force. If an agency delays disclosure pursuant to this clause, the agency shall, at 180-day intervals as necessary, provide, in writing, the specific basis for the agency's determination that disclosure could reasonably be expected to interfere with a criminal enforcement proceeding. The writing shall include the estimated date for the disclosure of the withheld information. Information withheld by the agency shall be disclosed when the specific basis for withholding is resolved, when the investigation or proceeding is no longer active, or by no later than 18 months after the date of the incident, whichever occurs sooner.

(iii) After 60 days from the misconduct or use of force, the agency may continue to delay the disclosure of records or information if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against someone other than the officer who engaged in the misconduct or used the force. If an agency delays disclosure under this clause, the agency shall, at 180-day intervals, provide, in writing, the specific basis why disclosure could reasonably be expected to interfere with a criminal enforcement proceeding, and shall provide an estimated date for the disclosure of the withheld information. Information withheld by the agency shall be disclosed when the specific basis for withholding is resolved, when the investigation or proceeding is no longer active, or by no later than 18 months after the date of the incident, whichever occurs sooner, unless extraordinary circumstances warrant continued delay due to the ongoing criminal investigation or proceeding. In that case, the agency must show by clear and convincing evidence that the interest in preventing prejudice to the active and ongoing criminal investigation or proceeding outweighs the public

interest in prompt disclosure of records about misconduct or use of force by peace officers and custodial officers. The agency shall release all information subject to disclosure that does not cause substantial prejudice, including any documents that have otherwise become available.

(iv) In an action to compel disclosure brought pursuant to Section 6258 of the Government Code, an agency may justify delay by filing an application to seal the basis for withholding, in accordance with Rule 2.550 of the California Rules of Court, or any successor rule, if disclosure of the written basis itself would impact a privilege or compromise a pending investigation.

(B) If criminal charges are filed related to the incident in which misconduct occurred or force was used, the agency may delay the disclosure of records or information until a verdict on those charges is returned at trial or, if a plea of guilty or no contest is entered, the time to withdraw the plea pursuant to Section 1018.

(C) During an administrative investigation into an incident described in paragraph (1), the agency may delay the disclosure of records or information until the investigating agency determines whether the misconduct or use of force violated a law or agency policy, but no longer than 180 days after the date of the employing agency's discovery of the misconduct or use of force, or allegation of misconduct or use of force, by a person authorized to initiate an investigation.

(9) A record of a complaint, or the investigations, findings, or dispositions of that complaint, shall not be released pursuant to this section if the complaint is frivolous, as defined in Section 128.5 of the Code of Civil Procedure, or if the complaint is unfounded.

(10) The cost of copies of records subject to disclosure pursuant to this subdivision that are made available upon the payment of fees covering direct costs of duplication pursuant to subdivision (b) of Section 6253 of the Government Code shall not include the costs of searching for, editing, or redacting the records.

(11) Except to the extent temporary withholding for a longer period is permitted pursuant to paragraph (8), records subject to disclosure under this subdivision shall be provided at the earliest possible time and no later than 45 days from the date of a request for their disclosure.

(12) (A) For purposes of releasing records pursuant to this subdivision, the lawyer-client privilege does not prohibit the disclosure of either of the following:

(i) Factual information provided by the public entity to its attorney or factual information discovered in any investigation conducted by, or on behalf of, the public entity's attorney.

(ii) Billing records related to the work done by the attorney so long as the records do not relate to active and ongoing litigation and do not disclose information for the purpose of legal consultation between the public entity and its attorney.

(B) This paragraph does not prohibit the public entity from asserting that a record or information within the record is exempted or prohibited from disclosure pursuant to any other federal or state law.

(c) Notwithstanding subdivisions (a) and (b), a department or agency shall release to the complaining party a copy of the complaining party's own statements at the time the complaint is filed.

(d) Notwithstanding subdivisions (a) and (b), a department or agency that employs peace or custodial officers may disseminate data regarding the number, type, or disposition of complaints (sustained, not sustained, exonerated, or unfounded) made against its officers if that information is in a form which does not identify the individuals involved.

(e) Notwithstanding subdivisions (a) and (b), a department or agency that employs peace or custodial officers may release factual information concerning a disciplinary investigation if the officer who is the subject of the disciplinary investigation, or the officer's agent or representative, publicly makes a statement they know to be false concerning the investigation or the imposition of disciplinary action. Information may not be disclosed by the peace or custodial officer's employer unless the false statement was published by an established medium of communication, such as television, radio, or a newspaper. Disclosure of factual information by the employing agency pursuant to this subdivision is limited to facts contained in the officer's personnel file concerning the disciplinary investigation or imposition of disciplinary action that specifically refute the false statements made public by the peace or custodial officer or their agent or representative.

(f) (1) The department or agency shall provide written notification to the complaining party of the disposition of the complaint within 30 days of the disposition.



(2) The notification described in this subdivision is not conclusive or binding or admissible as evidence in any separate or subsequent action or proceeding brought before an arbitrator, court, or judge of this state or the United States.

(g) This section does not affect the discovery or disclosure of information contained in a peace or custodial officer's personnel file pursuant to Section 1043 of the Evidence Code.

(h) This section does not supersede or affect the criminal discovery process outlined in Chapter 10 (commencing with Section 1054) of Title 6 of Part 2, or the admissibility of personnel records pursuant to subdivision (a), which codifies the court decision in *Pitchess v. Superior Court* (1974) 11 Cal.3d 531.

(i) Nothing in this chapter is intended to limit the public's right of access as provided for in *Long Beach Police Officers Association v. City of Long Beach* (2014) 59 Cal.4th 59.

## **SEC. 4.**

Section 832.12 of the Penal Code is amended to read:

### **832.12.**

(a) Each department or agency in this state that employs peace officers shall make a record of any investigations of misconduct involving a peace officer in the officer's general personnel file or a separate file designated by the department or agency. A peace officer seeking employment with a department or agency in this state that employs peace officers shall give written permission for the hiring department or agency to view the officer's general personnel file and any separate file designated by a department or agency.

(b) Prior to employing any peace officer, each department or agency in this state that employs peace officers shall request, and the hiring department or agency shall review, any records made available pursuant to subdivision (a).

## **SEC. 5.**

Section 832.13 is added to the Penal Code, to read:

### **832.13.**

Every person employed as a peace officer shall immediately report all uses of force by the officer to the officer's department or agency.

## **SEC. 6.**

The Legislature finds and declares that Sections 2 and 3 of this act, which amend Sections 832.5 and 832.7 of the Penal Code, further, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act furthers public access and provides greater transparency with respect to certain law enforcement records.

## **SEC. 7.**

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district under this act would result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.

However, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

**Senate Bill No. 98**  
**CHAPTER 759**

An act to add Section 409.7 to the Penal Code, relating to public safety.

[ Approved by Governor October 09, 2021. Filed with Secretary of State October 09, 2021.  
]

**LEGISLATIVE COUNSEL'S DIGEST**

**SB 98, McGuire. Public peace: media access.**

Existing law makes every person who willfully resists, delays, or obstructs any public officer, peace officer, or an emergency medical technician, as defined, in the discharge or attempt to discharge any duty of the office or employment, when no other punishment is prescribed, guilty of a misdemeanor. Existing law also authorizes specified peace officers to close an area where a menace to the public health or safety is created by a calamity and to close the immediate area surrounding any emergency field command post or other command post activated for the purpose of abating a calamity, riot, or other civil disturbance, as specified. Existing law makes any unauthorized person who willfully and knowingly enters those areas and who remains in the area after receiving notice to evacuate or leave guilty of a misdemeanor. Existing law exempts a duly authorized representative of any news service, newspaper, or radio or television station or network from the provisions prohibiting entry into the closed areas, as specified.

This bill would, if peace officers close the immediate area surrounding any emergency field command post or any other command post, or establish a police line, or rolling closure at a demonstration, march, protest, or rally where individuals are engaged primarily in constitutionally protected activity, as described, require that a duly authorized representative of any news service, online news service, newspaper, or radio or television station or network, as described, be allowed to enter those closed areas and would prohibit a peace officer or other law enforcement officer from intentionally assaulting, interfering with, or obstructing a duly authorized representative who is gathering, receiving, or processing information for communication to the public. The bill would also prohibit a duly authorized representative who is in a closed area and gathering, receiving, or processing information from being cited for the failure to disperse, a violation of a curfew, or a violation of other, specified law. The bill would require that if a representative is detained by a peace officer or other law enforcement officer, the representative be permitted to contact a supervisory officer immediately for the purpose of challenging the detention. The bill would not impose criminal liability. The bill would state the Legislature's intention to achieve parity in the access and protections in these circumstances as those established pursuant to a specified law.

**DIGEST KEY**

Vote: MAJORITY Appropriation: NO Fiscal Committee: YES Local Program: NO

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**BILL TEXT**

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

**SECTION 1.**

It is the intent of the Legislature that this act achieve parity in the access and protections for journalists and news media as those established pursuant to Section 409.5 of the Penal Code.

**SEC. 2.**

Section 409.7 is added to the Penal Code, to read:

**409.7.**

(a) If peace officers, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, close the immediate area surrounding any emergency field command post or any other command post, or establish a police line, or rolling closure at a demonstration, march, protest, or rally where individuals are engaged in activity that is protected pursuant to

the First Amendment to the United States Constitution or Article I of the California Constitution, the following requirements shall apply:

(1) A duly authorized representative of any news service, online news service, newspaper, or radio or television station or network may enter the closed areas described in this section.

(2) A peace officer or other law enforcement officer shall not intentionally assault, interfere with, or obstruct the duly authorized representative of any news service, online news service, newspaper, or radio or television station or network who is gathering, receiving, or processing information for communication to the public.

(3) A duly authorized representative of any news service, online news service, newspaper, or radio or television station or network that is in a closed area described in this section shall not be cited for the failure to disperse, a violation of a curfew, or a violation of paragraph (1) of subdivision (a) of Section 148, for gathering, receiving, or processing information. If the duly authorized representative is detained by a peace officer or other law enforcement officer, that representative shall be permitted to contact a supervisory officer immediately for the purpose of challenging the detention, unless circumstances make it impossible to do so.

(b) This section does not prevent a law enforcement officer from enforcing other applicable laws if the person is engaged in activity that is unlawful.

(c) This section does not impose, and shall not be used as the basis for, criminal liability.

**Assembly Bill No. 26**  
**CHAPTER 403**

An act to amend Section 7286 of the Government Code, relating to peace officers.

[ Approved by Governor September 30, 2021. Filed with Secretary of  
State September 30, 2021. ]

**LEGISLATIVE COUNSEL'S DIGEST**

**AB 26, Holden. Peace officers: use of force.**

Existing law requires each law enforcement agency, on or before January 1, 2021, to maintain a policy that provides a minimum standard on the use of force. Existing law requires that policy, among other things, to require that officers report potential excessive force to a superior officer when present and observing another officer using force that the officer believes to be unnecessary, and to require that officers intercede when present and observing another officer using force that is clearly beyond that which is necessary, as specified.

This bill would require those law enforcement policies to require those officers to immediately report potential excessive force, as defined. The bill would additionally require those policies to, among other things, prohibit retaliation against officers that report violations of law or regulation of another officer to a supervisor, as specified, and to require that an officer who fails to intercede be disciplined up to and including in the same manner as the officer who used excessive force. By imposing additional duties on local agencies, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

**DIGEST KEY**

Vote: MAJORITY Appropriation: NO Fiscal Committee: YES Local Program: YES

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**BILL TEXT**

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

**SECTION 1.**

**Section 7286 of the Government Code is amended to read:**

**7286.**

(a) For the purposes of this section:

(1) "Deadly force" means any use of force that creates a substantial risk of causing death or serious bodily injury. Deadly force includes, but is not limited to, the discharge of a firearm.

(2) "Excessive force" means a level of force that is found to have violated Section 835a of the Penal Code, the requirements on the use of force required by this section, or any other law or statute.

(3) "Feasible" means reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

(4) "Intercede" includes, but is not limited to, physically stopping the excessive use of force, recording the excessive force, if equipped with a body-worn camera, and documenting efforts to intervene, efforts to deescalate the offending officer's

excessive use of force, and confronting the offending officer about the excessive force during the use of force and, if the officer continues, reporting to dispatch or the watch commander on duty and stating the offending officer's name, unit, location, time, and situation, in order to establish a duty for that officer to intervene.

(5) "Law enforcement agency" means any police department, sheriff's department, district attorney, county probation department, transit agency police department, school district police department, the police department of any campus of the University of California, the California State University, or community college, the Department of the California Highway Patrol, the Department of Fish and Wildlife, and the Department of Justice.

(6) "Retaliation" means demotion, failure to promote to a higher position when warranted by merit, denial of access to training and professional development opportunities, denial of access to resources necessary for an officer to properly perform their duties, or intimidation, harassment, or the threat of injury while on duty or off duty.

(b) Each law enforcement agency shall, by no later than January 1, 2021, maintain a policy that provides a minimum standard on the use of force. Each agency's policy shall include all of the following:

(1) A requirement that officers utilize deescalation techniques, crisis intervention tactics, and other alternatives to force when feasible.

(2) A requirement that an officer may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance.

(3) A requirement that officers immediately report potential excessive force to a superior officer when present and observing another officer using force that the officer believes to be beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances based upon the totality of information actually known to the officer.

(4) A prohibition on retaliation against an officer that reports a suspected violation of a law or regulation of another officer to a supervisor or other person of the law enforcement agency who has the authority to investigate the violation.

(5) Clear and specific guidelines regarding situations in which officers may or may not draw a firearm or point a firearm at a person.

(6) A requirement that officers consider their surroundings and potential risks to bystanders, to the extent reasonable under the circumstances, before discharging a firearm.

(7) Procedures for disclosing public records in accordance with Section 832.7.

(8) Procedures for the filing, investigation, and reporting of citizen complaints regarding use of force incidents.

(9) A requirement that an officer intercede when present and observing another officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, taking into account the possibility that other officers may have additional information regarding the threat posed by a subject.

(10) Comprehensive and specific guidelines regarding approved methods and devices available for the application of force.

(11) An explicitly stated requirement that officers carry out duties, including use of force, in a manner that is fair and unbiased.

(12) Comprehensive and specific guidelines for the application of deadly force.

(13) Comprehensive and detailed requirements for prompt internal reporting and notification regarding a use of force incident, including reporting use of force incidents to the Department of Justice in compliance with Section 12525.2.

(14) The role of supervisors in the review of use of force applications.

(15) A requirement that officers promptly provide, if properly trained, or otherwise promptly procure medical assistance for persons injured in a use of force incident, when reasonable and safe to do so.

(16) Training standards and requirements relating to demonstrated knowledge and understanding of the law enforcement agency's use of force policy by officers, investigators, and supervisors.

(17) Training and guidelines regarding vulnerable populations, including, but not limited to, children, elderly persons, people who are pregnant, and people with physical, mental, and developmental disabilities.

(18) Procedures to prohibit an officer from training other officers for a period of at least three years from the date that an abuse of force complaint against the officer is substantiated.

(19) A requirement that an officer that has received all required training on the requirement to intercede and fails to act pursuant to paragraph (9) be disciplined up to and including in the same manner as the officer that committed the excessive force.

(20) Comprehensive and specific guidelines under which the discharge of a firearm at or from a moving vehicle may or may not be permitted.

(21) Factors for evaluating and reviewing all use of force incidents.

(22) Minimum training and course titles required to meet the objectives in the use of force policy.

(23) A requirement for the regular review and updating of the policy to reflect developing practices and procedures.

(c) Each law enforcement agency shall make their use of force policy adopted pursuant to this section accessible to the public.

(d) This section does not supersede the collective bargaining procedures established pursuant to the Myers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4), the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512) of Division 4), or the Higher Education Employer-Employee Relations Act (Chapter 12 (commencing with Section 3560) of Division 4).

## **SEC. 2.**

If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code

**Assembly Bill No. 48**  
**CHAPTER 404**

An act to amend Section 12525.2 of the Government Code, and to add Sections 13652 and 13652.1 to the Penal Code, relating to law enforcement.

[ Approved by Governor September 30, 2021. Filed with Secretary of  
State September 30, 2021. ]

**LEGISLATIVE COUNSEL'S DIGEST**

**AB 48, Lorena Gonzalez. Law enforcement: use of force.**

(1) Existing law authorizes a peace officer to use reasonable force to effect the arrest, to prevent escape, or to overcome resistance. Existing law requires law enforcement agencies to maintain a policy on the use of force, as specified. Existing law requires the Commission on Peace Officer Standards and Training to implement courses of instruction for the regular and periodic training of law enforcement officers in the use of force.

This bill would prohibit the use of kinetic energy projectiles or chemical agents by any law enforcement agency to disperse any assembly, protest, or demonstration, except in compliance with specified standards set by the bill, and would prohibit their use solely due to a violation of an imposed curfew, verbal threat, or noncompliance with a law enforcement directive. The bill would include in the standards for the use of kinetic energy projectiles and chemical agents to disperse gatherings the requirement that, among other things, those weapons only be used to defend against a threat to life or serious bodily injury to any individual, including a peace officer, or to bring an objectively dangerous and unlawful situation safely and effectively under control. The bill would define chemical agents to include, among other substances, chloroacetophenone tear gas or 2-chlorobenzalmalonitrile gas. The bill would make these provisions inapplicable within a county jail or state prison facility.

This bill would also require each law enforcement agency, within a specified timeframe, to post on their internet website a summary, as described, of any incident in which a kinetic energy projectile or chemical agent is deployed by that agency for the purpose of crowd control. The bill would require the Department of Justice to provide a compiled list of links to these reports on its internet website.

(2) Existing law requires each law enforcement agency to annually report specified use of force incidents to the Department of Justice and requires the Department of Justice to annually publish a summary of those incidents, as specified.

This bill would require these reports to be made monthly. By imposing new duties on law enforcement agencies, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

**DIGEST KEY**

Vote: MAJORITY Appropriation: NO Fiscal Committee: YES Local Program: YES

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**BILL TEXT**

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

**SECTION 1.**

Section 12525.2 of the Government Code is amended to read:

**12525.2.**

(a) Each law enforcement agency shall monthly furnish to the Department of Justice, in a manner defined and prescribed by the Attorney General, a report of all instances when a peace officer employed by that agency is involved in any of the following:

- (1) An incident involving the shooting of a civilian by a peace officer.
- (2) An incident involving the shooting of a peace officer by a civilian.
- (3) An incident in which the use of force by a peace officer against a civilian results in serious bodily injury or death.
- (4) An incident in which use of force by a civilian against a peace officer results in serious bodily injury or death.

(b) For each incident reported under subdivision (a), the information reported to the Department of Justice shall include, but not be limited to, all of the following:

- (1) The gender, race, and age of each individual who was shot, injured, or killed.
  - (2) The date, time, and location of the incident.
  - (3) Whether the civilian was armed, and, if so, the type of weapon.
  - (4) The type of force used against the officer, the civilian, or both, including the types of weapons used.
  - (5) The number of officers involved in the incident.
  - (6) The number of civilians involved in the incident.
  - (7) A brief description regarding the circumstances surrounding the incident, which may include the nature of injuries to officers and civilians and perceptions on behavior or mental disorders.
- (c) Each year, the Department of Justice shall include a summary of information contained in the reports received pursuant to subdivision (a) through the department's OpenJustice Web portal pursuant to Section 13010 of the Penal Code. This information shall be classified according to the reporting law enforcement jurisdiction. In cases involving a peace officer who is injured or killed, the report shall list the officer's employing jurisdiction and the jurisdiction where the injury or death occurred, if they are not the same. This subdivision does not authorize the release to the public of the badge number or other unique identifying information of the peace officer involved.
- (d) For purposes of this section, "serious bodily injury" means a bodily injury that involves a substantial risk of death, unconsciousness, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member or organ.

**SEC. 2.**

Section 13652 is added to the Penal Code, to read:

**13652.**

- (a) Except as otherwise provided in subdivision (b), kinetic energy projectiles and chemical agents shall not be used by any law enforcement agency to disperse any assembly, protest, or demonstration.
- (b) Kinetic energy projectiles and chemical agents shall only be deployed by a peace officer that has received training on their proper use by the Commission on Peace Officer Standards and Training for crowd control if the use is objectively reasonable to defend against a threat to life or serious bodily injury to any individual, including any peace officer, or to bring an objectively dangerous and unlawful situation safely and effectively under control, and only in accordance with all of the following requirements:
- (1) Deescalation techniques or other alternatives to force have been attempted, when objectively reasonable, and have failed.



(2) Repeated, audible announcements are made announcing the intent to use kinetic energy projectiles and chemical agents and the type to be used, when objectively reasonable to do so. The announcements shall be made from various locations, if necessary, and delivered in multiple languages, if appropriate.

(3) Persons are given an objectively reasonable opportunity to disperse and leave the scene.

(4) An objectively reasonable effort has been made to identify persons engaged in violent acts and those who are not, and kinetic energy projectiles or chemical agents are targeted toward those individuals engaged in violent acts. Projectiles shall not be aimed indiscriminately into a crowd or group of persons.

(5) Kinetic energy projectiles and chemical agents are used only with the frequency, intensity, and in a manner that is proportional to the threat and objectively reasonable.

(6) Officers shall minimize the possible incidental impact of their use of kinetic energy projectiles and chemical agents on bystanders, medical personnel, journalists, or other unintended targets.

(7) An objectively reasonable effort has been made to extract individuals in distress.

(8) Medical assistance is promptly provided, if properly trained personnel are present, or procured, for injured persons, when it is reasonable and safe to do so.

(9) Kinetic energy projectiles shall not be aimed at the head, neck, or any other vital organs.

(10) Kinetic energy projectiles or chemical agents shall not be used by any law enforcement agency solely due to any of the following:

(A) A violation of an imposed curfew.

(B) A verbal threat.

(C) Noncompliance with a law enforcement directive.

(11) If the chemical agent to be deployed is tear gas, only a commanding officer at the scene of the assembly, protest, or demonstration may authorize the use of tear gas.

(c) This section does not prevent a law enforcement agency from adopting more stringent policies.

(d) For the purposes of this section, the following terms have the following meanings:

(1) "Kinetic energy projectiles" means any type of device designed as less lethal, to be launched from any device as a projectile that may cause bodily injury through the transfer of kinetic energy and blunt force trauma. For purposes of this section, the term includes, but is not limited to, items commonly referred to as rubber bullets, plastic bullets, beanbag rounds, and foam tipped plastic rounds.

(2) "Chemical agents" means any chemical that can rapidly produce sensory irritation or disabling physical effects in humans, which disappear within a short time following termination of exposure. For purposes of this section, the term includes, but is not limited to, chloroacetophenone tear gas, commonly known as CN tear gas; 2-chlorobenzalmalononitrile gas, commonly known as CS gas; and items commonly referred to as pepper balls, pepper spray, or oleoresin capsicum.

(e) This section does not apply within any county detention facility or any correctional facility of the Department of Corrections and Rehabilitation.

### **SEC. 3.**

Section 13652.1 is added to the Penal Code, to read:

#### **13652.1.**

(a) Each law enforcement agency shall, within 60 days of each incident, publish a summary on its internet website of all instances in which a peace officer employed by that agency uses a kinetic energy projectile or chemical agent, as those terms are defined in Section 13652, for crowd control. However, an agency may extend that period for another 30 days if they demonstrate just cause, but in no case longer than 90 days from the time of the incident.

(b) For each incident reported under subdivision (a), the summary shall be limited to that information known to the agency at the time of the report and shall include only the following:

(1) A description of the assembly, protest, demonstration, or incident, including the approximate crowd size and the number of officers involved.

(2) The type of kinetic energy projectile or chemical agent deployed.

(3) The number of rounds or quantity of chemical agent dispersed, as applicable.

(4) The number of documented injuries as a result of the kinetic energy projectile or chemical agent deployment.

(5) The justification for using the kinetic energy projectile or chemical agent, including any deescalation tactics or protocols and other measures that were taken at the time of the event to deescalate tensions and avoid the necessity of using the kinetic energy projectile or chemical agent.

(c) The Department of Justice shall post on its internet website a compiled list linking each law enforcement agency's reports posted pursuant to subdivision (a).

#### **SEC. 4.**

If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

**Assembly Bill No. 89**  
**CHAPTER 405**

An act to add Section 1031.4 to the Government Code, and to add Section 13511.1 to the Penal Code, relating to peace officers.

[ Approved by Governor September 30, 2021. Filed with Secretary of  
State September 30, 2021. ]

**LEGISLATIVE COUNSEL'S DIGEST**

**AB 89, Jones-Sawyer. Peace officers: minimum qualifications.**

Existing law requires the Commission on Peace Officer Standards and Training (POST) to establish a certification program for specified peace officers, including officers of the Department of the California Highway Patrol. Existing law requires the commission to establish basic, intermediate, advanced, supervisory, management, and executive certificates for the purpose of fostering the education and experience necessary to perform general police service duties. Existing law requires certificates to be awarded on the basis of a combination of training, education, experience, and other prerequisites, as determined by the commission.

This bill would require the office of the Chancellor of the California Community Colleges to develop a modern policing degree program, with the commission and other stakeholders to serve as advisors, as specified, and to submit a report on recommendations to the Legislature outlining a plan to implement the program on or before June 1, 2023. The bill would require the report to include, among other things, recommendations to adopt financial assistance for students of historically underserved and disadvantaged communities with barriers to higher education access, as specified. The bill would require the commission to adopt the recommended criteria within 2 years of when the office of the Chancellor of the California Community Colleges submits its report to the Legislature.

Existing law requires peace officers in this state to meet specified minimum standards, including age and education requirements.

This bill would increase the minimum qualifying age from 18 to 21 years of age for specified peace officers.

**DIGEST KEY**

Vote: MAJORITY Appropriation: NO Fiscal Committee: YES Local Program: NO

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**BILL TEXT**

**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 Education and Age Conditions for Employment Act or PEACE Act.

**SEC. 2.**

The Legislature finds and declares all of the following:

(a) There is an interest in minimizing peace officer use of deadly force.

(b) The Legislature has repeatedly relied on neurological research with respect to criminal sentencing law reflecting a growing understanding that cognitive brain development continues well beyond age 18 and into early adulthood. Scientific evidence on young adult development and neuroscience shows that certain areas of the brain, particularly those affecting judgment and decisionmaking, do not develop until the early to mid-20s.

(c) Law enforcement officers are required to make split-second decisions to protect the health and safety of the public and address dangerous situations. A young adult with a still developing brain may struggle during events that require quick decisionmaking and judgments.

(d) A study has also shown that better educated officers perform better in the academy, receive higher supervisor evaluations, have fewer disciplinary problems and accidents, are assaulted less often, and miss fewer days of work than their counterparts.

### **SEC. 3.**

Section 1031.4 is added to the Government Code, to read:

#### **1031.4.**

(a) In addition to the standards in Section 1031, each state officer and employee designated as peace officers as described in Section 830.1, with the exception of those described in subdivision (c) of that section, 830.2, with the exception of those described in subdivision (d) of that section, 830.3, 830.32, or 830.33 of the Penal Code, or any other peace officer employed by an agency that participates in the Peace Officer Standards and Training (POST) program shall be at least 21 years of age at the time of appointment.

(b) This section shall not apply to any person who, as of December 31, 2021, is currently enrolled in a basic academy or is employed as a peace officer by a public entity in California.

### **SEC. 4.**

Section 13511.1 is added to the Penal Code, to read:

#### **13511.1.**

(a) The commission, stakeholders from law enforcement, including representatives of law enforcement administration and law enforcement employees, the California State University, including administration and faculty members, and community organizations shall serve as advisors to the office of the Chancellor of the California Community Colleges to develop a modern policing degree program. By June 1, 2023, the office of the Chancellor of the California Community Colleges, in consultation with the stakeholders, shall submit a report on recommendations to the Legislature outlining a plan to implement this program. The recommendations in the report shall:

(1) Focus on courses pertinent to law enforcement, which shall include, but not be limited to, psychology, communications, history, ethnic studies, law, and those determined to develop necessary critical thinking skills and emotional intelligence.

(2) Include allowances for prior law enforcement experience, and appropriate work experience, postsecondary education experience, or military experience to satisfy a portion of the employment eligibility requirements.

(A) It is the intent of the Legislature that allowances for prior experience in this paragraph for those with military experience may be provided to those with military specializations pertinent to law enforcement, including those specializations in community relations, deescalation, foreign language translators, and those determined to require necessary critical thinking skills and emotional intelligence.

(B) It is the intent of the Legislature that allowances for prior experience specified in this paragraph shall be granted to those of good moral character, and shall not be granted to those with prior sustained disciplinary actions taken against them, except that the Commission on Peace Officer Standards and Training may, after considering the severity of the sustained misconduct or violation, grant a partial allowance.

(3) Include both the modern policing degree program and bachelor's degree in the discipline of their choosing as minimum education requirements for employment as a peace officer referenced in subdivision (a) of Section 1031.4 of the Government Code.

(4) Include recommendations to adopt financial assistance for students of historically underserved and disadvantaged communities with barriers to higher education access that fulfill the minimum education requirements to be adopted, pursuant to this section, for employment as a peace officer referenced in subdivision (a) of Section 1031.4 of the Government Code.

(b) The report to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(c) Within two years of the submission of the report to the Legislature, the commission shall approve and adopt the education criteria for peace officers referenced in subdivision (a) of Section 1031.4 of the Government Code, based on the recommendations in the report by the office of the Chancellor of the California Community Colleges in consultation with the stakeholders specified in subdivision (a).

**Assembly Bill No. 481**  
**CHAPTER 406**

An act to add Chapter 12.8 (commencing with Section 7070) to Division 7 of Title 1 of the Government Code, relating to military equipment.

[ Approved by Governor September 30, 2021. Filed with Secretary of  
State September 30, 2021. ]

**LEGISLATIVE COUNSEL'S DIGEST**

**AB 481, Chiu. Law enforcement and state agencies: military equipment: funding, acquisition, and use.**

Existing law designates the Department of General Services as the agency for the State of California responsible for distribution of federal surplus personal property, excepting food commodities, and requires the department to, among other things, do all things necessary to the execution of its powers and duties as the state agency for the distribution of federal surplus personal property, excepting food commodities, in accordance with specified federal law. Existing law, the Federal Surplus Property Acquisition Law of 1945, authorizes a local agency, as defined, to acquire surplus federal property without regard to any law which requires posting of notices or advertising for bids, inviting or receiving bids, or delivery of purchases before payment, or which prevents the local agency from bidding on federal surplus property. Existing federal law authorizes the Department of Defense to transfer surplus personal property, including arms and ammunition, to federal or state agencies for use in law enforcement activities, subject to specified conditions, at no cost to the acquiring agency.

This bill would require a law enforcement agency, defined to include specified entities, to obtain approval of the applicable governing body, by adoption of a military equipment use policy, as specified, by ordinance at a regular meeting held pursuant to specified open meeting laws, prior to taking certain actions relating to the funding, acquisition, or use of military equipment, as defined. The bill would also require similar approval for the continued use of military equipment acquired prior to January 1, 2022. The bill would allow the governing body to approve the funding, acquisition, or use of military equipment within its jurisdiction only if it determines that the military equipment meets specified standards. The bill would require the governing body to annually review the ordinance and to either disapprove a renewal of the authorization for a type, as defined, of military equipment or amend the military equipment use policy if it determines, based on an annual military equipment report prepared by the law enforcement agency, as provided, that the military equipment does not comply with the above-described standards for approval. The bill would specify these provisions do not preclude a county or local municipality from implementing additional requirements and standards related to the purchase, use, and reporting of military equipment by local law enforcement agencies.

This bill would also require a state agency, as defined, to create a military equipment use policy before engaging in certain activities, publish the policy on the agency's internet website, and provide a copy of the policy to the Governor or the Governor's designee, as specified. The bill would also require a state agency that seeks to continue use of military equipment acquired prior to January 1, 2022, to create a military equipment use policy.

This bill would also include findings that the changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

By adding to the duties of local officials with respect to the funding, acquisition, and use of military equipment, this bill would impose a state-mandated local program.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

## DIGEST KEY

Vote: MAJORITY Appropriation: NO Fiscal Committee: YES Local Program: YES

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## BILL TEXT

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

### SECTION 1.

The Legislature finds and declares all of the following:

(a) The acquisition of military equipment and its deployment in our communities adversely impacts the public's safety and welfare, including increased risk of civilian deaths, significant risks to civil rights, civil liberties, and physical and psychological well-being, and incurment of significant financial costs. Military equipment is more frequently deployed in low-income Black and Brown communities, meaning the risks and impacts of police militarization are experienced most acutely in marginalized communities.

(b) The public has a right to know about any funding, acquisition, or use of military equipment by state or local government officials, as well as a right to participate in any government agency's decision to fund, acquire, or use such equipment.

(c) Decisions regarding whether and how military equipment is funded, acquired, or used should give strong consideration to the public's welfare, safety, civil rights, and civil liberties, and should be based on meaningful public input.

(d) Legally enforceable safeguards, including transparency, oversight, and accountability measures, must be in place to protect the public's welfare, safety, civil rights, and civil liberties before military equipment is funded, acquired, or used.

(e) The lack of a public forum to discuss the acquisition of military equipment jeopardizes the relationship police have with the community, which can be undermined when law enforcement is seen as an occupying force rather than a public safety service.

### SEC. 2.

Chapter 12.8 (commencing with Section 7070) is added to Division 7 of Title 1 of the Government Code, to read:

#### CHAPTER 12.8. Funding, Acquisition, and Use of Military Equipment 7070.

For purposes of this chapter, the following definitions shall apply:

(a) "Governing body" means the elected body that oversees a law enforcement agency or, if there is no elected body that directly oversees the law enforcement agency, the appointed body that oversees a law enforcement agency. In the case of a law enforcement agency of a county, including a sheriff's department or a district attorney's office, "governing body" means the board of supervisors of the county.

(b) "Law enforcement agency" means any of the following:

(1) A police department, including the police department of a transit agency, school district, or any campus of the University of California, the California State University, or California Community Colleges.

(2) A sheriff's department.

(3) A district attorney's office.

(4) A county probation department.

(c) "Military equipment" means the following:

- (1) Unmanned, remotely piloted, powered aerial or ground vehicles.
- (2) Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers. However, police versions of standard consumer vehicles are specifically excluded from this subdivision.
- (3) High mobility multipurpose wheeled vehicles (HMMWV), commonly referred to as Humvees, two and one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached. However, unarmored all-terrain vehicles (ATVs) and motorized dirt bikes are specifically excluded from this subdivision.
- (4) Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.
- (5) Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
- (6) Weaponized aircraft, vessels, or vehicles of any kind.
- (7) Battering rams, slugs, and breaching apparatuses that are explosive in nature. However, items designed to remove a lock, such as bolt cutters, or a handheld ram designed to be operated by one person, are specifically excluded from this subdivision.
- (8) Firearms of .50 caliber or greater. However, standard issue shotguns are specifically excluded from this subdivision.
- (9) Ammunition of .50 caliber or greater. However, standard issue shotgun ammunition is specifically excluded from this subdivision.
- (10) Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Sections 30510 and 30515 of the Penal Code, with the exception of standard issue service weapons and ammunition of less than .50 caliber that are issued to officers, agents, or employees of a law enforcement agency or a state agency.
- (11) Any firearm or firearm accessory that is designed to launch explosive projectiles.
- (12) "Flashbang" grenades and explosive breaching tools, "tear gas," and "pepper balls," excluding standard, service-issued handheld pepper spray.
- (13) Taser Shockwave, microwave weapons, water cannons, and the Long Range Acoustic Device (LRAD).
- (14) The following projectile launch platforms and their associated munitions: 40mm projectile launchers, "bean bag," rubber bullet, and specialty impact munition (SIM) weapons.
- (15) Any other equipment as determined by a governing body or a state agency to require additional oversight.
- (16) Notwithstanding paragraphs (1) through (15), "military equipment" does not include general equipment not designated as prohibited or controlled by the federal Defense Logistics Agency.
  - (d) "Military equipment use policy" means a publicly released, written document governing the use of military equipment by a law enforcement agency or a state agency that addresses, at a minimum, all of the following:
    - (1) A description of each type of military equipment, the quantity sought, its capabilities, expected lifespan, and product descriptions from the manufacturer of the military equipment.
    - (2) The purposes and authorized uses for which the law enforcement agency or the state agency proposes to use each type of military equipment.
    - (3) The fiscal impact of each type of military equipment, including the initial costs of obtaining the equipment and estimated annual costs of maintaining the equipment.
    - (4) The legal and procedural rules that govern each authorized use.
    - (5) The training, including any course required by the Commission on Peace Officer Standards and Training, that must be completed before any officer, agent, or employee of the law enforcement agency or the state agency is allowed to use each



specific type of military equipment to ensure the full protection of the public's welfare, safety, civil rights, and civil liberties and full adherence to the military equipment use policy.

(6) The mechanisms to ensure compliance with the military equipment use policy, including which independent persons or entities have oversight authority, and, if applicable, what legally enforceable sanctions are put in place for violations of the policy.

(7) For a law enforcement agency, the procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of military equipment, and how the law enforcement agency will ensure that each complaint, concern, or question receives a response in a timely manner.

(e) "State agency" means the law enforcement division of every state office, officer, department, division, bureau, board, and commission or other state body or agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.

(f) "Type" means each item that shares the same manufacturer model number.

#### **7071.**

(a) (1) A law enforcement agency shall obtain approval of the governing body, by an ordinance adopting a military equipment use policy at a regular meeting of the governing body held pursuant to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2) or the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), as applicable, prior to engaging in any of the following:

(A) Requesting military equipment made available pursuant to Section 2576a of Title 10 of the United States Code.

(B) Seeking funds for military equipment, including, but not limited to, applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.

(C) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.

(D) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the territorial jurisdiction of the governing body.

(E) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body pursuant to this chapter.

(F) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of, military equipment.

(G) Acquiring military equipment through any means not provided by this paragraph.

(2) No later than May 1, 2022, a law enforcement agency seeking to continue the use of any military equipment that was acquired prior to January 1, 2022, shall commence a governing body approval process in accordance with this section. If the governing body does not approve the continuing use of military equipment, including by adoption pursuant to this subdivision of a military equipment use policy submitted pursuant to subdivision (b), within 180 days of submission of the proposed military equipment use policy to the governing body, the law enforcement agency shall cease its use of the military equipment until it receives the approval of the governing body in accordance with this section.

(b) In seeking the approval of the governing body pursuant to subdivision (a), a law enforcement agency shall submit a proposed military equipment use policy to the governing body and make those documents available on the law enforcement agency's internet website at least 30 days prior to any public hearing concerning the military equipment at issue.

(c) The governing body shall consider a proposed military equipment use policy as an agenda item for an open session of a regular meeting and provide for public comment in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2) or the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), as applicable.

(d) (1) The governing body shall only approve a military equipment use policy pursuant to this chapter if it determines all of the following:

(A) The military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

(B) The proposed military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties.

(C) If purchasing the equipment, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.

(D) Prior military equipment use complied with the military equipment use policy that was in effect at the time, or if prior uses did not comply with the accompanying military equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.

(2) In order to facilitate public participation, any proposed or final military equipment use policy shall be made publicly available on the internet website of the relevant law enforcement agency for as long as the military equipment is available for use.

(e) (1) The governing body shall review any ordinance that it has adopted pursuant to this section approving the funding, acquisition, or use of military equipment at least annually and, subject to paragraph (2), vote on whether to renew the ordinance at a regular meeting held pursuant to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2) or the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), as applicable.

(2) The governing body shall determine, based on the annual military equipment report submitted pursuant to Section 7072, whether each type of military equipment identified in that report has complied with the standards for approval set forth in subdivision (d). If the governing body determines that a type of military equipment identified in that annual military equipment report has not complied with the standards for approval set forth in subdivision (d), the governing body shall either disapprove a renewal of the authorization for that type of military equipment or require modifications to the military equipment use policy in a manner that will resolve the lack of compliance.

(f) Notwithstanding subdivisions (a) to (e), inclusive, if a city contracts with another entity for law enforcement services, the city shall have the authority to adopt a military equipment use policy based on local community needs.

#### **7072.**

(a) A law enforcement agency that receives approval for a military equipment use policy pursuant to Section 7071 shall submit to the governing body an annual military equipment report for each type of military equipment approved by the governing body within one year of approval, and annually thereafter for as long as the military equipment is available for use. The law enforcement agency shall also make each annual military equipment report required by this section publicly available on its internet website for as long as the military equipment is available for use. The annual military equipment report shall, at a minimum, include the following information for the immediately preceding calendar year for each type of military equipment:

(1) A summary of how the military equipment was used and the purpose of its use.

(2) A summary of any complaints or concerns received concerning the military equipment.

(3) The results of any internal audits, any information about violations of the military equipment use policy, and any actions taken in response.

(4) The total annual cost for each type of military equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided for the military equipment in the calendar year following submission of the annual military equipment report.

(5) The quantity possessed for each type of military equipment.

(6) If the law enforcement agency intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.

(b) Within 30 days of submitting and publicly releasing an annual military equipment report pursuant to this section, the law enforcement agency shall hold at least one well-publicized and conveniently located community engagement meeting, at which the general public may discuss and ask questions regarding the annual military equipment report and the law enforcement agency's funding, acquisition, or use of military equipment.

**7073.**

(a) A state agency shall create a military equipment use policy prior to engaging in any of the following:

- (1) Requesting military equipment made available pursuant to Section 2576a of Title 10 of the United States Code.
- (2) Seeking funds for military equipment, including, but not limited to, applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.
- (3) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.
- (4) Collaborating with a law enforcement agency or another state agency in the deployment or other use of military equipment within the territorial jurisdiction of the governing body.
- (5) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body pursuant to this chapter.
- (6) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, or to apply to receive, acquire, use, or collaborate in the use of, military equipment.
- (7) Acquiring military equipment through any means not provided by this subdivision.

(b) No later than May 1, 2022, a state agency seeking to continue the use of any military equipment that was acquired prior to January 1, 2022, shall create a military equipment use policy.

(c) A state agency that is required to create a military equipment use policy pursuant to this section shall do both of the following within 180 days of completing the policy:

- (1) Publish the military equipment use policy on the agency's internet website.
- (2) Provide a copy of the military equipment use policy to the Governor or the Governor's designee.

**7074.**

The Legislature finds and declares that ensuring adequate oversight of the acquisition and use of military equipment is a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this chapter applies to all cities, including charter cities and shall supersede any inconsistent provisions in the charter of any city, county, or city and county.

**7075.**

Nothing in this chapter shall preclude a county or local municipality from implementing additional requirements and standards related to the purchase, use, and reporting of military equipment by local law enforcement agencies.

**SEC. 3.**

The Legislature finds and declares that Section 1 of this act, which adds Chapter 12.8 (commencing with Section 7070) to Division 7 of Title 1 of the Government Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

Requiring local agencies to hold public meetings prior to the acquisition of military equipment further exposes that activity to public scrutiny and enhances public access to information concerning the conduct of the people's business.

**SEC. 4.**

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district under this act would result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.

**Assembly Bill No. 490**  
**CHAPTER 407**

An act to amend Section 7286.5 of the Government Code, relating to law enforcement agency policies.

[ Approved by Governor September 30, 2021. Filed with Secretary of  
State September 30, 2021. ]

**LEGISLATIVE COUNSEL'S DIGEST**

**AB 490, Gipson. Law enforcement agency policies: arrests: positional asphyxia.**

Existing law authorizes a peace officer to make an arrest pursuant to a warrant or based upon probable cause, as specified. Under existing law, an arrest is made by the actual restraint of the person or by submission to the custody of the arresting officer. Existing law authorizes a peace officer to use reasonable force to effect the arrest, to prevent escape, or to overcome resistance.

Existing law requires law enforcement agencies to maintain a policy on the use of force, as specified. Existing law requires the Commission on Peace Officer Standards and Training to implement courses of instruction for the regular and periodic training of law enforcement officers in the use of force.

Existing law prohibits a law enforcement agency from authorizing the use of a carotid restraint or a choke hold, as defined.

**This bill would additionally prohibit a law enforcement agency from authorizing techniques or transport methods that involve a substantial risk of positional asphyxia, as defined.**

By requiring local agencies to amend use of force policies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

**DIGEST KEY**

Vote: MAJORITY Appropriation: NO Fiscal Committee: YES Local Program: YES

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**BILL TEXT**

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

**SECTION 1.**

**Section 7286.5 of the Government Code is amended to read:**

**7286.5.**

(a) (1) A law enforcement agency shall not authorize the use of a carotid restraint or choke hold by any peace officer employed by that agency.

(2) A law enforcement agency shall not authorize techniques or transport methods that involve a substantial risk of positional asphyxia.

(b) As used in this section, the following terms are defined as follows:

(1) “Carotid restraint” means a vascular neck restraint or any similar restraint, hold, or other defensive tactic in which pressure is applied to the sides of a person’s neck that involves a substantial risk of restricting blood flow and may render the person unconscious in order to subdue or control the person.

(2) “Choke hold” means any defensive tactic or force option in which direct pressure is applied to a person’s trachea or windpipe.

(3) “Law enforcement agency” means any agency, department, or other entity of the state or any political subdivision thereof, that employs any peace officer described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.

(4) “Positional asphyxia” means situating a person in a manner that compresses their airway and reduces the ability to sustain adequate breathing. This includes, without limitation, the use of any physical restraint that causes a person’s respiratory airway to be compressed or impairs the person’s breathing or respiratory capacity, including any action in which pressure or body weight is unreasonably applied against a restrained person’s neck, torso, or back, or positioning a restrained person without reasonable monitoring for signs of asphyxia.

## **SEC. 2.**

If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

**Introduced by Assembly Member McCarty**

February 11, 2021

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An act to add Section 12525.4 to the Government Code, relating to law enforcement.

LEGISLATIVE COUNSEL'S DIGEST

**AB 603, McCarty. Law enforcement settlements and judgments: reporting.**

Existing law requires each law enforcement agency to annually furnish specified information to the Department of Justice regarding the use of force by a peace officer. Existing law also establishes the Department of the California Highway Patrol within the Transportation Agency.

This bill would require municipalities, as defined, to annually post on their internet websites specified information relating to settlements and judgments resulting from allegations of improper police conduct, including, among other information, amounts paid, broken down by individual settlement and judgment, and information on bonds used to finance use of force settlement and judgment payments. The bill would require the Transportation Agency to annually post the same information on its internet website regarding settlements and judgments against the Department of the California Highway Patrol. By increasing requirements for local governments, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

**DIGEST KEY**

Vote: MAJORITY Appropriation: NO Fiscal Committee: YES Local Program: YES

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**BILL TEXT**

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

**SECTION 1.**

The Legislature finds and declares all of the following:

(a) On May 25, 2020, George Floyd was murdered by Minneapolis police when an officer held his knee on his neck for 8 minutes and 46 seconds, resulting in his death.

- (b) The outcry over this murder has resulted in demands for police reform across the state and the nation.
- (c) For decades, Californians have experienced horrific civil rights violations, injuries, and death at the hands of peace officers.
- (d) These incidents often result in civil lawsuits and payouts made by cities, counties, and the state to the civilians harmed by the actions of police officers, sheriffs' deputies, and other peace officers. These settlements and judgments are often agreed to in closed sessions at city council and board of supervisors meetings, and settlements can range between thousands and millions of dollars.
- (e) Despite the burden these payouts have on local jurisdictions, there is little publicly available information about the costs to taxpayers of law enforcement liability, the manner in which governments budget for and pay lawsuits involving law enforcement, and the financial impact of these arrangements on law enforcement agency budgets.
- (f) Throughout the country, municipalities with the 20 largest police departments paid over \$2 billion since 2015 in misconduct claims. Of those 20 municipalities, four are located in California. The County of Los Angeles paid \$238,300,000, the City of Los Angeles paid \$172,200,000, the City of San Francisco paid \$22,000,000, and the City of San Diego paid \$12,500,000.
- (g) State law stipulates that individual officers do not pay towards these settlements. Instead, these settlements typically come from the general fund of the municipality involved, or if the law enforcement agency itself pays, then it is part of a specific budget line item set aside for settling officer misconduct litigation. Municipal budgets allocate funds to their law enforcement agencies with the expectation that they will be financially liable for their wrongdoing, year over year.
- (h) Cities and counties typically use liability insurance or general obligation bonds procured by the municipality or state to pay for police settlements. Cities and counties pay annually for liability insurance, which is also used to cover trip-and-fall injuries and workers' compensation claims, to cover the costs of settlements involving police misconduct, brutality, or death of a civilian by a peace officer.
- (i) In 2019, the City of Sacramento paid an insurance company \$2,000,000 in taxpayer dollars to secure up to \$35,000,000 for settlements and judgments. Among the payouts made in 2019 was the city's largest ever settlement, involving \$5,200,000 for a man who was so brutally beaten by a police officer that he requires intensive, life-long medical care.
- (j) In 2017, the Los Angeles Police Department cost taxpayers \$80,000,000 settling lawsuits involving officer misconduct. Similarly, the County of Los Angeles paid out over \$50,000,000 in misconduct claims from 2015 to 2016, inclusive, the majority of which were excessive force claims. Shootings alone cost the County of Los Angeles \$60,000,000 between 2011 to 2016, inclusive.
- (k) During the 2018–19 fiscal year, the County of Los Angeles paid over \$16,000,000 in judgments against the Sheriff's Department, another \$30,000,000 in settlements against the department, and incurred an additional \$80,000,000 in litigation expenses on behalf of the department. According to the county's annual report, "six of the nine most expensive settlements in FY 2018–19 stemmed from Law Enforcement excessive-force shooting fatalities involving the Sheriff's Department."
- (l) In addition to liability insurance, the board of supervisors or city council can authorize a general obligation bond to pay for these incidents of police misconduct and brutality. These types of general obligation bonds are so common that they are called Police Brutality Bonds by the Wall Street firms who profit from them. These bonds are paid for by taxpayers and take years to pay off due to additional fees and high interest rates.
- (m) In 2009 and 2010, the City of Los Angeles issued \$71,400,000 in Police Brutality Bonds. Banks and other private firms collected more than \$1,000,000 in issuance fees on these two bonds. By the time these bonds are paid off, taxpayers will have handed over more than \$18,000,000 to investors—allowing Wall Street to profit from the death or serious injury of a civilian at the hands of a police officer.
- (n) Therefore, it is the intent of the Legislature to enact legislation to establish transparency requirements surrounding police use of force settlements and judgments against police and sheriff's departments and the Department of the California Highway Patrol.

## SEC. 2.

Section 12525.4 is added to the Government Code, to read:

**12525.4.**

(a) (1) On or before February 1 of each year, each municipality shall post on its internet website how much it paid out to plaintiffs on law enforcement settlements and judgments during the previous year, resulting from allegations of improper police conduct, including, but not limited to, claims involving the use of force, assault and battery, malicious prosecution, or false arrest or imprisonment, broken down by individual settlement or judgment.

(2) For each action posted, the municipality shall include all of the following information:

(A) The court in which the action was filed.

(B) The name of the law firm representing the plaintiff.

(C) The name of the law firm or agency representing each defendant.

(D) The date the action was filed.

(E) Whether the plaintiff alleged improper police conduct, including, but not limited to, claims involving use of force, assault and battery, malicious prosecution, or false arrest or imprisonment.

(F) If the action has been resolved, the date on which it was resolved, the manner in which it was resolved, and whether the resolution included a payment to the plaintiff by the city, and, if so, the amount of the payment.

(3) If any settlements or judgments are paid for using municipal bonds, the municipality shall post on its internet website the amount of the bond, the time it will take the bond to mature, interest and fees paid on the bond, and the total future cost of the bond.

(b) (1) On or before February 1 of each year, the Transportation Agency shall post on its internet website how much it paid out to plaintiffs on settlements and judgments during the previous year obtained against the Department of the California Highway Patrol, resulting from allegations of improper police conduct, including, but not limited to, claims involving the use of force, assault and battery, malicious prosecution, or false arrest or imprisonment, broken down by individual settlement or judgment.

(2) For each action posted, the agency shall include all of the following information:

(A) The court in which the action was filed.

(B) The name of the law firm representing the plaintiff.

(C) The name of the law firm or agency representing each defendant.

(D) The date the action was filed.

(E) Whether the plaintiff alleged improper police conduct, including, but not limited to, claims involving use of force, assault and battery, malicious prosecution, or false arrest or imprisonment.

(F) If the action has been resolved, the date on which it was resolved, the manner in which it was resolved, and whether the resolution included a payment to the plaintiff, and, if so, the amount of the payment.

(3) If any settlements or judgments are paid for using bonds, the agency shall post on its internet website the amount of the bond, the time it will take the bond to mature, interest and fees paid on the bond, and the total future cost of the bond.

(c) For purposes of this section, "municipality" means a city, county, or city and county with a police department or a sheriff's department.

**SEC. 3.**

If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.



**Assembly Bill No. 958**  
**CHAPTER 408**

An act to add Section 13670 to the Penal Code, relating to peace officers.

[ Approved by Governor September 30, 2021. Filed with Secretary of  
State September 30, 2021. ]

**LEGISLATIVE COUNSEL'S DIGEST**

**AB 958, Gipson. Peace officers: law enforcement gangs.**

Existing laws defines those persons who are peace officers, the entities authorized to appoint them, and the scope of their authority. Existing law prescribes certain minimum standards for a person to be appointed as a peace officer, including training requirements, moral character, and physical and mental condition, and certain disqualifying factors for a person to be employed as a peace officer, including a felony conviction. Existing law requires a department or agency that employs peace officers to establish a procedure to investigate complaints by members of the public against those officers.

This bill would define a law enforcement gang, a group of law enforcement officers within an agency that engages in a pattern of specified unlawful or unethical on-duty behavior, and would require law enforcement agencies to have a policy prohibiting law enforcement gangs and making participation, as specified, in a law enforcement gang grounds for termination. The bill would require an agency to disclose an officer's termination for involvement in a law enforcement gang to another law enforcement agency conducting a preemployment background investigation of that officer, as specified.

By requiring local law enforcement agencies to adopt new policies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

**DIGEST KEY**

Vote: MAJORITY Appropriation: NO Fiscal Committee: YES Local Program: YES

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**BILL TEXT**

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

**SECTION 1.**

The Legislature finds and declares all of the following:

(a) Law enforcement gangs have been identified within California law enforcement agencies, undermining California's movement to enhance professional standards of policing throughout the state. Law enforcement gangs have been recognized by the Los Angeles Sheriff's Department as damaging to the trust and reputation of law enforcement throughout California.

(b) A law enforcement gang is a group of law enforcement officers within an agency that engage in a pattern of rogue on-duty behavior that violates the law or fundamental principles of professional policing.

(c) Building and preserving trust between California communities and law enforcement agencies, and protecting the integrity of law enforcement as an institution will require agencies to proactively root out “bad apples” including those who participate, formally or informally, in this type of behavior.

(d) Law enforcement agencies must support and promote peer intervention in instances of officer misconduct, including reporting officers suspected of involvement in law enforcement gangs, and must hold those officers accountable through proportionate disciplinary measures when misconduct is proven.

(e) Trust between our communities and law enforcement is dependent on an institutional reconciliation of the historical traumas perpetrated by law enforcement gangs.

## **SEC. 2.**

Section 13670 is added to the Penal Code, to read:

### **13670.**

(a) For purposes of this section:

(1) “Law enforcement agency” means any department or agency of the state or any local government, special district, or other political subdivision thereof, that employs any peace officer, as described in Section 830.

(2) “Law enforcement gang” means a group of peace officers within a law enforcement agency who may identify themselves by a name and may be associated with an identifying symbol, including, but not limited to, matching tattoos, and who engage in a pattern of on-duty behavior that intentionally violates the law or fundamental principles of professional policing, including, but not limited to, excluding, harassing, or discriminating against any individual based on a protected category under federal or state antidiscrimination laws, engaging in or promoting conduct that violates the rights of other employees or members of the public, violating agency policy, the persistent practice of unlawful detention or use of excessive force in circumstances where it is known to be unjustified, falsifying police reports, fabricating or destroying evidence, targeting persons for enforcement based solely on protected characteristics of those persons, theft, unauthorized use of alcohol or drugs on duty, unlawful or unauthorized protection of other members from disciplinary actions, and retaliation against other officers who threaten or interfere with the activities of the group.

(b) Each law enforcement agency shall maintain a policy that prohibits participation in a law enforcement gang and that makes violation of that policy grounds for termination. A law enforcement agency shall cooperate in any investigation into these gangs by an inspector general, the Attorney General, or any other authorized agency. Notwithstanding any other law, local agencies may impose greater restrictions on membership and participation in law enforcement gangs, including for discipline and termination purposes.

(c) Except as specifically prohibited by law, a law enforcement agency shall disclose the termination of a peace officer for participation in a law enforcement gang to another law enforcement agency conducting a preemployment background investigation of that former peace officer.

## **SEC. 3.**

If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code

**Assembly Bill No. 1475**  
**CHAPTER 126**

An act to add Section 13665 to the Penal Code, relating to law enforcement.

[ Approved by Governor July 23, 2021. Filed with Secretary of State July 23, 2021. ]

**LEGISLATIVE COUNSEL'S DIGEST**

**AB 1475, Low. Law enforcement: social media.**

Existing law requires law enforcement agencies, departments, or entities to consider specified best practices regarding the downloading and storage of body-worn camera data, including prohibiting agency personnel from uploading recorded data onto public and social media internet websites, when establishing policies and procedures for the implementation and operation of a body-worn camera system.

This bill would prohibit a police department or sheriff's office from sharing, on social media, booking photos of an individual arrested on suspicion of committing a nonviolent crime, as defined, unless specified circumstances exist. The bill would require a police department or sheriff's office that shares, on social media, a booking photo of an individual arrested for the suspected commission of a nonviolent crime to remove the information from its social media page, upon request, unless the same specified circumstances exist. The bill would require a police department or sheriff's office to remove the booking photo of a person who has committed any other crime from social media if the individual's record has been sealed, the individual's conviction has been dismissed, expunged, pardoned, or eradicated pursuant to law, the individual has been issued a certificate of rehabilitation, the individual is found not guilty of committing the crime for which they were arrested, or the individual was ultimately not charged with the crime or the charges were dismissed.

**DIGEST KEY**

Vote: MAJORITY Appropriation: NO Fiscal Committee: NO Local Program: NO

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**BILL TEXT**

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

**SECTION 1.**

The Legislature finds and declares all of the following:

- (a) In our criminal justice system, suspects are considered innocent until proven guilty.
- (b) In recent years, law enforcement departments have begun to use social media platforms like Facebook, Twitter, Instagram, and Nextdoor to communicate with the public.
- (c) Some departments post the booking photos of suspects on their social media accounts even though the suspect is no longer at large or an ongoing threat to public safety.
- (d) Information posted to these social media accounts can remain on the internet for years, seriously affecting the life of the person depicted.
- (e) In 2016, the United States Sixth Circuit Court of Appeals stated, in *Detroit Free Press Inc. v. United States Department of Justice* (829 F. 3d 478, 482) that booking photos are "more than just 'vivid symbols of criminal accusation, booking photos convey guilt to the viewer,'" effectively "eliminating the presumption of innocence and replacing it with an unmistakable badge of criminality."

(f) The Sixth Circuit also noted that booking photos are “snapped ‘in the vulnerable and embarrassing moments immediately after [an individual is] accused, taken into custody, and deprived of most liberties,’” putting them in the realm of “embarrassing and humiliating information.” (Id.)

(g) Section 1 of Article 1 of the California Constitution protects the privacy of Californians, including limiting the disclosure of arrest information unless that disclosure serves a compelling state interest (Central Valley Ch. 7th Step Foundation, Inc. v. Younger (1989) 214 Cal.App.3d 415, 151).

(h) In July 2020, San Francisco Police Chief Bill Scott instituted a department directive against the release of booking photos in most circumstances because their publication creates an “illusory correlation for viewers that fosters racial bias and vastly overstates the propensity of black and brown men to engage in criminal behavior.”

(i) The Legislature finds that publishing booking photos on social media when there is a low risk to public safety is detrimental to the right to a fair trial because it diminishes the presumption of innocence and potentially violates privacy rights of Californians without a commensurate benefit to public safety.

## **SEC. 2.**

Section 13665 is added to the Penal Code, to read:

### **13665.**

(a) A police department or sheriff’s office shall not share, on social media, booking photos of an individual arrested on suspicion of committing a nonviolent crime unless any of the following circumstances exist:

(1) A police department or sheriff’s office has determined that the suspect is a fugitive or an imminent threat to an individual or to public safety and releasing or disseminating the suspect’s image will assist in locating or apprehending the suspect or reducing or eliminating the threat.

(2) A judge orders the release or dissemination of the suspect’s image based on a finding that the release or dissemination is in furtherance of a legitimate law enforcement interest.

(3) There is an exigent circumstance that necessitates the dissemination of the suspect’s image in furtherance of an urgent and legitimate law enforcement interest.

(b) (1) A police department or sheriff’s office that shares, on social media, a booking photo of an individual arrested for the suspected commission of a nonviolent crime shall remove the booking photo from its social media page within 14 days, upon the request of the individual who is the subject of the social media post or the individual’s representative, unless any of the circumstances described in subdivision (a) exist.

(2) A police department or sheriff’s office that shares, on social media, a booking photo of an individual arrested for the suspected commission of a crime identified in subdivision (c) of Section 667.5 shall remove the booking photo from its social media page within 14 days, upon the request of the individual who is the subject of the social media post or the individual’s representative, if the individual or their representative demonstrates any of the following:

(A) The individual’s record has been sealed.

(B) The individual’s conviction has been dismissed, expunged, pardoned, or eradicated pursuant to law.

(C) The individual has been issued a certificate of rehabilitation.

(D) The individual was found not guilty of the crime for which they were arrested.

(E) The individual was ultimately not charged with the crime or the charges were dismissed.

(3) This subdivision shall apply retroactively to any booking photo shared on social media.

(c) For purposes of this section, the following terms have the following meanings:

(1) “Nonviolent crime” means a crime not identified in subdivision (c) of Section 667.5.

(2) “Social media” has the same meaning as in Section 632.01, except that social media does not include an internet website or an electronic data system developed and administered by the police department or sheriff’s office.


# CONGRESS.GOV

## H.R.7120 - George Floyd Justice in Policing Act of 2020

116th Congress (2019-2020)

**Sponsor:** [Rep. Bass, Karen \[D-CA-37\]](#) (Introduced 06/08/2020)  
**Committees:** House - Judiciary; Armed Services; Energy and Commerce  
**Committee Reports:** [H. Rept. 116-434](#)  
**Latest Action:** Senate - 07/20/2020 Read the second time. Placed on Senate Legislative Calendar under General Orders. Calendar No. 490. ([All Actions](#))  
**Roll Call Votes:** There have been [2 roll call votes](#)  
**Tracker:** Introduced **Passed House**

**Summary(2)** Text(4) Actions(24) Titles(40) Amendments(1) Cosponsors(230) Committees(3) Related Bills(13)

There are 2 summaries for H.R.7120.  

[Bill summaries](#) are authored by [CRS](#).

### Shown Here:

#### Passed House (06/25/2020)

#### George Floyd Justice in Policing Act of 2020

This bill addresses a wide range of policies and issues regarding policing practices and law enforcement accountability. It increases accountability for law enforcement misconduct, restricts the use of certain policing practices, enhances transparency and data collection, and establishes best practices and training requirements.

The bill enhances existing enforcement mechanisms to remedy violations by law enforcement. Among other things, it does the following:

- lowers the criminal intent standard—from willful to knowing or reckless—to convict a law enforcement officer for misconduct in a federal prosecution,
- limits qualified immunity as a defense to liability in a private civil action against a law enforcement officer, and
- grants administrative subpoena power to the Department of Justice (DOJ) in pattern-or-practice investigations.

It establishes a framework to prevent and remedy racial profiling by law enforcement at the federal, state, and local levels. It also limits the unnecessary use of force and restricts the use of no-knock warrants, chokeholds, and carotid holds.

The bill creates a national registry—the National Police Misconduct Registry—to compile data on complaints and records of police misconduct. It also establishes new reporting requirements, including on the use of force, officer misconduct, and routine policing practices (e.g., stops and searches).

Finally, it directs DOJ to create uniform accreditation standards for law enforcement agencies and requires law enforcement officers to complete training on racial profiling, implicit bias, and the duty to intervene when another officer uses excessive force.



**Northern California Cities Self Insurance Fund  
Police Risk Management Committee Meeting  
November 4, 2021**

**Agenda Item E.3.**

**TECHNOLOGY DISCUSSION  
INFORMATION ITEM**

**ISSUE:** The Police Risk Management Committee members will be asked to discuss their experiences with their departments' body cameras, robots, drones, artificial intelligence, and other new or existing technologies.

**Police Technologies**

1. Video Redaction Software
2. Biometrics
3. Voice Technology
4. Robots
5. Video Doorbells
6. Gunfire Detection and Locating
7. Thermal Imaging
8. Artificial Intelligence
9. Smarter Cruisers
10. Automatic License Plate Recognition (ALPR)
11. Enhanced Body-Worn Cameras
12. Unmanned Aerial Vehicles (UAVs)
13. Other

**RECOMMENDATION:** Information only

**FISCAL IMPACT:** None

**BACKGROUND:** During each PRMC meeting the members discuss any technology related items. The Program Administrators arrange for presentations and/or demos of the technologies based on member feedback.

**ATTACHMENT(S):** None.



**Northern California Cities Self Insurance Fund  
Police Risk Management Committee Meeting  
November 4, 2021**

**Agenda Item E.4.**

**LAW ENFORCEMENT EAP DISCUSSION  
INFORMATION ITEM**

**ISSUE:** The Police Risk Management Committee members will be asked to discuss their experiences with Employee Assistance Program (EAP) Providers and counseling services specific to Law Enforcement.

The City of Galt recently experienced a tragic accident involving the death of an officer and serious injury to another, and the City's representative will provide an overview of their experience with EAP providers in the aftermath of that event.

**ComPsych Corporation** - ComPsych's services includes EAP, behavioral health, wellness and absence management services. The link is <https://www.compsych.com/>

**ACI Specialty Benefits** – Provides EAP benefits for thirteen of the twenty-two NorCal Cities Members.

The following companies specialize in EAP services for law enforcement:

**Crisis Incident Counseling Services (CIC)** – Through our Excess Carrier PRISM, NorCal Cities Members have access to Crisis Incident Counseling Services (CIC) CIC is for employees following an unexpected work-related death of a co-worker. If you are dealing with a situation and need help, please call 916-850-7700. For more information please contact your Program Administrators or Rick Brush [rbrush@prismrisk.gov](mailto:rbrush@prismrisk.gov).

**911 At Ease International** – This service is free and confidential to first responders and family members of first responders. The link is <https://911aei.org/>

**First Alarm Wellness** – First Alarm Wellness provides concierge behavioral health services to first responder agencies, organizations and departments. They services include Expert Therapists, Educational and training services, Case Management and advocacy, Peer support training, Rapid critical event response and consulting services. The team at First Alarm Wellness has over 40 years of combined experience working with first responders. The link is <https://www.firstalarmwellness.com>

**CordicoShield Officer Wellness** – The app offers a range of self – assessments as well as videos and guides on behavioral health topics. The app has over 60 behavioral health topics including Burnout and Compassion Fatigue, COVID-19, Family Support, Posttraumatic Stress and Psychological First Aid. <https://www.cordico.com/>



**Northern California Cities Self Insurance Fund  
Police Risk Management Committee Meeting  
November 4, 2021**

***Agenda Item E.4. continued***

**RECOMMENDATION:** Information only. Provide direction regarding any additional information or follow up the committee may need.

**FISCAL IMPACT:** None expected from this item.

**BACKGROUND:** Members have requested and tested various services designed to assist with the unique stresses of police and other emergency response providers. The Program Administrators continue to work with members to identify and qualify specialized EAP services.

**ATTACHMENT(S):**

1. Crisis Incident Counseling Services (CIC) - Informational Flyer
2. 911 At Ease International - Informational Flyer
3. First Alarm Wellness - Informational Flyer
4. Cordico Shield - Informational Flyer
5. ACI Specialty Benefits – Informational Flyer



# CRISIS INCIDENT COUNSELING SERVICES

*PRISM partners with the industry's best to provide services that are second to none.*

PRISM has negotiated with MHN/Envolv PeopleCare to provide Crisis Incident Counseling services exclusively for members of the PRISM's Excess Workers' Compensation Program at no additional cost.

The program is designed to provide members with incident stress debriefings in response to death in the workplace incidents.



For more information, please contact:  
Rick Brush, Chief Member Services Officer  
[rbrush@prismrisk.gov](mailto:rbrush@prismrisk.gov) | 916.850.7300



### Comprehensive Support

Licensed professionals specializing in crisis response in the event of a death in the workplace.



### Network of Experts

Access to over 9,000 providers with expertise in trauma and crisis response.



### Business Continuity

Professional training available in order to ensure your organization stays on track after a critical incident.

## Services Include

- Pre-Incident Planning to include organizational Risk Assessments
- Round-the-Clock Consultation Services by telephone
- Post-Incident Training in Resiliency & Stress Management



## Keeping our first responders strong.

### OUR MISSION

911 At Ease International (911AEI) exists to support first responders and their families, so they can be their best to serve their community. 911AEI is committed to keeping our first responders strong.

### THE VISION IS SIMPLE

Free, confidential, professional, trauma-informed counseling services for first responders and their families worldwide.

### THE PROCESS IS PROFOUND

Path to renewed freedom and strength to be the best for their families, friends and the communities they serve.

### WHO WE SERVE

We support Ventura County first responders and their families. This includes police, fire, sheriff, emergency medical personnel, hospital medical personnel, dispatchers, district attorneys' office and other essential agencies.

### FREE SERVICES

- Confidential Counseling
- Referral Services
- Spiritual Care and Chaplaincy
- Peer to Peer Support
- Critical Incident Response
- Critical Incident Debriefing

**REQUEST AN APPOINTMENT:  
911AEI.ORG OR 888-AT EASE 4 (888-283-2734)**

## WE CAN HELP

**At Ease can help if you are experiencing any of the following:**

Marital & Family Problems	Substance Abuse
Stress/Burnout	Child/Spouse Abuse
Anger Management	Retirement Concerns
Separation/Divorce	Career Concerns
Child/Adolescent Issues	Critical Incident/Trauma
Parenting Challenges	Financial Issues
Grief/Bereavement	Relationship Concerns
Depression	Anxiety/Panic Attacks
Post Traumatic Stress	Nightmares

*911AEI does not provide a suicide hotline. If you are experiencing suicidal thoughts or an emergency please call your local emergency number 9-1-1. Or reach out to the National Suicide Prevention Lifeline: 1-800-273-8255 [suicidepreventionlifeline.org](http://suicidepreventionlifeline.org)*

## CONFIDENTIAL

911 At Ease International is a nonprofit organization providing direct services to individual first responders and their family members. At Ease services are not rendered on behalf of any city, county, medical, tribal or government agency. First responders are not required to inform their agency or managers when they request services through At Ease. All counseling services are completely confidential except when disclosure is required by law. Counseling sessions remain confidential between client and the mental health professional.

## FREQUENTLY ASKED QUESTIONS

### What is Post Traumatic Stress Injury?

Post-Traumatic Stress Injury (PTSI) can develop after a person has experienced or witnessed a traumatic event. This often occurs during the career of a first responder. Symptoms of PTSI can surface through flashbacks, nightmares, anxiety, depression, anger and negative thoughts which may increase and/or last for months or years. PTSI has been known to severely interfere with a person's daily work and home life. While many people have difficulty adjusting to and coping with the daily requirements of work and home life after experiencing traumatic events, they may improve and heal from these injuries with access to psychological support, spiritual care, and other types of support.

### How is At Ease different than Employee Assistance Programs (EAP) for counseling services?

Counseling services offered through EAP's or other avenues covered by insurance may not be prepared to handle the unique circumstances that first responders experience. Also, many first responders may not feel they can be completely transparent with an employer or insurance authorized service. The counselors approved by At Ease are independent from agencies, trauma trained and culturally competent to work on the unique needs of first responders, and their families.



### How is At Ease funded?

At Ease services are funded through the generosity of individual donations, private foundations, corporate sponsorships, union and grant support. Please consider sharing the website with your local donors and supporters. Support first responders in Ventura County, CA at [911aei.org/give-now/ventura-county-ca](http://911aei.org/give-now/ventura-county-ca)

**REQUEST AN APPOINTMENT:**

**911AEI.ORG OR 888-AT EASE 4 (888-283-2734)**



**911 At Ease International, Inc.  
Ventura County Chapter**

888-AT EASE 4 (888-283-2734) • 911AEI.org





An advocate for progressive behavioral health practices with first responders, Tina Casola and her team at First Alarm Wellness provide education to individuals, departments, businesses and other organizations desiring a better understanding of emotional distress. The team is experienced in facilitating effective evidence-based treatments for PTSD and other stress related disorders with Veterans, Emergency Service Personnel and Civilians.

We understand that life itself throws curveballs on a regular basis. Whatever your concern, you can feel at ease knowing that we will understand every aspect...not just the label of the job. Interpersonal conflict, infertility, pregnancy loss, grief, family concerns, and substance misuse are just some of the other reasons why people reach out.

Whatever is on your mind...we are here to help!

Tina has affiliations with several emergency services departments in California and speaks across the country in support of first responder wellness. Additional services available are program consultation: creation, trouble shooting and continued support; crisis services: acute & long-term; Program management and oversight, our Sentinel program takes a behavioral health benefit from a checked box to real people who 'get' you.

"As for Tina Casola, I really enjoyed hearing her speak. Her cutting-edge knowledge of this topic was riveting. She spoke to, but not at us with what appears to be a genuine caring for us. She was enthusiastic and eager to share her experiences as well as a hope for a better method to help and treat our Brothers and Sisters in the future. It appears that this enthusiasm has ignited a mental health discussion between not only the individuals who were able to attend her lecture but also the crews who have heard about it from their officers. I look forward to her continuing involvement in our department in the future." -Lieutenant Fire Service

For additional information or to request services, please contact:

Tina Casola, LMFT  
Behavioral Health Specialist in Emergency Services  
(760) 275-1469 Cell/Text  
[Tina@FirstAlarmWellness.com](mailto:Tina@FirstAlarmWellness.com)  
[www.FirstAlarmWellness.com](http://www.FirstAlarmWellness.com)

# Customized, Confidential, Mobile Wellness Applications



Law enforcement has never been more challenging. Nationwide, officers overwhelmingly report job-related stress has affected their mental health—yet 90% of officers say cultural stigma creates a barrier to getting help for emotional or behavioral issues. Left unaddressed, stress can lead to destructive behaviors and poor decision-making, including excessive use of force.

Cordico’s wellness solutions address these challenges, providing officers and their family members with on-demand access to relevant, trusted and effective wellness resources.

Our CordicoShield law enforcement wellness app offers a complete range of self-assessments as well as continuously updated videos and guides on more than 60 behavioral health topics—all designed specifically for first responders. And it’s backed with 5-star customer service covering design, implementation and ongoing support.

## When you deploy CordicoShield in your agency, you will:



Connect your personnel to confidential assessments and counseling resources



Strengthen your wellness culture & empower your peer support team



Help officers cope with the effects of critical events & chronic exposure



Improve officer decision-making, empathy & resiliency, which in turn enhances police/ community relations



Support department retirees & family members (included with agency subscription)



## Trusted, Tailored Behavioral Health Support

Cordico's wellness tools and self-assessments are designed to keep your personnel healthy and effective at work. Created by our experienced clinical and scientific staff, these resources are built for both prevention and treatment.

### Wellness Tools

CordicoShield includes videos, articles and guides on more than 60 topics. From trouble sleeping to dealing with tough calls to work/life balance, these resources are created specifically for law enforcement officers.

- Alcohol and Substance Abuse
- Family Support
- Parenting Tips
- Burnout and Compassion Fatigue
- Financial Fitness
- Posttraumatic Stress
- COVID-19
- ICAC Coping and Resiliency
- Psychological First Aid
- Dr. Gilmartin's Emotional Survival
- Mindfulness
- Suicide Prevention

### Anonymous Self-Assessments

Often, officers suspect they are battling a mental health issue but are unsure where to start. CordicoShield self-assessments are completely confidential and deliver highly specific results aimed at providing instant feedback and next-step guidance.

- Adult ADHD
- Compassion Fatigue
- Cordico Sleep Test
- Adverse Childhood Experiences
- Depression
- Social Isolation
- Alcohol Abuse
- Posttraumatic Stress
- Stress
- Cordico Anger Scale
- Resilience
- Well-Being

### Available Features

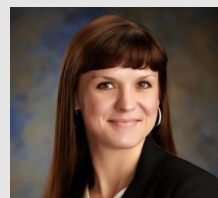
- Customized with your agency's badge, images, engagement incentives & more
- Confidential access & utilization
- Apple iOS & Android compatible
- One-touch calling to peer support & chaplains
- Teletherapy portal with HIPAA encryption
- Therapist finder
- Wellness push notifications

## Serving First Responders Since 2002



*"Cordico is connecting officers to innovative mental and behavioral health tools. Cordico's wellness app helps me take care of my officers. It will save lives."*

Police Chief Neil H. Gang  
Pinole (CA) Police Department  
Chair, California Police Chiefs  
Association Wellness Committee



*"If you do one thing for your agency this year, get this app. It will show that employee wellness is a priority, you truly care, and you want to make the best tools and resources accessible to your officers 24/7."*

Kimberly A. Miller, Ph.D.  
Chair, National Sheriffs' Association,  
Psychological Services Committee  
Police Psychologist, Consultant, Coach & Trainer



## HEALING IN THE AFTERMATH: COPING WITH A TRAUMATIC EVENT



A traumatic event can be an intensely personal experience, such as the loss of a loved one. It can also be something that happens on a much larger scale, such as a natural disaster. While these two types of events are very different, survivors of any tragedy are able to use some of the same coping techniques to get through a difficult time.

### **Regulate Feelings and Reactions**

Intense feelings of sadness, rage, or other emotions are perfectly normal after suffering a traumatic event. It is important, however, to maintain some control and keep emotions and behavior from running rampant. Maintaining a normal routine and avoiding excessive media exposure during a tragedy can help reduce stress, allowing survivors to keep their emotions from spiraling out of control.

### **It Takes Time to Heal**

Recovering from trauma takes time. The same emotions may be dealt with only to return again multiple times, sometimes causing a survivor to feel like they are on an emotional Ferris wheel.

This is completely normal, and understanding that healing is not a linear process can go a long way towards helping reduce feelings of

exhaustion and depression while coping with a loss or other traumatic event.

### **Some Days Are Better Than Others**

Like anyone, a trauma survivor will have both good and bad days. Sometimes a good day can be the result of truly joyous experiences, such as a promotion at work or the birth of a child, while other times the beautiful weather and a perfect cup of tea might be enough to spark happiness. Bad days are much the same and can be exacerbated by experiences both small and large.

Taking solace in the good days and working through the bad is part of the healing process. Embracing the good days and sharing them with others can help remind survivors why they are fighting so hard to heal in the first place.

### **Practice Coping Skills**

Effectively using coping skills requires practice, just like speaking a second language. Self-care, setting boundaries, practicing proper sleep hygiene, and other coping skills are often not instinctive and can sometimes require a laser-like focus to keep from drifting into unhealthy behaviors. Some of these skills are very simple; there are even ways to regulate breathing that can help reduce stress and anxiety, but the time to learn these skills is not in the aftermath of a traumatic event.

ACI's Employee Assistance Program (EAP) is here to offer confidential, professional mental health support and covers to employees and all family members. Contact ACI anytime at 800.932.0034 or [eapinfo@acispecialtybenefits.com](mailto:eapinfo@acispecialtybenefits.com).

# Coping with a Traumatic Event



In dealing with the emotional aftermath of a traumatic event, it is normal to experience a wide range of emotions and even physical responses. At these times it is especially important to remain aware of our internal reactions in order to respond in a way that is most helpful for ourselves, our loved ones and those directly impacted.

Remember these feelings could surface for individuals at different times. Although you may not have a strong response today, you may have one a week or month from now and that is normal - everyone responds differently to trauma, grief, and loss. Below is a list of common reactions to trauma, grief and loss.

## Emotional Responses

- Shock or numbness
- Anger toward others involved
- Depression and sadness
- Fear and frustration
- Feeling unsafe or vulnerable
- Loneliness
- Guilt

## Mental Responses

- Confusion
- Difficulty concentrating
- Difficulty remembering details of events

## Physical Responses

- Change in sleep patterns
- Change in appetite
- Shallow, rapid breathing
- Dizziness and headaches
- Muscle tension
- Increased heart rate
- Upset stomach

## Behavioral Responses

- Withdrawal from others
- Angry outbursts, irritability
- Crying
- Decreased energy and ambition
- Relationship conflict
- Increased use of alcohol or medications
- Fear of being alone

## When dealing with the stress of grief and loss you may experience:

- Feeling overwhelmed, you may find it difficult to keep up with your normal routine.
- Traumas or losses that had seemed in the past may resurface.
- Co-workers may also be having a hard time with the loss and may be more irritable or less responsive than normal.
- Family and friends may not know how to respond to your needs or understand your feelings around the loss.

Avoid overreacting or under-reacting. Some examples of overreacting are unnecessarily changing our routines, feeling compelled to stay up-to-the minute on news of the event, pulling children from school or avoiding people, situations or places

because of irrational fears. Some examples of under-reacting are denying that the event concerns you, avoiding or shutting down discussion of the event, not reassuring children that they are safe or making humor of the event. Neither overreacting nor under-reacting adequately deal with distress and delay the return to a feeling of safety.

## Some good coping strategies are as follows:

- Talk about your concerns with family, friends, or even a professional.
- Maintain your normal routine.
- Avoid excessive exposure to media coverage of event.
- Protect younger children from frightening news and images, reassure children that they are safe.
- Engage in stress management such as exercise, rest and play.

While coping with tragic events can be difficult, it does not have to be overwhelming. Sometimes, it helps to speak to a professional. For caring and confidential support, contact your employee assistance program, ACI Specialty Benefits.



# Post-Traumatic Stress Disorder

## Dealing with PTSD



### What are the main symptoms of PTSD?

#### Re-experiencing

Re-experiencing symptoms involve reliving the traumatic event in an episode of upsetting memories. This episode can last any amount of time, and can happen at any time. Usually, traumatic memories are triggered by traumatic reminders related to the initial event.

#### Avoidance and Numbing

Avoidance symptoms are efforts those with PTSD make to bar a traumatic event from memory. Individuals with PTSD may try to avoid situations that trigger memories of the traumatic event. Individuals with PTSD may also find it difficult to be in touch with their feelings or express emotions toward other people and become emotionally “numb,” isolating from others.

#### Hypervigilance

Those with PTSD may experience increased emotional arousal. This causes them to feel constantly alert following the traumatic event, and can result in difficulty sleeping, outbursts of anger or irritability, and difficulty concentrating. They may find that they are constantly “on guard,” on the lookout for signs of danger, and get startled easily.

#### Depression and Anxiety

It is very common for depression to occur alongside PTSD. Depression can take various forms but is commonly signified by mood swings, changes in eating or sleeping patterns, and substance abuse or other self-medication. Social anxiety can also occur after a traumatic event, causing the victim to operate differently among friends, loved ones, and in normal social situations than they did previous to the event.

### How does one cope with PTSD?

#### Therapy

A number of mental health professionals specialize in the treatment of PTSD. A number of psychological and medication treatment options have also been found to be quite effective in alleviating the symptoms of PTSD. A therapist can provide support and help in learning more effective ways to identify, monitor, and manage PTSD symptoms and related difficulties.

#### Leaning on Others

People with PTSD often feel disconnected or detached from others, even people that they were once close to, like their family. Someone with PTSD may have a difficult time opening up or disclosing information about their experience as a result of feeling ashamed or not wanting to burden another person. However, it is clear that people with PTSD do better the more social support they have. A number of support groups are also available for people with PTSD. Listening to other people’s experiences with PTSD can help validate the feelings an individual has after a traumatic event, and help that person learn how others have overcome the effects of a traumatic experience. The National Alliance on Mental Illness has information about local community support groups.

#### Participating in Positive Activities

Those with PTSD may find that certain activities are no longer enjoyable, or they may be afraid to go out and experience the things they once liked to do. However, this avoidance only prolongs feelings of despair and depression. It is important for those with PTSD to continue doing the things they used to enjoy, even if they do not feel as though they are having fun in the moment. The ability to enjoy experiences will come in time and participating in activities will prevent depression and anxiety from getting worse. Simple positive activities such as reading a book, talking to a friend, or taking a bath can also help overcome acute episodes of trauma-related distress. After distress has subsided, however, it is important to examine what triggered it and identify other ways it could have been managed.

#### Improving Physical Health

Emotional health is strongly connected to physical health. People with PTSD are often at risk for a number of physical health problems, so it is important for those with PTSD to live a healthy lifestyle. Focusing on exercise and a healthy diet can help alleviate physical symptoms of PTSD.

#### Spirituality

It has been found that establishing or connecting with a sense of spirituality, however spirituality is personally defined, can have a positive influence on the ability to overcome a traumatic experience.

While coping with traumatic events can be difficult, it does not have to be overwhelming. It can help to speak with a professional. For caring and confidential support, contact the employee assistance program, ACI Specialty Benefits.



Northern California Cities Self Insurance Fund  
Police Risk Management Committee Meeting  
November 4, 2021

Agenda Item E.5.

**ROUND TABLE DISCUSSION**

**INFORMATION ITEM**

**ISSUE:** The floor will be open to the Committee for discussion.

Potential Future Speaking Topics

1. *Workers' Compensation Presumptions for Police Leadership* - Dori Zumwalt
2. *Social Worker, Therapist, Cop: Managing Today's Police Risk* - Kevin Allen, Patrick Moriarty of Allen, Glaessner, Hazelwood & Werth. Developments in de-escalation and positional asphyxiation litigation.

Company Nurse – 24/7 Nurse Triage for Workplace Injuries

**RECOMMENDATION:** None.

**FISCAL IMPACT:** None.

**BACKGROUND:** Alliant and Sedgwick organize the NCCSIF Police Risk Management Committee meetings. These meetings are held on a quarterly basis, where a Round Table Discussion Item is included in the agenda.

**ATTACHMENT(S):**

1. Duty to Intercede and the Five Pillars of Risk Management
2. Company Nurse Brochure
3. MBASIA RWCI Agency Review Proposal

**Mike Ranalli** 

## Duty to intercede and the 5 pillars of organizational risk management

The duty to intercede in law enforcement has legal roots, but we must go further, instilling it as a core organizational value

Today at 11:16 AM

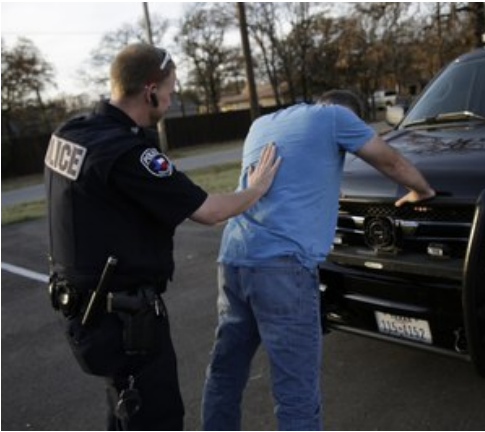
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*This article originally appeared in The Chief's Chronicle; New York State Association of Chiefs of Police. Reprinted with permission.*

Over the last year the concept of the [duty to intercede](#) (also known as duty to intervene) has acquired greater prominence among law enforcement leaders, the media and advocacy groups. Although the duty to intercede has been legally required for decades, in many law enforcement agencies it has been misunderstood and, in some cases, completely ignored, without even a glancing reference in policy. It is, however, of critical importance for leaders and members to embrace and [build this doctrine into their organizational culture](#).

[Gordon Graham](#), the co-founder of Lexipol and a public safety risk management expert, has long identified [five pillars of organizational risk management](#): People, Policy, Training, Supervision and Discipline. Whenever there is a bad result or tragedy, a leader needs to look introspectively at these pillars to [determine the root cause](#) – not just the proximate cause – of an incident. As Gordon notes, identifying root causes is critical for preventing future tragedies because it identifies problems “lying in wait” and the steps needed to properly prepare officers to do their jobs and prevent future tragedies.

The duty to intercede is often viewed in isolation as merely a legal requirement that obliges one officer to prevent or report another officer’s use of [excessive force](#). Failure to adhere to this duty can lead to civil liability for the agency and the officer, in addition to possible criminal charges. But leaders should embrace the legal requirement more expansively and integrate it with the five pillars root cause analysis. In other words, what created the need for intervention? And if an officer failed to intercede when they should have, why didn’t they act?



Law enforcement leaders must adopt a more holistic approach to the duty to intercede. (Photo/Police1)

To view the duty as something to be used only in the moment – when an officer is actively using what appears to be excessive force – is to ignore the root cause of why or how the officer ended up in that position. Was the organizational culture lacking to prevent or stop the behavior? Did supervisors fail to recognize and identify those officers who were potential [problems “lying in wait?”](#) Did the agency’s training program and [disciplinary system](#) fail to prepare officers and correct those who need correction?

Law enforcement leaders must adopt a more holistic approach to the duty to intercede. After a brief explanation of the law, this article uses two recent events to further explore the full potential of embracing and expanding the underlying concept of duty to intercede in your organizational culture.

### THE LEGAL REQUIREMENT

In *Figueroa v. Mazza*, the U.S. Court of Appeals for the 2nd Circuit stated the duty to intercede: “A police officer is under a duty to intercede and prevent fellow officers from subjecting a citizen to excessive force and may be held liable for his failure to do so if he observes the use of force and has sufficient time to act to prevent it.”[1] In this and rulings from other Circuits, consistent elements of the duty include that the intervening

officer must know the force was excessive, he/she must have a realistic opportunity (time) to stop or prevent any harm from occurring, and the failure to act must cause a person to be harmed.[2]

Lexipol has embraced the duty to intercede in policy since the company was started. Consistent with law, the Lexipol [use of force policy](#) requires any officer to intercede when observing another member using force that is clearly beyond that which is objectively reasonable under the circumstances, when in a position to do so. If they cannot act for whatever reason, they must report the force.

The legal duty to intercede creates a foundation, but from an organizational culture perspective, the duty must be far more expansive. This is not to suggest that agencies create a higher legal standard. Instead, the purpose is to use the underlying concepts and reasons for the duty to intercede as a management tool to help mitigate risk to the public and your members.

### PROBLEMS LYING IN PLAIN SIGHT?

Two separate and recent events from Colorado and Florida demonstrate how organizations need systems in place to prepare officers to intervene and to identify possible problem officers well before they use excessive force on a person.

In Colorado, two officers responded to a trespass complaint and located three male suspects on the property. After initial interviews, the officers determined the men were all wanted on outstanding warrants. When the officers attempted to take the men in custody, two fled while the third remained. Body camera footage from both officers provides a disturbing depiction of one officer’s actions. The officer placed his gun against the man’s head and threatened to shoot him. He also pistol-whipped the man multiple times, causing lacerations and large bruises to appear on the man’s head and face. The whole time the officer was screaming repetitive commands. The other officer did not appear to be actively participating but also did not appear to attempt to intervene.

[Both officers were criminally charged](#) – the backup officer for failing to intervene – and the primary officer then resigned. But did the backup officer have enough information available to her to require her to intervene? While the [video footage is not a complete depiction of the incident](#), there are some obvious factors that could lead a reasonable police officer to believe the force [page 100 of 114](#) used by the first officer was clearly beyond that which is objectively reasonable.

First, the primary officer yelling repetitive commands is indicative of an officer who is making decisions based on emotions and adrenaline, rather than reason. While the man was verbally protesting the arrest, his resistance was passive. The officer reacting to passive resistance in such a heightened state of anger and emotional arousal is disturbing. No officer is, nor should ever be, trained to put their gun directly against a person's head and threaten to shoot them, let alone pistol-whip them. In addition, the officer – with his gun still out and pointing at the man – places his hand around the man's neck, apparently choking him for a prolonged period.

Based on all this, the second officer could have reasonably perceived the force being used was completely contrary to training and proper tactics and was excessive, which should have led her to at least attempt to intervene.

It is easy for leaders to blame the two officers for their individual actions, or inactions, and impose discipline and criminal charges on them. But is that enough? Contemporary leaders must look long and hard at their agency culture and all aspects of operations, including the Five Pillars. The goal of such organizational introspection is to determine whether there is an underlying organizational problem. In this case, were warning signs about the primary officer ignored by supervisors? In other words, is there someone in their agency that said or could say, "It was just a matter of time before that guy did something like this?" If so, this is an organizational failure in the [supervision](#) and [discipline](#) pillars.

As to the backup officer's actions, was the duty to intervene policy adequate? Was it sufficiently trained on and reinforced? Did the organization's culture support her ability to intervene, or would she be in fear of retribution from other officers? My hope is these questions are all being asked right now – but not just in the agency these officers worked for. All police leaders should be asking these questions about their own people and culture. What if one of our officers "lost it?" Would another officer step in? Do we have "that guy" in our agency? Without [determining the root cause](#) of both issues – the primary officer's violent and excessive response and the backup officer's failure to act – it may happen again.

In Florida, former deputy Zachary Webster was recently [convicted and sentenced](#) to over 12 years in jail for planting evidence on numerous persons during traffic stops. From 2016 to 2018, Webster made hundreds of drug-related arrests from stops for routine violations. A prosecutor became suspicious because body-worn camera footage from some of the stops was inconsistent with the paperwork Webster filed. A review of some of the video showed drugs in Webster's hand before he even started the search; then the drugs would magically appear somewhere in a vehicle. The prosecutor alerted the sheriff's office, who in turn notified the Florida Department of Law Enforcement, which conducted the investigation. A search of Webster's vehicle revealed a substantial quantity of controlled substances, similar to those he "found" in the vehicles. Webster was arrested and prosecuted; over 120 of his arrests were thrown out, with many more under additional review.

This behavior is disgusting and an egregious violation of the officer's duty and the public trust. Innocent people were arrested and had their lives turned upside down. At first glance, this doesn't seem like a duty to intercede issue; Webster acted alone when planting the drug evidence. However, it is a clear example of how the duty should be viewed more expansively: Could or should the agency have been able to identify this behavior and intervene preventively?

A significant concern here is that the agency did not discover the problem. Instead, the behavior was only discovered because a prosecutor took the time to review the cases. A new officer making hundreds of drug arrests over two years apparently raised no flags with no [internal reviews or safeguards](#) in place to prevent or stop such actions. The questions leaders of this agency need to ask include, why did it take a prosecutor to identify this troubling pattern? Why didn't [first-line supervisors](#) realize the potential of a new officer making hundreds of arrests in a short time under similar circumstances – and intervene? Were other deputies concerned about his behavior and, if so, was it the organizational culture that prevented them from coming forward? Were any audits of the body camera footage reviewed by supervisors?

Prosecuting Webster is the right thing to do, but we must go further. [Page 10 of 14](#) Is it possible your organization could allow another Webster to occur without internal procedural modifications? Is it possible your agency has a Webster?



## STRATEGIES FOR INTEGRATION OF THE DUTY TO INTERCEDE WITH THE FIVE PILLARS

Developing and implementing a more expansive version of the duty to intercede and integrating a root cause analysis will take effort and time. Policing is complex and there is no way to prevent all possible failures. There are, however, some basic actions agencies can consider adopting:

- **Establish and clearly communicate organizational values to agency members and reinforce them through training, supervision and discipline.** The duty to intercede must be one of those clearly established values and members must feel empowered to act when necessary and without fear of retribution. Discipline of both officers and supervisors must occur if anyone becomes an impediment to this goal. Training scenarios should reinforce this concept.
- **Train officers on the realities of human performance in high-stress events.** Police officers can be thrown into high-stress incidents at a moment's notice. Under the right circumstances, excessive amounts of adrenaline can cause an officer to overreact and fail to cognitively process the situation. When this happens another officer must recognize it, "tap out" the officer as safely as possible and take over. Officers must understand that this is done to help them and prevent them from making a mistake that will change their life forever. Officers should view each other as redundant systems, ready to step in and help each other when needed.
- **Conduct thorough background investigations.** To the best of your ability, make sure you know what you are getting when hiring. Polygraphs and psychological exams can help, but nothing fully replaces in-person interviews of prior employers, neighbors, friends, etc. With lateral transfers, don't hire someone else's problem. Find out why they left their last law enforcement position and thoroughly vet them. The officer in the Colorado incident had been previously arrested years for pointing a gun at someone. But the department did not do the background check, as that fell to their civil service.
- **Develop a supervisory process to review search and arrest paperwork.** Without a supervisory review of such paperwork, officers will never properly learn their jobs. Feedback is essential. Repetitive probable cause explanations over the course of multiple arrests could be a warning sign that should not be ignored. Supervisors need to know their people are working within constitutional standards.
- **Utilize an early warning system.** Such systems can, through statistical analysis, help you identify changes in an officer's performance, which could be an indicator of a problem developing. Lexipol has a Performance History Audit policy designed for this role.
- **Establish an audit system of body-worn camera footage.** It is critical for all agencies with some form of cameras to conduct periodic audits of the video. Audits not only identify potential problems but can also result in many valuable training videos to be shared with your other members.

Every law enforcement officer must uphold the duty to intercede. But as law enforcement leaders, we are selling our members and our communities short if that is where our embrace of the duty ends. It is equally critical that we instill the duty to intercede as a core organizational value, not in a punitive or reactionary way, but in a way that acknowledges the limits of human performance under stress and encourages – indeed, requires – officers to watch out for one another and act to prevent violations of constitutional rights.

## REFERENCES AND NOTES

1. *Figueroa v. Mazza*, 825 F.3d 89, 106 (2nd Cir. 2016)

2. It is not the purpose of this article to provide a comprehensive legal analysis of the duty to intercede as different jurisdictions may have different required elements. Only general principles are presented here. Some states have codified the duty into their respective penal codes.

**NEXT: [Learn how agencies can weave the duty to intercede throughout their policies and training](#)**

## About the author

Mike Ranalli, Esq., is a program manager II for Lexipol. He retired in 2016 after 10 years as chief of the Glenville (N.Y.) Police Department. He began his career in 1984 with the Colonie (N.Y.) Police Department and held the ranks of patrol officer, sergeant, detective sergeant and lieutenant. Mike is also an attorney and is a frequent presenter on various legal issues including search and seizure, use of force, legal aspects of interrogations and confessions, wrongful convictions, and civil liability. He is a consultant and instructor on police legal issues to the New York State Division of Criminal Justice Services and has taught officers around New York State for the last 11 years in that capacity. Mike is also a past president of the New York State Association of Chiefs of Police, a member of the IACP Professional Standards, Image & Ethics Committee, and the former Chairman of the New York State Police Law Enforcement Accreditation Council. He is a graduate of the 2009 F.B.I.-Mid-Atlantic Law Enforcement Executive Development Seminar and is a Certified Force Science Analyst.

Tags > [Command Staff - Chiefs / Sheriffs](#) • [Law Enforcement Policies](#) • [Leadership](#) • [Legal](#) • [Lexipol](#) • [Police performance and accountability](#) • [Police Training](#)

## RECOMMENDED FOR YOU

< | 'Do something. Do the right thing.' | Improving personnel performance through evaluations and training | Could wearable devices save police officers' lives and careers? | Perspectives change when you are on the table >

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# 24/7 Nurse Triage for Workplace Injuries



Workplace accidents happen. The right nurse triage program is a benefit for your employees, guides your employees to the right care, and provides immediate reporting and administrative relief, saving you time and money.

## Protect your employees and your organization:

- Full 24/7/365 registered nurse triage
- Provider referrals
- Validated and verified provider data base
- Immediate Reporting
- Custom questions/directives
- Pre-populated forms
- Training
- Custom reports
- Translation services
- Instructional text messages for employees
- Integrations
- Support and stewardship
- Whitelabel

There are several reasons why you should call **Company Nurse** first. As an industry pioneer, Company Nurse goes beyond standard triage. Here's what sets it apart:



### Flexibility & Agility

Your organization has its own processes. With Company Nurse, your nurse triage program can be configured for your unique needs.



### State-of-the-Art Systems

Our proprietary triage platform ensures you get the information you need, when you need it.



### Award-Winning Technology & Cybersecurity

With award-winning technology and cybersecurity means you have a safe and secure nurse triage process.



### Quality Control

Our Client Services Team provides you with support and stewardship to ensure your nurse triage program is optimized.

When you call **Company Nurse** first, you see results.

20%

### 15-20% Reduction in Claims

Triaging often leads to appropriate self-care which reduces claims.

30%

### 20-30% Cost Reduction

Triaging minimizes unnecessary emergency room visits, saving you and your employees money, time too.

40%

### Self-Care Recommendations

When more employees are referred to self-care, claims and costs both go down.

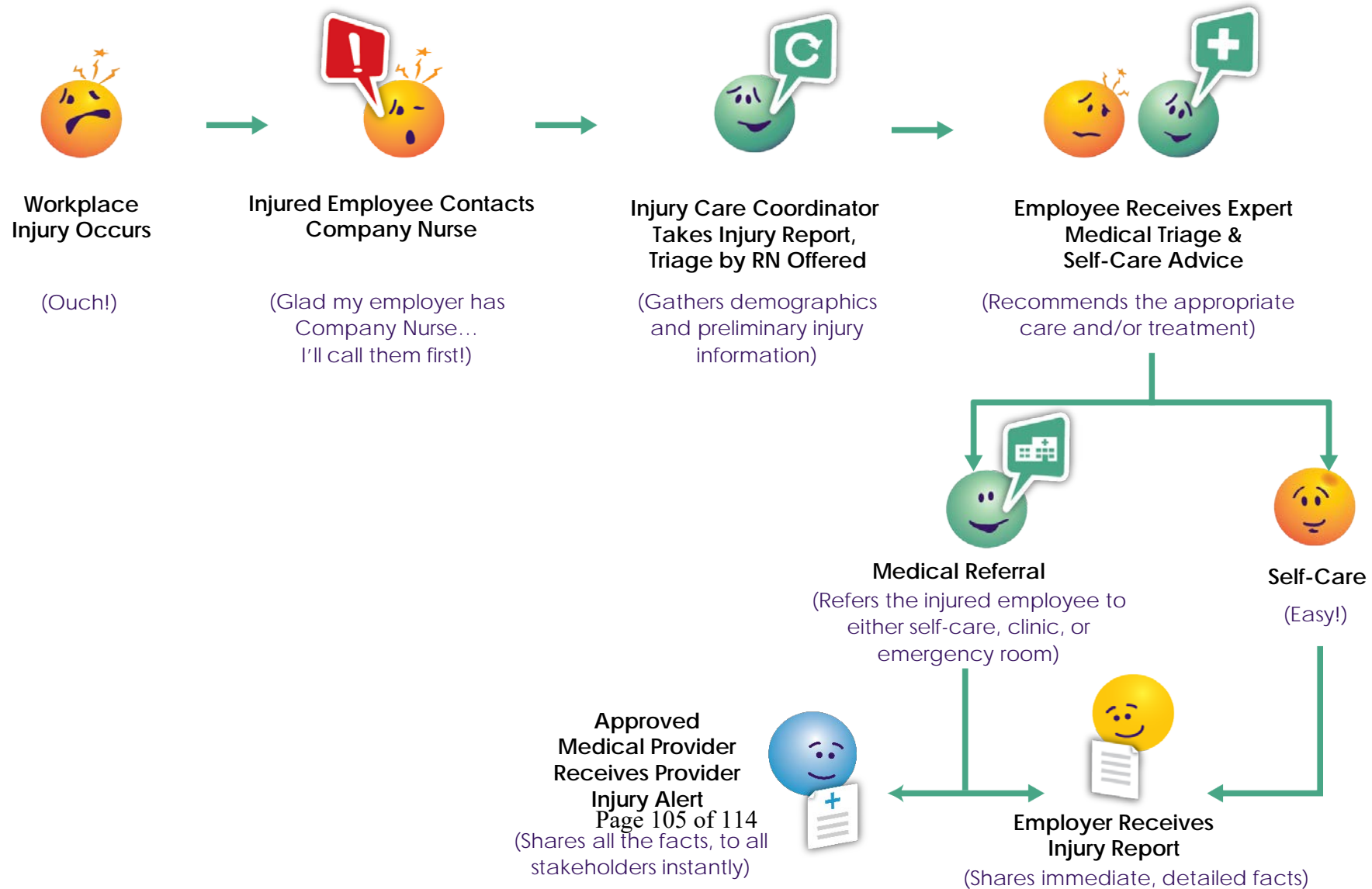
Ready to start saving?

Call 888.817.9282 or email

Sales@CompanyNurse.com



# What Happens During A Call?



## What Sets Company Nurse Apart?

Company Nurse is the premier nurse triage service for workplace injuries, **lessening the pain of workers' comp** for 22 years. With this innovative mindset, we look at ourselves as a technology company that does great triage. Here's how we continue to differentiate ourselves:

- **100% Focus:** For 22 years, we've focused on providing the best nurse triage for workplace injuries. While we've developed into a technology company, that focus has not changed, allowing us to provide superior service.
- **Scalability:** With 100% of our focus on nurse triage for workplace injuries, we can scale quickly. We've streamlined our training process so we can grow along with our clients' needs.
- **Agility:** We are a small company with the resources of a big company, which means we can adapt to your unique needs quickly and easily.
- **Collaboration:** We treat our clients like partners. We understand that you have unique needs and we want to help you meet them.
- **Configurability:** We've developed our own report system, which allows us to be flexible with setups and customization. We know not every client is the same and we don't try to fit them into a box.
- **Flexibility:** We understand that you have unique needs and we want to help you meet them.
- **Responsiveness:** Our contact center team is responsive to the needs of your injured workers, efficiently getting them the care they need. And our Client Management Services Team is here to support you every step of the way with any questions or customizations you may need to help simplify your workplace injury management.
- **Future-Proof Technology:** We don't just create technology solutions that can work today. We create adaptable solutions with tomorrow in mind.
- **Omni-Channel:** Your workers have unique communication preferences, so we offer a variety of channels to connect with our service. This includes a mobile application with the capability to web and video chat with injured workers, as well as receive pictures of the injuries.
- **Integrity:** We hold Company Nurse and all our team members to the highest level of integrity.
- **Values:** This integrity is demonstrated in our core values:
  - Do the right thing
  - Go the Extra Two Miles
  - Driven to Find Solutions
  - Compassion for Everyone
  - Work Together to Work it Out
- **Security:** Cyber security isn't just a hot topic in workers' comp to us – it has a place as one of our technology pillars. We are continuously implementing and testing best security practices.
- **Integrations:**

We have established several **value-add integrations** to further lessen the pain of workers' comp. One of these is an optional service through [One Call called Relay Ride](#), which arranges Lyft rides for injured workers who need transportation. It is done through text, so no app is needed. It can also be allocated to the claim log.

Company Nurse can **refer injured workers to telemedicine** to have a virtual visit with a doctor, if their injuries meet the telemed criteria. Our training emphasizes making the *right* referrals to telemedicine so that your injured workers have the best patient experience and your organization has the best telemed outcomes.

- **Reputation:** As a pioneer in the workers' comp industry, Company Nurse has earned the reputation of a market leader. We [continue to hold this reputation](#) through our investments in people and technology.

**100% Focus**  
**Values** Agility **Scalability**  
**Configurability** **Responsiveness**  
**Future-Proof** **Omni-Channel** **Flexibility**  
**Technology** **Integrity** **Security**  
**Integrations** **Reputation** **Collaboration**



## **Agency Review Proposal, May 7, 2021**

### **I. Agency Review – Overview**

Rick Wall Consulting and Investigations (RWCI) will conduct an Agency Review of current policies and procedures being utilized by Agencies identified by the Monterey Bay Area Self Insurance Authority (MBASIA) to determine if the Agency is utilizing best practices in law enforcement and if the Agency's policies and procedures are being followed. At the request of MBASIA, RWCI will assign an assessor to conduct the review. The Assessor will be experienced in current law enforcement policies and procedures to complete the review.

### **II. Scope of Work**

The purpose of this Agency Review is This review will consist of several parts:

1. A review of department policies and the department policy manual. This review will primarily focus on:
  - a. Use of force;
  - b. Pursuits;
  - c. Personnel complaints, with an emphasis on those involving complaints of bias and excessive force;
  - d. Body worn camera (BWC) and/or in car camera (ICC) use and record retention;
  - e. Training, with an emphasis on pursuits, use of force, de-escalation, and protocols involving the mentally ill; and
  - f. Wellness programs and/or protocols.
2. A review of practices to assist in determining compliance with department policies and procedures. This will consist of:
  - a. A review of all officer involved shootings in the last two years.
  - b. A review of a minimum of ten use of force investigations.
  - c. A review of a minimum of ten pursuits.
  - d. A review of all personnel complaints (IAs) involving excessive force in the last two years.
  - e. A review of a minimum of 20 arrest reports with an eye on probable cause, reasonable suspicion, and obtaining medical treatment for arrestees when requested or identified that a need exists.
  - f. A review of all personnel complaints (IAs) involving bias in the last two years.

- g. A review of department audits and retention records of BWC and ICC during the last two years (or since the Agency began using this technology, if they have it).
  - h. A review of training records for sworn personnel and dispatchers to determine POST compliance (24 hours every 24 months), as well as compliance with perishable skills training mandates.
  - i. Interviews of the Chief, Deputy Chief (or second in command), and at least two supervisors to determine understanding and application of policies and procedures.
  - j. A review of wellness programs and/or training.
3. Preparation of a report indicating findings and recommendations for the client.

### III. Training Issues

Currently, there are two areas where the client has asked for training. The first is in the area of de-escalation and suicide. The other is in the area of officer wellness. We have two recommendations below:

#### *Suicide by Cop: Assessment and De-escalation.*

This is an 8-hour course designed to:

- 1) Develop an understanding of the need for proper interviews to assist dispatchers, call takers, and first responders to identify potential acts of SbC and properly communicate critical information to first responders.
- 2) Have a better understanding of tactics and de-escalation techniques with the goal of reducing violent encounters with suicidal subjects thereby reducing the number of SbC incidents.
- 3) Should an incident of SbC occur, participants will better understand the need to conduct a parallel investigation into the incident of suicide (SbC) perpetrated by the subject with the goal of reducing civil liability, assisting with the administrative adjudication, and assisting the involved officer(s) in their recovery from their part in this tragic incident.

This course is offered by Rick Wall Consulting and Investigations and is approved for **POST Plan V**. Tuition is usually \$150.00 dollars per student for the 8-hour course, but Plan V approved courses are free to all California POST agencies (including sworn officers and dispatchers). It is currently available in both an in-person and online formats. Information on available courses can be found on my website at RickWall.Consulting or at [Rick Wall Consulting Events | Eventbrite](#) or by calling (323) 810-7709.



***Science of Wellness (Renamed to Strategic Trauma and Resilience Training or START)***

This is an 8-hour course focuses on resilience and its capacity to recover quickly from difficult situations and adversity.

Members of the police profession historically have suffered high rates of divorce, depression, alcoholism, self-medication, and suicide. Resiliency is grown and strengthened through specific strategies and tactics consciously and unconsciously applied. Students will learn these strategies, tactics, and how the impacts of stress and trauma affect the mind and body via classroom presentation, group breakout sessions, peer to peer activities, and individual exercises. Students will learn strategies and tactics for coping with stress and cumulative trauma which promote wellness approaches, mindfulness, best practices, and improved mental and physical health outcomes while building resiliency into their personal and professional lives.

This course is offered by Nick Wilson and the Resiliency Project and qualifies for POST Plan V which is free to all California POST agencies (including sworn and dispatchers). Information on this course can be found at NJW Resilient Consulting ( [nick@resilientconsulting.org](mailto:nick@resilientconsulting.org) ) or (619) 788-1023

If you have any questions please contact me at [rick@rickwall.consulting](mailto:rick@rickwall.consulting) or 323-810-7709,

All the best,



Rick Wall

**NORTHERN CALIFORNIA CITIES SELF INSURANCE FUND**  
**2021-2022 Organizational Chart**  
 Updated as of 10/14/2021

MEMBER ENTITY	BOARD OF DIRECTORS	BOARD ALTERNATES	RISK MANAGEMENT COMMITTEE	POLICE RISK MANAGEMENT COMMITTEE
City of ANDERSON	Liz Cottrell	Jeff Kiser	Liz Cottrell	Chief Michael Johnson
City of AUBURN	Nathan Bagwill	Shari Harris	Shari Harris	Chief Ryan L. Kinnan(Vice-Chair)
City of COLUSA	Ishrat Aziz-Khan	Shelly Kittle	Ishrat Aziz-Khan	Chief Josh Fitch
City of CORNING	EC / CC *Kristina Miller	Tom Watson	Tom Watson	Chief Jeremiah Fears
City of DIXON	Rachel Ancheta	Kate Zawadzki	Rachel Ancheta Kim Staile	Chief Thompson
City of ELK GROVE	*EC *Kara Reddig	Jim Ramsey	Jim Ramsey Anjmin Mahil - Alternate	Lieutenant Ryan Elmore
City of FOLSOM	Vacant	Steven Wang	Vacant	Chief Rick Hillman
City of GALT	Stephanie Van Steyn	Lorenzo Hines	Stephanie Van Steyn	Chief Brian Kalinowksi
City of GRIDLEY	Vacant	Elisa Arteaga	Elisa Arteaga	Chief Rodney Harr
City of IONE	EC / CC *Michael Rock	Chris Hancock	Michael Rock	Chief Jeff Arnold
City of JACKSON	EC *Yvonne Kimball	Dalacie Blankenship	Yvonne Kimball	Interim Chief Chris Mynderup
City of LINCOLN	Veronica Rodriguez	Ruthann Codina	Veronica Rodriguez	Chief Doug Lee
City of MARYSVILLE	S / EC/CC *Jennifer Styczynski	Vacant	Jennifer Styczynski	Chief Chris Sachs
City of NEVADA CITY	Joan Phillippe	Gabrielle Christakes	Joan Phillippe	Chief Chad Ellis
City of OROVILLE	Liz Ehrenstrom	None Appointed	Liz Ehrenstrom (Chair)	Chief Joe Deal
Town of PARADISE	Ross Gilb	Crystal Peters	Crystal Peters	Chief Eric Reinbold
City of PLACERVILLE	*P / *EC **Dave Warren (Chair)	Cleve Morris	Dave Warren	Chief Joseph Wren
City of RED BLUFF	EC Sandy Ryan	Anita Rice	Sandy Ryan	Chief Kyle Sanders (Chair)
City of RIO VISTA	VP/T/*EC/*CC ***Jose Jasso (Vice-Chair)	**Jen Lee, CPA	Jose Jasso	Chief Jon Mazer
City of ROCKLIN	Vacant	Andrew Schiltz, CPA	Andrew Schiltz, CPA	Chief Chad Butler
City of WILLOWS	Vacant	None Appointed		N/A
City of YUBA CITY	EC/CC **Spencer Morrison	Vacant	Sheleen Loza	Chief Brian Baker

OFFICERS		
		Term of Office
President (P)	Dave Warren	10/29/2020 - 6/30/2022
Vice President (VP)	Jose Jasso	10/29/2020 - 6/30/2022
Treasurer (T)	Jen lee	10/29/2020 - 6/30/2022
Secretary (S)	Jennifer Styczynski	7/1/2020- 6/30/2022

**Executive Committee (EC)** - membership on the EC rotates annually based on a rotation schedule and each member serves for a two-year term, with the **President** serving as **Chair of the Committee**.

**Claims Committee (CC)** - members of the CC are annually selected by the EC. CC is traditionally made up of at least five members of the EC, with the **Vice President** serving as **Chair of the Committee**.

CJPRMA Board Representative Elizabeth Ehrenstrom appointed 6/17/2021

PROGRAM ADMINISTRATORS (Alliant Insurance Services)	CLAIMS ADMINISTRATORS (Sedgwick formerly York)	RISK CONTROL CONSULTANTS (Sedgwick formerly York/Bickmore)	ADVISORS
Marcus Beverly Conor Boughey Jenna Wirkner	Dorienne Zumwalt Steven Scott (Workers' Comp) Summer Simpson (Liability)	Eric Lucero Tom Kline (Police RM)	Byrne Conley (Board Counsel) James Marta, CPA (Accountant)



## PROGRAM YEAR 21/22 MEETING CALENDAR

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Thursday, August 5, 2021 ..... **Police Risk Management Committee** at 10:00 a.m.

Thursday, September 16, 2021 ..... **Claims Committee** at 10:00 a.m.  
*Executive Committee* at 11:30 a.m.

Wednesday, October 27, 2021 ..... **Board of Directors** at 10:00 a.m.

Thursday, November 4, 2021..... **Police Risk Management Committee** at 10:00 a.m.

Thursday, December 16, 2021\* ..... **Board of Directors** at 10:00 a.m.

Thursday, February 10, 2022 ..... **Police Risk Management Committee** at 10:00 a.m.

Thursday, March 24, 2022 ..... **Claims Committee** at 10:00 a.m.  
*Executive Committee* at 11:30 a.m.

Thursday, April 21, 2022 ..... **Risk Management Committee** at 10:00 a.m.  
**Board of Directors** at 12 noon

Thursday, May 5, 2022 ..... **Police Risk Management Committee** at 10:00 a.m.

Thursday, May 26, 2022 ..... **Claims Committee** at 10:00 a.m.  
*Executive Committee* at 11:30 a.m.

Thursday, June 23, 2022\* ..... **Board of Directors** at 10:00 a.m.

Meeting Location: Rocklin Event Center - Garden Room  
2650 Sunset Blvd., Rocklin, CA 95677

Rocklin Event Center – Ballroom \*

Note: Additional Claims Committee Meetings may be scheduled as needed for Claims Authority approval which will be held via teleconference.





BACK TO AGENDA

**Northern California Cities Self Insurance Fund  
Police Risk Management Committee Meeting  
November 4, 2021**

**TRAINING SESSION FROM noon – 2:00 P.M.**

**INFORMATION ITEM**

**TOPIC:** Transparency Engagement: The Next Step in Communicating with the Public. Presented by Stefanie Cruz of Cole Pro Media.

**ATTACHMENT:** Training Announcement

# SAVE THE DATE - REGIONAL TRAINING

## Transparency Engagement

### The Next Step in Communicating with the Public

*Presented by Stefanie Cruz of Cole Pro Media*

In our environment of ever-changing expectations, departments must keep up with best practices when it comes to *communicating in a transparent way*. In a time of crisis, it's vital to show people that you understand the importance of being open and honest.

However, sometimes words can portray a different picture than you intended. This session will give you the tools needed to communicate more effectively by building trust with your audience.

#### Topics Include:

**How to build trust and legitimacy during difficult times when you feel like no one is in your corner.**

#### Date and Time:

Thursday, November 4<sup>th</sup>, 2021 noon – 2:00 p.m.

\*Lunch will be provided before the training

Rocklin event Center – Garden Room  
2650 Sunset Blvd  
Rocklin, CA 95677

#### RSVP:

Jenna.Wirkner@alliant.com

916-643-2731

**Please reach out to NorCal Cities Program Administrators if you have any questions.**

Marcus.Beverly@alliant.com

Jenna.Wirkner@alliant.com



**OPEN TO ALL JPA MEMBERS**

#### Trainer

**Stefanie Cruz, Transparency Engagement Advisor** at Cole Pro Media. Stefanie brings 20 years of news and communications experience to Cole Pro Media. As a news anchor and reporter, Stefanie has covered stories from all over the country and internationally. In the days following 9/11, she reported from Ground Zero and she has also reported on immigration, NAFTA and environmental issues from south of the border. Stefanie's work has earned her several Emmy nominations. She also serves as a board member for the Sacramento domestic violence shelter, My Sister's House.



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MEDIA**

