

Law Enforcement Agencies Must Disclose SB 1421 Records Created Before January 1, 2019

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ATTORNEYS

State and local agencies that maintain certain peace officer records must comply with the expanded disclosure requirements of SB 1421, even if the responsive records were created prior to the law's January 1, 2019 effective date.

Jennifer Petrusis

SB 1421 amended Penal Code Section 832.7 to expand public access to records involving particular conduct by officers. Under the new requirements, public agencies must disclose records regarding incidents involving the discharge of a firearm at a person by an officer or a use of force by an officer that resulted in death or great bodily injury, and must disclose records regarding a sustained finding that an officer engaged in sexual assault or dishonesty.

In *Walnut Creek Police Officers' Association v. City of Walnut Creek*, the First District of the California Court of Appeal rejected the argument that applying the new disclosure requirements to pre-2019 records is an improper retroactive application of the new law. The Court explained that agencies must disclose pre-2019 records because: 1) the event necessary to "trigger" application of the disclosure requirements (i.e. a Public Records Act request) necessarily occurs after the legislation's effective date; and 2) the legislation does not change the legal consequences for the police officer conduct described in the records.

If you have any questions, or would like more information about how this case may affect your agency, please contact **Jennifer Petrusis** or **Isra Shah**.