

CHAPTER 13

INFORMATION DISCLOSURES – PUBLIC RECORDS AND RIGHTS OF PRIVACY

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## CHAPTER 13

### INFORMATION DISCLOSURES – PUBLIC RECORDS AND RIGHTS OF PRIVACY

#### 1. PUBLIC RECORDS ACT.

a. Legal Reference. Government Code (GC) Section 6250, et seq., is commonly referred to as the California Public Records Act (PRA). The PRA provides access to information concerning the conduct of the “people's business” and is a fundamental and necessary right of every person in this state. The PRA applies to all records in the Department’s possession however obtained or created.

b. Application. The following are examples of records or information in the Department’s possession, which are available for review and/or release under the PRA:

(1) Employee information including name, work location, classification, assignment, gross salary rate, dates of employment, time base, rehire information, and training received at state expense.

(2) Certain arrest and incident information (arrest information on juveniles cannot be released except under certain circumstances [refer to paragraph 2 and Annex A]).

(a) Public information from an arrest log includes the arrestee’s name, date of birth, gender, and criminal charges. Commands can release the home addresses of arrestees when a CHP 190A, Request for Addresses of Arrestees, is submitted. Only business addresses of peace officers arrested shall be placed on the arrest log.

NOTE: Any request of the Department provided on a CHP 190A may be submitted at any point in the year, but shall be renewed in January of the following year.

(b) Arrest logs shall contain only one week’s worth of arrests; any requests made for future arrest logs will not be accepted.

(3) Communications center records, except for personal and confidential information (refer to Annex B).

(4) Commercial inspection records (e.g., commercial carriers, school buses).

(5) Carrier Information Reporting and Evaluation System (CIRES).

(6) Hazardous Material Spill After-Action Reports (except injury and medical information pertaining to departmental employees or other individuals shall be redacted prior to public disclosure).

(7) Labor contracts between the state and state employees.

(8) Statewide Integrated Traffic Records System (SWITRS) reports.

(9) Public information from CHP 555, Traffic Collision Report, is releasable under the PRA. Release of complete CHP 555s is governed by California Vehicle Code Section 20012. Refer to General Order 110.2, Release of Collision Information, for policy and procedures on the release of collision reports.

(10) Public information from CHP 202, Driving Under the Influence Arrest – Investigation Reports, and CHP 216, Arrest -- Investigation Report.

(11) Mobile Video/Audio Recording Systems (MVARs) footage (refer to Annex C).

c. Exemptions. Exemptions to disclosure are found in GC Section 6254 et seq. If exempt records are withheld in their entirety, or if certain exempt information from a record is redacted, the requester shall be notified in writing (if the requester's contact information was obtained) of the legal basis on which records are withheld.

d. Procedures.

(1) Public Records Act Poster. The Department requires the CHP 370/CHP 370S, Public Records Act Requests, posters be displayed in every public California Highway Patrol (CHP) office, in public view, in both English and Spanish. These posters can be obtained through the Business Services Section, Reproduction Unit.

(2) Requests for Inspection or Copies of Records.

(a) A member of the public can make a PRA request in writing, over the telephone, or in person. Written requests can include letters, e-mail, and fax. Only existing records in the Department's possession would be responsive to a PRA request.

(b) If a PRA request is made, an employee of the Department shall complete a CHP 370C, Public Records Act Requests (refer to Annex F). The form is to be filled out by the employee and shall not be filled out by the requester. The request can be made at any public CHP office and is

not required to be submitted solely to the office which is currently maintaining the requested information.

(c) Determine if the requester wants an arrest log only. Requests for arrest logs only do not require prior approval from the Office of Risk Management (ORM), Public Records Act Unit (PRU), and will be processed by the command which maintains the records. For arrest log only requests, complete STEP 1 of the CHP 370C. If the requester requests records other than an arrest log, fill in this information in the space provided. If the request is in writing, attach the request to the CHP 370C and write "see attached" in the space provided. Log the employee name, employee identification number, and the date and time, in the spaces provided at the top of the form. Do not ask for the requester's name or identification since this information cannot be requested under the PRA. The only exception is if the requester voluntarily provides their name and address for notification as explained in STEP 3.

NOTE: If the request is for an arrest log in addition to other records, process the arrest log request separately from the request for other records. Complete a CHP 370C for the arrest log request, then complete a separate CHP 370C for the additional records requested.

(d) Calculate 10 calendar days from the date the request is received. The date after the request is received is day 1. If day 10 is on a weekend or holiday, use the next business day. Write this date in the blank space provided in STEP 3. The office responsible for the processing of the PRA request shall send the Department's written response to the requester no later than the close of business on the 10th day. The "date received" shall be the day the request is received by any departmental employee. If the request is received via e-mail, then the "sent" timestamp on the e-mail shall be used, unless it was sent outside of regular business hours, then the next business day shall be used.

(e) In certain unusual circumstances, if additional time is needed to gather and produce the responsive documents, GC Section 6253(c) allows an agency to extend the response time frame by an additional 14 days past the statutory 10 days. An extension letter shall be sent within the statutory 10-day time frame and serve as an interim response. The extension letter must state specifically which "unusual circumstance" the extension is based upon (refer to Annex D for information regarding the definition of unusual circumstances). To ensure compliance with the written response requirement of the PRA, calendar the 10-day deadline to

ensure either the determination letter or the extension letter is sent to the requester pursuant to code.

(f) If the request is made in person or by telephone, read the statement in quotation marks verbatim in STEP 3. If the requester wants to be notified by the United States Postal Service, complete the name and address information. This information is completely voluntary and will be used for notification purposes only. Detach the requester's copy of the CHP 370C and provide it to the requester.

(g) Log the PRA request in the CHP 520, Area Public Records Act Request Log (refer to Annex H).

(h) Search for and identify responsive records. If there is a specific question regarding the release of a particular record or certain information contained within a record, contact the PRU. Forward the CHP 370C and written request (if available) to the PRU, via e-mail, at [CHP-PRA@chp.ca.gov](mailto:CHP-PRA@chp.ca.gov) (**this e-mail address is for internal use only**). Include your specific question in the body of the e-mail. If you have not received a reply from the PRU in 3 business days, call and confirm the request was received.

(i) If assistance is requested, the PRU will notify the command prior to the expiration of the 10-day period with their recommendation. The command should process the request pursuant to that recommendation. The command will log the date the response and/or records are delivered to the requester on the CHP 520. The CHP 370C form and the PRU's response shall be retained in the command's files for 3 years, per the records retention schedule (refer to Chapter 11, Records Management, of this manual).

(j) The command processing the PRA request shall provide the Department's written response to the requester within the statutory 10-day response time frame. The written response will serve as the Department's determination and should let the requester know if responsive records have been identified and whether or not the Department will be providing copies of responsive records. If exempt records are withheld in their entirety, or if certain exempt information is redacted, then the written response should cite the legal basis on which exempt information is being withheld. Refer to Annex E of this chapter for a list of the most commonly used exemptions. Should any legal questions arise, the command shall advise the PRU as the Office of Primary Interest (OPI). The Office of Legal Affairs (OLA) will work directly with the PRU to address any legal issue.

(k) Occasionally, PRA requests are sent by members of the public directly to the PRU. The PRU will review these requests and will either process the request or forward the request to the appropriate command or OPI for handling. If necessary, the PRU can forward the request to OLA to provide further processing recommendations and answer any legal questions; however, the command or OPI processing the request shall identify the responsive records and send the Department's written response.

(l) Upon request for a copy of a releasable public record, an exact copy shall be provided upon payment of a fee of 30 cents per page for single-sided regular copies, 50 cents per page for most other copies, and 5 dollars per CD or DVD (refer to Chapter 4, Miscellaneous Sales - Transmittal of Collections, Annex D, Sale of Records - Authorities and Prices). A request for public information on a document that also contains nonpublic information will be redacted and the charge per page is the same.

NOTE: Any and all reproduction fees shall be paid in full to the Department by the requester prior to the production of the requested records.

(m) Requesters may ask responsive records to be provided in electronic format. If responsive records are maintained by the Department in electronic format, the records shall be provided in electronic format, upon request. However, the Department is not obligated under the PRA to create or construct a new electronic record in order to satisfy a PRA request.

(n) If the requester asks that records be provided in electronic format, then the documents shall be delivered to the requester, via e-mail, or electronic media (CD or DVD). After gathering the records and identifying any nonpublic information, make the necessary redactions with the appropriate software to ensure privileged information is not released. Once the proper redactions are applied, and if the requester has requested delivery, via e-mail, ensure the documents meet the limitations of the e-mail service provider utilized by the office. If the documents exceed the limits imposed by the e-mail provider, delivery to the requester shall be made via electronic media (CD or DVD). If electronic media delivery is required, please advise the requester of the form of delivery and the related costs (5 dollars for each CD or DVD).

(o) When a request requires redaction of the original, the command shall make the necessary redactions. If there is a question about releasing

certain information, the PRU is available to review redactions made by the command before responsive records are provided. For special cases, the PRU may make the necessary redactions for a command. If a request asks for a fatal report, is being made by the media regarding a high-profile incident, is a nonmedia request related to a high-profile incident, is related to litigation involving the Department, or involves other unusual circumstances, the PRU will review and approve all redactions and will advise the command how to proceed. The requester will only be charged for the final copy. Once the total number of pages is determined, the requester will be required to provide payment prior to the release of the responsive records.

(p) The command shall inform the Office of Community Outreach and Media Relations (COMR) when a PRA request is received from a member of the media involving any potentially sensitive or controversial subject, or any PRA request from a major regional news outlet or wire service. Commands should contact COMR for guidance with drafting responses, if needed.

(q) Subject to reasonable notice (to be determined by the command receiving the request), public records shall be made available for inspection during regular business hours at the office where the records are maintained. There is no associated fee if a member of the public only wishes to inspect records.

NOTE: Inspection of records shall be made only in the presence of departmental personnel to prevent records from being destroyed, mutilated, defaced, altered, photographed, or copied.

(r) If a requester is provided requested documents or the command is unable to provide requested documentation, a CHP 247A, Provided Records - Public Records Act Request (refer to Annex G), shall be completed, and a copy retained along with the CHP 370C at the command (refer to Chapter 4, Annex D for procedural costs).

(s) Motor Carrier Safety Compliance Reports. Individuals may request, pay for, and pick up copies of Motor Carrier Safety Compliance Reports from any Division office regardless of where the reports are maintained. Upon receipt of a request, the following procedures shall be followed:

1 The individual making the request must provide either the name of the motor carrier or the carrier's California Identification (CA) number. If possible, the requester should provide either a specific terminal address or the city where the terminal is located when



requesting reports of a carrier operating more than one terminal. This will ensure the proper terminal report is obtained. Requests can be accepted in writing, in person, by telephone, by fax, or by e-mail.

2 Division clerical staff should determine the appropriate Division(s) to contact for each report using the CHP 802, City and County Code Book, or by entering the carrier's CA number in the CIRES.

3 Division clerical staff shall contact the appropriate Division Motor Carrier Safety Unit(s) and request a copy of the report(s) be mailed to the requester as soon as possible.

4 Individuals may request copies of Motor Carrier Safety Compliance Reports by contacting each Division and submitting separate requests and payments.

(3) CHP 520, Area Public Records Act Request Log. Commands shall complete and maintain the CHP 520 and forward the form on a quarterly basis to the appropriate field Division office. Division offices shall forward copies of their commands' CHP 520 logs to the PRU on a quarterly basis.

(a) Area/Office Control Number. This control number shall be entered by the command tasked with the PRA request. The first three digits of the control number are the processing command's location code; the fourth and fifth digits indicate the year the request was received; and the final three digits are a sequential control number beginning with 001 on January 1, at 0001 hours, each year. As an example, the 15th request of the year for 2006 in Area 950 would yield control number 950-06-015. This control number is also entered on the CHP 370C.

(b) Date Request Received. Enter the date the PRA request was received.

(c) Complex Request (Yes/No). Complex PRA requests are considered to be requests that involve large volumes of departmental information, requests that require information from various offices, or requests that are sensitive in nature.

(d) Date Forwarded to Public Records Act Unit. Enter the date the complex request was forwarded to the PRU.

(e) Name/Company of Requester (If Volunteered). Fill in the name of the individual or company requesting departmental information via the PRA, if this information was provided. The Department cannot request the name,

identification, or the reason for the request from the requester. If information is not provided, writing "not available" is sufficient.

(f) Records Requested (Brief Description). List a brief description of the records requested (e.g., dispatch tapes).

(g) Records Provided (Brief Description). List the number of pages or other records provided to the requester.

(h) Time Expended. Enter the time expended to provide the PRA information. This is to be reported in 30-minute increments as 0.5 hours.

(i) Personnel Classification. List the job classification of each person that compiled the PRA information (e.g., Office Assistant, Office Services Supervisor, sergeant).

(j) Amount Collected. List the dollar amount collected from the requester at the time of providing PRA information.

(k) Date Provided. Enter the date the PRA information was provided to the requester.

(l) Submission. Commands' CHP 520s are submitted quarterly through channels only to the appropriate Division office, not to the PRU. Division offices shall forward copies of their commands' CHP 520 logs to the PRU on a quarterly basis.

(4) Justification for Withholding Records. The PRA requires justification for withholding any record by demonstrating the record is specifically exempt under provisions of the PRA or, based on the facts of the particular case, the public interest served by withholding the record clearly outweighs the public interest served by disclosure.

e. Legal Proceedings. Any person may institute proceedings for injunctive or declaratory relief in court to enforce their right to inspect or receive a copy of a record under the PRA.

## 2. OTHER DISCLOSURES.

### a. Law Enforcement Investigative Reports.

(1) Release to Other Agencies. Law enforcement investigative reports (e.g., CHP 555; CHP 216; CHP 202; and CHP 215, Notice to Appear) may be released to other agencies when the information is necessary for that agency to perform a constitutional or statutory duty or for licensing, certification, or

regulatory purposes (Civil Code Section 1798.24). The requesting agency must cite the authority that entitles the agency to the complete report, or the agency will be provided with public information only. Contact the PRU for any authority questions.

(2) Release to Arrestee.

(a) An arrestee should be referred to the district attorney's office or city attorney's office if the case has not been adjudicated. If the district attorney's office or city attorney's office has refused to provide the arrestee with a copy of an arrest investigative report, a copy will be provided upon proof of identity and payment of a fee of 10 cents per page (refer to Chapter 4, Annex D). If the case has been adjudicated, refer to Annex A.

NOTE: In addition to any other nonpublic information, home addresses and telephone numbers of victims and witnesses shall be redacted from the report pursuant to Penal Code (PC) Sections 841.5 and 1054.2 prior to release of the report to the arrestee. This information shall not be redacted if the report is provided to the subject's attorney.

(b) Should a local district attorney request commands follow procedures different than those listed above, the PRU should be contacted for guidance.

(3) Release of Arrest Reports to Employers of Arrestees.

(a) Release of Arrest Reports on Peace Officers (as Defined in Penal Code Section 830.2). Labor Code Section 432.7 allows a law enforcement agency to request from or provide to another law enforcement agency, a copy of an arrest report pertaining to the arrest of a peace officer employee prior to conviction. Upon request, a complete copy of an arrest report pertaining to the arrest of a peace officer shall be provided to the law enforcement agency employing the peace officer at no charge.

(b) Release of Arrest Reports on Civilian Employees. Labor Code Section 432.7 prohibits law enforcement agencies from providing copies of arrest reports pertaining to employees who are non-peace officers to the employing agency prior to conviction. Therefore, if a request is received for a copy of an arrest report on a non-peace officer employee from the employing agency prior to a conviction, only the public information shown in Annex A regarding the arrest shall be released, regardless of whether the employee was on- or off-duty at the time of the arrest.

(4) Release of Arrest Information to the Public/Media. Release of arrest information to the public or media shall be limited to information listed in Annex A.

(5) Implied Consent and Administrative Per Se Hearings. Refer to Chapter 10, Subpoenas/Subpoenas Duces Tecum Compliance Criminal/Civil Appearances, of this manual for policy and procedures on release of arrest information for Implied Consent and Administrative Per Se hearings. The OLA is available to provide legal advice and assistance regarding questions, issues, and/or concerns pertaining to this matter.

(6) Release Pursuant to Subpoena/Motion. Procedures for release of arrest reports pursuant to legal processes not addressed in this chapter are contained in Chapter 10 of this manual. The OLA is available to provide legal advice and assistance regarding questions, issues, and/or concerns pertaining to this matter.

b. Juvenile Arrest Information. Normally, juvenile arrest information is confidential and can only be disclosed pursuant to an order of the juvenile court. However, pursuant to Welfare & Institutions Code Section 827.5, only the subject's name and offense(s) allegedly committed by a juvenile 14 years or older taken into custody for a serious felony, as defined in PC Section 1192.7(c), are subject to disclosure under the PRA.

c. Criminal History Information. Designated employees of the Department have access to criminal history information from the California Department of Justice (DOJ) through California Law Enforcement Telecommunications System (CLETS). This information shall be accessed for official purposes only. Disclosure outside the Department shall be limited to release to other law enforcement agencies for official purposes only. Any other requests for such information shall be referred to the DOJ.

d. Vehicle Registration and Driver Record Information. Designated employees of the Department have access to vehicle registration and driver record information from the California Department of Motor Vehicles (DMV) through CLETS. This information shall be accessed for official purposes only. Disclosure outside this Department shall be limited to release to other law enforcement agencies for official purposes only. Any other requests for such information shall be referred to the DMV.

e. Subpoenas and Informal Discovery Requests. Requests for records made via subpoenas and informal discovery are processed differently than PRA requests. An informal discovery request is one "by which the defendant may compel the disclosure or production of information from prosecuting attorneys, law enforcement

agencies which investigated or prepared the case against the defendant, or any other persons or agencies which the prosecuting attorney or investigating agency may have employed to assist them in performing their duties” (PC Section 1054.5, subdivision [b]). Subpoenas and informal discovery requests are not subject to the provisions of the PRA. Subpoenas and informal discovery requests should be processed according to procedures outlined in Chapter 10 of this manual. If a request is not made via subpoena or informal discovery, then it should be processed as a PRA request, regardless of who the requester is.

f. Video and Audio Recordings of Certain Crimes. Under GC Section 6254.4.5, the Department is not required to disclose a video or audio recording created during the commission or investigation of the crime of rape, incest, sexual assault, domestic violence, or child abuse that depicts the face, intimate body part, or voice of the victim. If this exemption is used to withhold a recording, the withholding must be justified by demonstrating that the public interest is served by not disclosing the recording clearly outweighs the public interest served by disclosing the recording per GC Section 6255. However, this exemption shall not affect any other exemption provided by the PRA.

NOTE: Government Code Section 6254.4.5(c) allows the victim who is the subject of the recording, the parent or guardian of a minor subject, a deceased subject's next of kin, or a subject's legally authorized designee to inspect the recording and obtain a copy. Disclosure under this subdivision does not require the recording to be made available to the public.

g. Release of Information Pursuant to Senate Bill 1421. Beginning January 1, 2019, Section 832.7(b) of the Penal Code requires certain records maintained in peace officers' personnel files, records classified as personnel records, and records associated with specified uses of force, which are maintained by the Department, be made available for public inspection pursuant to a PRA request. The complete text of Senate Bill (SB) 1421 can be found in Annex I.

(1) Any request for information related to SB 1421, made via a PRA request, shall immediately be e-mailed to the ORM, PRU, at [chp-pra@chp.ca.gov](mailto:chp-pra@chp.ca.gov), on a CHP 370C, with a carbon copy to the appropriate Division Administrative Assistant. In the subject line, include “Request for SB 1421 Information.” List all items requested on the CHP 370C.

(2) Upon receipt of a request related to SB 1421, the command shall notify Division of the request and what is specifically being requested. Division shall then notify the appropriate Commissioner.

(3) If a headquarters command receives a request related to SB 1421, the command shall notify the appropriate Commissioner.

(4) The office responsible for maintaining the original of any requested record shall determine if any potentially relevant records exist. Review of the personnel record shall be conducted by the commander or their designee. The existence or nonexistence of responsive records related to all information listed in the request shall be communicated to the PRU by telephone, at (916) 843-3020, within 2 business days of the Department receiving the initial request.

(a) Commanders are to ensure proper succession planning of administrative personnel tasked with the review of these sensitive documents.

(5) If it is determined potentially responsive records exist, these records shall be transmitted to the PRU in a manner that will ensure confidentiality is maintained, as mandated by policy. This transmittal to the PRU shall occur within 3 business days of receiving the request. The PRU will coordinate the release of responsive records.

(6) If the requester seeks additional information in the same request, unrelated to the information requested per SB 1421, the command shall gather the records, redact if necessary, and forward the information to the PRU within 3 business days of receiving the initial request. If the requested records are maintained statewide, or in multiple commands, the command receiving the request shall coordinate with the PRU.

(7) If it is determined responsive records do not exist, the command shall respond to the requester appropriately. If potentially responsive records have been purged in accordance with established retention schedules, the command shall contact the PRU, who will then coordinate a response.

(8) Once a determination has been made to release information under SB 1421, it is the command's responsibility to notify the affected employee of the release. The PRU shall notify OER of a pending release.

(9) The PRU will coordinate all releases and withholdings of information related to SB 1421.

h. Release of Information Pursuant to Assembly Bill 748. Beginning July 1, 2019, AB 748 modifies GC Section 6254 to add subsection (f)(4), which requires a video or audio recording related to a critical incident be made available for public inspection within specified time frames. The complete text of AB 748 can be found in Annex J.

(1) A critical incident, defined by the statute, is as follows:

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

(b) 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.

(2) Any request for information related to AB 748, made via a PRA request, shall immediately be e-mailed to ORM, PRU, at [chp-pra@chp.ca.gov](mailto:chp-pra@chp.ca.gov), on a CHP 370C, with a carbon copy to the appropriate Division Administrative Assistant. In the subject line, include "Request for AB 748 Information." List all items requested on the CHP 370C.

(3) Upon receipt of a request related to AB 748, the command shall notify Division of the request and provide the specifics. Division shall then notify the appropriate Commissioner.

(4) If a headquarters command receives a request related to AB 748, the command shall notify the appropriate Division or Commissioner.

(5) The office responsible for maintaining the original of any record shall determine if **any** potentially responsive audio or video recordings exist. Review of the personnel record or Critical Incident Investigation Team report, if one exists, should be conducted by the commander or their designee. The existence or nonexistence of responsive audio or video recordings shall be communicated to the PRU by telephone, at (916) 843-3020, within 2 business days of receiving the initial request.

(a) Commanders are to ensure proper succession planning of administrative personnel tasked with the review of these sensitive documents.

(6) If the requester seeks additional items in the same request, the command shall gather the records, redact if necessary, and forward to the PRU within 3 business days of receiving the initial request. If redaction of audio or video recordings is necessary, it will be conducted by the PRU.

(7) For any incident occurring after July 1, 2019, involving incidents as defined in paragraphs 2.h.(1)(a) and 2.h.(1)(b), the Critical Incident Investigation Team lieutenant or appropriate Area level personnel shall immediately send a copy of any and all video and audio recordings related to that incident to the PRU for review. The recordings shall be transmitted to the PRU in a manner that will ensure confidentiality is maintained, as mandated by policy. This transmittal to PRU shall occur within 10 calendar days of the qualifying event.

(8) If it is determined responsive audio or video recordings do not exist, the command shall respond to the requester appropriately. If potentially responsive records have been purged in accordance with established retention schedules, the command shall contact the PRU, who will then coordinate a response.

(9) Once a determination has been made to release information under AB 748, it is the command's responsibility to notify the affected employee of the release. The PRU shall notify OER of a pending release.

(10) The PRU will coordinate all releases and withholdings of information related to AB 748.



## ANNEX A

### DISCLOSURE OF ARREST AND CRIME/INCIDENT INFORMATION

#### 1. WITHHOLDING OF A REQUESTED RECORD.

a. The requester should be informed in writing the Department is withholding the requested record in its entirety on the legal basis of Government Code (GC) Section 6254, subdivision (f), if the release of public information from a record will either:

- (1) Endanger the successful completion of a California Highway Patrol or related investigation.
- (2) Endanger the safety of an individual involved in an investigation.

#### 2. INFORMATION GENERALLY REQUIRED TO BE PROVIDED TO THE PUBLIC WHEN REQUESTED.

a. Arrest Reports:

- (1) Full name of arrestee.
- (2) Arrestee's physical description (including gender, eye and hair color, height, and weight).
- (3) Arrestee's date of birth.
- (4) Arrestee's occupation.
- (5) Date/time/location of the arrest.
- (6) If applicable, subsequent booking.
- (7) Charges on which the arrestee is being held.
- (8) Factual circumstances surrounding the arrest.
- (9) Time and manner of release.
- (10) The amount of bail set.

## ANNEX A

### DISCLOSURE OF ARREST AND CRIME/INCIDENT INFORMATION (*continued*)

(11) Outstanding warrants or parole/probation holds of which the arrestee is subject.

NOTE: The above is limited by those statutory provisions prohibiting release (e.g., most juvenile arrest information, names of victims of certain criminal offenses) and those statutory provisions deferring release (when disclosure of information would endanger the safety of a person involved in the arrest or would endanger the successful completion of an investigation or related investigation).

NOTE: Home addresses of arrestees are not public information unless the requester executes a CHP 190A, Request for Addresses of Arrestees, declaring under penalty of perjury the information is to be used for a scholarly, journalistic, political, or governmental purpose pursuant to GC Section 6254, subdivision (f)(3). A licensed private investigator making such a request for investigative purposes is also permitted to have the home address of an arrestee under GC Section 6254, subdivision (f)(3).

#### b. Crime/Incident Reports:

- (1) Date, time, and location of the occurrence.
- (2) Date and time of any report prepared.
- (3) Factual circumstances surrounding the crime or incident.
- (4) General description of any injuries, property, or weapons involved.
- (5) The name and age of certain victims.

NOTE: Public Information from a finalized arrest/crime/incident/collision report is provided in accordance with GC Section 6254, subdivision (f)(2).

#### c. Crime/Incident Reports requested by a victim or a victim's authorized representative or insurance carrier:

- (1) All information included with a general request for a crime/incident report, in addition to:

## ANNEX A

### DISCLOSURE OF ARREST AND CRIME/INCIDENT INFORMATION (*continued*)

- (a) Names and addresses of all persons involved and any statements obtained from the involved parties.
- (b) All diagrams prepared as a result of the incident.

NOTE: Penal Code (PC) Section 841.5 prohibits the release of home address and telephone numbers of victims and of witnesses. The names of victims of certain offenses (PC Sections 220, 261, 261.5m 264, 273a, 273d, 273.5, 288, 288a, 289, 422.6, 422.7, 422.75, and 646.9) can be withheld at the victim's request (or, if the victim is a minor, at the request of the victim's parent or guardian).

NOTE: The analyses and conclusions of the investigative officer are not considered to be public and are to be withheld from public disclosure (GC Section 6254, subdivision [f]).

NOTE: The California Public Records Act (PRA) does not require an entire report be released. Only public information from the report is required to be disclosed. Nonpublic information protected under the PRA does not require disclosure. However, once the Department discloses information to the public, such information is public for all intended purposes and must be disclosed if requested.

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## ANNEX B

### DISCLOSURE OF COMMUNICATIONS/DISPATCH CENTER RECORDS

#### 1. WITHHOLDING OF A REQUESTED RECORD.

a. The requester should be informed in writing the Department is withholding the requested record in its entirety on the legal basis of Government Code (GC) Section 6254, subdivision (f), if the release of public information from a record will either:

- (1) Endanger the successful completion of a California Highway Patrol or related investigation.
- (2) Endanger the safety of an individual involved in the investigation.

#### 2. DISCLOSURE OF A REQUESTED RECORD.

a. All personal identifying information relating to any witness, caller, or involved party shall be redacted unless the following circumstances apply:

- (1) The requester is, or represents, a victim from the incident, or is, or represents an insurance carrier against which a claim has been or might be made. The requester would be entitled to public information and the names and addresses of witnesses/callers, but not phone numbers (GC Section 6254, subdivision [f]).
- (2) The request is from a law firm that represents an involved party from the incident. The requester would be entitled to public information and their client's personal identifying information
- (3) The requester was an involved party in the incident. Upon reasonable verification of identity, the requester would be entitled to public information and their own personal identifying information.
- (4) The request is from a company whose vehicle or property was involved in the incident. The requester would be entitled to public information and any identifying information related to their vehicles or property.
- (5) The requester is an insurance company. The requester would receive public and victim information as described above and would also be entitled to the personal identifying information of their insured.

## **ANNEX B**

### **DISCLOSURE OF COMMUNICATIONS/DISPATCH CENTER RECORDS *(continued)***

NOTE: Public information from Computer Aided Dispatch or Incident Detail Reports and 9-1-1 records are provided in accordance with GC Section 6254, subdivision (f)(2).

## ANNEX C

### DISCLOSURE OF MOBILE VIDEO/AUDIO RECORDING SYSTEM

#### 1. MOBILE VIDEO/AUDIO RECORDING SYSTEM.

a. The MVARS is considered to be a public record unless it has captured exempt or sensitive material (either audio or visual). Exempt/sensitive material would include, but may not be limited to, the following:

- (1) Personal identifiers of involved parties or uninvolved third parties.
- (2) Demonstrations of specialized officer safety and enforcement tactics. (Specifically, does the footage show a tactic, technique, or application that is shaded in gray in California Highway Patrol [CHP] policy?)
- (3) Confidential peace officer personnel information.
- (4) Especially graphic, disturbing, or invasive images, statements, or sound recordings.

NOTE: The MVARS might also be withheld if that particular video is tied to an ongoing CHP or related investigation, or if its release would endanger the safety of an individual involved in the investigation.

b. A uniformed supervisor or manager from the command which possesses the MVARS shall review the footage. The Department has a duty to provide such a record to the requester in redacted form if the nonexempt information is “reasonably segregable” from that which is exempt, unless the burden of redacting the records becomes too great. What is reasonably segregable will depend upon the circumstances. If exempt information is inextricably intertwined with nonexempt information, the record may be withheld in its entirety.

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## ANNEX D

### GOVERNMENT CODE SECTION 6253, SUBDIVISION (C)

(c) Each agency, upon a request for a copy of records, shall, within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor. In unusual circumstances, the time limit prescribed in this section may be extended by written notice by the head of the agency or his or her designee to the person making the request, setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No notice shall specify a date that would result in an extension of more than 14 days. When the agency dispatches the determination, and if the agency determines that the request seeks disclosable public records, the agency shall state the estimated date and time when the records will be made available. As used in this section, "unusual circumstances" means the following, but only to the extent reasonably necessary to the proper processing of the particular request:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

(4) The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

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## ANNEX E

### COMMONLY USED PUBLIC RECORDS ACT EXEMPTIONS

1. GOVERNMENT CODE SECTION 6254, SUBDIVISION (C).
  - a. Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.
  
2. GOVERNMENT CODE SECTION 6254, SUBDIVISION (F).
  - a. Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, the Office of Emergency Services and any state or local police agency, or any investigatory or security files compiled by any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes. However, state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism, vehicle theft, or a crime as defined by subdivision (b) of Section 13951, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation. However, this subdivision does not require the disclosure of that portion of those investigative files that reflects the analysis or conclusions of the investigating officer.
  
3. GOVERNMENT CODE SECTION 6254, SUBDIVISION (K).
  - a. Records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

## ANNEX E

### COMMONLY USED PUBLIC RECORDS ACT EXEMPTIONS (*continued*)

For Example:

- (1) Government Code (GC) Section 6254, subdivision (k), which incorporates the individual's right to privacy under the California Constitution (Cal. Const., Article I, Section 1) and the Information Practices Act of 1977 (Civil Code Section 1798 et seq.).
- (2) GC Section 6254, subdivision (k), which incorporates Penal Code Section 832.7.
- (3) GC Section 6254, subdivision (k), which incorporates the privilege for official information (Evidence Code Section 1040).

# ANNEX F

## EXAMPLE CHP 370C, PUBLIC RECORDS ACT REQUESTS

STATE OF CALIFORNIA DEPARTMENT OF CALIFORNIA HIGHWAY PATROL <b>PUBLIC RECORDS ACT REQUESTS</b> CHP 370C (Rev. 12-14) OPI 003		<b>PRA CONTROL NUMBER</b>		
		LOCATION CODE	YEAR	SEQUENTIAL NUMBER
		0 0 4	1 4	3 0 0

**This form SHALL be completed by Department personnel ONLY (instructions on reverse side of form)**

REQUEST RECEIVED BY (EMPLOYEE NAME) <b>Jane Doe</b>	ID NUMBER <b>A12345</b>	DATE AND TIME AREA RECEIVED REQUEST <b>05/26/14 10:15</b>
--	----------------------------	--

**Asking for the requestor's name or identification is not allowed except under Step 3.**

**STEP 1 - Determine if the requestor wants an Arrest Log only or other records. Check the appropriate box.**

Arrest Log Only Request. Arrest log only requests do not require prior approval from Special Counsel. Arrest logs contain seven calendar days of arrest information. Arrest logs may contain the name, date of birth, gender, and criminal charges against and under certain circumstances, may contain home address of the arrestee. Requests may be mailed, faxed, or made in person, but shall not be disruptive to normal business. Copies will be provided at \$.30 per page.

REQUEST COMPLETED BY (EMPLOYEE NAME)	ID NUMBER
--------------------------------------	-----------

(For arrest log only requests, omit steps 2, 3, and 4.)

Other Record(s) Request - Fill in the blanks below with the specific information the requestor wants. Do not ask why they want the information.

Copy of citation number 55569

Any traffic citation policies

MVARs of citation 55569

**STEP 2 - Calculate 10 calendar days from the day the request was received, and place in the date box below. If the 10th day falls on a weekend or holiday, then enter the next business day.**

**STEP 3 - Read the following to the requestor verbatim:**

"Your records request has been sent to CHP's Special Counsel for review. California law requires the CHP to notify you, in writing, within 10 days, advising whether the CHP has the public records sought; whether the public records are wholly or partly disclosable; whether the agency needs up to an additional 14 days to research and respond to your public records request; or, alternatively, why the public records are not available for disclosure. You may return in 10 days on \_\_\_\_\_ to receive your written notification, or you may elect to receive your notification via the U.S. Mail. You are not required to provide any personal information to receive your notification, but if you prefer to have your notification mailed, please voluntarily provide your name and mailing address:

NAME <b>John Doe</b>	ADDRESS <b>55 Route 66, Springs, AZ 87654</b>
-------------------------	--

Disclosable records will be promptly provided. If disclosable records are not included with the written notification, the estimated date and time when the records will be available will be provided in the notification. **Your personal information is NOT REQUIRED to complete this request; however, you may provide it voluntarily to expedite this request.**"

**STEP 4 - Forward the Public Records Act Request to the Special Counsel by FAX at 916-322-3219. Log in Area Public Records Act Request Log (CHP 520) in accordance with HPM 11.1, Administrative Procedures Manual, Chapter 13, Information Disclosure - Public Records and Rights of Privacy. Arrest log only requests do not require prior approval from Special Counsel.**

SPECIAL COUNSEL USE	
AREA NOTIFIED BY (EMPLOYEE NAME)	DATE

Area may complete the PRA.  The Special Counsel will complete the PRA.

**STEP 5 - Process request per direction from Special Counsel in accordance with HPM 11.1, Chapter 13 and/or local command procedures.**

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# ANNEX G

## EXAMPLE CHP 247A, PROVIDED RECORDS - PUBLIC RECORDS ACT REQUEST

STATE OF CALIFORNIA  
DEPARTMENT OF CALIFORNIA HIGHWAY PATROL  
**PROVIDED RECORDS - PUBLIC RECORDS ACT REQUEST**  
CHP 247A (New 1-14) OPI 003

---

**SUBMITTING OFFICE ADDRESS:**

California Highway Patrol  
601 N. 7th Street  
Sacramento CA 95811

Date PRA Received: \_\_\_\_\_  
PRA Control Number: 00414300  
Date Records Provided: \_\_\_\_\_

**REQUESTOR'S ADDRESS:**

John Doe  
55 Route 66  
Springs AZ 87654

This is to advise of action taken on the above public records act request. Detail of charges is as follows:

<u>15</u>	Copies 8 1/2x11 or less @ \$.30 per page - _____ oversized/special processing @ \$.50 per page.	\$ 4.50
	Cassette tape(s) @ \$5.00 each.	\$ _____
<u>1</u>	Computer disk(s) (CD/DVD) @ \$5.00 each.	\$ 5.00
<b>TOTAL DUE:</b>		<b>\$ 9.50</b>
<b>AMOUNT RECEIVED:</b>		<b>\$ _____</b>
<b>OVER/UNDER PAYMENT:</b>		<b>\$ -9.50</b>

The records required by the above, public records act request:

Have been provided as required. Disposition of fees received with the PRA is detailed above (receipt number \_\_\_\_\_ attached).

Are enclosed. Please remit total amount shown above.

Please remit \$ \_\_\_\_\_. Upon receipt of full payment, the records will be available.

Cannot be located.  Fee returned.

Have been destroyed according to established CHP retention schedules.

Remit payment to: California Highway Patrol  
Attn: PRA  
601 N. 7th Street  
Sacramento, CA 95811

Other: \_\_\_\_\_

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Destroy Previous Editions Chp247A\_0114.pdf

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# ANNEX H

## EXAMPLE CHP 520, AREA PUBLIC RECORDS ACT REQUEST LOG

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**STATE OF CALIFORNIA  
DEPARTMENT OF CALIFORNIA HIGHWAY PATROL  
AREA PUBLIC RECORDS ACT REQUEST LOG  
CHP 520 (Rev. 1-13) OPI 004**

AREA OFFICE NAME: **Headquarters**

AREA OFFICE CONTROL NUMBER	DATE REQUEST RECEIVED	COMPLEX REQUEST (Y/N)	DATE FORWARDED TO SPECIAL COUNSEL	NAME/COMPANY OF REQUESTOR (if numbered)	RECORDS REQUESTED (brief description)	LOCATION CODE	YEAR/QUARTER OF REPORT					TOTAL PAGES PAID	
							RECORDS PROVIDED (brief description)	TIME EXPENDED	PERSONNEL CLASSIFICATION	AMOUNT COLLECTED	NUMBER OF PAGES		DATE PROVIDED
004-14-300	05/26/2014	Yes	05/26/2014	John Doe	Citation, Policy, MVARS	004	Citation, Policy, MVARS	2.5 hrs.	Sergeant	9.50	15	06/02/2014	
				<b>NAME/COMPANY</b>		<b>NAME/COMPANY</b>		<b>NAME/COMPANY</b>		<b>NAME/COMPANY</b>		<b>TOTAL PAGES PAID</b>	
				John Doe								15	
				<b>NAME/COMPANY</b>		<b>NAME/COMPANY</b>		<b>NAME/COMPANY</b>		<b>NAME/COMPANY</b>		<b>TOTAL PAGES PAID</b>	
				John Doe								15	

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## ANNEX I

### SENATE BILL 1421

SECTION 1. The Legislature finds and declares all of the following:

(a) Peace officers help to provide one of our state's most fundamental government services. To empower peace officers to fulfill their mission, the people of California vest them with extraordinary authority — the powers to detain, search, arrest, and use deadly force. Our society depends on peace officers' faithful exercise of that authority. Misuse of that authority can lead to grave constitutional violations, harms to liberty and the inherent sanctity of human life, as well as significant public unrest.

(b) The public has a right to know all about serious police misconduct, as well as about officer-involved shootings and other serious uses of force. Concealing crucial public safety matters such as officer violations of civilians' rights, or inquiries into deadly use of force incidents, undercuts the public's faith in the legitimacy of law enforcement, makes it harder for tens of thousands of hardworking peace officers to do their jobs, and endangers public safety.

Section 2. 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 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, 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 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.

## ANNEX I

### SENATE BILL 1421 (*continued*)

(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 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 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 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.

## ANNEX I

### SENATE BILL 1421 (*continued*)

(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

## ANNEX I

### SENATE BILL 1421 (*continued*)

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

## ANNEX I

### SENATE BILL 1421 (*continued*)

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 his or her 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 he or she knows 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

## ANNEX I

### SENATE BILL 1421 (*continued*)

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 his or her 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 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. 3. Section 832.8 of the Penal Code is amended to read:

832.8. As used in Section 832.7, the following words or phrases have the following meanings:

(a) "Personnel records" means any file maintained under that individual's name by his or her employing agency and containing records relating to any of the following:

(1) Personal data, including marital status, family members, educational and employment history, home addresses, or similar information.

(2) Medical history.

(3) Election of employee benefits.



## ANNEX I

### SENATE BILL 1421 (*continued*)

(4) Employee advancement, appraisal, or discipline.

(5) Complaints, or investigations of complaints, concerning an event or transaction in which he or she participated, or which he or she perceived, and pertaining to the manner in which he or she performed his or her duties.

(6) Any other information the disclosure of which would constitute an unwarranted invasion of personal privacy.

(b) "Sustained" means a final determination by an investigating agency, commission, board, hearing officer, or arbitrator, as applicable, following an investigation and opportunity for an administrative appeal pursuant to Sections 3304 and 3304.5 of the Government Code, that the actions of the peace officer or custodial officer were found to violate law or department policy.

(c) "Unfounded" means that an investigation clearly establishes that the allegation is not true.

SEC. 4. The Legislature finds and declares that Section 2 of this act, which amends Section 832.7 of the Penal 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:

The public has a strong, compelling interest in law enforcement transparency because it is essential to having a just and democratic society.

SEC. 5. 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.

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## ANNEX J

### ASSEMBLY BILL 748

Existing law, the California Public Records Act, requires that public records, as defined, be available to the public for inspection and made promptly available to any person. Existing law makes records of investigations conducted by any state or local police agency exempt from these requirements. Existing law requires specified information regarding the investigation of crimes to be disclosed to the public unless disclosure would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation.

This bill would, notwithstanding the above provisions, commencing July 1, 2019, allow a video or audio recording that relates to a critical incident, as defined, to be withheld for 45 calendar days if disclosure would substantially interfere with an active investigation, subject to extensions, as specified. The bill would allow the recording to be withheld if the public interest in withholding video or audio recording clearly outweighs the public interest in disclosure because the release of the recording would, based on the facts and circumstances depicted in the recording, violate the reasonable expectation of privacy of a subject depicted in the recording, in which case the bill would allow the recording to be redacted to protect that interest. If the agency demonstrates that the reasonable expectation of privacy of a subject depicted in the recording cannot adequately be protected through redaction, the bill would require that the recording be promptly disclosed to a subject of the recording, his or her parent, guardian, or representative, as applicable, or his or her heir, beneficiary, immediate family member, or authorized legal representative, if deceased.

By requiring local agencies to make these recordings available, the 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.

SECTION 1. Section 6254 of the Government Code, as amended by Section 1 of Chapter 560 of the Statutes of 2017, is amended to read:

6254. Except as provided in Sections 6254.7 and 6254.13, this chapter does not require the disclosure of any of the following records:

(F) Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, the Office of Emergency Services and any state or local police agency, or any investigatory or security files compiled by any other state or local police agency, or any investigatory or security files compiled by any other state or local agency

## ANNEX J

### ASSEMBLY BILL 748 (*continued*)

for correctional, law enforcement, or licensing purposes. However, state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism, vehicle theft, or a crime as defined by subdivision (b) of Section 13951, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation. However, this subdivision does not require the disclosure of that portion of those investigative files that reflects the analysis or conclusions of the investigating officer.

Customer lists provided to a state or local police agency by an alarm or security company at the request of the agency shall be construed to be records subject to this subdivision.

Notwithstanding any other provision of this subdivision, state and local law enforcement agencies shall make public the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation:

(1) The full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

(2) (A) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent the information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date, and location of occurrence, the time and date of the report, the name and age of the victim, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property, or weapons involved. The

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### ASSEMBLY BILL 748 (*continued*)

name of a victim of any crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3, 288.4, 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code may be withheld at the victim's request, or at the request of the victim's

parent or guardian if the victim is a minor. When a person is the victim of more than one crime, information disclosing that the person is a victim of a crime defined in any of the sections of the Penal Code set forth in this subdivision may be deleted at the request of the victim, or the victim's parent or guardian if the victim is a minor, in making the report of the crime, or of any crime or incident accompanying the crime, available to the public in compliance with the requirements of this paragraph.

(B) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the names and images of a victim of human trafficking, as defined in Section 236.1 of the Penal Code, and of that victim's immediate family, other than a family member who is charged with a criminal offense arising from the same incident, may be withheld at the victim's request until the investigation or any subsequent prosecution is complete. For purposes of this subdivision, "immediate family" shall have the same meaning as that provided in paragraph (3) of subdivision (b) of Section 422.4 of the Penal Code.

(3) Subject to the restrictions of Section 841.5 of the Penal Code and this subdivision, the current address of every individual arrested by the agency and the current address of the victim of a crime, if the requester declares under penalty of perjury that the request is made for a scholarly, journalistic, political, or governmental purpose, or that the request is made for investigation purposes by a licensed private investigator as described in Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code. However, the address of the victim of any crime defined by Section 220, 236.1, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3, 288.4, 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code shall remain confidential. Address information obtained pursuant to this paragraph shall not be used directly or indirectly, or furnished to another, to sell a product or service to any individual or group of individuals, and the requester shall execute a declaration to that effect under penalty of perjury. This paragraph shall not be construed to prohibit or limit a scholarly, journalistic, political, or government use of address information obtained pursuant to this paragraph.

(4) Notwithstanding any other provision of this subdivision, commencing July 1, 2019, a video or audio recording that relates to a critical incident, as defined in subparagraph (C), may be withheld only as follows:

## ANNEX J

### ASSEMBLY BILL 748 (*continued*)

(A) (i) During an active criminal or administrative investigation, disclosure of a recording related to a critical incident may be delayed for no longer than 45 calendar days after the date the agency knew or reasonably should have known about the incident, if, based on the facts and circumstances depicted in the recording, disclosure would substantially interfere with the investigation, such as by endangering the safety of a witness or a confidential source. If an agency delays disclosure pursuant to this paragraph, the agency shall provide in writing to the requester the specific basis for the agency's determination that disclosure would substantially interfere with the investigation and the estimated date for disclosure.

(ii) After 45 days from the date the agency knew or reasonably should have known about the incident, and up to one year from that date, the agency may continue to delay disclosure of a recording if the agency demonstrates that disclosure would substantially interfere with the investigation. After one year from the date the agency knew or reasonably should have known about the incident, the agency may continue to delay disclosure of a recording only if the agency demonstrates by clear and convincing evidence that disclosure would substantially interfere with the investigation. If an agency delays disclosure pursuant to this clause, the agency shall promptly provide in writing to the requester the specific basis for the agency's determination that the interest in preventing interference with an active investigation outweighs the public interest in disclosure and provide the estimated date for the disclosure. The agency shall reassess withholding and notify the requester every 30 days. A recording withheld by the agency shall be disclosed promptly when the specific basis for withholding is resolved.

(B) (i) If the agency demonstrates, on the facts of the particular case, that the public interest in withholding a video or audio recording clearly outweighs the public interest in disclosure because the release of the recording would, based on the facts and circumstances depicted in the recording, violate the reasonable expectation of privacy of a subject depicted in the recording, the agency shall provide in writing to the requester the specific basis for the expectation of privacy and the public interest served by withholding the recording and may use redaction technology, including blurring or distorting images or audio, to obscure those specific portions of the recording that protect that interest. However, the redaction shall not interfere with the viewer's ability to fully, completely, and accurately comprehend the events captured in the recording and the recording shall not otherwise be edited or altered.

(ii) Except as provided in clause (iii), if the agency demonstrates that the reasonable expectation of privacy of a subject depicted in the recording cannot adequately be

## ANNEX J

### ASSEMBLY BILL 748 (*continued*)

protected through redaction as described in clause (i) and that interest outweighs the public interest in disclosure, the agency may withhold the recording from the public, except that the recording, either redacted as provided in clause (i) or unredacted, shall be disclosed promptly, upon request, to any of the following:

(I) The subject of the recording whose privacy is to be protected, or his or her authorized representative.

(II) If the subject is a minor, the parent or legal guardian of the subject whose privacy is to be protected.

(III) If the subject whose privacy is to be protected is deceased, an heir, beneficiary, designated immediate family member, or authorized legal representative of the deceased subject whose privacy is to be protected.

(iii) If disclosure pursuant to clause (ii) would substantially interfere with an active criminal or administrative investigation, the agency shall provide in writing to the requester the specific basis for the agency's determination that disclosure would substantially interfere with the investigation, and provide the video or audio recording. Thereafter, the recording may be withheld by the agency for 45 calendar days, subject to extensions as set forth in clause (ii) of subparagraph (A).

(C) For purposes of this paragraph, a video or audio recording relates to a critical incident if it depicts any of the following incidents:

(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.

(D) An agency may provide greater public access to video or audio recordings than the minimum standards set forth in this paragraph.

(E) This paragraph does not alter, limit, or negate any other rights, remedies, or obligations with respect to public records regarding an incident other than a critical incident as described in subparagraph (C).

(F) For purposes of this paragraph, a peace officer does not include any peace officer employed by the Department of Corrections and Rehabilitation.

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## ANNEX K

### COMPLIANCE OF GOVERNMENT CODE 7286 PURSUANT TO SENATE BILL 230

1. SECTION 7286 OF THE GOVERNMENT CODE. As of January 1, 2021, Section 7286 of the Government Code (GC) requires each law enforcement agency to maintain a policy that provides guidelines on the use of force, utilizing de-escalation techniques, and other alternatives to force when feasible, specific guidelines for the application of deadly force, and factors for evaluating and reviewing all use of force incidents, and the public disclosure of use of force policies and procedures. The following policy, as it relates to GC 7286(b)(6), is addressed in this Annex:

a. Highway Patrol Manual 11.1, Materials Management Manual, Chapter 13, Information Disclosures – Public Records and Rights of Privacy, discusses release of information to include all the necessary actions pursuant to 832.7 California Penal Code (CPC).

2. RELEASE OF INFORMATION PURSUANT TO SENATE BILL 1421. Beginning January 1, 2019, Section 832.7(b) of the CPC requires certain records maintained in peace officers' personnel files, records classified as personnel records, and records associated with specified uses of force, which are maintained by the Department, be made available for public inspection pursuant to a California Public Records Act (PRA) request. The complete text of Senate Bill (SB) 1421 can be found in Annex I.

a. Any request for information related to SB 1421, made via a PRA request, shall immediately be e-mailed to the Office of Risk Management, Public Records Unit (PRU), at [chp-pra@chp.ca.gov](mailto:chp-pra@chp.ca.gov), on a CHP 370C, Public Records Act Request, with a carbon copy to the appropriate Division Administrative Assistant. In the subject line, include "Request for SB 1421 Information." List all items requested on the CHP 370C.

b. Upon receipt of a request related to SB 1421, the command shall notify Division of the request and what information specifically being requested. Division shall then notify the appropriate Commissioner.

c. If a headquarters command receives a request related to SB 1421, the command shall notify the appropriate Commissioner through proper channels.

d. The office responsible for maintaining the original of any requested record shall determine if any potentially relevant records exist. Review of the personnel record shall be conducted by the commander or their designee. The existence

## ANNEX K

### COMPLIANCE OF GOVERNMENT CODE 7286 PURSUANT TO SENATE BILL 230 (continued)

or nonexistence of responsive records related to all information listed in the request shall be communicated to the PRU by telephone, at (916) 843-3020, within 2 business days of the Department receiving the initial request.

e. Commanders are to ensure proper succession planning of administrative personnel tasked with the review of these sensitive documents.

f. If it is determined potentially responsive records exist, these records shall be transmitted to the PRU in a manner that will ensure confidentiality is maintained, as mandated by policy. This transmittal to the PRU shall occur within 3 business days of receiving the request. The PRU will coordinate the release of responsive records.

g. If the requester seeks additional information in the same request, unrelated to the information requested per SB 1421, the command shall gather the records, redact if necessary, and forward the information to the PRU within 3 business days of receiving the initial request. If the requested records are maintained statewide, or in multiple commands, the command receiving the request shall coordinate with the PRU.

h. If it is determined responsive records do not exist, the command shall respond to the requester appropriately. If potentially responsive records have been purged in accordance with established retention schedules, the command shall contact the PRU, who will then coordinate a response.

i. Once a determination has been made to release information under SB 1421, it is the command's responsibility to notify the affected employee of the release. The PRU shall notify the Office of Employee Relations of a pending release.

j. The PRU will coordinate all releases and withholdings of information related to SB 1421.