

Presentation Topic:

Public Records Act Requests in the Wake of SB 1421

Presenter: Margaret Rosequist, Of Counsel, Meyers Nave, mrosequist@meyersnave.com, 213-626-2906, 707 Wilshire Boulevard, 24th Floor, Los Angeles, California 90017

SB 1421 – Amended Penal Code Section 832.7 (effective January 1, 2019)

BEFORE SB 1421	AFTER SB 1421
<p>Peace officer personnel files were not available via public records request</p>	<p>Peace officer personnel records (and other* records related to the event) are subject to disclosure via public records request</p> <p>IF the records relate to:</p> <ul style="list-style-type: none"> • use of force resulting in death or great bodily injury • sustained finding of officer sexual assault • sustained finding of officer dishonesty <p>*Under SB 1421, a broad array of records must be released. The types of records that must be released include all investigative reports, photos, audio and video recordings, transcripts, documents presented to the district attorney for review, and copies of disciplinary records. (Penal Code Section 832.7(b)(2) provides the complete list)</p>
<p>Peace officer personnel files were only available via <i>Pitchess</i> motion</p> <p>Penal Code Sections 832.7 and 832.8 and Evidence Code Sections 1043 and 1045 created statutory framework for obtaining peace officer records through a two-step process</p>	<ul style="list-style-type: none"> • No underlying lawsuit is needed • <i>Pitchess</i> motion not required* • In-camera review not required <p>*If records sought do not relate to one of the three specified types of events, the records are not disclosable under SB 1421. However, the records may be disclosable through other means such as a <i>Pitchess</i> motion.</p>

Outstanding,
Litigated
Question

- Are records created prior to January 1, 2019 subject to disclosure?

Walnut Creek Police Officers' Association v. City of Walnut Creek, et. al.:

Trial court and appellate court ruling on writ of supersedeas found, yes, records created prior to January 1, 2019 are subject to disclosure.