



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Edgardo Garcia

**SUBJECT: SENATE BILL 1421 - POLICE
DEPARTMENT PUBLIC RECORDS
ACT REQUESTS AND RESPONSE**

DATE: February 27, 2020

Approved

Date

2-28-20

INFORMATION

BACKGROUND

On September 30, 2018, Governor Jerry Brown signed Senate Bill 1421 (SB-1421) into law. The law took effect on January 1, 2019 and amended Penal Code sections 832.7 and 832.8 to expand the number and type of law enforcement records that are releasable under the California Public Records Act (CPRA). This new law now requires that, notwithstanding any other law, certain peace officer personnel records and records relating to specified incidents, complaints, and investigations involving peace officers be made available to the public upon request.

It has become evident that there may be confusion regarding the types of records that can be released, what records the department has released, how much labor is involved in complying with the new law, and whether the department is committed to releasing the records. This memorandum seeks to clarify any confusion.

Retroactive Incidents:

In the first few days of 2019, the San Jose Police Department (department) received expansive requests for policing incident records that took place before the law was enacted (retroactive incidents). However, the legislation did not mention retroactivity, which caused confusion among law enforcement agencies and the public. Some agencies, including San Jose, chose to deny requests for retroactive incidents pending legal clarification. In short order, numerous lawsuits were filed across the state.

In early April 2019, the California First District Court of Appeal found records for retroactive incidents to be releasable. The department followed this guidance – and continues to follow it today – and contacted the previously denied requestors.

The department developed a plan to address the retroactive incidents. This included establishing internal workflow procedures and identifying incidents over the last 20 years that qualify for release under SB-1421. We developed indexes of these incidents and the involved officers to share with requestors and guide our efforts moving forward. Having completed those tasks over

the spring and summer, the department began releasing records for retroactive incidents in August 2019 and continues to release records on a regular basis.

New Incidents:

In addition to retroactive incidents, 12 more incidents have occurred since the law took effect January 1, 2019. Records for all 12 incidents have been requested under the CPRA. These records cannot be released until criminal enforcement processes (i.e. prosecution) have concluded. Criminal enforcement processes have concluded for four of the 12 incidents. The department released records for one incident in January 2020 and is currently reviewing records for the next incident. The department will continue to release records for both retroactive and new incidents on a regular basis.

Staffing:

Prior to the passage of SB-1421 the department's Research & Development Unit had two Analysts addressing public records requests on a part-time basis. The staffing dedicated to this work was equal to approximately 1.5 Full-Time Equivalent (FTE) employees. In the FY 2019-2020 budget cycle, the City Council approved adding five additional positions to address the anticipated new workload related to the passage of SB-1421: Three Senior Police Data Specialists (one ongoing & two one-time), one Forensic Analyst (ongoing), and one Analyst (one-time). This action added a total of \$657,511 in expenses to the FY 2019-2020 budget, of which \$258,553 were ongoing,

The initial recruiting, selection, and backgrounding process filled the Forensic Analyst and the Analyst positions. However, there were some challenges in recruiting for the Senior Police Data Specialist positions. The initial recruitment failed to locate qualified candidates. A second recruitment received one qualified applicant, who was hired. It seemed the job duties and minimum qualifications for Senior Police Data Specialist were not suited to the position and therefore led to unsuccessful recruitments. In response, we converted the two vacant Senior Police Data Specialist positions to Analyst positions. Our ensuing Analyst recruitment was successful and two candidates are currently in the backgrounding process. In addition, the City Manager's Office recently approved two additional temporary Analyst positions. Recruitment and selection recently closed, and both candidates are beginning their pre-employment background investigations. As an additional asset, the department is initiating background investigations for employees from the City Manager's Office (CMO) to assist with department public records as needed and appropriate during elevated workloads. In total, once all positions are filled and excluding the CMO employees, the department staffing to address public records act requests represents a one-year General Fund cost of approximately \$950,000.

It is important to note that SB-1421 was the first of three major changes to public records law in the span of a year. While this memorandum specifically addresses SB-1421, the department has also implemented workflow procedures and committed staff hours to complying with AB-748, which took effect July 1, 2019 (publishing video and audio of certain force incidents); and, SB-978, which took effect January 1, 2020 (publishing all department policies, procedures, guidelines, and training materials online).

ANALYSIS

Historically the department has tried to respect the privacy interests of public records requestors by not publishing the details of their requests. While that generally serves the public good, it is clear this practice is causing confusion between individuals who have received records and those who are still waiting. This has left some persons believing that the department is not responding to public records requests when, in fact, the department began releasing records for retroactive incidents in August 2019 and new incidents in January 2020. Therefore, the department issues monthly updates to requestors acknowledging that their requests are still being processed.

Before releasing any SB-1421 records, the department provided informational updates to requestors to keep them apprised of our efforts to comply with the new law and, since the release of records in August, also provided a case processing update. These updates included:

- A four step action plan outlining the department's approach to processing SB-1421 requests (Attachment A)
- The index of retroactive incidents that have been requested under SB-1421* (Attachment B)
- The index of officers associated with retroactive incidents* (Attachment C)
- A SB-1421 retroactive case processing status update (Attachment D)

** Requestors only received the portions of these indexes relevant to their individual requests.*

To date, the department has released the following SB-1421 records:

- Records for the 12/25/18 Officer Involved Shooting (OIS) incident
- Records for the 09/15/17 OIS incident
- Records for the 02/21/14 OIS incident involving the San Jose State University Police Department
- Records for a Great Bodily Injury (GBI) incident that occurred on 4/08/19
- Records from a GBI incident that occurred on 5/08/19
- All qualifying letters of discipline from officers' personnel files (7)
- Body Worn Video of the three most recent OIS incidents (10/31/19, 11/09/19, 1/04/20)

Understanding the volume of responsive incidents, as well as the time required to compile, review, and release records, requires more information than has been reported or discussed in public forums. Therefore, this memorandum will address: the types of incidents that are responsive to SB-1421 requests, the types of records that must be produced for each of those incidents, the redaction work required by law, the timelines imposed by SB-1421, the labor hours required to perform the work, and steps the department is taking to accelerate our performance.

Types of Incidents:

SB-1421 requires release of records in the following general categories of policing incidents:

- Discharge of a firearm at a person by a peace officer (OIS);
- Use of force by an officer against a person resulting in GBI or death;
- A sustained finding that an officer engaged in sexual assault involving a member of the public; and,
- A sustained finding of dishonesty directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of, misconduct by another officer.

With regard to the first two categories, the law requires that we release records for these incidents regardless of whether there is any finding of misconduct on the part of the involved officer. Incidents in which officers use deadly force or cause GBI without misconduct account for the overwhelming majority of the incidents.

The department automated the indexing of use of force incidents that cause GBI in 2017. Therefore, GBI incidents prior to 2017 are difficult to track because there is no way to search by that parameter. Some exceptions include Internal Affairs Unit cases which are retained and cataloged back six years and OIS incidents which are cataloged at the Homicide Unit. Therefore, we were not able to locate all the non-firearm GBI's prior to 2017 without additional search parameters. If a requestor can provide sufficient detail to help us locate such an incident, we will add it to the retroactive index.

Types of Records:

SB-1421 requires that all of the following record types be made available to the public:

“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.”

The full statutory language is included above to illustrate the extensive number of records that must be reviewed and produced for each incident. Most requests include hundreds or thousands of pages of written and photographic records plus varying amounts of video and audio evidence.

Required Redaction Work:

The CPRA and SB-1421 includes the following redaction requirements:

“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 officers and custodial officers, to preserve the anonymity of complainants and witnesses, or to protect confidential medical, financial, or other information in which disclosure would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about misconduct by peace officers and custodial officers, or where there is a specific, particularized reason to believe that disclosure would pose a significant danger to the physical safety of the peace officer, custodial officer, or others.”

Additionally, redactions are authorized where, on the facts of the particular case, the public interest served by nondisclosure clearly outweighs the public interest served by disclosure. Weighing the public interest to make redaction decisions requires careful deliberation. Either releasing too much or too little can expose the City to liability, so we redact methodically, we double check our work, and when necessary, we seek legal advice from the City Attorney’s Office.

The department expects this process to become faster as we expand the number of personnel involved and as redaction decisions become more routine.

Statutory Timelines to Release Records:

Generally, the new law requires that public records under SB-1421 become disclosable within 60 days of the qualifying police incident. Delays are authorized for records relating to an open investigation or court proceeding, subject to certain limitations. In practice, this means that for incidents in which a criminal enforcement process (i.e. prosecution) is still in progress, the records are not yet eligible for public disclosure. Once the criminal enforcement process concludes, the records become releasable.

The responsive incidents that have occurred since the law was enacted January 1, 2019 are overwhelmingly still under prosecution or consideration for prosecution by the District Attorney. As previously mentioned, only four of the 12 incidents that have occurred since January 1, 2019 are releasable. Records from one of the four incidents have been released. Staff are working on the next incident. As these records become releasable, staff will prioritize their production to meet the 60-day disclosure timeline.

The department has identified 170 retroactive incidents. Of these, 164 were already 60 days past the qualifying police incident the day the law took effect. Not only was there no mention of retroactivity in the law, but there was no accommodation included for how to respond when decades of material suddenly became overdue at once.

The department will continue to process retroactive incidents while prioritizing the newly occurring incidents as they complete their criminal enforcement processes.

Time Needed to Process Records:

The department conducted an estimate of processing time based on the first incident for which records were produced. We anticipate that the process will become more efficient and therefore faster over time. We also intend to identify new redaction technology or services and fill personnel vacancies to expedite our overall processing time. It is important to recognize that this is an initial estimate, based on one incident. The department will repeat this analysis after a sufficient number of incidents have been processed to provide a more accurate estimate.

The following table depicts the hours of labor required to process our first retroactive incident (the OIS on 12/25/18). It does not include the Internal Affairs (IA) records. The IA investigation is still underway for this incident and those records do not yet exist in their completed form.

Record Type	Number of Records	Hours to Process
Written Records	1,047 pages	463
Body Worn Camera (BWC) Video of the Incident	1.5 hours	5
Other BWC Video	29 hours	87
Video (non-BWC)	33 hours	99
Audio Files	1.75 hours	5.25
Photographs	1,465	100
Internal Affairs Documents	Unknown (case not closed)	Unknown
Hours to Process First Incident		759.25

To process an incident for release, the Public Records Processing Team must perform many steps, including:

- Retrieval of records from storage sites/databases;
- Conversion into redactable software format;
- Initial redactions;
- Quality assurance review of each record;
- Legal review of redactions;
- Corrections as necessary;
- Allow involved officers to view redacted records;
- Upload to software sharing application; and,
- Compose and send messages to each receiving party.

Some factors that may shorten processing time include:

- The first incident involved more crime scenes and subject officers than average.
- Our work pace will improve as we become more proficient and familiar with workflow.
- Some of the GBI incidents that do not involve firearms may be simpler to process.
- Incidents prior to 2016 will not require review of BWC footage as they predate the software.

Some factors that may lengthen processing time include:

- Older incidents require converting antiquated media such as cassettes and VHS.
- Older incidents are more likely to be in hardcopy format and will require more time to convert into soft copy for redaction.
- The number of new incidents that occur and staffing levels will influence how much time is available to process retroactive incidents.

Although this example required 759 hours to process, the department is confident we will reduce the time needed to process each incident over time.

Steps to Improve Processing Times:

The department is taking important steps to accelerate this work. As mentioned previously, the City Council approved five positions in the FY 2019-2020 budget to manage new public records mandates, which increased base staff from 1.5 FTE to 6.5 FTE. Three of the five positions have been hired and two more have been selected and are undergoing pre-employment background investigations. In addition, the City Manager's Office recently approved two additional temporary Analyst positions. Recruitment and selection recently closed, and both candidates are beginning their pre-employment background investigations. We will background and train employees in the City Manager's Office to assist when there is a spike in requests. We have published a *Request for Information* seeking third party vendors, services, or software to accelerate the redaction process.

We continue to explore best practices and process improvements, including surveying several other California cities to understand how they are responding to the law. The department will consider expanding the size of our Public Records Processing Team again next fiscal year as appropriate. However, the Administration will evaluate this potential budget proposal in the context of the overall budget situation and competing funding priorities.

Meanwhile, our staff will continue to release records at regular intervals until the work is done.

CONCLUSION

The public and state legislature have spoken and these expanded public records mandates are now part of the new normal for California policing. Having received no support from the state for these unfunded mandates, agencies are struggling to comply with what amounts to tens of thousands of hours of additional work while not compromising public safety. The department intends to consistently evaluate workflow and implement best practices to create a framework that will satisfy public records requests in this new age. The San Jose Police Department is committed to transparency and complying with SB-1421. The department began regularly releasing records in August 2019 and will continue to release records until all requests have been completed.

HONORABLE MAYOR AND CITY COUNCIL

February 27, 2020

Subject: Senate Bill 1421 – Police Department Public Records Act Requests and Response

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COORDINATION

This memorandum has been coordinated with the City Manager's Office of Communications and City Attorney's Office.

/s/

EDGARDO GARCIA

Chief of Police

Attachments:

Attachment A: Action Plan Message

Attachment B: Retroactive Incident Index

Attachment C: Retroactive Officer Index

Attachment D: SB-1421 Retroactive Case Processing Status Update

For questions, please contact Lieutenant Paul Cook, Research & Development Commander, at (408) 277-5200.

Action Plan Message

Example Action Plan – Sent to Requestors in Early June 2019

Ladies & Gentlemen,

Recent and ongoing changes to California's Public Records Act mark this as an extraordinary time for law enforcement agencies in our state. At the San Jose Police Department, we are committed to complying with the Public Records Act, and specifically with this new body of legislation. At the beginning of this year, we received numerous requests for previously confidential peace officer records made public as a result of the passage of Senate Bill 1421 (SB 1421). The requests spanned two decades. The sheer volume and time span of the involved records have been two of the factors which have slowed the release of those records. The purpose of this communiqué is to reaffirm our commitment to identifying and releasing the involved records and to update you on our progress toward that goal.

STEP 1: In accordance with statute, we have acknowledged the receipt of your request and given updates regarding our intended response. You should have received an earlier notice reversing our earlier position and expressing the SJPD's intent to honor requests for records and information relating to police officer conduct occurring prior to January 1, 2019 that are subject to disclosure under SB 1421. We will continue to send you regular updates. This letter is in addition to your regular updates which we will continue to send in compliance with statute.

STEP 2: The Research & Development Unit (R&D) is the unit within the SJPD that is responsible for releasing records to the public. As the Commander of R&D, I am leading the effort to identify the events which qualify for public disclosure and for which we still retain records. My staff is currently vetting a list of records that qualify for release pursuant to SB 1421 to ensure it is accurate. I anticipate being able to release the portions of the list which are relevant to your request during the week of June 17th.

STEP 3: Our next step will be to identify what records exist for each qualifying event. We will share that information once it has been gathered and verified. We will also correspond with each requestor to see if their request can be focused more closely to identify the records that are responsive to their request.

STEP 4: These records were previously ineligible for release so their collection, preparation, and release is a new task for the SJPD. As such, we are establishing new working protocols and hiring additional personnel. I anticipate that these protocols and personnel will be in place about the time that step three is complete. We will process and release the records on a rolling basis as they become available in the most expeditious order we can devise.

A Special Note Regarding Body Worn Video: Critical policing incidents tend to amass tens or hundreds of hours of video. Of that, there may only be a few moments which capture the precipitous event. Because those few moments are highly relevant to the public interest, we intend to process and release those portions of video before addressing the more routine footage. Individual requestors will be afforded the opportunity to narrow the scope of their video requests if our initial offering satisfies their request.

Retroactive Incident Index

Attachment B

Event Date	Event Number	Approved for Release	IA Case Number	O.I.S.	G.B.I.	Sustained Sex Assault	Sustained Dishonesty
Unknown	Unknown	Needs review	N/A				X
1/16/1999	Unknown	Needs review	N/A				X
2/6/1999	99-037-0215		N/A	X (Fatal)	X		
3/1/1999	99-060-0001		N/A	X (Fatal)	X		
4/2/1999	99-092-0221		N/A	X (Fatal)	X		
4/2/1999	99-092-1330		N/A	X (Non-fatal)	X		
4/13/1999	99-103-0014		N/A	X (Fatal)	X		
6/28/1999	99-179-1388		N/A	X (Fatal)	X		
9/16/1999	99-259-1389		N/A	X (Fatal)	X		
2/6/2000	00-037-1259		N/A	X (Non-fatal)	X		
3/4/2000	00-064-0155		N/A	X (Non-fatal)			
6/30/2000	00-182-0632		N/A	X (Fatal)	X		
9/20/2000	00-264-1093		N/A	X (Non-fatal)	X		
11/7/2000	00-312-1175		N/A	X (Fatal)	X		
12/18/2000	00-353-0607		N/A	X (Fatal)	X		
1/15/2001	01-015-1018		N/A	X (Non-fatal)			
8/20/2001	01-232-0551		N/A	X (Non-fatal)	X		
10/28/2001	01-301-0827		N/A	X (Fatal)	X		
12/8/2001	01-342-0390		N/A	X (Non-fatal)			
12/22/2001	01-356-0322		N/A	X (Fatal)	X		
4/9/2003	03-099-0586		N/A	X (Non-fatal)			
5/4/2003	03-124-1127		N/A	X (Fatal)	X		
6/15/2003	03-166-1323		N/A	X (Non-fatal)	X		
7/11/2003	03-192-0069		N/A	X (Non-fatal)	X		
7/14/2003	03-194-1190		N/A	X (Fatal)	X		
2/17/2004	04-048-0559		N/A	X (Fatal)	X		
2/18/2004	04-049-0409		N/A	X (Fatal)	X		
3/6/2004	04-066-1014		N/A	X (Fatal)	X		
6/4/2004	04-156-0780		N/A	X (Fatal)	X		
6/15/2004	04-167-0108		N/A	X (Non-fatal)	X		
8/12/2004	04-225-0280		N/A	X (Fatal)	X		
9/26/2004	04-270-0519		N/A	X (Fatal)	X		
1/21/2005	05-021-1077		N/A	X (Fatal)	X		
5/26/2005	05-146-0162		N/A	X (Fatal)	X		
8/1/2005	05-213-0186		N/A		X		
8/16/2005	05-228-1129		N/A	X (Non-fatal)			
11/18/2005	05-322-1075		N/A		X		
11/29/2005	05-333-1127		N/A	X (Non-fatal)	X		
1/25/2006	06-025-1006		N/A		X		
2/14/2006	06-045-0268		N/A	X (Non-fatal)	X		
5/15/2006	06-135-0043		N/A	X (Non-fatal)	X		
11/26/2006	06-329-0661		N/A	X (Fatal)	X		
5/25/2007	07-145-1024		N/A		X		
12/28/2008	08-363-1502		N/A	X (Non-fatal)			X

Retroactive Incident Index

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1/16/2009	09-016-0334		F2009-0001	X (Non-fatal)			
1/18/2009	09-018-0077		F2009-0002	X (Non-fatal)			
5/10/2009	09-130-0526		F2009-0004	X (Fatal)	X		
8/19/2010	10-231-0717		F2010-0016	X (Non-fatal)			
8/29/2010	10-241-0395		F2010-0012	X (Fatal)	X		
10/21/2010	10-294-0098		F2010-0014	X (Non-fatal)	X		
12/28/2010	10-362-0915		F2010-0017	X (Non-fatal)			
1/25/2011	11-025-0502		F2011-0001	X (Fatal)	X		
7/2/2011	11-183-0803		I2016-0305		X		
9/14/2011	11-257-0642		F2011-0006	X (Non-fatal)			
9/16/2011	11-259-0412		F2011-0007	X (Non-fatal)			
10/7/2011	11-280-0292	NO	I2016-0249, F2011-0008	X (Non-fatal)	X		
10/10/2011	11-283-0125		F2011-0009	X (Fatal)	X		
10/16/2011	11-289-0451		F2011-0010	X (Fatal)	X		
10/23/2011	11-296-0317		F2011-0014	X (Non-fatal)			
12/15/2011	11-349-0934		F2011-0018	X (Fatal)	X		
1/2/2012	12-002-0745		I2012-0022		X		
1/20/2012	12-020-0047		F2012-0001	X (Fatal)	X		
1/20/2012	12-020-0871		I2012-0033		X		
1/30/2012	12-030-0561		I2012-0040		X		
2/26/2012	12-057-0481		I2012-0066		X		
3/24/2012	12-084-0325		F2012-0002	X (Non-fatal)			
4/1/2012	12-092-0092		I2012-0112		X		
4/1/2012	12-092-0798		F2012-0003	X (Non-fatal)			
5/6/2012	12-127-0858		F2012-0004	X (Non-fatal)			
5/20/2012	12-141-0837		I2012-0168		X		
6/18/2012	12-170-0265		I2012-0245		X		
7/5/2012	12-187-0434		I2012-0194		X		
7/24/2012	12-206-0087		I2013-0271		X		
9/6/2012	12-250-0905		I2013-0246		X		
9/29/2012	12-273-0594		I2012-0288		X		
10/4/2012	12-278-0555		I2012-0306		X		
11/9/2012	12-314-0001		I2014-0035		X		
11/16/2012	12-321-0851		F2012-0014	X (Non-fatal)			
2/2/2013	13-033-0529		I2013-0040		X		
3/2/2013	13-061-0465		F2013-0001	X (Fatal)	X		
3/7/2013	13-066-0830		I2013-0128		X		
3/18/2013	13-077-0639		F2013-0002	X (Fatal)	X		
3/27/2013	13-086-0692		F2013-0003	X (Non-fatal)			
4/6/2013	13-096-0144		I2013-0174		X		
6/5/2013	13-156-0068		I2013-0173		X		
8/1/2013	13-213-0107		I2013-0239		X		
8/17/2013	13-229-0650		I2014-0249		X		
8/26/2013	13-238-0844		I2013-0245		X		
8/30/2013	13-242-0052		F2013-0007	X (Non-fatal)			
8/30/2013	13-242-0124		F2013-0008	X (Non-fatal)			

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9/22/2013	13-265-0123		I2013-0298			X	
9/22/2013	13-265-0723		I2014-0130		X		
11/15/2013	13-319-1010		I2013-0332		X		
11/20/2013	13-324-0481		I2013-0350		X		
11/28/2013	13-332-0298		F2013-0017	X (Fatal)	X		
1/3/2014	14-003-0486		F2014-0001	X (Non-fatal)			
1/19/2014	14-019-0936		I2014-0064		X		
2/3/2014	14-034-0649		I2014-0058		X		
2/9/2014	14-040-0180		F2014-0002	X (Non-fatal)			
2/21/2014	14-052-0291		N/A	X (Fatal)	X		
4/28/2014	14-118-0515		I2014-0116		X		
5/11/2014	14-130-1015		F2014-0006	X (Non-fatal)			
5/28/2014	14-148-0595		D2014-0001		X		
6/9/2014	14-160-0046, 14-160-0048, 14-160-0076		I2014-0172		X		
8/7/2014	14-219-0747		I2014-0239		X		
8/8/2014	14-220-1082		I2014-0256		X		
8/14/2014	14-226-0316		F2014-0008	X (Fatal)	X		
8/24/2014	14-236-0998		I2014-0262		X		
12/21/2014	14-355-0137		I2015-0028		X		
1/12/2015	15-012-0277		I2015-0011		X		
1/23/2015	15-023-0068		I2015-0031		X		
2/11/2015	15-042-0703		F2015-0001	X (Fatal)	X		
3/24/2015	15-083-0893		F2015-0003	X (Fatal)	X		
4/26/2015	15-116-0963		I2015-0139		X		
7/2/2015	15-183-0056		I2015-0189		X		
7/18/2015	15-199-0864		I2015-0207		X		
7/31/2015	15-212-1093		F2015-0006	X (Fatal)	X		
8/9/2015	15-221-0715		F2015-0007	X (Fatal)	X		
8/10/2015	15-222-0008		F2015-0008	X (Non-fatal)			
8/16/2015	15-228-0967		F2015-0009	X (Fatal)	X		
8/17/2015	15-229-0553		F2015-0010	X (Fatal)	X		
8/23/2015	15-235-0082		I2015-0243		X		
9/7/2015	15-250-0358		I2015-0254		X		
9/24/2015	15-267-0856		F2015-0013	X (Non-fatal)			
11/9/2015	15-313-0511		F2015-0015	X (Fatal)	X		
11/11/2015	15-315-0038		F2015-0016	X (Non-fatal)			
11/24/2015	15-328-0023		I2017-0024		X		
12/1/2015	15-335-0448		F2015-0019	X (Non-fatal)			
12/26/2015	15-360-0122		I2016-0103		X		
3/7/2016	16-067-0629		F2016-0001	X (Fatal)	X		
3/12/2016	16-072-0105		F2016-0002	X (Non-fatal)	X		
5/11/2016	16-132-0158		F2016-0004	X (Non-fatal)	X		
7/4/2016	16-186-0694		F2016-0006	X (Fatal)	X		

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8/16/2016	16-229-0476		I2016-0282		X	
8/31/2016	16-243-0129		D2016-0001		X	
10/7/2016	16-281-0342		I2016-0287		X	
10/12/2016	16-286-0626		I2016-0284		X	
10/24/2016	16-298-0948		F2016-0008	X (Non-fatal)		
2/2/2017	17-033-0837	Needs review	Unknown		X	
3/17/2017	17-076-0472		F2017-0001	X (Non-fatal)		
4/21/2017	17-111-0425		F2017-0002	X (Non-fatal)	X	
5/2/2017	17-122-1019		F2017-0003	X (Fatal)	X	
5/3/2017	17-123-0834		F2017-0004	X (Fatal)	X	
5/7/2017	17-127-0221	NO	F2017-0005	X (Non-fatal)		
5/28/2017	17-148-0046	NO	F2017-0007	X (Fatal)	X	
5/30/2017	17-150-0851	Needs review	Unknown		X	
6/17/2017	17-168-0014		F2017-0008	X (Non-fatal)		
7/2/2017	17-183-0765		N/A		X	
7/14/2017	17-195-0324		I2017-0135		X	
8/2/2017	17-214-0763		I2017-0150		X	
9/9/2017	17-252-0692	NO	N/A		X	
9/12/2017	17-255-0743		N/A		X	
9/15/2017	17-258-0283		F2017-0012	X (Fatal)	X	
10/1/2017	17-274-0575		N/A		X	
10/5/2017	17-278-0814		N/A		X	
11/2/2017	17-306-0064		N/A		X	
11/22/2017	17-326-0224	Needs review	Unknown		X	
12/3/2017	17-337-0348		I2017-0263		X	
1/9/2018	18-009-0624		F2018-0001	X (Fatal)	X	
1/29/2018	18-029-0529	NO	F2018-0002	X (Non-fatal)		
4/28/2018	18-118-0771		N/A		X	
5/6/2018	18-126-0211		F2018-0004	X (Non-fatal)		
6/9/2018	18-160-0259		N/A		X	
9/23/2018	18-266-0119	NO	N/A		X	
10/9/2018	18-282-0155		N/A		X	
11/14/2018	18-318-0877	NO	D2018-0002		X	
11/20/2018	18-324-0678		N/A		X	
11/23/2018	18-327-0249	NO	F2018-0009	X (Non-fatal)		
11/29/2018	18-333-0904	NO	I2018-0293		X	
12/25/2018	18-359-0123		F2018-0013	X (Fatal)	X	
12/27/2018	18-361-0825		I2019-0004		X	

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Attachment C

Event Number	Event Type	Officer Name	Badge	Personnel Record
Unknown	DISHONESTY	Raul Martinez, Jr.	2836	Yes
Unknown	DISHONESTY	John Tompkins	3153	Yes
99-037-0215	OIS	John Tepoorten	2259	
99-060-0001	OIS	Dave Goldfinger	3198	
99-060-0001	OIS	Jim Overstreet	2202	
99-060-0001	OIS	William Foster	3491	
99-092-0221	OIS	UNKNOWN	UNKNOWN	
99-092-1330	OIS	Raul Martinez, Jr	2836	
99-103-0014	OIS	Bradley Rossmiller	3218	
99-103-0014	OIS	Merlin Newton	2711	
99-179-1388	OIS	James Randol	2912	
99-179-1388	OIS	Ted LaCap	2892	
99-259-1389	OIS	Steve Pryor	2492	
00-037-1259	OIS	James Ardwan	3243	
00-037-1259	OIS	Phillip Mancini	3231	
00-064-0155	OIS	Chris Bielecki	3579	
00-064-0155	OIS	Daniel Ichige	3365	
00-182-0632	OIS	Barbara Melloch	3117	
00-182-0632	OIS	Mark Stephens	3558	
00-264-1093	OIS	Manuel Gerrero	3278	
00-312-1175	OIS	Kurt Phelps	2894	
00-353-0607	OIS	Francisco Aviles	2405	
00-353-0607	OIS	Gary Garrison	3587	
00-353-0607	OIS	Jesus Macias	3660	
01-015-1018	OIS	Doug Wedge	3077	
01-232-0551	OIS	David Macheel	2732	
01-232-0551	OIS	Edward Videan	2687	
01-232-0551	OIS	Steven Rivera	3107	
01-301-0827	OIS	Johnson Fong	2710	
01-342-0390	OIS	Ron Thomassin	2046	
01-356-0322	OIS	Aneez Raghavan	3730	
01-356-0322	OIS	Chris Inman	3701	
01-356-0322	OIS	Rea Cramer	3682	
01-356-0322	OIS	Robert McAlavey	3634	
03-099-0586	OIS	Abe Galvan	2281	
03-099-0586	OIS	Dario Estrabao	2109	
03-099-0586	OIS	Rick Granado	3586	
03-099-0586	OIS	Tom Murphy	1939	
03-124-1127	OIS	Joseph Fleming	3074	
03-166-1323	OIS	Jesus Macias	3660	
03-166-1323	OIS	Vaughan Edwards	1918	
03-192-0069	OIS	Jake Ferguson	3711	
03-192-0069	OIS	Tom Liu	3582	

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03-194-1190	OIS	Chad Marshall	3542	
03-194-1190	OIS	Tom Mun	3726	
04-048-0559	OIS	Bureau of Narcotics Enforcement	N/A	N/A
04-049-0409	OIS	Daniel Enriquez	3656	
04-066-1014	OIS	Jason Bollendorf	3212	
04-066-1014	OIS	Jeff Butts	3567	
04-156-0780	OIS	Craig Storlie	3291	
04-156-0780	OIS	Julio Morales	3181	
04-167-0108	OIS	Anthony Kilmer	3790	
04-225-0280	OIS	Chris Buell	2970	
04-225-0280	OIS	Gary Jungling	2919	
04-225-0280	OIS	Kevin McMillin	3409	
04-270-0519	OIS	Don Guess	3298	
05-021-1077	OIS	Richard Foster	2964	
05-146-0162	OIS	Patrick Guire	3483	
05-213-0186	GBI	James Barton	3625	
05-213-0186	GBI	James Hussey	3574	
05-213-0186	GBI	Mike Jeffrey	3715	
05-213-0186	GBI	Steve Carlson	3853	
05-213-0186	GBI	Tim Young	3725	
05-228-1129	OIS	Fabrice Bellini	3460	
05-322-1075	GBI	Unknown	Unknown	
05-333-1127	OIS	UNKNOWN	UNKNOWN	
06-025-1006	GBI	Unknown	Unknown	
06-045-0268	OIS	Byron Jones	2560	
06-045-0268	OIS	Louis Quezada	2444	
06-045-0268	OIS	Richard Calderon	1956	
06-045-0268	OIS	William Neumann	3225	
06-135-0043	OIS	Michael Lutticken	3239	
06-135-0043	OIS	Wade Sandall	3539	
06-329-0661	OIS	Alan Lee	3041	
06-329-0661	OIS	Cristano Bindi	2735	
06-329-0661	OIS	Gregory Salas	2843	
06-329-0661	OIS	Patrick Ward	3812	
07-145-1024	GBI	Barry Chickayasu	3525	
07-145-1024	GBI	Jason Woodall	2890	
07-145-1024	GBI	Roderick Smith	3474	
08-363-1502	OIS / DISHONESTY	Miguel Martin	4014	Yes
09-016-0334	OIS	Bryan Williams	3368	
09-018-0077	OIS	Joseph Paolini	3646	
09-130-0526	OIS	Brian Jeffery	3926	
09-130-0526	OIS	Matthew Blackerby	3999	
10-231-0717	OIS	Dan Pfiefer	3951	
10-241-0395	OIS	Mark Palfalvi	3369	

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10-241-0395	OIS	Matthew Blackerby	3999	
10-294-0098	OIS	Brian Winco	3776	
10-294-0098	OIS	Cuahtemoc Mendoza	3933	
10-294-0098	OIS	Eric Bachman	3794	
10-294-0098	OIS	Isaac Miramontes	3947	
10-294-0098	OIS	Jesus Macias	3660	
10-294-0098	OIS	Jonathan Valverde	3987	
10-294-0098	OIS	Juan Vallejo	3810	
10-294-0098	OIS	Mike Bui	3807	
10-294-0098	OIS	Mike O'Neil	3797	
10-294-0098	OIS	Richard Martinez	3934	
10-294-0098	OIS	Ryan Dote	4006	
10-362-0915	OIS	Bryant Washington	3183	
11-025-0502	OIS	Geeno Gular	3146	
11-183-0803	GBI	Austin Grogan	3972	
11-257-0642	OIS	Mike Cristol	3963	
11-259-0412	OIS	Brett Hatzenbuhler	3899	
11-280-0292	OIS	Eric Bachman	3794	
11-280-0292	OIS	Timothy Wilson	3851	
11-280-0292	GBI	William McMullen	3069	
11-283-0125	OIS	Jeff Harwell	3966	
11-289-0451	OIS	Sergio Carabarin	2383	
11-296-0317	OIS	Brian Johst	3237	
11-296-0317	OIS	Gary Petrakovitz	3695	
11-296-0317	OIS	Mark Stephens	3558	
11-296-0317	OIS	Timothy Stephens	3484	
11-349-0934	OIS	Lee Tassio	3872	
12-002-0745	GBI	Nicolas Barry	3703	
12-020-0047	OIS	Mauricio Jimenez	3653	
12-020-0871	GBI	Kasey Padia	4029	
12-030-0561	GBI	Jesus Macias Jr.	3660	
12-057-0481	GBI	Bruce Barthelemy	4066	
12-084-0325	OIS	Ian Cooley	3450	
12-092-0092	GBI	Christopher Heinrich	3803	
12-092-0798	OIS	Jesse Aragon	3694	
12-127-0858	OIS	Stanley Gaspar	3722	
12-141-0837	GBI	Timothy Faye	3835	
12-170-0265	GBI	Gary Buhay	3645	
12-187-0434	GBI	Ryan Ferguson	3921	
12-206-0087	GBI	Carlos Melo	3667	
12-250-0905	GBI	Wilbert Garlit	4088	
12-273-0594	GBI	Jason Guzman	3968	
12-278-0555	GBI	Arturo Palacios	3727	
12-314-0001	GBI	Jonathan Byers	4152	
12-321-0851	OIS	Bruce Barthelemy	4066	

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13-033-0529	GBI	Casey Higgins	3887	
13-061-0465	OIS	Adam Jenkins	3661	
13-061-0465	OIS	Ian Cooley	3450	
13-066-0830	GBI	Tak Odama	3136	
13-077-0639	OIS	Bruce Barthelemy	4066	
13-086-0692	OIS	Steven Nelms	3342	
13-096-0144	GBI	Jaime Alfaro	4187	
13-156-0068	GBI	Derrick Antonio	4023	
13-213-0107	GBI	Jonathan Byers	4152	
13-229-0650	GBI	Aaron Little	3977	
13-238-0844	GBI	Jonathan Anderson	4074	
13-242-0052	OIS	Christopher Schipke	3910	
13-242-0124	OIS	Ryan Hansen	3836	
13-265-0123	SEX	Geoff Graves	4101	Yes
13-265-0723	GBI	Daniel Pfiefer	3951	
13-319-1010	GBI	Michael Porter	4001	
13-319-1010	GBI	Peter Szemeredi	4007	
13-324-0481	GBI	James Le	3228	
13-332-0298	OIS	Kevin Peters	3753	
14-003-0486	OIS	Dondi West	2943	
14-019-0936	GBI	Anthony Kilmer	3790	
14-019-0936	GBI	Tony Diep	3781	
14-034-0649	GBI	Christian Camarillo	3561	
14-040-0180	OIS	Marco Monzon	4147	
14-052-0291	OIS	SJSU	N/A	N/A
14-118-0515	GBI	Michael O'Neil	3797	
14-130-1015	OIS	Katherine Orellana	4261	
14-148-0595	GBI	Kevin McMillin	3409	
14-160-0046, 0048, 0076	GBI	Daniel Hall	4359	
14-219-0747	GBI	Joel Martinez	4117	
14-220-1082	GBI	Matt Delorenzo	3796	
14-226-0316	OIS	Wakana Okuma	3745	
14-236-0998	GBI	Bruce Barthelemy	4066	
14-355-0137	GBI	Christopher Bergstrom	4318	
15-012-0277	GBI	Steven Gibson	2768	
15-012-0277	GBI	Steven Wilson	2857	
15-023-0068	GBI	Gurbaksh Sohal	4341	
15-042-0703	OIS	James Soh	4075	
15-042-0703	OIS	Ryan Dote	4006	
15-083-0893	OIS	Douglas Potwora	3506	
15-116-0963	GBI	Jonathan Redmond	3249	
15-183-0056	GBI	Hymel Dunn	4309	
15-199-0864	GBI	Ramon Sanchez	4126	

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15-199-0864	GBI	Todd McMahon	4184	
15-212-1093	OIS	Bruce Barthelemy	4066	
15-212-1093	OIS	Carlos Gensole	4352	
15-221-0715	OIS	Adam Dorn	4021	
15-221-0715	OIS	Timothy Faye	3835	
15-222-0008	OIS	Christopher Bergstrom	4318	
15-222-0008	OIS	Tyler Moran	4248	
15-228-0967	OIS	Michael Jeffery	3715	
15-228-0967	OIS	Vidal Fonseca	3939	
15-229-0553	OIS	Jacob Morris	3684	
15-235-0082	GBI	Garrie Thompson	3752	
15-250-0358	GBI	Joel Casey	3969	
15-267-0856	OIS	Daniel Morales	4315	
15-313-0511	OIS	Justino Moro	3639	
15-315-0038	OIS	Jeffery Fassio	3492	
15-328-0023	GBI	Gurbaksh Sohal	4341	
15-335-0448	OIS	Brent Osborn	4217	Yes
15-360-0122	GBI	Anthony Barajas	4329	
15-360-0122	GBI	Joseph Sipiora	4356	
16-067-0629	OIS	Don Guess	3298	
16-072-0105	OIS	Hymel Dunn	4309	
16-072-0105	OIS	Jennifer Majors	4071	
16-072-0105	OIS	Raymond McNair	4328	
16-132-0158	OIS	Glenn Baldwin	2956	
16-132-0158	OIS	William Hall	4246	
16-186-0694	OIS	Anthony Vizzusi	3714	
16-186-0694	OIS	Mike Santos	4047	
16-229-0476	GBI	Alan Yee	4342	
16-243-0129	GBI	John Figone	4016	
16-243-0129	GBI	Juan Garcia	3655	
16-243-0129	GBI	Marco Cruz	4333	
16-243-0129	GBI	Mark Pimentel	3818	
16-243-0129	GBI	Matt Christian	2914	
16-243-0129	GBI	Thomas Jones	4330	
16-281-0342	GBI	Jason Guzman	3968	
16-286-0626	GBI	James Cerniglia	4181	
16-298-0948	OIS	Jared Yuen	4362	
16-298-0948	OIS	Julien Taylor	4257	
16-298-0948	OIS	Marco Mercado	4267	
17-033-0837	GBI	Neil Cossey	4065	
17-076-0472	OIS	Erick Enderle	3319	
17-076-0472	OIS	Todd Ahyo	3067	
17-076-0472	OIS	William Wolfe	3159	
17-111-0425	OIS	Jason Park	4171	
17-122-1019	OIS	Mario Martinez	3815	

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17-123-0834	OIS	Jacob Morris	3684	
17-127-0221	OIS	Thomas Barnard	3716	
17-148-0046	OIS	Juan Avila	4407	
17-150-0851	GBI	Sean Mattocks	3861	
17-150-0851	GBI	Alejandro Ortiz	3788	
17-150-0851	GBI	Michael Simonini	4458	
17-168-0014	OIS	Ian Hawkley	4393	Yes
17-183-0765	GBI	Eric Bucholz	4327	
17-195-0324	GBI	Matt Delorenzo	3796	Yes
17-214-0763	GBI	Joseph Sipiora	4356	
17-252-0692	GBI	Joseph Ferrante	4323	
17-252-0692	GBI	Thomas Jones	4330	
17-255-0743	GBI	Jamil Carter	3785	
17-258-0283	OIS	Michael Pina	3930	
17-274-0575	GBI	Alan Yee	4342	
17-278-0814	GBI	James Soh	4075	
17-278-0814	GBI	Ryan Dote	4006	
17-306-0064	GBI	Carlos Melo	3667	
17-326-0224	GBI	Michael Alvarez	3805	
17-326-0224	GBI	Gerald Cuyle	4517	
17-337-0348	GBI	Marcnell Palacio	4237	
18-009-0624	OIS	Adam Hutson	3568	
18-009-0624	OIS	Timothy Faye	3835	
18-029-0529	OIS	William Foster	3491	
18-118-0771	GBI	Richard Weger	2850	
18-126-0211	OIS	Glenn Albin	3420	
18-160-0259	GBI	Clare Johnson	4503	
18-160-0259	GBI	Joshua Paredes	4565	
18-266-0119	GBI	Michael Ceballos	4111	
18-282-0155	GBI	Tyler Krauel	3918	
18-318-0877	GBI	Eric Bucholz	4327	
18-324-0678	GBI	Chad Marshall	3542	
18-327-0249	OIS	Armando Ramos	4371	
18-333-0904	GBI	Ryan Dote	4006	
18-359-0123	OIS	Eliseo Anaya	4568	
18-359-0123	OIS	Marco Mercado	4267	
18-359-0123	OIS	Mark Koska	4549	
18-359-0123	OIS	Mitchell Stimson	4527	
18-361-0825	GBI	Daniel Pfiefer	3951	

A Status Update regarding the Processing of Records Responsive to the California Public Records Act in Conformance with SB-1421.

SAN JOSE POLICE DEPARTMENT

SB-1421 Retroactive Case Processing

November 2019

CPRA Releases Related to Retroactive SB-1421 Requests

Historically the San Jose Police Department has tried to respect the privacy interests of public records requestors by not disclosing the content or status of their requests with others. While that generally serves the public good, we realize (based on recent communications) that this practice is causing a great deal of confusion between individuals who have had their requests answered and those who are still waiting for their request to be processed. This has left some persons believing that the Department is not responding to public records requests at all. We apologize for that misunderstanding and would like to take this opportunity to clarify the true status of the project.

Previous updates included an index of cases and personnel, and an explanation of our action plan. This update describes the progress that has been made to date, an explanation of how we have ordered incidents for processing, and an overview of our ongoing efforts to accelerate processing and release times.

On January 1, 2019 Penal Code section 832.7 was amended by Senate Bill No. 1421. The amendment expanded the number and type of law enforcement records that are releasable in response to the California Public Records Act (CPRA). The requests received in early 2019 were for records created in the twenty years prior. The large breadth and volume of records made these requests complex and labor intensive to identify and process. As such, the department has been providing each requestor monthly updates while we identified the responsive cases, located the records, developed working procedures, hired additional personnel, and then began processing/releasing records. The Department is now actively releasing records twice a month.

Since we simply can't process all the material simultaneously, we recognize that some requestors are beginning to receive records while others have not yet received any. The Department wants to assure you that the records are either being processed or retained for processing. No existing record will be purged or destroyed prior to being provided to the requestor. The Department is sensitive to the traumatic experiences these records represent and we want you know that even if you have not yet received your records, we are indeed releasing records and we will keep doing so until this work is complete.

We describe the records from prior to 2019 as retroactive records, which are static in number, unlike records for events that have occurred since the passage of SB-1421. The Department has received two distinct types of retroactive requests for records. The simpler requests were for “records from personnel folders” only. Since we retain personnel folders in a centralized location we were able to check these requests with relative ease. Many requests were closed because there were no qualifying documents in the officers’ personnel folders. Some requests were closed when the requestors stopped answering our communications. When responsive records were discovered we closed those requests by sending the records to the requestor. We continue to receive these types of requests and are processing them in the order they are received.

The more common request that we have received is for “all records” associated to an event that meets the definitions in SB-1421. “All records” include, but are not necessarily limited to: offense reports, investigative documents, photographs, video footage, audio files, administrative investigations, and related personnel records. Depending on the record age and type, these can be housed in a variety of locations. Every record that we have located is being retained for processing and release. In some cases we did not immediately release a personnel folder document that was associated with an “all records” request because we intended to release those with the rest of the associated incident records. In an effort to accelerate the release of records, we recently released those personnel folder documents even though no other portion of the incident was yet available.

Most qualifying incidents include thousands of pages of written and photographic evidence. The steps to process any given case typically include:

- Retrieval of records from storage sites/databases
- Conversion into redactable software format
- Initial redactions
- Quality assurance review of each record
- Legal review of redactions
- Corrections as necessary
- Allow involved officers to view redacted records
- Upload to software sharing application
- Compose and send messages to each receiving party

It generally takes longer to redact a record than to create it and this process amounts to hundreds of labor hours per incident. It can take more time when we encounter older records on antiquated media or that exist only in hardcopy. Processing of retroactive cases also suffer when labor resources are redirected to process new cases. None-the-less we have answered most of the “personnel folder” requests and have completed our first “all records” case. We are nearing completion of the second “all records” case.

164 retroactive “all records” requests remain unanswered and we desperately wish to accelerate our processing times. This fiscal year we more than doubled the number of persons working on public records requests. Next fiscal year we intend to expand the size of our public records team again. The process is becoming more efficient and therefore faster. We also hope to leverage additional technology and/or third party vendors with the goal of speeding our overall processing times.

The Department will continue releasing records twice a month until this work load is complete. The processing order was created based on how frequently each case was requested, with the most frequently requested cases being processed first. Whenever a new case becomes responsive, it will take precedence over the retroactive caseload. There will be some overlap in case processing depending on staff availability and specialized skills (i.e. more than one case may be in process at a given time). To comply with the language in SB-1421, any case that is still a subject of a criminal enforcement matter will be passed over, but we will return to it when the criminal enforcement matter is resolved.

The San Jose Police Department wants to assure you that we are committed to releasing these records. Like most large agencies in California, we are working hard to address what amounts to tens of thousands of hours of additional labor while still performing our public safety obligations. We will not purge these records, we will continue to release records, and we will improve our processing times.