

## Legislative changes continue to clarify the right to access police officer personnel files

Recent California legislation expands public and oversight access to peace officer personnel records while maintaining confidentiality protections for sensitive duties.

By Jason M. Ewert

In recent years, the California Legislature has taken significant steps to provide the public with greater access to peace officer personnel files, which were previously only accessible through formal law and motion proceedings, generally referred to as *Pitchess* motions. First, in 2018 Senate Bill 1421 (Skinner) amended section 832.7 of the California Penal code to require disclosure of certain categories of information from peace officer personnel files in response to California Public Records Act (CPRA) requests for information. Those categories include incidents involving discharge of a firearm at a person, use of force resulting in death or great bodily injury, sustained findings of sexual assault (as defined by the statute), and certain sustained findings regarding dishonesty.

In 2021, Senate Bill 16 (Skinner) amended section 832.7 to extend peace officer records retention requirements and to broaden mandatory CPRA disclosure categories to include sustained findings of unreasonable or excessive force, failure to intervene against another officer engaged in clearly unreasonable or excessive force, conduct involving prejudice or discrimination based on a protected class, as well as unlawful arrests and searches. Agencies are now also required to release responsive records relating to the aforementioned categories if the officer resigned before the investigation was complete.



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These changes were based largely on the position that the public has a right to know about serious police misconduct, officer-involved shootings and other serious uses of force, and that concealing this information undercuts the public's faith in the legitimacy of law enforcement. In October of 2025, Gov. Gavin Newsom signed several bills into law that continue to increase access to peace officer personnel records, but also require courts to consider how a potential disclosure may impact current law enforcement duties that demand anonymity.

The California Supreme Court previously confirmed the Legislature intended to allow administrative hearing officers to decide *Pitchess* motions without court intervention. (*See Riverside Cnty. Sheriff's Dep't v. Stiglitz*, (2014) 60 Cal. 4th 624, 636.) However, under *Stiglitz* the parties were required to utilize the discovery mechanism provided for under Evidence Code section 1043. Even with the changes to Penal Code section 832.7 that were enacted under SB 1421 and SB 16, there was still a question as to whether certain commissions and oversight boards were

required to utilize formal *Pitchess* procedures or the CPRA to access peace officer personnel files that were potentially relevant to their mandates. Assembly Bill 847 (Sharp-Collins) now expressly permits civilian law enforcement oversight boards or commissions to access the confidential personnel records of peace officers and custodial officers during investigations or related proceedings concerning the conduct of those officers. Additionally, the inspector general is now explicitly authorized to access these records, as required in the performance of their oversight duties. This amendment to section 25303.7 of the California Government Code requires those oversight boards and the inspector general to maintain the confidentiality of these records consistent with the requirements of Section 832.7 of the Penal Code.

Next, finding that separation agreements that obscure information about officer misconduct are contrary to the express provisions and underlying policy of existing law, Assembly Bill 1388 (Bryan) amends section 13510.9 of the California Penal Code to explicitly prohibit law enforcement agencies from entering into an agreement with a peace officer that requires the agency to destroy, remove, or conceal a record of a misconduct investigation; stop or make particular findings in a misconduct investigation; or otherwise restrict the disclosure of information about an allegation or investigation of misconduct. Provisions of existing agreements that are

inconsistent with this law are also deemed to be contrary to law and public policy and are therefore void and unenforceable.

Finally, Penal Code section 832.7 authorizes an agency to redact otherwise disclosable peace officer personnel records to remove personal data or information 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 any person. Likely in response to the recent CPRA disclosure litigation concerning officers working undercover assignments, Assembly Bill 1178 (Pacheco) now explicitly requires a court in an action to compel disclosure of peace officer personnel records to consider whether a particular peace

officer is currently operating undercover and their duties demand anonymity.

Preservation of the public's faith in the legitimacy of law enforcement is critical to the maintenance of a modern justice system. Permitting law enforcement oversight boards and commissions to access the relevant personnel records during investigations or related proceedings concerning the conduct of those officers will likely result in increased efficiency, both in holding peace officers accountable and quickly clearing the names of those whose actions do not constitute misconduct. Additionally, eliminating certain methods previously utilized to fast-track lateral transfers of officers to different agencies where they may continue to engage in acts

of misconduct will help to ensure that bad actors are not permitted to commit further acts of misconduct under the authority of a different agency.

In a time where positive news stories regarding law enforcement seem to be few and far between, these legislative changes increasing the transparency of peace officer personnel files will continue to foster the public's faith in California's law enforcement agencies, while also acknowledging that certain duties require anonymity to protect the lives of officers who are tasked with addressing some of the most violent forms of crime.

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