

Item #9.c.  
PAB 4-13-22  
meeting

## ODPA Staffing

**Currently budgeted for**, and included in proposed baseline budget for FYs 2023 & 2024:

1. Director of Police Accountability
2. PRC/PAB Investigator
3. Office Specialist III
4. Undetermined professional level position (former PRC Officer position) (vacant)\*

\* The thinking originally was that the permanent DPA would redefine this position. Interim DPA believes the current need is for a policy analyst.

### **Proposed additions:**

5. PAB Investigator, who could also provide policy support as needed.
6. ► *Interim Director original proposal:* Office Specialist II – provisional (means not establishing a permanent position; allows flexibility to gauge whether a second full-time clerical person is needed).  
► *Budget Proposal Subcommittee revision:* A second analyst, who could focus more on data analysis. Not to be made provisional.

## Funding requests - beyond baseline

	Presented to Subcommittee	Subcommittee changes (in red)	(Amounts shown include wages + benefits)
<b>Personnel</b>			
Police Accountability Investigator	\$192,680	\$192,680	
<del>Office Specialist II (provisional)</del>	<del>\$126,388</del>		
Analyst (not provisional)		\$191,756	
<b>Subtotal - Personnel</b>	<b>\$319,068</b>	<b>\$384,436</b>	
<b>Non-Personnel</b>			
Professional Services - Misc	\$50,000	\$50,000	Outside assistance for policy review and development
Professional Services - Misc	\$50,000	\$50,000	Consultant to lead strategic planning process (FY 23)
Professional Services - Misc	\$25,000	\$25,000	Consultant to conduct performance evaluation of DPA (FY 24)
Communication Svcs - Landline	\$360	\$360	Landline phone for new staff
Non-Cap - computer, software	\$3,000	\$3,000	Computer setup for new staff (one-time)
Non-Cap - furniture & fixtures	\$6,000	\$6,000	Furniture for new staff (one-time)
Internal Svc - 1947 facilities	\$10,292	\$10,292	Office space for new staff
<b>Registration, Airfare, Lodging, Meals</b>		<b>\$1,760</b>	<b>Additional Board member to NACOLE</b>
<b>Subtotal - Non-Personnel</b>	<b>\$144,652</b>	<b>\$146,412</b>	
<b>Grand total</b>	<b>\$463,720</b>	<b>\$530,848</b>	

ODPA Budget worksheet

Account Description	2023 Baseline	2024 Baseline	2023 Funding request (over baseline)	2024 Funding request (over baseline)
WAGES - REG - MONTHLY MISC	\$614,153.00	\$627,296.00		\$384,436.00
FRINGE BENEFITS	\$326,832.00	\$331,379.00		\$384,436.00
<b>Subtotal wages &amp; benefits</b>	<b>\$940,985.00</b>	<b>\$958,675.00</b>	<b>\$1,343,111.00</b>	<b>\$1,343,111.00</b>
PROF SVCS - STIPENDS	\$37,100.00	\$37,100.00		
PROF SVCS - TEMPORARY AGENCIES	\$3,000.00	\$3,000.00		
PROF SVCS - MISCELLANEOUS	\$31,000.00	\$31,000.00		\$75,000.00
TECH SVCS - EQUIPMENT MAINT	\$500.00	\$500.00		
TECH SVCS - SOFTWARE MAINT	\$678.00	\$678.00		
RENTAL OF REAL PROPERTY	\$5,397.00	\$5,397.00		
RENTAL OF EQUIPMENT	\$15,000.00	\$15,000.00		
COMM SVCS - TELE - LANDLINE	\$1,061.00	\$1,061.00		\$360.00
COMM SVCS - TELE - CELL	\$624.00	\$624.00		
TRAIN AND CONF - REGISTRATION	\$4,250.00	\$4,250.00		\$450.00
TRAVEL - AIRFARE	\$2,250.00	\$2,250.00		\$450.00
TRAVEL - LODGING	\$3,200.00	\$3,200.00		\$640.00
TRAVEL - OTHER TRANS	\$500.00	\$500.00		
TRAVEL - MEALS	\$1,100.00	\$1,100.00		\$220.00
PRINTING AND BINDING	\$1,000.00	\$1,000.00		
FEES - PROF DUES AND FEES	\$400.00	\$400.00		
SUPPLIES - OFFICE	\$3,639.00	\$3,639.00		
SUPPLIES - POSTAGE	\$2,100.00	\$2,100.00		
SUPPLIES - BOOKS AND SUBSCRIP	\$7,317.00	\$7,317.00		
SUPPLIES - FOOD - NON-EMPLOYEE	\$400.00	\$400.00		
NON-CAP - COMP, SOFTWARE & OFE	\$1,500.00	\$500.00		\$3,000.00
NON-CAP - FURNITURE & FIXTURE	\$2,000.00	\$0.00		\$6,000.00
<b>Subtotal non-personnel, non-Internal Svcs</b>	<b>\$124,016.00</b>	<b>\$121,016.00</b>	<b>\$232,136.00</b>	<b>\$198,136.00</b>
INT SVC - 1947 CENTER FAC MAIN	\$53,456.00	\$53,456.00		\$10,292.00
INT SVC - NON-ROUTINE FAC MAIN	\$0.00	\$0.00		
INT SVC - TECH COST ALLOC FUND	\$19,739.00	\$19,739.00		
INT SVC - MAIL SERVICES	\$3,528.00	\$3,528.00		
INT SVC - CITY PKG PERMITS	\$3,000.00	\$3,000.00		
<b>Subtotal Internal Services</b>	<b>\$79,723.00</b>	<b>\$79,723.00</b>	<b>\$90,015.00</b>	<b>\$90,015.00</b>
<b>TOTAL</b>	<b>\$1,144,724.00</b>	<b>\$1,159,414.00</b>	<b>\$1,665,262.00</b>	<b>\$1,631,262.00</b>



## Lee, Katherine

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**From:** Office of the Director of Public Accountability  
**Sent:** Tuesday, April 12, 2022 3:12 PM  
**To:** Lee, Katherine  
**Subject:** [PAB New business Item 10.c.](#)

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**From:** Kitt Saginor <ksaginor@gmail.com>  
**Sent:** Tuesday, April 12, 2022 2:47 PM  
**To:** Office of the Director of Public Accountability <OfficeoftheDirectorofPoliceAccountability@cityofberkeley.info>  
**Subject:** PAB New business Item 10.c.

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Esteemed Members of the Police Accountability Board,

In regards to Item 10. c. - proposed change to Policy 311.6 - I would like to point out several facts that you may wish to consider.

1. The limit placed by the current policy on searches, adopted in Fall 2020, was ratified at the Special Meeting of February 23, 2021 by unanimous vote of the City Council which directed the City Manager to

- Limit warrantless searches of individuals on supervised release status such as Post Release Community Supervision (PRCS), probation, or parole.  
<[https://www.cityofberkeley.info/Clerk/City\\_Council/2021/02\\_Feb/Documents/02-23\\_Special\\_Annotated\\_Agenda\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2021/02_Feb/Documents/02-23_Special_Annotated_Agenda_pdf.aspx)>

along with other Fair and Impartial Policing recommendations.

2. Under exigent circumstances, **anyone** may be searched without a warrant. Please keep in mind that this section of 311.6 applies only in the absence of exigent circumstances.

3. The Draft provided to you for the proposed change states:  
Currently an individual on probation or parole in Berkeley would be on a nearly equal footing as someone who is not on probation or parole when it comes to search and seizure. -- p. 2, First sentence of the section Current Situation and Its Effects.

This is quite inaccurate. Requiring only 'reasonable suspicion' is NOT "nearly equal footing" with requiring a search warrant based on probable cause. Also, the examples given in the draft are misleading. Under BPD's policy, a sex offender is NOT unsupervised. Sex offenders, domestic violence offenders and other "special cases" receive enhanced supervision from parole officers who may search the person and possessions of their charges.

4. At the PAB's last Regular Meeting on March 23rd, the Berkeley Police Department shared their materials for training officers on Policy 311.6. The slide set from that training is posted online.  
<[https://www.cityofberkeley.info/uploadedFiles/Office\\_of\\_the\\_Director\\_of\\_Police\\_Accountability/PABoard/2022-03-23-SuppMaterial.SearchSeizureLaw.ppt.pdf](https://www.cityofberkeley.info/uploadedFiles/Office_of_the_Director_of_Police_Accountability/PABoard/2022-03-23-SuppMaterial.SearchSeizureLaw.ppt.pdf)>. Slides 32-40 concern search of probationers and parolees. Here is one example given of a permissible search under 311.6

# Warrantless search of Probationers and Parolees

Officers conduct a traffic stop in the Berkeley Hills at 3 AM and learn that the driver is on parole for PC 211 [robbery]. The parolee doesn't have a viable reason for being in the Berkeley Hills at this hour. The officer is aware that this area has been plagued with catalytic converter thefts in recent weeks. Exercising the parolees search conditions would be appropriate and within policy. Also note the underlying crime the probationer or parolee has committed may or may not be a contributing factor to the officers' articulable facts that a crime has been, is being, or is about to be committed.

*From BPD presentation to PAB on March 23, 2022*

Please note that the articulable facts that create a reasonable suspicion in this example are that a person on parole for robbery "doesn't have a viable reason for being in the Berkeley Hills at this hour" in an area that has experienced catalytic converter thefts in recent weeks. This is a low bar. Reasonable suspicion is a low bar.

5. The proposed language change to Policy 311.6 includes the phrase:

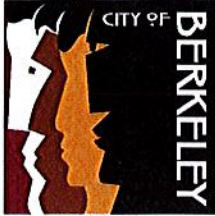
**and/OR confirm compliance with probation or parole conditions.** (emphasis added).

This 'OR' phrase removes even a requirement for articulable facts and will revert Berkeley to the minimum requirements of California State Law. California is among the 9 states providing the very least protection against unreasonable search and seizure for persons on supervised release. As explained by the BPD "Warrantless, suspicionless probation & parole searches are both reasonable under the 4th Amendment, according to the California Supreme Court" (BPD presentation to PAB 3/23/2022)

6. The reasonable suspicion standard requires two parts - reason and suspicion. The change proposed would disconnect these two parts. Citing 'articulable facts' the proposal retains the reason, but discards a requirement of suspicion. What purpose is served by searching persons without suspicion?

Thank you for your service to our city.

Kitt Saginor



Kate Harrison  
Vice Mayor, District 4

Item #10.e.  
PAB 4-13-22  
meeting

## REVISED AGENDA MATERIAL

**Meeting Date:** April 11, 2022

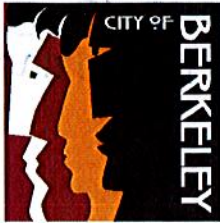
**Item #:** 26

**Item Description:** Adopt a Resolution in Support of California State Assembly Bill 2557 (Bonta): Specifying That Records of Civilian Law Enforcement Oversight Agencies Are Subject to the Disclosure Requirements of the Public Records Act

**Submitted by:** Vice Mayor Harrison

Added Councilmember Hahn as a co-sponsor. Clarified in transmittal that a letter will be sent to the Governor.





Kate Harrison  
Vice Mayor, District 4

CONSENT CALENDAR

April 26, 2022

To: Honorable Mayor and Members of the City Council  
From: Vice Mayor Harrison and Councilmember Hahn  
Subject: Adopt a Resolution in Support of California State Assembly Bill 2557 (Bonta): Specifying That Records of Civilian Law Enforcement Oversight Agencies Are Subject to the Disclosure Requirements of the Public Records Act

RECOMMENDATION

Adopt a Resolution in support of California State Assembly Bill 2557 (Bonta) that specifies that records and information obtained from records of civilian law enforcement oversight agencies are subject to the disclosure requirements of the public records act and not considered confidential.

Send copies of the resolution and letters to Governor Newsom, State Senator Skinner, and Assemblymembers Wicks and Bonta.

CURRENT SITUATION, EFFECTS, AND RATIONALE FOR RECOMMENDATION

Due to a 2006 California Supreme Court decision, *Copley Press, Inc. v. Superior Court*, (2006) 39 Cal.4th 1272), records and information obtained from records of civilian law enforcement oversight agencies are treated as if they were confidential personnel records held by police departments. Accordingly, those agencies have been required since 2006 to withhold from the public most, if not all, investigations of law enforcement officer misconduct. This is in stark contrast to the operation of civilian law enforcement oversight agencies prior to the *Copley Press* decision, which, until that decision, operated with full transparency.

The remedy is a direct legislative repeal of *Copley Press*, including specific legislative language allowing civilian law enforcement oversight agencies to operate openly and transparently, as was the practice prior to 2006.

AB 2557 amends California Penal Code Section 832.7 to specify that records and information obtained from records of civilian law enforcement oversight agencies are subject to the disclosure requirements of the Public Records Act (Government Code

Section 6250 et seq.) and not considered confidential pursuant to Penal Code Section 832.7.

### BACKGROUND

The civil unrest in the wake of the murder of George Floyd at the hands of former Minneapolis Police Officer Derek Chauvin, and numerous other unlawful acts committed by law enforcement personnel, has caused our nation to urgently scrutinize policing activities and reimagine public safety, especially with the understanding that the historic and systemic abuses of police authority disproportionately fall on minority and at-risk communities.

Black and Latinx individuals make up a combined 25% of the United States population but comprise over 75% of the victims of fatal police shootings in the past 5 years, such as the recent killings of Sean Monterrosa by the Vallejo Police Department and of Erik Salgado by the California Highway Patrol. It is critical that decisions and oversight concerning community policing occur in the full light of day so that residents can understand precisely the scope of disparate policing outcomes and any alleged violations of civil rights, policies, or the law.

At least 25 California municipalities, including Berkeley and most of our largest cities, have established civilian law enforcement oversight boards to provide necessary public oversight of policing activities in the community. A 15-year-old ruling from the California Supreme Court is causing the work of many California civilian oversight boards to be unnecessarily constrained by confidentiality requirements that are antithetical to the public work those boards are mandated to undertake.

For decades before the *Copley* decision, civilian oversight agencies had acted openly and not subject to employment confidentiality laws. Once the *Copley* decision came out those same bodies were required to cloak their work in secrecy. Civilian police oversight agencies are important checks on law enforcement activities and should be allowed to reopen their investigations to public review.

### FISCAL IMPACTS OF RECOMMENDATION

This proposal will save jurisdictions money by avoiding countless hours of redactions and costly settlements resulting from non-compliance with CPRA requests for documents since the passage of SB 1421 and SB 16. Staff time will be necessary for the Clerk to send letters to the Governor and state legislators.

### ENVIRONMENTAL SUSTAINABILITY

No discernable impact.

### CONTACT PERSON

Vice Mayor Kate Harrison, (510) 981-7140

### ATTACHMENTS



Adopt a Resolution in Support of California State Assembly Bill 2557  
(Bonta): Specifying That Records of Civilian Law Enforcement Oversight  
Agencies Are Subject to the Disclosure Requirements of the Public  
Records Act

CONSENT CALENDAR  
April 26, 2022

1. Resolution
2. Letters
3. Legislation

RESOLUTION NO. ##,###-N.S.

ADOPT A RESOLUTION IN SUPPORT OF CALIFORNIA STATE ASSEMBLY BILL 2557  
(BONTA): SPECIFYING THAT RECORDS OF CIVILIAN LAW ENFORCEMENT OVERSIGHT  
AGENCIES ARE SUBJECT TO THE DISCLOSURE REQUIREMENTS OF THE PUBLIC  
RECORDS ACT

WHEREAS, in *Copley Press, Inc. v. Superior Court* (2006) 39 Cal.4th 1272, the California State Supreme Court decided that records and information obtained from records of civilian law enforcement oversight agencies will be treated as if they were confidential personnel records held by police departments; and

WHEREAS, as these records are considered confidential, agencies have been required to withhold almost all such records involving investigations of officer misconduct; and

WHEREAS, the *Copley Press* decision prevents the public from learning the extent of any discipline, but for some minimal exceptions, that may have been imposed as a result of misconduct; and

WHEREAS, prior to 2006, civilian law enforcement oversight agencies operated with full transparency; and

WHEREAS, the ability for the public to have access to information regarding complaints about police misconduct and the response to any such complaints builds public confidence in the ability of government to hold police officers who engage in misconduct accountable; and

WHEREAS, if AB 2557 is enacted into law, the legislation will save jurisdictions time and resources currently being expended on redactions and settlements for non-compliance with public records requests for documents following the passage of both Senate Bill 1421 and Senate Bill 16; and

WHEREAS, AB 2557 is a direct legislative repeal of the *Copley Press* decision; and

WHEREAS, AB 2557 will allow civilian law enforcement agencies to operate transparently as they did prior to 2006.

NOW, THEREFORE BE IT RESOLVED, that the Berkeley City Council hereby endorses AB 2557 and urges the California State Legislature and Governor Gavin Newsom to support its enactment into law.

BE IT FURTHER RESOLVED that copies of this Resolution and letters will be sent to Governor Newsom, State Senator Skinner, and Assemblymembers Wicks and Bonta.

The Honorable Governor Gavin Newsom  
1021 O Street, Suite 9000  
Sacramento, CA 95814

**RE: AB 2557 (Bonta) Peace Officers Records**

Dear Governor Newsom,

The Berkeley City Council conveys its support for AB 2557 (Bonta). AB 2557 amends California Penal Code Section 832.7 to specify that records and information obtained from records of civilian law enforcement oversight agencies are subject to the disclosure requirements of the Public Records Act (Government Code Section 6250 et seq.) and not considered confidential pursuant to Penal Code Section 832.7.

Because of a 2006 state supreme court decision, *Copley Press, Inc. v. Superior Court*, (2006) 39 Cal.4th 1272), records and information obtained from records of civilian law enforcement oversight agencies are treated as if they were confidential personnel records held by police departments. Accordingly, those agencies have been required since 2006 to withhold from the public, most if not all, investigations of law enforcement officer misconduct. This is in stark contrast to the operation of civilian law enforcement oversight agencies prior to the Copley Press decision, which, until that decision, operated with full transparency.

The civil unrest in the wake of the callous murder of George Floyd at the hands of former Minneapolis Police Officer Derek Chauvin, and numerous other similar atrocities committed by law enforcement personnel, has caused our nation to urgently scrutinize community policing activities with the manifest realization that the historic and systemic abuses of police authority disproportionately fall on minority and at-risk communities. As a glaring statistic evidencing this point, Black and Latinx individuals make up a combined 25% of the United States population but comprise over 75% of the victims of fatal police shootings in the past 5 years, such as the recent killings of Sean Monterrosa by the Vallejo Police Department and of Erik Salgado by the California Highway Patrol. It is more important, now than ever, that decisions concerning community policing occur in the full light of day so that our communities can understand precisely the scope of the systemic problem of abusive police tactics and what our local governments can do to best eliminate those abuses.

At least 25 California municipalities, including Berkeley, have established civilian law enforcement oversight boards to provide necessary public oversight of policing activities in the community. Many such civilian oversight boards have been in existence for decades, including the Oakland Police Commission and its predecessor, the Oakland Citizens' Police Review Board. Unfortunately, a 15 year-old ruling from the California Supreme Court is causing the work of civilian oversight boards across the state, to be unnecessarily constrained by confidentiality requirements that are antithetical to the public work those boards are mandated to undertake.



For decades before the Copley decision, civilian oversight agencies had acted openly and not subject to employment confidentiality laws. Once the Copley decision came out those same bodies were required to cloak their work in secrecy, and that unnecessary secrecy is still happening.

This is not right. Civilian police oversight agencies operate as a needed check on law enforcement and should be allowed to reopen their investigations to public review. AB 2557 accomplishes this through a direct legislative repeal of Copley. By passing this amendment, not only will California show its commitment to current civilian oversight agencies but will also encourage other jurisdictions to create civilian oversight agencies to ensure that law enforcement in California is truly working for all people.

For these reasons, Berkeley City Council supports AB 2557.

Sincerely,

The Berkeley City Council

The Honorable State Senator Nancy Skinner  
Capitol Office, 1021 O Street, Suite 8630  
Sacramento, CA 95814

**RE: AB 2557 (Bonta) Peace Officers Records**

Dear Senator Skinner,

The Berkeley City Council conveys its support for AB 2557 (Bonta). AB 2557 amends California Penal Code Section 832.7 to specify that records and information obtained from records of civilian law enforcement oversight agencies are subject to the disclosure requirements of the Public Records Act (Government Code Section 6250 et seq.) and not considered confidential pursuant to Penal Code Section 832.7.

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For decades before the Copley decision, civilian oversight agencies had acted openly and not subject to employment confidentiality laws. Once the Copley decision came out those same bodies were required to cloak their work in secrecy, and that unnecessary secrecy is still happening.

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For these reasons, Berkeley City Council supports AB 2557.

Sincerely,

The Berkeley City Council



The Honorable Assemblymember Buffy Wicks  
Capitol Office, 1021 O Street, Suite 4240  
P.O. Box 942849, Sacramento, CA 94249-0015

**RE: AB 2557 (Bonta) Peace Officers Records**

Dear Assemblymember Wicks,

The Berkeley City Council conveys its support for AB 2557 (Bonta). AB 2557 amends California Penal Code Section 832.7 to specify that records and information obtained from records of civilian law enforcement oversight agencies are subject to the disclosure requirements of the Public Records Act (Government Code Section 6250 et seq.) and not considered confidential pursuant to Penal Code Section 832.7.

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of civilian oversight boards across the state, to be unnecessarily constrained by confidentiality requirements that are antithetical to the public work those boards are mandated to undertake.

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This is not right. Civilian police oversight agencies operate as a needed check on law enforcement and should be allowed to reopen their investigations to public review. AB 2557 accomplishes this through a direct legislative repeal of Copley. By passing this amendment, not only will California show its commitment to current civilian oversight agencies but will also encourage other jurisdictions to create civilian oversight agencies to ensure that law enforcement in California is truly working for all people.

For these reasons, Berkeley City Council supports AB 2557.

Sincerely,

The Berkeley City Council

The Honorable Assemblymember Mia Bonta  
Capitol Office, 1021 O Street, Suite 5620  
P.O. Box 942849, Sacramento, CA 94249-0018

**RE: AB 2557 (Bonta) Peace Officers Records**

Dear Assemblymember Bonta,

The Berkeley City Council conveys its support for AB 2557 (Bonta). AB 2557 amends California Penal Code Section 832.7 to specify that records and information obtained from records of civilian law enforcement oversight agencies are subject to the disclosure requirements of the Public Records Act (Government Code Section 6250 et seq.) and not considered confidential pursuant to Penal Code Section 832.7.

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For these reasons, Berkeley City Council supports AB 2557.

Sincerely,

The Berkeley City Council

**ASSEMBLY BILL**

**No. 2557**

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**Introduced by Assembly Member Mia Bonta**

February 17, 2022

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An act to amend Section 832.7 of the Penal Code, relating to peace officers.

LEGISLATIVE COUNSEL'S DIGEST

AB 2557, as introduced, Mia Bonta. Peace officers: records.

Existing law, the California Public Records Act, requires a state or local public agency to make public records available for public inspection and to make copies available upon request and payment of a fee, unless the records are exempt from disclosure. Existing law makes peace officer and custodial officer personnel records and specified records maintained by any state or local agency, or information obtained from these records, confidential and prohibits these records from being disclosed in any criminal or civil proceeding except by discovery.

This bill would make records and information obtained from records maintained by an agency or body established by a city, county, city and county, local government entity, state agency, or state department for the purpose of civilian oversight of peace officers subject to disclosure pursuant to the California Public Records Act. The bill would require those records to be redacted only as specified. By increasing duties on local entities, this bill would create 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.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares that public  
2 access to information concerning civilian complaints regarding  
3 peace officers, including the records of proceedings of civilian law  
4 enforcement review agencies, is crucial to safe and effective law  
5 enforcement in the state. It is the intent of the Legislature, in  
6 enacting this act, to abrogate the decision in *Copley Press, Inc. v.*  
7 *Superior Court* (2006) 39 Cal.4th 1272, to restore public access to  
8 peace officer records, and to restore public access to meetings and  
9 hearings that were open to the public prior to the *Copley Press*  
10 decision.

11 SEC. 2. Section 832.7 of the Penal Code is amended to read:  
12 832.7. (a) Except as provided in subdivision (b), the personnel  
13 records of peace officers and custodial officers and records  
14 maintained by a state or local agency pursuant to Section 832.5,  
15 or information obtained from these records, are confidential and  
16 shall not be disclosed in any criminal or civil proceeding except  
17 by discovery pursuant to Sections 1043 and 1046 of the Evidence  
18 Code. This section does not apply to investigations or proceedings  
19 concerning the conduct of peace officers or custodial officers, or  
20 an agency or department that employs those officers, conducted  
21 by a grand jury, a district attorney's office, or the Attorney  
22 General's office, or the Commission on Peace Officer Standards  
23 and Training.

24 (b) (1) Notwithstanding subdivision (a), subdivision (f) of  
25 Section 6254 of the Government Code, or any other law, the  
26 following peace officer or custodial officer personnel records and  
27 records maintained by a state or local agency shall not be  
28 confidential and shall be made available for public inspection  
29 pursuant to the California Public Records Act (Chapter 3.5  
30 (commencing with Section 6250) of Division 7 of Title 1 of the  
31 Government Code):

32 (A) A record relating to the report, investigation, or findings of  
33 any of the following:



- 1 (i) An incident involving the discharge of a firearm at a person  
2 by a peace officer or custodial officer.
- 3 (ii) An incident involving the use of force against a person by  
4 a peace officer or custodial officer that resulted in death or in great  
5 bodily injury.
- 6 (iii) A sustained finding involving a complaint that alleges  
7 unreasonable or excessive force.
- 8 (iv) A sustained finding that an officer failed to intervene against  
9 another officer using force that is clearly unreasonable or excessive.
- 10 (B) (i) Any record relating to an incident in which a sustained  
11 finding was made by any law enforcement agency or oversight  
12 agency that a peace officer or custodial officer engaged in sexual  
13 assault involving a member of the public.
- 14 (ii) As used in this subparagraph, “sexual assault” means the  
15 commission or attempted initiation of a sexual act with a member  
16 of the public by means of force, threat, coercion, extortion, offer  
17 of leniency or other official favor, or under the color of authority.  
18 For purposes of this subparagraph, the propositioning for or  
19 commission of any sexual act while on duty is considered a sexual  
20 assault.
- 21 (iii) As used in this subparagraph, “member of the public” means  
22 any person not employed by the officer’s employing agency and  
23 includes any participant in a cadet, explorer, or other youth program  
24 affiliated with the agency.
- 25 (C) Any record relating to an incident in which a sustained  
26 finding was made by any law enforcement agency or oversight  
27 agency involving dishonesty by a peace officer or custodial officer  
28 directly relating to the reporting, investigation, or prosecution of  
29 a crime, or directly relating to the reporting of, or investigation of  
30 misconduct by, another peace officer or custodial officer, including,  
31 but not limited to, false statements, filing false reports, destruction,  
32 falsifying, or concealing of evidence, or perjury.
- 33 (D) Any record relating to an incident in which a sustained  
34 finding was made by any law enforcement agency or oversight  
35 agency that a peace officer or custodial officer engaged in conduct  
36 including, but not limited to, verbal statements, writings, online  
37 posts, recordings, and gestures, involving prejudice or  
38 discrimination against a person on the basis of race, religious creed,  
39 color, national origin, ancestry, physical disability, mental  
40 disability, medical condition, genetic information, marital status,

1 sex, gender, gender identity, gender expression, age, sexual  
2 orientation, or military and veteran status.

3 (E) Any record relating to an incident in which a sustained  
4 finding was made by any law enforcement agency or oversight  
5 agency that the peace officer made an unlawful arrest or conducted  
6 an unlawful search.

7 (2) Records that are subject to disclosure under clause (iii) or  
8 (iv) of subparagraph (A) of paragraph (1), or under subparagraph  
9 (D) or (E) of paragraph (1), relating to an incident that occurred  
10 before January 1, 2022, shall not be subject to the time limitations  
11 in paragraph (8) until January 1, 2023.

12 (3) Records that shall be released pursuant to this subdivision  
13 include all investigative reports; photographic, audio, and video  
14 evidence; transcripts or recordings of interviews; autopsy reports;  
15 all materials compiled and presented for review to the district  
16 attorney or to any person or body charged with determining  
17 whether to file criminal charges against an officer in connection  
18 with an incident, or whether the officer's action was consistent  
19 with law and agency policy for purposes of discipline or  
20 administrative action, or what discipline to impose or corrective  
21 action to take; documents setting forth findings or recommended  
22 findings; and copies of disciplinary records relating to the incident,  
23 including any letters of intent to impose discipline, any documents  
24 reflecting modifications of discipline due to the Skelly or grievance  
25 process, and letters indicating final imposition of discipline or  
26 other documentation reflecting implementation of corrective action.  
27 Records that shall be released pursuant to this subdivision also  
28 include records relating to an incident specified in paragraph (1)  
29 in which the peace officer or custodial officer resigned before the  
30 law enforcement agency or oversight agency concluded its  
31 investigation into the alleged incident.

32 (4) A record from a separate and prior investigation or  
33 assessment of a separate incident shall not be released unless it is  
34 independently subject to disclosure pursuant to this subdivision.

35 (5) If an investigation or incident involves multiple officers,  
36 information about allegations of misconduct by, or the analysis or  
37 disposition of an investigation of, an officer shall not be released  
38 pursuant to subparagraph (B), (C), (D), or (E) of paragraph (1),  
39 unless it relates to a sustained finding regarding that officer that  
40 is itself subject to disclosure pursuant to this section. However,

1 factual information about that action of an officer during an  
2 incident, or the statements of an officer about an incident, shall be  
3 released if they are relevant to a finding against another officer  
4 that is subject to release pursuant to subparagraph (B), (C), (D),  
5 or (E) of paragraph (1).

6 (6) An agency shall redact a record disclosed pursuant to this  
7 section only for any of the following purposes:

8 (A) To remove personal data or information, such as a home  
9 address, telephone number, or identities of family members, other  
10 than the names and work-related information of peace and custodial  
11 officers.

12 (B) To preserve the anonymity of whistleblowers, complainants,  
13 victims, and witnesses.

14 (C) To protect confidential medical, financial, or other  
15 information of which disclosure is specifically prohibited by federal  
16 law or would cause an unwarranted invasion of personal privacy  
17 that clearly outweighs the strong public interest in records about  
18 possible misconduct and use of force by peace officers and  
19 custodial officers.

20 (D) Where there is a specific, articulable, and particularized  
21 reason to believe that disclosure of the record would pose a  
22 significant danger to the physical safety of the peace officer,  
23 custodial officer, or another person.

24 (7) Notwithstanding paragraph (6), an agency may redact a  
25 record disclosed pursuant to this section, including personal  
26 identifying information, where, on the facts of the particular case,  
27 the public interest served by not disclosing the information clearly  
28 outweighs the public interest served by disclosure of the  
29 information.

30 (8) An agency may withhold a record of an incident described  
31 in paragraph (1) that is the subject of an active criminal or  
32 administrative investigation, in accordance with any of the  
33 following:

34 (A) (i) During an active criminal investigation, disclosure may  
35 be delayed for up to 60 days from the date the misconduct or use  
36 of force occurred or until the district attorney determines whether  
37 to file criminal charges related to the misconduct or use of force,  
38 whichever occurs sooner. If an agency delays disclosure pursuant  
39 to this clause, the agency shall provide, in writing, the specific  
40 basis for the agency's determination that the interest in delaying

1 disclosure clearly outweighs the public interest in disclosure. This  
2 writing shall include the estimated date for disclosure of the  
3 withheld information.

4 (ii) After 60 days from the misconduct or use of force, the  
5 agency may continue to delay the disclosure of records or  
6 information if the disclosure could reasonably be expected to  
7 interfere with a criminal enforcement proceeding against an officer  
8 who engaged in misconduct or used the force. If an agency delays  
9 disclosure pursuant to this clause, the agency shall, at 180-day  
10 intervals as necessary, provide, in writing, the specific basis for  
11 the agency's determination that disclosure could reasonably be  
12 expected to interfere with a criminal enforcement proceeding. The  
13 writing shall include the estimated date for the disclosure of the  
14 withheld information. Information withheld by the agency shall  
15 be disclosed when the specific basis for withholding is resolved,  
16 when the investigation or proceeding is no longer active, or by no  
17 later than 18 months after the date of the incident, whichever occurs  
18 sooner.

19 (iii) After 60 days from the misconduct or use of force, the  
20 agency may continue to delay the disclosure of records or  
21 information if the disclosure could reasonably be expected to  
22 interfere with a criminal enforcement proceeding against someone  
23 other than the officer who engaged in misconduct or used the force.  
24 If an agency delays disclosure under this clause, the agency shall,  
25 at 180-day intervals, provide, in writing, the specific basis why  
26 disclosure could reasonably be expected to interfere with a criminal  
27 enforcement proceeding, and shall provide an estimated date for  
28 the disclosure of the withheld information. Information withheld  
29 by the agency shall be disclosed when the specific basis for  
30 withholding is resolved, when the investigation or proceeding is  
31 no longer active, or by no later than 18 months after the date of  
32 the incident, whichever occurs sooner, unless extraordinary  
33 circumstances warrant continued delay due to the ongoing criminal  
34 investigation or proceeding. In that case, the agency must show  
35 by clear and convincing evidence that the interest in preventing  
36 prejudice to the active and ongoing criminal investigation or  
37 proceeding outweighs the public interest in prompt disclosure of  
38 records about misconduct or use of force by peace officers and  
39 custodial officers. The agency shall release all information subject

1 to disclosure that does not cause substantial prejudice, including  
2 any documents that have otherwise become available.

3 (iv) In an action to compel disclosure brought pursuant to  
4 Section 6258 of the Government Code, an agency may justify  
5 delay by filing an application to seal the basis for withholding, in  
6 accordance with Rule 2.550 of the California Rules of Court, or  
7 any successor rule, if disclosure of the written basis itself would  
8 impact a privilege or compromise a pending investigation.

9 (B) If criminal charges are filed related to the incident in which  
10 misconduct occurred or force was used, the agency may delay the  
11 disclosure of records or information until a verdict on those charges  
12 is returned at trial or, if a plea of guilty or no contest is entered,  
13 the time to withdraw the plea pursuant to Section 1018.

14 (C) During an administrative investigation into an incident  
15 described in of paragraph (1), the agency may delay the disclosure  
16 of records or information until the investigating agency determines  
17 whether misconduct or the use of force violated a law or agency  
18 policy, but no longer than 180 days after the date of the employing  
19 agency's discovery of the misconduct or use of force, or allegation  
20 of misconduct or use of force, by a person authorized to initiate  
21 an investigation.

22 (9) A record of a complaint, or the investigations, findings, or  
23 dispositions of that complaint, shall not be released pursuant to  
24 this section if the complaint is frivolous, as defined in Section  
25 128.5 of the Code of Civil Procedure, or if the complaint is  
26 unfounded.

27 (10) The cost of copies of records subject to disclosure pursuant  
28 to this subdivision that are made available upon the payment of  
29 fees covering direct costs of duplication pursuant to subdivision  
30 (b) of Section 6253 of the Government Code shall not include the  
31 costs of searching for, editing, or redacting the records.

32 (11) Except to the extent temporary withholding for a longer  
33 period is permitted pursuant to paragraph (8), records subject to  
34 disclosure under this subdivision shall be provided at the earliest  
35 possible time and no later than 45 days from the date of a request  
36 for their disclosure.

37 (12) (A) For purposes of releasing records pursuant to this  
38 subdivision, the lawyer-client privilege does not prohibit the  
39 disclosure of either of the following:



1 (i) Factual information provided by the public entity to its  
2 attorney or factual information discovered in any investigation  
3 conducted by, or on behalf of, the public entity's attorney.

4 (ii) Billing records related to the work done by the attorney so  
5 long as the records do not relate to active and ongoing litigation  
6 and do not disclose information for the purpose of legal  
7 consultation between the public entity and its attorney.

8 (B) This paragraph does not prohibit the public entity from  
9 asserting that a record or information within the record is exempted  
10 or prohibited from disclosure pursuant to any other federal or state  
11 law.

12 (c) Notwithstanding subdivisions (a) and (b), a department or  
13 agency shall release to the complaining party a copy of the  
14 complaining party's own statements at the time the complaint is  
15 filed.

16 (d) Notwithstanding subdivisions (a) and (b), a department or  
17 agency that employs peace or custodial officers may disseminate  
18 data regarding the number, type, or disposition of complaints  
19 (sustained, not sustained, exonerated, or unfounded) made against  
20 its officers if that information is in a form that does not identify  
21 the individuals involved.

22 (e) Notwithstanding subdivisions (a) and (b), a department or  
23 agency that employs peace or custodial officers may release factual  
24 information concerning a disciplinary investigation if the officer  
25 who is the subject of the disciplinary investigation, or the officer's  
26 agent or representative, publicly makes a statement that they know  
27 to be false concerning the investigation or the imposition of  
28 disciplinary action. Information may not be disclosed by the peace  
29 or custodial officer's employer unless the false statement was  
30 published by an established medium of communication, such as  
31 television, radio, or a newspaper. Disclosure of factual information  
32 by the employing agency pursuant to this subdivision is limited  
33 to facts contained in the officer's personnel file concerning the  
34 disciplinary investigation or imposition of disciplinary action that  
35 specifically refute the false statements made public by the peace  
36 or custodial officer or their agent or representative.

37 (f) (1) The department or agency shall provide written  
38 notification to the complaining party of the disposition of the  
39 complaint within 30 days of the disposition.

1 (2) The notification described in this subdivision is not  
2 conclusive or binding or admissible as evidence in any separate  
3 or subsequent action or proceeding brought before an arbitrator,  
4 court, or judge of this state or the United States.

5 (g) *Notwithstanding subdivision (a), subdivision (f) of Section*  
6 *6254 of the Government Code, or any other law, or the holding in*  
7 *Copley Press, Inc. v. Superior Court (2006) 39 Cal.4th 1272,*  
8 *records and information obtained from records maintained by an*  
9 *agency or body established by a city, county, city and county, local*  
10 *government entity, state agency, or state department for the*  
11 *purpose of civilian oversight of peace officers shall not be*  
12 *confidential and shall be made available for public inspection*  
13 *pursuant to the California Public Records Act (Chapter 3.5*  
14 *(commencing with Section 6250) of Division 7 of Title 1 of the*  
15 *Government Code). A record disclosed pursuant to this paragraph*  
16 *shall be redacted only to remove personal data or information*  
17 *such as a home address, telephone number, or identities of family*  
18 *members, other than the names and work-related information of*  
19 *peace and custodial officers, to preserve the anonymity of*  
20 *complainants and witnesses, or to protect confidential medical,*  
21 *financial, or other information in which disclosure would cause*  
22 *an unwarranted invasion of personal privacy that clearly outweighs*  
23 *the strong public interest in records about misconduct by peace*  
24 *officers and custodial officers, or where there is a specific,*  
25 *particularized reason to believe that disclosure of the record would*  
26 *pose a significant danger to the physical safety of the peace officer,*  
27 *custodial officer, or others.*

28 (g)

29 (h) This section does not affect the discovery or disclosure of  
30 information contained in a peace or custodial officer's personnel  
31 file pursuant to Section 1043 of the Evidence Code.

32 (h)

33 (i) This section does not supersede or affect the criminal  
34 discovery process outlined in Chapter 10 (commencing with  
35 Section 1054) of Title 6 of Part 2, or the admissibility of personnel  
36 records pursuant to subdivision (a), which codifies the court  
37 decision in *Pitchess v. Superior Court (1974) 11 Cal.3d 531.*

38 (i)

1     *(j)* Nothing in this chapter is intended to limit the public's right  
2 of access as provided for in Long Beach Police Officers  
3 Association v. City of Long Beach (2014) 59 Cal.4th 59.  
4     SEC. 3. If the Commission on State Mandates determines that  
5 this act contains costs mandated by the state, reimbursement to  
6 local agencies and school districts for those costs shall be made  
7 pursuant to Part 7 (commencing with Section 17500) of Division  
8 4 of Title 2 of the Government Code.