

From: Anonymous Person

02/22/2020 

Subject: California Public Records Act Request: Police Misconduct Records (SB 1421 / Becerra v Superi...

[Email](#)

City Attorney's Office:

NOTE: THE EMAIL ADDRESS SENDING THIS REQUEST IS A PUBLICLY-VIEWABLE MAILBOX. Please be certain you have properly redacted all of your responses. Once you send them to us, there is no going back. All of your responses (including all responsive records) may be instantly and automatically available to the public online via the [MuckRock.com](https://muckrock.com) FOIA service used to issue this request (though the requester is an anonymous user, not a representative of MuckRock). Nothing herein is legal, IT, or professional advice of any kind. The author disclaims all warranties, express or implied, including but not limited to all warranties of merchantability or fitness. In no event shall the author be liable for any special, direct, indirect, consequential, or any other damages whatsoever. The digital signature, if any, in this email is not an indication of a binding agreement or offer; it merely authenticates the sender. Please do not include any confidential information, as I intend that these communications with the City all be disclosable public records.

Below are new Immediate Disclosure Requests (SF Admin Code 67.25(a)) directed to your agency and its department head.

Your initial response is required by Feb 25, 2020. Rolling records responses are requested (SFAC 67.25(d)) if you are unable to immediately produce records.

Exact copies of every responsive record are requested (Gov Code 6253(b)) - do not: provide mere URLs, print and scan electronic records, convert native files to PDFs, or provide black and white versions of any color record. Provide only copies of records not requiring fees and in-person inspection of all other records (GC 6253).

Your non-exhaustive obligations:

- All withholding of any information must be justified in writing by specific statutory authority (SFAC 67.27).
- All withholdings by masking or deletion (aka redactions) must be keyed by footnote or other clear reference to the specific justification for that redaction, and only the minimal exempt portion of any record may be withheld (SFAC 67.26).
- You must respond to emailed requests (SFAC 67.21(b)).
- You must notify us of whether or not responsive records exist and/or were withheld for each below request (Gov Code 6253(c), 6255(b)).
- You must state the name and title of each person responsible for withholding any information (Gov Code 6253(d)).
- Do not impose any end-user restrictions upon me (Santa Clara Co. vs Superior Ct, 170 Cal.App 4th 1301); so if you use a third-party website to publish records, please make them completely public without any login or sign-in or Terms of Service.

Your agency must do all of the above things in your response, and you cannot wait until we file complaints.

***** We have no duty to, and we will not again, remind the City of its obligations. Instead, we will file complaints for every Sunshine Ordinance or CPRA violation. We will continue to file complaints until the City's procedures are modified to fully comply with the Sunshine Ordinance and CPRA, without caveat or exception. *****

In simple terms, I want all SB 1421 records you have retained, and I want a quantity/existence/form statement, even if you believe their contents are exempt. Just like the AG, if you retained any police misconduct records you must release your own copies, regardless

of what SFPD/DPA do. Like you, the AG is a lawyer/law office, and he must still release it, not only for his own employee's misconduct but every record he retained. But here's the full request:

1. Pursuant to *Becerra v Superior Court* (First Amendment Coalition, 2020), provide all records (where "record(s)" is defined specifically by Penal Code 832.7(b)(2), and REGARDLESS of whether they are prepared by or for your agency or its employees) of all incidents involving the discharge of a firearm at a person by a peace officer or custodial officer; all incidents in which the use of force by a peace officer or custodial officer against a person resulted in death, or in great bodily injury; all records relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in sexual assault involving a member of the public; all records relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency of dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including, but not limited to, any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence. Note: The potential exception that the State AG may have under Gov Code 6255 / public-interest balancing test, which the Court of Appeal found may apply if Becerra had asked for it, DOES NOT APPLY TO YOUR OFFICE, pursuant to SFAC 67.24(g and i).

2. Please also provide an SFAC 67.21(c) written statement of the existence or quantity of these records in #1 (even if you believe their contents to be exempt) within 7 days (no extensions)

Do not destroy or discard any responsive records - we will appeal all withholdings or Sunshine violations.

FYI - If you haven't read *Becerra v Superior Court*, the Court of Appeals held: "We conclude, as a matter of statutory interpretation, that section 832.7 generally requires disclosure of all responsive records in the possession of the Department, regardless whether the records pertain to officers employed by the Department or by another public agency and regardless whether the Department or another public agency created the records. Although we also determine, as a matter of statutory interpretation, that the so-called "catchall exemption" of the CPRA, codified at Government Code section 6255, may apply to records that are subject to disclosure under section 832.7, our independent review leads us to conclude the Department did not adequately demonstrate that the public interest served by nondisclosure of the records at issue clearly outweighs the public interest in their disclosure. "

However, no San Francisco agency or official can use the catchall exemption/6255 due to SF Admin Code 67.24(g and i).

Thank you for your anticipated cooperation in this matter.

Sincerely,
Anonymous

From: San Francisco City Attorney

02/25/2020 

Subject: RE: California Public Records Act Request: Police Misconduct Records (SB 1421 / Becerra v Su... [Email](#)

Dear requester,

Your request was sent as an "Immediate Disclosure Request" under San Francisco Administrative Code Section 67.25(a). But to qualify under that section, the request must be "simple, routine and readily answerable." The Sunshine Ordinance requires shorter response times in those

situations where a department is able to quickly locate and produce the requested records. In order to respond to your request, this office will need to conduct a review of our files to find responsive records. For this reason, we are not treating your request as one appropriately filed as an "immediate disclosure" request, but as one which is subject to the standard deadlines. Please send replies to cityattorney@sfcityatty.org<mailto:cityattorney@sfcityatty.org>
Sincerely,

[cid:image003.jpg@01D5EBE0.53789230]Elizabeth A. Coolbrith
Paralegal
Office of City Attorney Dennis Herrera
(415) 554-4685 Direct
www.sfcityattorney.org
Find us on: Facebook<<https://www.facebook.com/sfcityattorney/>>
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Instagram<<https://www.instagram.com/sfcityattorney/>>



~WRD000

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From: San Francisco City Attorney
03/02/2020
Subject: RE: California Public Records Act Request: Police Misconduct Records (SB 1421 / Becerra v Su...
[Email](#)

Dear requester,

All records in our possession are exempt from disclosure under attorney-client privilege (Cal. Gov't Code § 6276.04; Cal. Evid. Code § 954) and attorney work product (Cal. Gov't Code § 6276.04; Cal. Code of Civil Pro. § 2018.030). As explained in SOTF File No. 19120, because these privileges apply, we cannot provide further information pursuant to your section 67.21(c) request. We would only be able to provide you a section 67.21(c) statement with respect to documents that do not fall under these privileges, and there are no such documents in this case. We suggest you follow up with the Police Commission, SFPD, and/or the Department of Police Accountability to see if they have responsive records.

Please send replies to cityattorney@sfcityatty.org<mailto:cityattorney@sfcityatty.org>
Sincerely,

[cid:image002.jpg@01D5F0AF.A9B0B190]Elizabeth A. Coolbrith
Paralegal
Office of City Attorney Dennis Herrera
(415) 554-4685 Direct
www.sfcityattorney.org
Find us on: Facebook<<https://www.facebook.com/sfcityattorney/>>
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~WRD252

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[Download](#)**From: Anonymous Person**

03/02/2020

Subject: RE: California Public Records Act Request: Police Misconduct Records (SB 1421 / Becerra v Su...

[Email](#)

My argument in a nutshell is that not every single record your office may have retained is privileged under A-C and W-P, and you must conduct an actual search and identify which are and are not. I'll put my full argument in the complaint. Here are examples of records not privileged: 1) fact gathering records by your office's attorneys without any legal opinions are not work product, 2) copies of SB 1421 personnel records collected by DPA (prev. OCC) or SFPD that you have simply retained (Becerra v Superior Court).

From: Muckrock Staff

03/18/2020

Subject: RE: California Public Records Act Request: Police Misconduct Records (SB 1421 / Becerra v Su...

[Email](#)

To Whom It May Concern:

I wanted to follow up on the following California Public Records Act request, copied below, and originally submitted on Feb. 22, 2020. Please let me know when I can expect to receive a response.

Thanks for your help, and let me know if further clarification is needed.

From: Muckrock Staff

06/08/2020

Subject: RE: California Public Records Act Request: Police Misconduct Records (SB 1421 / Becerra v Su...

[Email](#)

To Whom It May Concern:

I wanted to follow up on the following California Public Records Act request, copied below, and originally submitted on Feb. 22, 2020. Please let me know when I can expect to receive a response.

Thanks for your help, and let me know if further clarification is needed.

From: San Francisco City Attorney

06/10/2020

Subject: RE: California Public Records Act Request: Police Misconduct Records (SB 1421 / Becerra v Su...

[Email](#)

Dear requester,

Thank you for your email. Our response to your request, sent on 3/02/20, still stands.

Please send replies to cityattorney@sfcityatty.org<mailto:cityattorney@sfcityatty.org>

Sincerely,

[cid:image002.jpg@01D63EFC.91AFDA30]Elizabeth A. Coolbrith

Paralegal

Office of City Attorney Dennis Herrera

(415) 554-4685 Direct

www.sfcityattorney.org

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~WRD000

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