
[EXTERNAL]Public Records Requests of 8/26 and 9/4

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To Richard Konda <rkonda@asianlawalliance.org>; Abjpd1@gmail.com <Abjpd1@gmail.com>

Dear Richard and Aram,

The County received your August 26, 2025, public records request for “release of all the body worn camera and digital footage, each time the Taser 10 has been discharged during the timeframe of the Taser Pilot Project, pursuant to AB 748,” and your September 4, 2025, public records request for video footage of any taser deployments, as well as “incident reports, use of force reports, and related reports;” associated “medical reports and related reports;” and “All additional disclosable information pursuant to the California Public Records Act related to the above-described eight Taser deployments.”

Since my last correspondence, the Sheriff’s Office has made the following information available about its Taser Pilot program: <https://sheriff.santaclaracounty.gov/safer-step-forward-taser-pilot-program-shows-promise-santa-clara-county-jails>

The other records you’ve requested are being withheld pursuant to the exemption for investigations conducted by a local law enforcement agency (Gov’t Code § 7923.600); the preliminary drafts exemption (Gov’t Code § 7927.500); the personnel and medical files exemptions (Gov’t Code § 7927.700); and the right to privacy (Gov’t Code § 7922.000). Certain records have also been withheld because they are privileged (Gov’t Code § 7927.705; specifically, the attorney-client communication privilege [Evid. Code § 954]; the attorney work product privilege [Code Civ. Proc. § 2018.030]; and the official information privilege [Evid. Code § 1040]). Additionally, certain records that reveal the deliberative process involved in the Sheriff’s and County’s decision-making are exempt from disclosure and have been withheld. (Gov’t Code § 7922.000; Evid. Code § 1040; *Times Mirror Co. v. Superior Court* (1991) 53 Cal. 3d 1325, 1338–46; *California First Amend. Coalition v. Superior Court* (1998) 67 Cal. App. 4th 159, 169.)

As explained in response to your earlier requests, body worn camera (BWC) footage is collected as a record of investigation or to be part of an investigatory file and is exempt from disclosure under the CPRA. (Gov’t Code sections 7923.600-7923.625; see also *Castañares v. Superior Court* (2023) 98 Cal. App. 5th 295.) The investigation exemption extends indefinitely, even after investigations are concluded. (*Rackauckas v. Superior Court* (2002) 104 Cal. App. 4th 169, 174-78.) BWC footage may also be retained in the personnel file of involved officers. Penal Code section 832.7, generally makes all officer personnel records confidential and exempt from disclosure, but contains an exception to the general confidentiality requirement for the following categories of officer personnel and investigatory records: (A) a record relating to the report, investigation, or findings of (i) an incident involving the discharge of a firearm at a person by a peace officer or custodial officer; (ii) an incident involving the use of force against a person by a peace officer or custodial officer that resulted in death or in great bodily injury; (iii) a sustained finding involving a complaint that alleges unreasonable or excessive force; (iv) a sustained finding that an officer failed to intervene against another officer using force that is clearly unreasonable or excessive; (B)(i) any record 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; (C) any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency involving 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 false statements, filing false reports, destruction,

falsifying, or concealing of evidence, or perjury; (D) any record 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 conduct including, but not limited to, verbal statements, writings, online posts, recordings, and gestures, involving prejudice or discrimination against a person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status; or (E) any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that the peace officer made an unlawful arrest or conducted an unlawful search. Relatedly, AB 748 amended Gov't Code § 6254 to specifically require agencies, in response to a CPRA request, to produce audio and video recordings of "critical incidents," which are defined as incidents involving the discharge of a firearm at a person by a peace officer or custodial officer, or an incident in which the use of force by a peace officer or custodial officer against a person resulted in death or great bodily injury. No Taser deployment by the Santa Clara County Sheriff's Office to date meets the definition or criteria for release under these provisions.

This concludes the County's response to your request for public records. As mentioned at our May meeting and in prior correspondence, the Sheriff's Office will provide more information to the Board of Supervisors and the public on the Taser Pilot in October. More records will be available then.

Thank you.

Sterling



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