



SACRAMENTO
SAN FRANCISCO

Monique Alonso
monique@majlabor.com
direct: 415.266.1816

August 19, 2019

VIA E-MAIL AND U.S. MAIL
SFPD.COMMISSION@SFGOV.ORG

Police Commission Office
San Francisco Police Headquarters
1245 3rd Street
San Francisco, California 94158

**Re: Comments of the San Francisco Police Officers' Association ("SFPOA")
regarding the San Francisco Police Commission's REVISED Proposed
"Protocols for Release SB 1421 Documents"**

Dear Commissioners:

Thank you for the opportunity to provide further written comments to the Commission's Revised draft "Protocols for Release of SB 1421 Documents" (the "Revised Protocols"). These comments pertain to the Revised Protocols provided to the Working Group on August 5, 2019. Our specific recommendations and comments to the Revised Protocols are set forth below.

Generally, where the Revised Protocols discuss the categories requiring a sustained finding, those categories should be so grouped under a heading signaling that fact. The other two categories should be grouped under "No sustained finding required."

Section I.C.4 Use of Force Records.

Subsection (a). Unnecessary in light of the statutory language. The SFPOA recommends generally that there be no elaboration of the statutory language in the final Protocols beyond the clear intent of the plain language.

Section I.C.5 Sexual Assault.

Subsection (a). Delete the phrase: "This statute's definition therefore may cover the officer's family members." The statute's language is clear on its face and the insertion of "may cover" causes unnecessary confusion.

**MESSING ADAM &
JASMINE LLP**

235 MONTGOMERY ST. 415.266.1800 MAIN
SUITE 828 415.266.1128 FAX
SAN FRANCISCO, CA
94104

MAJLABOR.COM

San Francisco Police Commission

Re: Comments of the San Francisco Police Officers' Association ("SFPOA") regarding the San Francisco Police Commission's REVISED Proposed "Protocols for Release SB 1421 Documents"

August 19, 2019

Page 2

Section I.C.6. Dishonesty.

This provision requires a sustained finding of dishonesty, as defined in the statute. Where a sustained finding is required as a prerequisite to disclosure, the Protocols need not introduce the question of intent, or the question of whether an officer "should have known" s/he was being dishonest. Delete the definition of "dishonesty" in subsection (a) in favor of the statutory language. Similarly, the statute is clear that the dishonesty must have been in connection with "the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer." It is therefore unnecessary to affirmatively supply examples of where disclosure would not apply.

Section II.A.4. Threat assessment.

Delete the following: "Under no circumstances shall the threat assessment halt the Commission or Departments' work with respect to gathering, reviewing, and production of records. However,"

No production should occur until a threat assessment is completed.

Section II.C. Discretionary redaction.

Subsection (2). Because this provision applies to discretionary redaction, is this subparagraph meant to be policy across the Commission and the Departments?

Section VII. Notice.

There are no guidelines set forth here other than the short statement that notice to certain persons or entities will be given. The SFPOA has no position on timing of notice to the other entities set forth in this section; however, with respect to the involved officer(s), the timeline and process delineated below should be observed. Moreover, any notice to the involved officer(s) should include concurrent notice to the SFPOA.

- An initial courtesy notice to affected officer(s) via an officer's City email address within 3 business days of the Commission or Department becoming aware that the officer is the subject of a request;
- 5 days notice via email to the impacted officer(s) and his/her association representative of the records the Commission or either Department intends to release and date of release before release of written records. The Second Notice should set forth: the documents being produced, the date of actual production (which should be set to allow for a review and objection period by the officer(s)),

San Francisco Police Commission

Re: Comments of the San Francisco Police Officers' Association ("SFPOA") regarding the San Francisco Police Commission's REVISED Proposed "Protocols for Release SB 1421 Documents"

August 19, 2019

Page 3

the time and place they may be reviewed by the officer(s) and his/her association representative, and a statement that any objection must be filed prior to the specified production date; and

- A minimum of 5 days notice prior to release to provide a reasonable opportunity for officer to review, with no loss of compensation and right to have legal or union representative present.

We look forward to discussing these comments at the next meeting of the Working Group and are available should you have any further questions before that time.

Very truly yours,

MESSING ADAM & JASMINE LLP



Monique Alonso

MA:jag

cc: Tony Montoya, President, SFPOA
Executive Board, SFPOA
Gregg McLean Adam, Esq.

00075522-1