



SAN DIEGO COUNTY SHERIFF'S DEPARTMENT

LEGAL AFFAIRS UPDATE

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TOPIC: 2020 LEGISLATION

2020 Law Enforcement Legislative Updates

This training bulletin provides an overview of some of the new legislation that impacts the Sheriff's Department. This bulletin does not provide a complete list of all legislative changes. Employees must familiarize themselves with the applicable relevant laws.

Legislative Updates Effective January 1, 2020

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1. **AB 392 – Law Enforcement: Use of Force**

Amends the California Use of Force statutes, Penal Code sections 196 and 835a. Please review the AB 392 Legal Update.

2. **AB 1215 – Law Enforcement: Facial Recognition and Other Biometric Surveillance**

Enacts Penal Code section 832.19, which prohibits law enforcement agencies from installing, activating, or using any biometric surveillance system in connection with an officer camera or data collected by an officer camera, as defined, until January 1, 2023. Agencies may use a mobile fingerprint scanning device during a lawful detention to identify a person who does not have proof of identification if this use is lawful and does not generate or result in the retention of any biometric data or surveillance information.

3. **AB 1600 – Discovery: personnel records: peace officers and custodial officers**

Amends Code of Civil Procedure section 1005, and Evidence Code sections 1043, and 1047. Modifies the timelines for Pitchess motions in criminal and civil cases. Additionally, expands the scope of Pitchess discovery to include a supervisory officer who had direct oversight of a peace officer or a custodial officer, as defined in Section 831.5 of the Penal Code and issued command directives or had command influence over the circumstances at issue, if the peace officer or custodial officer under supervision was present during the arrest, had contact with the party seeking disclosure from the time of the arrest until the time of booking, or was present at the time the conduct at issue is alleged to have occurred within a jail facility.

4. **AB 1638 – Search warrants: vehicle recording devices**

Amends the search warrant provisions of Penal Code section 1524. Authorizes a search warrant to be issued on the grounds that the property or things to be seized are data, from a recording device, as defined, installed by the manufacturer of a motor vehicle, that constitutes evidence that tends to show the commission of a felony or misdemeanor offense involving a motor vehicle, resulting in death or serious bodily injury, as defined, to any person.

5. **SB 192 – Posse comitatus**

Repeals Penal Code sections 150 and 1550, which made it a misdemeanor for an able-bodied person 18 years of age or older to neglect or refuse to aid a uniformed peace officer in making an arrest, retaking into custody a person who has escaped from arrest or imprisonment, or preventing a breach of the peace or the commission of any criminal offense.

6. **SB 230 – Law enforcement: Use of Deadly Force: Training: Policies**
Enacts Government Code section 7286 and Penal Code section 13519.10. Requires that a law enforcement agency shall, by no later than January 1, 2021, maintain a policy that provides a minimum standard on the use of force. Additionally, requires the Commission on Peace officer Standards and Training to implement a course or courses of instruction for the regular and periodic training of law enforcement officers in the use of force, as specified.
7. **SB 233 – Immunity from arrest**
Amends Evidence Code sections 782.1 and 1162, and enacts Penal Code section 647.3. Provides victims or witnesses of serious felonies or specified crimes immunity from arrest for misdemeanor drug or prostitution related offenses at the time of reporting the crime. Possession of condoms in any amount shall not provide a basis for probable cause for arrest for specified prostitution related crimes.
8. **SB 542 – Workers' compensation**
Enacts Labor Code section 3212.1 which applies to certain state and local firefighting personnel and peace officers. For these specified employees, the term “injury” also includes post-traumatic stress that develops or manifests itself during a period in which the injured person is in the service of the department or unit. The bill applies to injuries occurring on or after January 1, 2020 through January 1, 2025.
9. **SB 923 – Criminal Investigations: Eyewitness Identification**
Enacts Penal Code section 859.7, which requires all law enforcement agencies to adopt regulations for conducting photo lineups and live lineups with eyewitnesses, as specified, by January 1, 2020.

Detentions

1. **SB 36 – Pretrial release: risk assessment tools**
Enacts Penal Code section 1320.35, which requires each pretrial services agency that uses a pretrial risk assessment tool to validate the tool by January 1, 2021, and on a regular basis thereafter, but no less frequently than once every 3 years, and to make specified information regarding the tool, including validation studies, publicly available.
2. **AB 45 – Inmates: Medical Care: Fees**
Modifies Penal Code sections 4011.2, 4011.3, 5007.5, 5007.9, and 5008.2 to eliminate fees for inmate medical services or supplies. Requires the department to provide all inmates with information on hepatitis C during the intake process.

Firearms

1. **AB 164 – Firearms: Prohibited Persons**
Expands Penal Code 29825 to apply to a person who is prohibited from purchasing or possessing a firearm in any jurisdiction by a valid order issued by an out-of-state jurisdiction that is similar or equivalent to a temporary restraining order, injunction, or protective order issued in this state, and which includes a prohibition from owning or possessing a firearm.
2. **AB 339 – Gun violence restraining orders: law enforcement procedures**
Enacts Penal Code section 18108, which requires law enforcement agencies to develop and adopt written policies and standards, as described, regarding the use of gun violence restraining orders, on or before January 1, 2021.

3. **AB 1297 – Firearms: Concealed Carry License**
Modifies Penal Code section 26190 to require the local licensing authority to charge the fees for the reasonable costs for processing the application, issuing the license, and enforcing the license, as specified. The bill deletes the prohibition on charging more than \$100 for the fee.

Miscellaneous

1. **SB 22 – Rape kits: testing**
Amends sexual assault kit reporting and testing procedures in Penal Code sections 680, 680.3, and 13823.14. Beginning on January 1, 2020, for all sexual assault forensic evidence received on or after January 1, 2016, a law enforcement agency must either submit sexual assault forensic evidence to a crime lab or ensure that a rapid turnaround DNA program is in place, as specified. The crime lab is required to either process the evidence or transmit the evidence to another crime lab for processing, as specified.
2. **SB 273 – Domestic violence**
Enacts Penal Code section 803.7 which extends the Penal Code section 273.5 statute of limitations to five years. This applies to violations that are committed on or after January 1, 2020, and to crimes for which the statute of limitations that was in effect prior to January 1, 2020, has not elapsed as of January 1, 2020. Additionally, amends the domestic violence training guidelines of Penal Code section 13519.
3. **SB 338 – Senior and disability victimization: law enforcement policies**
Amends Penal Code section 368.5 and Welfare and Institutions Code 15650, and adds Penal Code section 368.6, the Senior and Disability Justice Act. Requires a law enforcement agency that adopts or revises a policy regarding elder and dependent adult abuse or senior and disability victimization on or after April 13, 2021, to include specific information and training, as defined.
4. **SB 978 – Law Enforcement agencies: public records**
Pursuant to Penal Code section 13650, each local law enforcement agency shall conspicuously post on their Internet Web sites by January 1, 2020, all current standards, policies, practices, operating procedures, and education training materials that would otherwise be available to the public pursuant to a California Public Records Act (CPRA) request.
5. **AB 1117 - Peace officers: peer support**
Enacts Government Code sections 8669.1 through 8669.7, the Law Enforcement Peer Support and Crisis Referral Services Program, which authorizes law enforcement agencies to establish a peer support and crisis referral program.
6. **AB 1168 – Emergency services: text to 911**
Amends Government Code section 53112. Public safety answering points are required to deploy a text to 911 service, by January 1, 2021, that is capable of accepting Short Message Service (SMS) messages and Real-Time Text (RTT) messages.
7. **AB 1261 – Controlled substances: narcotics registry**
Removes the narcotics registration requirement by repealing Health and Safety Code sections 11590, 11592, 11593, and 11595, and amending sections 11591, 11591.5, and 1159.

8. **AB 1699 – Telecommunications: mobile internet service providers: first response agencies: emergencies**

Enacts Public Utilities Code section 2898, which authorizes a first response agency to submit a request to a mobile internet service provider to not impair or degrade the lawful internet traffic of an account used by the agency in response to an emergency. Upon receiving such request, the mobile internet service provider shall not impair or degrade the lawful internet traffic of the first response agency's identified account until the earlier of either the account no longer being used by the agency in response to the emergency or the end of the emergency, subject to reasonable network management.

9. **AB 1810 – Transportation: omnibus bill**

In relevant part, the bill amends Vehicle Code sections 12509.5, 12804.9, 23229, and 34621. A person with a valid license or permit of any class may operate a motorized scooter. The bill modifies the ability of passengers in a bus, taxicab, limousine, housecar or camper, or pedicab to consume alcoholic beverages, and prohibits consumption of cannabis. Additionally, the bill allows a motor carrier of property to continue to operate for 30 days past the expiration date of the motor carrier permit, if the motor carrier of property meets specified conditions.

10. **AB 1747 – California Law Enforcement Telecommunications System: immigration**

Amends Government Code section 15160. Prohibits use of information, other than criminal history information, transmitted through the system for immigration enforcement purposes, as specified. Additionally, prohibits use of the system for purposes of investigating violations of Section 1325 of Title 8 of the United States Code, if this violation is the only criminal history in an individual's record. This section does not prohibit or restrict any government entity or official from sending to, or receiving from, federal immigration authorities, information regarding the citizenship or immigration status, lawful or unlawful, of an individual, or from requesting from federal immigration authorities immigration status information, lawful or unlawful, of any individual, or maintaining or exchanging that information with any other federal, state, or local government entity, pursuant to Sections 1373 and 1644 of Title 8 of the United States Code.

Legislative Updates Effective July 1, 2020

11. **AB 1331 – Criminal justice data**

Amends Penal Code sections 13150, 13151, and 13202, to include additional requirements for information reported to the Department of Justice for each arrest made by a law enforcement agency. This includes the CII number and incident report number.

Legislative Updates Effective September 1, 2020

1. **AB 12 – Firearms: gun violence restraining orders**

Amends Penal Code sections 18109, 18120, 18160, 18170, 18175, 18180, 18185, 18190, and 18197. The changes include: a law enforcement officer may file a petition for a gun violence restraining order in the name of the law enforcement agency in which the officer is employed; the renewal of the gun violence restraining order is extended to between one to 5 years, subject to earlier termination or renewal by the court.

2. **AB 61 – Gun violence restraining orders**

Modifies Penal Code sections 18150, 18170, and 18190, to expand the categories of people who may file a petition for the court to issue an ex parte gun violence restraining order.