

ANALYSIS

This ordinance amends Title 2 — Administration to add Section 2.170.020 requiring that the Los Angeles County Sheriff's Department and the Probation Department affirmatively post certain public records relating to officer misconduct on a publicly accessible website.

Very truly yours,

RODRIGO A. CASTRO-SILVA
County Counsel

By



ALEXANDRA B. ZUIDERWEG
Senior Deputy County Counsel
Board Liaison Division

ABZ:eg

Requested: 2/18/2022

Revised: 2/24/2022

ORDINANCE NO. 2022-0011

An ordinance amending Title 2 – Administration of the Los Angeles County Code, relating to the release of certain Probation Department and Sheriff's Department peace officer personnel records.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 2.170.020 is hereby added to read as follows:

2.170.020 Records of County Agencies Employing Peace Officers

A. For purposes of this section, the following definitions apply, whether used in the singular or plural:

1. "County Department" means the Los Angeles County Sheriff's Department and/or the Probation Department.

2. "Creation" of a Record means that the Record is in its final form, and will no longer be revised.

3. "Decisional Records" are a subset of Records as defined below and specifically mean:

a. The investigative summary of Sheriff's Department Internal Affairs Bureau investigations, the related letter of imposition, and, if available, settlement agreement, or any similar form, report, or summary created in the future.

b. The Sheriff's Department Officer-Involved Shooting Form (SH-R-438A), Supervisor's Report on Use of Force (SH-R-438P), investigative summary relating to the officer-involved shooting, Executive Force Review Committee Findings

Memo, the related letter of imposition (if applicable), and settlement agreement (if applicable), or any similar form, report, or summary created in the future.

c. Los Angeles County Medical Examiner-Coroner's Report relating to any Sheriff's Department deputy-involved shooting or Probation Department officer-involved shooting.

d. Video footage from at least one deputy's body-worn camera (if available) for the two minutes before and after a Sheriff's Department deputy-involved shooting.

e. The Sheriff's Department Supervisor's Report on Use of Force (SH-R-438P), investigative summary relating to the use of force, Executive Force Review Committee Findings Memo, the related letter of imposition (if applicable), and settlement agreement (if applicable), or any similar form, report, or summary created in the future.

f. The Probation Department Internal Affairs Bureau investigation report and the related letter of imposition (if applicable), or any similar form, report, or summary created in the future.

4. "Peace officers" means individuals defined as peace officers under California State law.

5. "Custodial officers" means individuals defined as custodial officers under California State law.

6. "Records" means non-confidential peace officer and custodial officer personnel records and other records relating to criminal and administrative

investigations into the conduct of peace officers or custodial officers subject to release under the California Public Records Act, as described in California Penal Code section 832.7.

B. County Departments must publish their Decisional Records on a publicly-accessible website within 30 days of the Creation of the Records.

C. County Departments must publish their Records produced in response to a California Public Records Act request on a publicly-accessible website within 30 days after the County Department produces the Records to the requester.

D. This section does not prohibit a County Department from publishing Records that have not been requested under the California Public Records Act, or prohibit a County Department from providing greater public access to Records.

E. County Departments that have the appropriate technological and operational means to do so must publish Records referenced in subsections B. and C. in a manner that is searchable and indexed to display the following information, if applicable:

1. The date on which the underlying incident occurred;
2. The name of the peace officer or custodial officer involved;
3. The type of force used;
4. The policy or policies the County Department determined was or were violated; and
5. The discipline imposed.

F. County Departments may redact, withhold, or delay the production of Records as permitted by law.

1. If Decisional Records are temporarily or permanently withheld beyond the time period permitted by subsection B., the County Department must, within 30 days of the Record's Creation, publish on a publicly-accessible website the legal justification for withholding the Decisional Records. For Decisional Records temporarily withheld, the County Department must, within 60 days after the Decisional Record's Creation, and in 180-day intervals thereafter, assess whether the legal justification for withholding the Decisional Records still applies. If the County Department determines that the Decisional Records should continue to be withheld, the County Department must update the website with the legal justification for continuing to delay disclosure, along with an updated estimated date of disclosure. Decisional Records in existence must be disclosed no later than 18 months after the date of the incident to which they relate, unless extraordinary circumstances warrant continued delay, criminal charges are filed, or some other legal justification exists to withhold disclosure as set forth in California Penal Code section 832.7. Decisional Records created more than 18 months after the incident to which they relate must be disclosed within 30 days of their Creation, unless some other legal justification exists to continue to withhold the Decisional Records. County Departments that have the appropriate technological and operational means to do so must publish the justification for delaying disclosure or withholding Decisional Records in a manner that is searchable and indexed to display, if applicable, the date on which the underlying incident occurred and the type of force used.

2. If Decisional Records are posted in redacted form and the County Department has the appropriate technological and operational means to do so, the County Department must also identify the legal basis for the redaction(s) on the publicly-accessible website.

G. When a County Department peace officer discharges a firearm at another person, the County Department for which that peace officer works must publish the name of the peace officer within 48 hours of the firearm discharge, unless the County Department can make a particularized showing that delayed publication is essential to protect the peace officer's safety. Such showing must be particularized to the specific officer (as opposed to all officers) and must establish that the interest in protecting the peace officer's safety outweighs the public's interest in disclosure of the peace officer's identity.

H. This ordinance applies to Decisional Records Created and California Public Records Act requests received 60 days after the operative date of this ordinance.

I. This ordinance becomes operative once the funds are appropriated to fully staff the Office of the County Counsel to fulfill the Departments' obligations under this section and the Office of the County Counsel obtains the required access to the Departments' records.

[2170020AZCC]

SECTION 2 This ordinance shall be published in The Daily Commerce a newspaper printed and published in the County of Los Angeles.



Chair

ATTEST:

Celia Zavala
Executive Officer -
Clerk of the Board of Supervisors
County of Los Angeles

I hereby certify that at its meeting of March 15, 2022 the foregoing ordinance was adopted by the Board of Supervisors of said County of Los Angeles by the following vote, to wit:

Ayes

Noes

Supervisors Hilda L. Solis
Holly J. Mitchell
Sheila Kuehl
Janice Hahn

Supervisor Kathryn Barger

Effective Date: April 14, 2022

~~Operative Date:~~ _____

Celia Zavala
Executive Officer -
Clerk of the Board of Supervisors
County of Los Angeles

APPROVED AS TO FORM:
RODRIGO A. CASTRO-SILVA
County Counsel



By _____
Dawyn Harrison
Chief Deputy County Counsel