



County of Los Angeles CHIEF EXECUTIVE OFFICE

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FESIA A. DAVENPORT
Chief Executive Officer

June 27, 2022

To: Supervisor Holly J. Mitchell, Chair
Supervisor Hilda L. Solis
Supervisor Sheila Kuehl
Supervisor Janice Hahn
Supervisor Kathryn Barger

From: Fesia A. Davenport
Chief Executive Officer

Board of Supervisors
HILDA L. SOLIS
First District

HOLLY J. MITCHELL
Second District

SHEILA KUEHL
Third District

JANICE HAHN
Fourth District

KATHRYN BARGER
Fifth District

REPORT BACK ON MEETING THE SHERIFF'S DEPARTMENT OBLIGATIONS UNDER SENATE BILL (SB) 1421 (ITEM NO. 13, AGENDA OF FEBRUARY 15, 2022)

On February 15, 2022, the Board of Supervisors (Board) adopted a motion directing the Chief Executive Officer (CEO), in consultation with County Counsel and other relevant stakeholders, to report back in writing during the FY 2022-23 Final Changes Budget with the appropriate staffing positions and a funding plan to begin the implementation of a unit within County Counsel tasked with processing SB 1421-related California Public Records Act (CPRA) requests.

Background

Increasing the public's access to law enforcement records on use of force and alleged misconduct is increasingly considered vital to strengthening and preserving public trust. In response to this compelling public interest, the State of California has taken steps to increase access to records maintained by law enforcement agencies. Effective January 1, 2019, SB 1421 and its companion law, Assembly Bill (AB) 748, effective July 1, 2019, made certain categories of previously confidential peace officer personnel records and audio/video records of a "critical incident," such as an officer-involved shooting, available to the public under the CPRA. On January 1, 2022, SB 16 went into effect and provided public access to additional categories of previously confidential records. Attachment I summarizes information regarding SB 1421, AB 748, and SB 16.

On March 15, 2022, the Board adopted an ordinance (Attachment II) to govern the processing of SB 1421 requests as directed by your Board on May 18, 2021. The ordinance requires the Sheriff (LASD) and Probation Department (Probation) to *proactively* post records subject to release under SB 1421 and AB 748 within 30 days of a record's creation on a publicly accessible website. Conversely, SB 1421 records are typically *not released* unless prompted

by a request under the CPRA from a member of the public. Given the time and labor required to release complete, voluminous investigatory files, the ordinance limits the proactive posting requirement to decisional records (identified in the ordinance) to prioritize the rapid disclosure of the subset of records that summarize the incident, the investigation's findings, and discipline imposed, if any, to the public. The inclusion of proactive posting significantly increases the staffing requirement in all affected departments; however, no additional funding was provided by the State to meet these new requirements.

Phased-In Staffing Plan Recommendations

The County faces increased responsibility for making law enforcement records available to the public. In response to your Board's directive, the CEO and County Counsel have developed a phased-in staffing plan to establish a new, dedicated CPRA unit to handle both proactive and reactive processes (Attachment III). The recommended two-phased approach establishes a manageable set of responsibilities by providing sufficient staffing to allow County Counsel to begin to implement both processes in Phase I, with a ramp up to full capacity once Phase II resources are allocated. In addition, the two-phased approach attempts to align anticipated County Counsel capacity to staffing levels to ensure the unit is not tasked with handling more requests than its phased-in staffing levels will allow. In the interim, LASD will continue to process existing SB 1421 records requests, pursuant to their current practice, until the County Counsel CPRA unit is fully staffed.

Phase I, recommended in the FY 2022-23 Final Changes Budget, provides funding for 13.0 legal and 5.0 technology positions in County Counsel, technology software, licenses/subscriptions, and laptops, for the creation of the CPRA unit. Phase I staffing primarily includes positions required to establish the new unit and a management team to create policies, procedures, and a dedicated CPRA software system. Phase I staffing also includes the addition of 11.0 positions in LASD and 3.0 positions in Probation to process existing SB 1421 records' requests (backlog) and to provide direct support to the CPRA unit. Attachment IV identifies all SB 1421 position requests and CEO FY 2022-23 Final Changes recommendations.

Phase II represents the scaling up to full program capacity and includes 50.0 paralegal and 3.0 administrative positions in County Counsel and 7.0 positions in LASD. Leading into FY 2022-23 Supplemental Changes, CEO will assess all aspects of Phase I implementation, including the hiring status of all positions allocated in FY 2022-23 Final Changes and the status of the CPRA software system, to determine when additional resources are required to launch Phase II. Finally, to successfully implement a County Counsel-led SB 1421 program, LASD must grant County Counsel staff full access to systems containing sensitive information for the review and potential redaction of SB 1421 records.

Funding Plan Recommendations

As previously indicated, the FY 2022-23 Final Changes Budget includes positions and funding for Phase I to establish a new, dedicated CPRA unit. Consistent with the County’s central service billing model, County Counsel will bill LASD and Probation for all CPRA services provided to allow for the accurate accounting of full operating costs within the CPRA program and to provide for better tools in financial reporting and budgeting. LASD and Probation will receive funding to reimburse County Counsel for these services.

The following table identifies Phase I positions and net County cost (NCC) funding recommended in the FY 2022-23 Final Changes Budget:

Department	Net County Cost Funding (millions)			Positions
	Ongoing	One-time	Total	
County Counsel	\$0 ^[1]	\$0 ^[4]	\$0	18.0
LASD	\$6.4 ^[2]	\$0.1	\$6.5	11.0
Probation	\$0.7 ^[3]	\$0.007	\$0.7	3.0

[1] County Counsel will bill LASD and Probation for all costs incurred (no NCC impact).
 [2] Includes County Counsel’s billing cost of \$3.9 million (M) + \$2.5M for 11.0 LASD positions.
 [3] Includes County Counsel’s billing cost of \$0.2M + \$0.5M for 3.0 Probation positions.
 [4] County Counsel will receive \$0.3M one-time AFB in the June 2022 FY 2021-22 Mid-Year Budget Adjustment for CPRA Software System startup.

Phase II resources will be subject to countywide funding availability and is currently estimated at \$13.4 million NCC (\$10.9 million ongoing plus \$2.5 million one-time) for 53.0 positions in County Counsel, 7.0 positions in LASD, and outside legal services to further address the current LASD backlog. The CEO will continue to work with the departments to identify program efficiencies and further refine these estimates. As previously indicated, CEO will assess Phase I implementation status leading into FY 2022-23 Supplemental Changes to determine when additional resources are required to launch Phase II. In the event the departments are not ready to proceed to Phase II, positions can be temporarily added mid-year in FY 2022-23 and funding can be allocated during the CEO’s FY 2022-23 mid-year budget adjustment, which is scheduled for February 2023. Subsequently, ongoing funding will be evaluated to each respective department’s base budget during the next appropriate FY 2023-24 budget phase.

Implementation Plan For Searchable Database Of SB 1421 Records

In accordance with the CPRA ordinance approved by the Board on March 15, 2022, and direction provided by the Board on February 15, 2022, County Counsel’s Technology and Business Solutions (TBS) and their legal team have conducted feasibility research and solicited various CPRA application and video/image redaction software vendors and concluded that GovQA’s CPRA platform and CaseGuard will meet the business requirements in order to transition SB 1421 compliance efforts from LASD and Probation to County Counsel, manage SB 1421 CPRA requests, and produce the desired results.

Each Supervisor
June 27, 2022
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Upon the Board's approval of Phase I staffing and funding, County Counsel's TBS will initiate the purchasing process for GovQA, CaseGuard, and data storage unit to manage and tag all raw data collected from LASD and Probation systems related to SB 1421 requests. The technology implementation plan for SB 1421 includes the purchase of GovQA and CaseGuard software, the review and validation of the technical aspects of the platforms, and configuration of secure network infrastructure to access information across various County networks and data storage.

A Project Manager will work with SB 1421 project stakeholders (County Counsel, LASD, and Probation) to develop the project plan, Business Requirement Document (BRD), and timeline, once all the mission critical project team members have been identified. Project milestone reviews will take place to ensure implementation is on track and on schedule specific to the BRD. Once GovQA software development is completed and CaseGuard redaction process is in place, user acceptance testing will take place followed by user training for each stakeholder department, and initialize customer support through County Counsel's service desk. The Project Team will seek final sign-off from stakeholder departments and select a Go-Live date for the County's public-facing SB 1421 searchable website.

Should you have any questions concerning this matter, please contact me or Sheila Williams at (213) 974-1155 or swilliams@ceo.lacounty.gov.

FAD:JMN:MM
SW:AB:JD:ae

Attachments

c: Executive Office, Board of Supervisors
County Counsel
Sheriff
Probation

SB 1421, AB 748, and SB 16 Definitions

SB 1421—Disclosure of Peace Officer Records

SB 1421 became effective on January 1, 2019, and made certain categories of peace officer personnel records available to the public under the CPRA, including the following:

- **Discharge of a firearm:** Records relating to the report, investigation, or findings of an incident involving the discharge of a firearm at a person by a peace officer or custodial officer.
- **Use of force:** Records relating to the report, investigation, or findings of an incident in which the use of force by a peace officer or custodial officer against a person results in death or great bodily injury.
- **Sustained finding of sexual assault:** 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.
- **Sustained finding of dishonesty:** 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 report, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer.

AB 748—Disclosure of Video and Audio

AB 748 became effective July 1, 2019, and requires law enforcement agencies to produce, in response to CPRA requests, video and audio recordings of a use of force resulting in death or great bodily injury and shootings. Like SB 1421, AB 748 contains deadlines and notification provisions. It states that production of responsive recordings may be delayed under the following timeline:

- **Up to 45 days:** The public agency must provide the requester, in writing, the specific basis for the agency's determination that disclosure would substantially interfere with the investigation of the shooting or use of force and the estimated date for disclosure.
- **45 days up to one year:** The public agency may continue to delay disclosure if the agency "demonstrates" that disclosure would substantially interfere with the investigation. The agency must reassess the withholding and notify the requester every 30 days.
- **Over one year:** The public agency may continue to delay disclosure only if the agency "demonstrates by clear and convincing evidence" that disclosure would substantially interfere with the investigation. The agency must reassess the withholding and notify the requester every 30 days.

SB16— Disclosure of Additional Personnel Officer Records

SB16 became effective January 1, 2022, provides that the public may access files related to officers who have engaged in biased or discriminatory behavior, conducted unlawful arrests or searches, used force that is excessive or unreasonable, or failed to intervene when another officer used unreasonable or excessive force; mandates that records be released if an officer quits before a misconduct investigation has been completed; abolishes the rule that allows law enforcement agencies to destroy personnel records five years after an officer has left the agency if there is a sustained finding of misconduct; requires law enforcement agencies, before hiring a candidate who has prior law enforcement experience, to review that officer's prior history of complaints, disciplinary hearings, and uses of force; and mandates that records be made public no later than 45 days from the date of the request for their release. SB 16 was supported by the County.



COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL

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RODRIGO A. CASTRO-SILVA
County Counsel

February 25, 2022

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The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Agenda No. 13
02/15/22

**Re: Ordinance Requiring the Proactive Release of
Non-Confidential Peace Officer Personnel Files**

Dear Supervisors:

On May 18, 2021, your Board directed County Counsel, in consultation with the Office of Inspector General ("OIG"), to submit a proposed ordinance requiring County Departments that employ peace officers to affirmatively post non-confidential peace officer personnel records under Senate Bill ("SB") 1421. On February 15, 2022, your Board directed County Counsel to submit the final ordinance to govern the processing of SB 1421 requests (as directed in the May 18, 2021 Board Agenda No. 19) to the Board for its consideration during the regularly scheduled meeting on March 1, 2022.

Enclosed is the ordinance for your consideration. If adopted, this ordinance will require the Probation Department and the Sheriff's Department ("Departments") to:


1. Proactively post non-confidential peace officer personnel files subject to disclosure under SB 1421 on a publicly accessible website;
2. Publish the legal justification for temporarily or permanently withholding records on a publicly accessible website and update the website in specified intervals; and
3. Release the names of an officer who discharges a firearm at another person within 48 hours of the firearm discharge, unless the Department can make a particularized showing that delayed publication is essential to protect the peace officer's safety.

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


If you have any questions concerning this matter, please contact Senior Assistant County Counsels Margaret Carter at (213) 972-5794 or Jason Gonzalez at (213) 974-1975, Assistant County Counsels Liliana Campos at (213) 972-5723 or Elizabeth Miller at (213) 972-5768, Senior Deputy County Counsel Alexandra Zuiderweg at (213) 974-0995, or Deputy County Counsel Roderick Sasis at (213) 972-5768.

Very truly yours,

RODRIGO A. CASTRO-SILVA
County Counsel

By 
ALEXANDRA B. ZUIDERWEG
Senior Deputy County Counsel
Board Liaison Division

APPROVED AND RELEASED:


RODRIGO A. CASTRO-SILVA
County Counsel

ABZ:eg

Enclosure

c: Honorable Alex Villanueva, Sheriff
Fesia A. Davenport, Chief Executive Officer
Celia Zavala, Executive Officer, Board of Supervisors
Dr. Adolfo Gonzales, Chief Probation Officer
Max Huntsman, Inspector General, Office of Inspector General

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. _____

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.

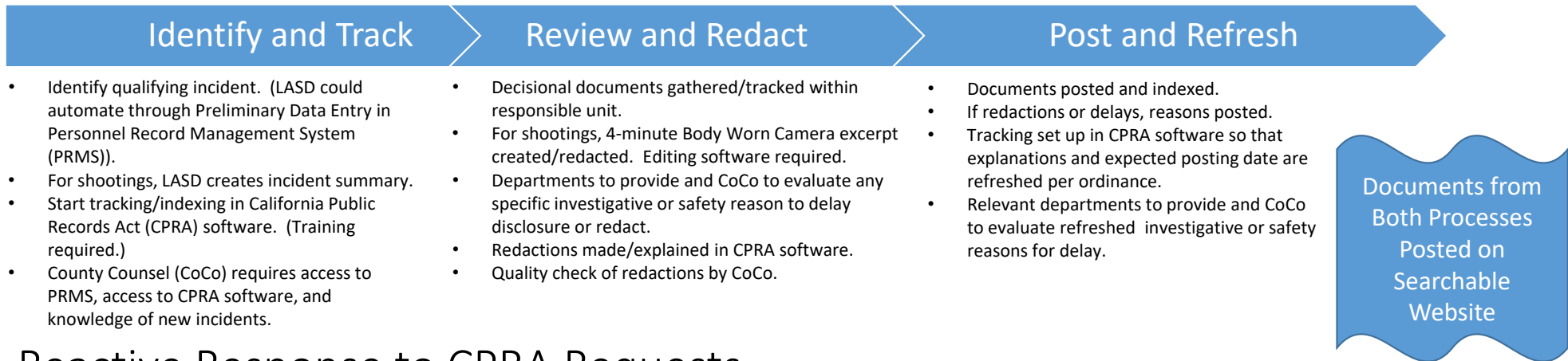
G. When a County Department peace officer discharges a firearm at another person, the County Department for which that peace officer works must publish the name of the peace officer within 48 hours of the firearm discharge, unless the County Department can make a particularized showing that delayed publication 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.

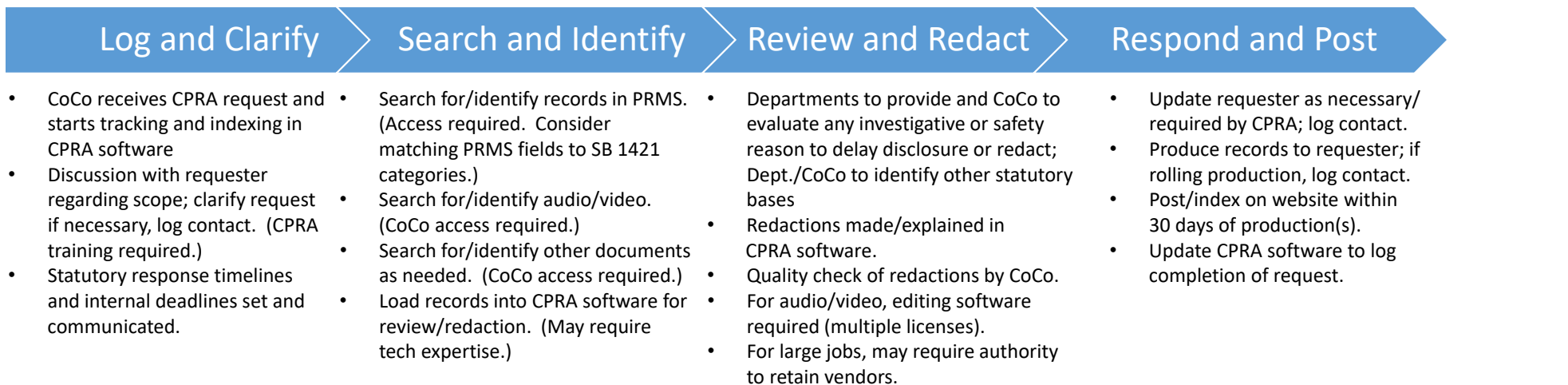
I. This ordinance becomes operative once the funds are appropriated to fully staff the Office of the County Counsel to fulfill the Departments' obligations under this section and the Office of the County Counsel obtains the required access to the Departments' records.

[2170020AZCC]

Proactive Posting of Decisional Documents



Reactive Response to CPRA Requests



SB 1421 Position Requests

Phase I: 22-23 Final Changes

County Council (19.0 Requested/18.0 Approved/1.0 Denied)

#	Position Requested	CEO Recommendation
1.0	Assistant County Counsel	Approved As Requested
1.0	Senior Secretary V	Approved As Requested
2.0	Supervising Paralegal	Approved As Requested
2.0	Senior Deputy County Counsel	Approved As Requested
5.0	Senior Paralegal	Approved As Requested
1.0	Supervising Legal Office Support Asst	Sr Legal Office Support Asst ^[1]
1.0	Legal Office Support Assistant I	Approved As Requested
1.0	Sr Network Systems Administrator	Approved As Requested
1.0	Principal Application Developer	Approved As Requested
2.0	Senior It Technical Support Analyst	Approved As Requested
1.0	Info Tech Business Analyst I	Approved As Requested
1.0	Management Analyst	Deferred to SC ^[2]

[1] Duties more consistent with Senior vs Supervisor.

[2] Additional justification/analysis required.

Sheriff (18.0 Requested/11.0 Approved/7.0 Deferred to Supplemental Changes)

#	Position Requested	CEO Recommendation
1.0	Lieutenant	Approved As Requested
11.0	Sergeant	Approved 5.0/Deferred remaining 6.0 to SC
5.0	Operations Asst II	Approved 4.0/Deferred remaining 1.0 to SC
1.0	Operations Assistant I	Approved As Requested

Probation (3.0 Requested/3.0 Approved)

#	Position Requested	CEO Recommendation
2.0	Administrative Services Manager I	Approved As Requested
1.0	Intermediate Typist Clerk	Approved As Requested

Phase II: 22-23 Supplemental Changes

County Council (53.0 Requested)

#	Position Requested	CEO Recommendation
50.0	Paralegal	TBD
1.0	Intermediate Typist-Clerk	TBD
1.0	Administrative Services Manager I	TBD
1.0	Management Analyst	TBD

Sheriff (7.0 Deferred to Supplemental Changes)

#	Position Requested	CEO Recommendation
6.0	Sergeant	TBD
1.0	Operations Asst II	TBD