



Santa Clara Police Department
Legal Update 2022

**NEW LAWS TAKING EFFECT IN 2022:
Major provisions of Legislation Impacting Law Enforcement**

This is a summary of the new laws. Please refer to the full legislative text for additional information

Assembly Bill 953 (Weber) - Racial and Identity Profiling Act of 2015:

Santa Clara PD will be in the final wave of RIPA implementation. All detentions must be captured statistically.

Assembly Bill 26 (Holden) - Duty to intercede:

1. Defines "intercede" for purposes of UOF policies so that it *"includes, but is not limited to, physically stopping the excessive use of force, recording the excessive force, if equipped with a body-worn camera, and documenting efforts to intervene, efforts to deescalate the offending officer's excessive use of force, and confronting the offending officer about the excessive force during the use of force and, if the officer continues, reporting to dispatch or the watch commander on duty and stating the offending officer's name, unit, location, time, and situation, in order to establish a duty for that officer to intervene."*
2. Requires UOF policies to include requirements that officer *"immediately"* report potential excessive force.
3. Procedures to prohibit an officer from training other officers for a period of at least three years from the date an "abuse of force" complaint against the officer is substantiated.
4. A requirement that an officer who has received all required training on the requirement to intercede and fails to act, be disciplined up to and including in the same manner as the officer who committed the excessive force.
5. Prohibits retaliation against an officer who reports a suspected violation of a law or regulation by another officer, to a supervisor or other person at the agency that has the authority to investigate the violation.

Assembly Bill 48 (Gonzalez) - Less lethal force during protests/demonstrations:

1. Limits the use of kinetic-energy projectiles.
2. Reporting requirements
 - a. Monthly UOF reporting requirements to comport to FBI requirements.
 - b. After action report on each qualified incident. The only information required to be

reported is listed in the bill, and *"only information known to the agency and only the following ..."*

3. Use of force standard for less lethal, which includes bringing *"an objectively dangerous and unlawful situation safely and effectively under control."*
4. Sets minimum operational requirements for use of less lethal.

Assembly Bill 481 (Chui) - Military equipment funding, acquisition, and use:

1. Requires all municipal agencies to get a military equipment use policy approved by their local governing body.
2. Agencies must begin the approval process by My 1, 2022.
3. Defines *"military equipment"* with a finite list.

Assembly Bill 490 (Gipson) - Positional asphyxia:

1. States that, *"A law enforcement agency shall not authorize techniques or transport methods that involve a substantial risk of positional asphyxia."*
2. Defines positional asphyxias as *"situating a person in a manner that compresses their airway and reduces the ability to sustain adequate breathing. This includes, without limitation, the use of any physical restraint that causes a person's respiratory airway to be compressed or impairs the person's breathing or respiratory capacity, including any action in which pressure or body weight is unreasonably applied against a restrained person's neck, torso, or back, or positioning a restrained person without reasonable monitoring for signs of asphyxia."*

Senate Bill 2 (Bradford) - Decertification:

1. Establishes process to decertify officers for serious misconduct.

Senate Bill 16 (Skinner) - Release of police personnel files:

1. Expands SB 1421 to include the following:
 - a. Sustained findings of unreasonable or excessive force.
 - b. Sustained finding of failure to intervene
 - c. Sustained findings of bias.
 - d. Sustained finding of unlawful arrest/search.
2. Delayed implementation until January 1, 2023.

Senate Bill 98 (McGuire) - Media access during protests/demonstrations:

1. Prohibits law enforcement from obstructing or interfering with media during protests and demonstrations.
2. Prohibits law enforcement from citing media for failure to disperse or PC148.
3. Provides that if peace officers close the area surrounding a command post, or establish a police line or rolling closure at a demonstration, march, protest or rally where people are engaging in activity protected by the First Amendment, a duly authorized representative of any news service, online news service, newspaper, or radio or television station or network **may enter** the closed area

Penal Codes:

PC 262 – Spousal Rape

Repealed in its entirety and incorporates rape of a spouse into the various subdivisions of PC 261, except PC 261(a)(1) – Raping a person who is incapable of giving legal consent because of mental disorder or developmental or physical disability.

PC 409.5 – Unauthorized Entry Into a Closed Emergency Area (Think mutual aid for areas affected by fires or flood).

A person holding a valid livestock pass ID/document shall not be prevented from entering areas closed during a disaster, unless a peace officer finds that the disaster is of such a nature that it would be unsafe to enter or that person would interfere with the disaster response.

PC 422.56 – Hate Crime

Ammended to clarify that “immigration status” is included in the “nationality” for purposes of hate crimes. “Nationality” means country of origin, immigration status including citizenship and national origin.

PC 487m – Intentional Theft of Wages

New felony crime of intentional theft of wages in an amount greater than \$950 from one employee, or \$2350 in the aggregate from two or more employees, by an employer in any consecutive 12-month period.