



2019 Legislative Update

AB 1948: Interception of electronic communications

Summary: Adds fentanyl to the list of controlled substances for which interception of wire or electronic communications may be ordered.

Highlights: Allows a judge to issue an order authorizing the interception of wire or electronic communications where there is probable cause to believe that an individual is committing, has committed, or is about to commit a specified offense related to importing, possessing for sale, transporting, manufacturing or selling fentanyl.

How the Bill impacts SFPD: Provides a tool for the investigation and enforcement of crimes related to fentanyl trafficking. Potential significant costs as a result of performing electronic communication interception for fentanyl commerce crimes.

AB 2020: Cannabis: local jurisdiction licensees: temporary event license

Summary: Would authorize the Bureau of Cannabis Control to issue a temporary state license to provide on-site sales and consumption of cannabis at a temporary event located at a fair ground, district agricultural association event or at another venue expressly approved by a local jurisdiction.

How the Bill impacts SFPD: Enforcement at such events

AB 2256: Law enforcement agencies: opioid antagonist

Summary: Authorizes a pharmacy or wholesaler to furnish naloxone hydrochloride (naloxone) or another opioid antagonist to law enforcement agencies under the following conditions; Furnished exclusively for use by the employees of the law enforcement agency who have completed training provided by the law enforcement agency and records regarding the acquisition and disposition shall be maintained for a period of three years.

How the Bill impacts SFPD: Resource awareness

AB 2914: Cannabis in alcoholic beverages

Summary: Prohibits an alcoholic beverage licensee from selling, offering or providing cannabis or cannabis products, including the sale of an alcoholic beverage that contains cannabis and clarifies existing law banning alcoholic beverages containing tetrahydrocannabinol or cannabinoids, regardless of source.

How the Bill impacts SFPD: Enforcement

AB 324: Crimes: disorderly conduct

Summary: Defines “identifiable” for the crimes of using a camera or similar device to photograph or record an identifiable person under or through their clothing, for the purpose of viewing their body or undergarments, for the purpose of sexual gratification, or to record an identifiable person who is in a state of full or partial undress in an area in which they have a reasonable expectation of privacy, without their consent.

How the Bill impacts SFPD: Officers would need to ensure that the victim in the photograph meets the new definition of “identifiable” for the crime to be complete. By needing to prove that the person in the photograph could be identified or recognized by anyone (including themselves), the officer needs to document what factors in the photograph or video lead them to believe the victim would be recognizable or identifiable.

AB 2099: Mental health: detention and evaluation

Summary: Requires a copy of the application required under existing law that states the circumstances under which a person’s condition was called to the attention of an authorized person to place a 5150 hold to be treated as the original.

How the bill impacts SFPD: Some hospitals and mental health facilities maintain that an original signature is required for a 5150 hold to be valid, resulting in numerous instances in which patients have been refused treatment for having arrived with paperwork that does not have an original signature.

AB 2717: Driving under the influence: blood tests

Summary: Modifies California law regarding the refusal to submit to a test of blood alcohol when a person is suspected of driving under the influence (DUI) to attempt to comply with the United States Supreme Court ruling in Birchfield v. North Dakota (2016) 136 S. Ct. 2160, by deleting the criminal penalty for refusing to submit to a blood test.

VC 23612(a)(1)(D)- Modifies the admonition a police officer gives an individual arrested for DUI to require the officer state that an individual’s failure to submit to, or the failure to complete the requires breath or urine testing will result in a fine and mandatory imprisonment if the person is convicted of a violation of DUI. Also modifies the admonition a police officer gives an individual arrested for DUI to require that the officer state that an individual’s failure to submit to or the failure to complete the required breath, blood or urine tests will result in the administrative suspension by the department of the person’s privilege to operate a motor vehicle for specified periods of time.

How bill impacts SFPD: DUI admonition modified

AB 2801: Crimes: memorials: veterans and law enforcement

Summary: Provides a cross-reference to the Military and Veterans Code provision related to vandalism of veterans' memorials in the Penal Code provision related to vandalism of law enforcement and firefighter memorials.

How bill impacts SFPD: Enforcement. PC 621(a) every person who maliciously destroys, cuts, breaks, mutilates, effaces or otherwise injures, tears down or removes any law enforcement memorial or firefighter's memorial is guilty of a crime.

SB 1437: Accomplice liability for felony murder

Summary: Limits liability for individuals based on a theory of first or second degree felony murder.

How bill impacts SFPD: No immediate impact to operations but expectation of murder participants back in communities earlier than previously sentenced.

DATA/RECORDS

AB 3118: Sexual assault investigations

Summary: Requires law enforcement agency, crime lab, medical facility or any other facility that possesses sexual assault evidence kits to conduct an audit of all untested kits in their possession and report the findings to the DOJ by July 1, 2019.

How bill impacts SFPD: SFPD Crime Lab required to report to DOJ the total number of untested kits in their possession and for each kit, whether or not the assault had been reported to a law enforcement agency, the date the kit was collected, the date a law enforcement agency picked the kit up, for each agency which has taken custody of the kit, the date the kit was delivered to a crime lab and the reason the kit has not been tested.

FIREARMS

AB 1968: Mental health: firearms

Summary: Beginning January 1, 2020, requires that a person who has been taken into custody, assessed and admitted to a designated facility because he or she is a danger to himself, herself or others, as a result of a mental health disorder more than once within a one-year period be prohibited from owning a firearm for the remainder of their life, subject to the right to challenge the prohibition at periodic hearings.

How Bill impacts SFPD: Firearms returns by SFPD

AB 2176: Firearms

Summary: Imposes receipt requirements for deadly weapons taken by officers

How Bill impacts SFPD: Officers who take custody of a firearm or other deadly weapon shall include the name and residential mailing address of the person who possessed the firearm or other deadly weapon.

AB 2222: Crime prevention and investigation: informational databases: firearms

Summary: Requires all law enforcement agencies to report to the DOJ information about each firearm reported lost, stolen or recovered and requires the DOJ to submit a report to the legislature outlining law enforcement agency compliance with the new reporting requirement.

How Bill impacts SFPD: SFPD must comply with new reporting requirement.

AB 3129: Firearms: prohibited persons

Summary: Prohibits a person who is convicted on or after January 1, 2019 of misdemeanor domestic violence offense that currently results in a 10 year prohibition against possessing a firearm, from possessing a firearm for life.

How Bill impacts SFPD: No effect to operations. Knowledge of new prohibition required.

SB 1200: Firearms: gun violence restraining orders

Summary: Makes various changes to existing laws related to gun violence restraining orders (GVROs).

How Bill impacts SFPD: Requires officer serving a GVRO to verbally ask the restrained person if he or she has any firearm, firearm part of component, ammunition or magazine in his or her possession or under his or her custody or control.

SB 1382: Firearms: vehicle storage

Summary: Permits the leaving of a handgun in an unattended vehicle if the handgun is locked in a tool box or utility box and defines a locked box as: "a fully enclosed container that is permanently affixed to the bed of a pickup truck or vehicle that does not have a trunk and is locked by a padlock, key lock, combination lock or other similar locking device."

How Bill impacts SFPD: Off-duty officers gun storage

JUVENILES

AB 1584: Criminal law: DNA collection: minors

Summary: Law enforcement shall not request a voluntary DNA sample be collected directly from a minor, without first obtaining written consent from the minor and the minor's parent or legal guardian or attorney representing the minor.

How Bill impacts SFPD: DNA collection policy

SB 439: Jurisdiction of juvenile court

Summary: Established 12 years of age as the minimum age for which the juvenile court has jurisdiction and may adjudge a person a ward of the court.

How Bill impacts SFPD: A minor under 12 who is alleged to have committed specified violent felonies, including murder and rape by force, is within the jurisdiction of the juvenile court. On or after January 1, 2020, a minor under the age of 12 must be released to his or her parent, guardian or caregiver if the minor comes to the attention of law enforcement because his or her conduct constitutes a crime or status offense.

LOCAL POLICIES

AB 1985: Hate crimes: law enforcement policies

Summary: Provides that local law enforcement agencies must include certain requirements and definitions into a hate crimes policy manual if they decide to adopt or update a hate crimes policy manual.

How Bill impacts SFPD: New policy requirements

SB 923: Criminal investigations: eyewitness identification

Summary: Requires all law enforcement agencies and prosecutorial entities to adopt regulations for conducting photo lineups and live lineups with eyewitnesses.

How Bill impacts SFPD: Creating/updating official policy for photo lineups

SB 1191: Crimes: elder and dependent adult abuse: investigations

Summary: Requires local law enforcement to revise their policy manuals by July 1, 2019 to include references to existing elder and dependent adult abuse laws.

How Bill impacts SFPD: Policy manual requirements

MISCELLANEOUS

AB 1993: Secondhand goods: tangible personal property: dealers

Summary: Revises the current hold requirement from 30 days to 7 days for a secondhand dealer and coin dealer to hold tangible personal property prior to selling the property and additionally authorizes the secondhand dealer to sell the property after 5 days, if specific information is collected. The time limits regarding firearms does not change.

How Bill impacts SFPD: Allows less time to investigate potential stolen property before second hand dealers are able to sell it.

PUBLIC RECORDS

AB 748: Peace officers: video and audio recordings of a critical incident

Summary: Beginning July 1, 2019, establishes a standard for the release of body-worn camera footage by balancing privacy interests with the public's interest in the footage. This bill would allow a video or audio recording that relates to a critical incident to be withheld for 45 calendar days if disclosure would substantially interfere with an active investigation, subject to extensions

How Bill impacts SFPD: Policy development required.

SB 978: Law enforcement agencies: public records

Summary: Requires, commencing January 1, 2020, POST and each local law enforcement agency to conspicuously post on their websites all current standards, policies, practices, operating procedures and education and training materials that would otherwise be available if a request was made pursuant to the California Public Records Act (CPRA).

How Bill impacts SFPD: Requires website update

SB 1421: Peace officers: release of records

Summary: Permits the inspection of specified peace and custodial officer records relating to specified incidents, complaints, and investigations involving peace officers pursuant to the California Public Records Act (CPRA). The bill would require records to be redacted to remove personal data or information, such as a home address, telephone number, or identities of family members.

How Bill impacts SFPD: Policy development required. There are several court cases pending regarding how far back (retroactively) records must be released.

SEARCH & SEIZURE

AB 2876: Vehicles: removal and impound authority

Summary: Clarifies that the protections against unreasonable seizures provided by the Fourth Amendment of the United States Constitution apply even when a vehicle is removed pursuant to an authorizing California statute.

How Bill impacts SFPD: Specifies that removal or storage of a vehicle based on community caretaking is only reasonable when it is necessary to achieve a community caretaking need, such as ensuring safe traffic flow or protecting property from theft or vandalism. Warrantless removals of vehicles are seizures under the Fourth Amendment and must be reasonable.

CALIFORNIA HIGHWAY PATROL LEGISLATIVE UPDATE - 2019

AB 87 AUTONOMOUS VEHICLE REMOVAL:

CVC 38750 authorizes operation of AV's on public roads for testing purposes.

Section 22651 VC authorizes LEO's to remove vehicles from roadways and other specified places under various circumstances.

CVC 22651 (o)(1)(D) allows removal of an AV when registered owner or manufacturer has not obtained a valid permit to operate on public roads, or permit has been suspended, terminated or revoked. (LEO cannot stop an AV for the sole purpose of determining whether it has a valid permit.)

Release of AV: Registered owner or manufacturer must show proof of valid permit, or sworn statement to DMV stating AV will not be operated on public roads.

AB 1755 BICYCLE OPERATION:

Class I bikeway defined: Off-street paved bike path on a separate right-of-way from roadways.

CVC 21200(a) amended: person operating on Class I bikeway is subject to all provisions of CVC applicable to driver of vehicle pursuant to CVC 20001.

AB 1824 NOTICE TO CORRECT EXHAUST

CVC 27150 and 27151 no longer eligible for correction. All violations now citable as non-correctable.

AB 2061 ZERO AND NEAR-ZERO EMISSION VEHICLE WEIGHTS

May exceed established axle weight limits by up to 2,000 pounds on the vehicle's power unit

AB 2115 OVERTAKING WASTE VEHICLES

CVC 21761 requires driver to change lanes and pass at a safe distance when approaching and overtaking a stopped waste service vehicle displaying flashing amber lights, OR

If impractical or unsafe to pass, slow to reasonable and prudent speed.

AB 2392 TOWING AND STORAGE FEES

All storage and towing fees must be reasonable, i.e., do not exceed rates charged by CHP or local PD's.

Certain fees outlawed, e.g. Gate Fees during normal business hours, security fees, dolly & pull-out fees.

AB 2535 HIGH OCCUPANCY TOLL LANES

Mailed violation notices must include photographic evidence of violation

AB 2918 DMV DRIVER HANDBOOK

Must include civil rights information: right to file complaint against peace officer, extent of peace officer's authority during traffic stop, and legal rights of drivers and passengers.

AB 2989 MOTORIZED SCOOTERS-HELMETS

CVC 21235 amended: Riders 18 years old or older not required to wear helmet; Motorized Scooters may travel on any roadway if operated in a Class II or IV bikeway.

AB 3077 BICYCLE HELMETS

CVC 21212(f) Helmet violations non-punitive and correctable if parent or legal guardian shows proof within 120 days of citation that minor has completed bicycle safety course OR has a helmet meeting safety standards. Agency must hold citation 120 days to allow for correction before forwarding to court.

AB 3246 FINANCIAL RESPONSIBILITY

CVC 16028(c) amended to clarify that officers should cite 16028(a) both at the scene of a collision and during routine traffic stops. Do not cite driver for CVC16028(c)

SB 1474 CHARTER PARTY CARRIERS-IMPOUNDMENT

CPUC authorized to contract with CPC or Sheriff to assist in enforcement of court order to impound vehicle owned or operated by passenger stage corporation or charter-party carrier.


WILLIAM SCOTT
Chief of Police

Per DB 17-080, sworn members are required to electronically acknowledge receipt and review of this Department Bulletin in HRMS.