



Police Department



Press Release

FOR IMMEDIATE RELEASE: March 20, 2019

Message from Police Chief Kimberly Petersen Regarding Recent Media Report on Records Management

CONTACT:

Geneva Bosques

GBosques@fremont.gov

Earlier this week, it was reported that the Fremont Police Department destroyed records in bulk dating back to the 1970's. The tone of the report represented the Department as trying to "hide decades of police misconduct records." As follow up, I'd like to provide context and clarity to our business practices regarding records management.

First and foremost, the Fremont Police Department is grateful for the partnership and trust we have with our community. For the last several years, our agency has increased transparency through formal public information/communications and making ourselves available to our community through expanded community engagement programs.

It is standard practice for government agencies to purge records in accordance with internal policies, as well as State and Federal laws. Record retention policies are approved and set by the City Council and available to the public. As a standard business practice, our department regularly reviews and updates our records management policies and we routinely purge Police Department records based on the Council approved retention schedule, including internal affairs documents. In 2015, the Department initiated a review of the records we had in our possession, including but not limited to police reports, personnel records, digital evidence, officer involved shootings and internal affairs investigations. This was in direct response to storage and space issues and the desire to have a business model and policy consistent with state law. Additionally, with the recent adoption of body-worn cameras, community video and new technology, we are dealing with an enormous amount of digital records, requiring costly storage. This project predated Senate Bill 1421, which was not proposed as legislation until February, 2018, and signed in September, 2018.

In 2017 and again in 2018, we recommended modifications to our retention policy using State law as a baseline to bring consistency to our records management program. These amendments affected various types of documents, but did not change the retention schedule for citizen complaints or internal affairs investigations. None of the amendments made were in response to SB 1421 or any other legislative changes. All records purged before and after the amendments were approved by the City Attorney and done in compliance with Federal and State laws.

As reported by the media, during our clean-up we did locate a handful of old records dating back to the 70's, 80's and 90's. These cases were all adjudicated and they were not responsive to SB 1421. In addition, purging of these records would have been compliant with policy and law prior to the 2017 and 2018 retention schedule updates.

Senate Bill 1421 requires that files be made available to the public in the following four instances:

- 1) An incident involving the discharge of a firearm at a person by a peace officer;
- 2) An incident in which the use of force by a peace officer against a person resulted in death, or in great bodily injury;
- 3) Any record relating to an incident in which a sustained finding was made that a peace officer engaged in sexual assault involving a member of the public; and
- 4) Any record relating to an incident in which a sustained finding of dishonesty by a peace officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including, but not limited to, any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence.

All other internal affairs investigations or personnel records remain confidential files under current law. This was not a case where decades of police officer misconduct files were all destroyed at the same time. The vast majority of records from the 70's-90's time period were purged years ago in accordance with our retention policy.

Since learning SB 1421 and AB 748 were signed, my staff immediately began working to first identify responsive records, and second, determine the staff and technological resources required to comply with the new State law. Several measures, including a new Digital Records Unit, expansion of our public information program, and a new transparency portal on our web-site are being put into place to comply with these laws.

Since January, the City has received approximately 17 public records act requests in accordance with SB 1421. The City immediately provided preliminary information and responses to many of the requests and intends to begin to providing additional responses to these requests at the end of this week.

The new Transparency Portal (www.fremontpolice.org/transparency) on our website currently includes press releases and will soon be updated with investigative summaries, and audio/video related to officer involved shootings and incidents of public concern responsive to new legislation.

Sincerely,

Chief Kimberly Petersen