

1 DAVID LOY, Cal. Bar No. 229235
2 AARON R. FIELD, Cal. Bar No. 310648
3 FIRST AMENDMENT COALITION
4 534 4th Street, Suite B
5 San Rafael, CA 94901-3334
6 Telephone: 415.460.5060
7 Email: dloy@firstamendmentcoalition.org
8 afield@firstamendmentcoalition.org

9
10 Attorneys for Petitioner VALLEJO SUN LLC

ELECTRONICALLY FILED
Superior Court of California,
County of Solano
01/23/2026 at 08:22:28 PM
By: K. Schoenberg, Deputy Clerk

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF SOLANO

11 VALLEJO SUN LLC,

Case No. CU25-10261

12 Petitioner,

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION FOR JUDGMENT GRANTING
PETITION FOR DECLARATORY
RELIEF AND WRIT OF MANDATE**

13 v.

14 CITY OF VALLEJO,

15 Respondent.

Date: April 29, 2026

Time: 10:00 a.m.

Dept: 3

Judge: Hon. Stephen Gizzi

16 Action filed: November 5, 2025

17

18

19

20

21

22

23

24

25

26

27

28

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION.....	3
II. STATEMENT OF FACTS.....	7
III. ARGUMENT	10
A. The Requested Records Are Presumptively Public, and the City Bears the Burden of Proving that Any Delay Provision or Exemption Applies	10
B. The Requested Records Must Be Disclosed Under AB 748, and the City's Contention to the Contrary Based on a Provision of SB 1421 and the Pendency of a Related Criminal Case Should Be Rejected.	12
C. The City Should Be Ordered to Disclose Video Recordings Created From the Time That Police Officers Were First Contacted Regarding Reports or 911 Calls Related to Mr. Schumann Until Through The Time of Mr. Schumann's Departure From the Area of the Shooting by Ambulance.....	19
D. The City Should Be Ordered To Disclose Responsive Video Recordings Without Redactions that Conceal the Identities of Police Officers.....	19
IV. CONCLUSION	20

1 TABLE OF AUTHORITIES

		<u>Page(s)</u>
2	3	CASES
4	<i>ACLU of N. Cal. v. Superior Court</i> (2011) 202 Cal.App.4th 55	11, 12
5	<i>Becerra v. Superior Court</i> (2020) 44 Cal.App.5th 897 [257 Cal. Rptr. 3d 897]	14
7	<i>Bennett v. Spear</i> (1997) 520 U.S. 154.....	17
9	<i>Cal. State Univ. Fresno v. Superior Court</i> (2001) 90 Cal.App.4th 810	11
10	<i>CBS, Inc. v. Block</i> (1986) 42 Cal.3d 646	10
12	<i>City of San Jose v. Superior Court</i> (2017) 2 Cal.5th 608	11, 15
14	<i>Com. on Peace Officer Stds. & Training v. Superior Court</i> (2007) 42 Cal.4th 278	11
15	<i>Essick v. County of Sonoma</i> (2022) 81 Cal.App.5th 941	12
17	<i>Great Lakes Properties, Inc. v. City of El Segundo</i> (1977) 19 Cal.3d 152,155	15
19	<i>Imperial Merchant Services, Inc. v. Hunt</i> (2009) 47 Cal.4th 381	17
20	<i>International Federation of Professional & Technical Engineers, Local 21, AFL-CIO v. Superior Court</i> (2007) 42 Cal.4th 319	10, 11
22	<i>Long Beach Police Officers Assn. v. City of Long Beach</i> (2014) 59 Cal.4th 59	11, 12, 20
24	<i>Mustaqeem v. City of San Diego</i> (Cal.Ct.App. Jan. 22, 2026) No. D085750, 2026 Cal. App. LEXIS 32	15
25	<i>Nat'l Lawyers Guild v. City of Hayward</i> (2020) 9 Cal.5th 488	18
27	<i>Pasadena Police Officers Assn. v. Superior Court</i> (2015) 240 Cal.App.4th 268	10, 11

1	<i>Rojas v. Superior Court</i> (2004)	17
2	33 Cal.4th 407	
3	<i>Sac. Television Stations, Inc. v. Superior Court</i> (2025)	
4	111 Cal.App.5th 984	<i>passim</i>
5	<i>Salazar v. Eastin</i> (1995)	
6	9 Cal.4th 836	18
7	<i>Sierra Club v. Superior Court</i> (2013)	
8	57 Cal.4th 157	11
9	<i>Teachers' Retirement Bd. v. Genest</i> (2006)	
10	154 Cal.App.4th 1021	15
11	STATUTES	
12	Evid. Code § 500	11
13	Government Code	
14	§ 7920.000 <i>et seq.</i>	10, 11
15	§ 7922.000	11
16	§ 7923.625	<i>passim</i>
17	§ 7923.625(a)	7, 13, 18
18	§ 7923.625(a)(1)	13, 17
19	§ 7923.625(a)(2)	13, 17
20	§ 7923.625(b)	13, 19
21	§ 7923.625(c)	16
22	§ 7923.625(e)(1)	6, 12
23	§ 7923.625(e)(2)	6, 12
24	§ 7923.625(f)	16
25	§ 51039(a)	15
26	§ 51039(a)(1)	15
27	Penal Code	
28	§ 832.7(a)	12
29	§ 832.7(b)	10, 12
30	§ 832.7(b)(1)(A)	14
31	§ 832.7(b)(3)	14
32	§ 832.7(b)(8)(A)	9, 14
33	§ 832.7(b)(8)(A)(i)	17
34	§ 832.7(b)(8)(A)(ii)	17
35	§ 832.7(b)(8)(A)(iii)	17
36	§ 832.7(b)(8)(B)	<i>passim</i>
37	§ 832.7(b)(8)(C)	14

1 **OTHER AUTHORITIES**

2 California Constitution,

3 Article I, § 3(b).....	7, 10, 11
4 Article I, § 3(b)(1)	11
4 Article I, § 3(b)(2)	11, 12, 18

5 Scott Morris, *Vallejo police identify officers who shot man allegedly holding pellet gun*

6 (Vallejo Sun Sept. 5, 2025), https://www.vallejosun.com/vallejo-police-identify-officers-who-shot-man-allegedly-holding-pellet-gun/	6
--	---

7 Scott Morris, *Vallejo police shoot man allegedly holding pellet gun* (Vallejo Sun Aug. 30,

8 2025), https://www.vallejosun.com/vallejo-police-shoot-man-allegedly-holding-pellet-gun/	6
--	---

9 Sebastien K. Bridonneau, *Vallejo Police reveal details of Aug. 29 police shooting* (Vallejo

10 Sun Sept. 12, 2025), https://www.vallejosun.com/vallejo-police-reveal-details-of-aug-29-police-shooting/	6
---	---

11 Town Hall Community Meeting, September 11, 2025,

12 https://vallejoca.portal.civicclerk.com/event/7585/media	7
--	---

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1 **I. INTRODUCTION**

2 This case seeks to enforce petitioner Vallejo Sun LLC’s (“petitioner” or “the *Sun*”) and the
3 public’s right of access to video recordings related to the shooting of Alex Schumann by officers
4 of respondent City of Vallejo’s (“respondent” or “the City”) police department under, among other
5 laws, Assembly Bill 748, which is codified at Government Code section 7923.625 (“AB 748”).

6 The shooting in question took place on August 29, 2025. That evening, the City received
7 multiple 911 calls about Mr. Schumann, including one from a caller who reported that Mr.
8 Schumann had said he wanted police officers to shoot him. The City dispatched police officers to
9 the area. Whether and to what extent the City informed these officers of Mr. Schumann’s reported
10 desire to be shot in a police encounter and, if so, what steps officers took in response is not clear
11 from the limited records and information the City has disclosed to date. (See Declaration of Scott
12 Morris in Support of Motion for Judgment (“Morris Decl.”) ¶¶ 8-10.) Regardless, when officers
13 encountered Mr. Schumann, the situation quickly became violent. Mr. Schumann stood up and
14 aimed a pellet gun wrapped in black tape at the officers, who then shot him, wounding but not
15 killing him.

16 The *Sun* has covered extensively and is continuing to investigate the shooting.¹ To shed
17 more light on what happened, the *Sun* made a Public Records Act request to the City for video
18 recordings related to the shooting, citing AB 748. (See Morris Decl., Ex. A [requesting “any video
19 of the officer-involved shooting on Aug. 29 under AB 748”].) Enacted in 2018, AB 748 provides
20 that recordings related to the most serious “critical incidents” – incidents “involving the discharge
21 of a firearm at a person” by a peace officer, Gov. Code § 7923.625(e)(1), and incidents “in which
22 the use of force by a peace officer or custodial officer against a person resulted in death or in great
23 bodily injury,” Gov. Code § 7923.625(e)(2) – must be disclosed particularly promptly and
24 completely. (See *Sac. Television Stations, Inc. v. Superior Court* (2025) 111 Cal.App.5th 984, 997

25 ¹ (Scott Morris, *Vallejo police shoot man allegedly holding pellet gun* (Vallejo Sun Aug. 30,
26 2025), <https://www.vallejosun.com/vallejo-police-shoot-man-allegedly-holding-pellet-gun/>; Scott
27 Morris, *Vallejo police identify officers who shot man allegedly holding pellet gun* (Vallejo Sun
28 Sept. 5, 2025), <https://www.vallejosun.com/vallejo-police-identify-officers-who-shot-man-allegedly-holding-pellet-gun/>; Sebastien K. Bridonneau, *Vallejo Police reveal details of Aug. 29 police shooting* (Vallejo Sun Sept. 12, 2025), <https://www.vallejosun.com/vallejo-police-reveal-details-of-aug-29-police-shooting/>.)

1 [discussing enactment of AB 748].) Under AB 748, recordings related to covered critical incidents
2 “may be withheld **only**” to the extent that its narrow delay or redaction provisions apply. (Gov.
3 Code § 7923.625 [emphasis added].) These provisions state, *inter alia*, that an agency may not
4 delay the disclosure of recordings related to covered critical incidents for more than forty-five (45)
5 days except to the extent that it can prove that disclosure would “substantially interfere” with an
6 “active criminal or administrative investigation.” (Gov. Code § 7923.625(a).)

7 Rather than complying with AB 748, however, the City denied the *Sun*’s request in full
8 (except as to some previously disclosed redacted, partial recordings) based on Penal Code section
9 832.7(b)(8)(B), a delay provision in Senate Bill 1421 (“SB 1421”), a separate statute. The City
10 contends that this SB 1421 provision allows it to delay disclosing the AB 748 recordings that the
11 *Sun* seeks until a verdict is returned on the criminal charges against Mr. Schumann or he enters a
12 plea that becomes final.

13 The City’s claim that SB 1421’s criminal proceeding delay provision, Pen. Code §
14 832.7(b)(8)(B), allows it to delay disclosing critical incident recordings covered by AB 748 is
15 incorrect. The plain language of AB 748, its legislative history, recent case law interpreting it, see
16 *Sac. Television Stations Inc.*, *supra*, 111 Cal.App.5th at p. 1000, multiple canons of statutory
17 construction, and the requirement in Article I, section 3(b) of the California Constitution that
18 statutes be construed in favor of access make clear that AB 748’s disclosure requirements are
19 mandatory and cannot be displaced by a delay provision of a different statute.

20 For these reasons and the reasons below, the *Sun*’s petition should be granted.

21 **II. STATEMENT OF FACTS**

22 On September 11, 2025, the City held a Town Hall Community Meeting (the “Meeting”)
23 regarding Mr. Schumann’s shooting at which it played redacted excerpts of selected audio and
24 video recordings of the incident.² (See Verified Petition for Declaratory Relief and Writ of
25 Mandate (“Petition”) ¶ 24; Declaration of Aaron R. Field in Support of Motion for Judgment
26 (“Field Decl.”), Ex. B, F.) The City later published a video of the Meeting on its website, at

27 ² At the Meeting, the City played recordings of 911 calls. (Morris Decl. ¶ 4; Petition ¶ 25.) It also
28 played a selection of excerpts of redacted video footage, including some body camera and dash
camera footage. (*Ibid.*)

1 <https://vallejoca.portal.civicclerk.com/event/7585/media>, where it remains publicly available
2 today. (Petition ¶ 24.)

3 It appears from City press releases about the shooting and the recordings it played at the
4 Meeting that on August 29, 2025, the City received multiple 911 calls reporting that a person in
5 apparent distress was clinging to the hood of a moving vehicle and vandalizing other vehicles near
6 an apartment complex in Vallejo. (Morris Decl. ¶¶ 3-4; Field Decl. ¶ 2 & Ex. E-F.) The 911 callers
7 reported that Mr. Schumann was “a crazy person,” that he had “made a comment that he wanted
8 the police to shoot him” earlier that day, and that he was “shooting a gun outside.” (Morris Decl. ¶
9 10; Petition ¶ 16.)

10 At approximately 6:01 pm, multiple officers arrived and encountered Mr. Schumann in the
11 passenger seat of an SUV. (*Id.* ¶ 3 & Ex. E-F; Petition ¶ 17.) When officers approached, he stood
12 up and pointed a pellet gun at them that resembled a firearm. (Petition ¶¶ 17-18; Field Decl., Ex.
13 B.) As he turned away from the officers and began to raise his hands while still holding the object,
14 the officers opened fire and hit him in the upper and lower body. (Petition ¶ 18.)

15 In addition to the two officers who fired at Mr. Schumann, see Field Decl., Ex. F [press
16 release identifying the officers who discharged their firearms at Mr. Schuman], at least four other
17 officers were present at the scene. (Petition ¶ 19.) Mr. Schumann survived, but he was wounded in
18 the back, hip, and foot. (Petition ¶ 20.) The Solano County District Attorney’s office filed criminal
19 charges against him arising from this incident. (*Ibid.*)

20 The City did not disclose all video and audio recordings related to Schumann’s shooting,
21 either at the Meeting or afterward. (Morris Decl. ¶ 5; Petition ¶ 26.) The City did not disclose dash
22 camera video footage from a Vallejo police patrol vehicle that followed the vehicle which carried
23 the officers who shot Schumann, either at the Meeting or afterward, which may depict the
24 shooting from a different angle. (Morris Decl. ¶ 6; Petition ¶ 27.) The video footage played at the
25 Meeting blurs the faces of officers involved in the incident who did not shoot at Schumann.
26 (Morris Decl. ¶ 7; Petition ¶ 28.)

27 The video footage that the City has disclosed to date is insufficient to allow the press and
28 the public to fully understand the incident. (Morris Decl. ¶ 8.) For example, the selection of

1 redacted audio and video recordings disclosed at the Meeting left unclear what, if anything,
2 officers had done to de-escalate the situation. (*Id.* ¶ 9.) At the Meeting, Mr. Schumann’s father
3 asked about this, and a police spokesperson responded that officers had made “multiple attempts”
4 to de-escalate and had “staged at the scene” and “contacted each other just to make sure that we
5 had enough officers there in case.” (*Ibid.*) However, recordings played at the Meeting do not
6 reflect any such information. (*Ibid.*)

7 The recordings played at the Meeting also left ambiguous what officers were told about
8 Mr. Schumann before they arrived at the scene. (Morris Decl. ¶ 10.) 911 call recordings that the
9 City played at the Meeting revealed that callers had told the City before the shooting that Mr.
10 Schumann was “a crazy person,” that he had “made a comment that he wanted the police to shoot
11 him” and that he was “shooting a gun outside.” (*Ibid.*) Yet, according to the City, this information
12 may not have reached responding police officers. (*Ibid.*) At the Meeting, Deputy Vallejo Police
13 Department Chief Robert Knight stated, “City Officers attempted to gather additional information
14 by contacting a witness via telephone, as well as checking whether Schumann had any firearms
15 registered to him” but, “[b]ased upon what we know at this stage of the investigation, we do not
16 believe the officers had any information that the subject was armed with a firearm.” (*Ibid.*)

17 To further the *Sun*’s reporting on the shooting, on September 5, 2025, on behalf of the *Sun*,
18 Scott Morris made a Public Records Act to the City for “any video of the officer-involved
19 shooting on Aug. 29 under AB 748.” The City denominated the request as Request No. 25-1048
20 (“Request”). (Morris Decl. ¶ 11 & Ex. A.)

21 On September 15, 2025, the City denied the Request in its entirety, stating, “Pursuant to
22 Penal Code Section 832.7(b)(8)(A), the City is not releasing the requested records as there is an
23 active criminal investigation and the District Attorney’s Office has not yet determined whether to
24 file criminal charges against any involved officer. Public interest in delaying disclosure of the
25 requested information clearly outweighs the public interest in disclosure because disclosure of the
26 requested information would interfere with any potential criminal enforcement proceeding.
27 The City expects to provide a response to your request on October 28, 2025.” (Morris Decl. ¶ 12
28 & Ex. A.) Mr. Morris responded that the City had screened video footage at the Meeting and had

1 waived any exemptions with respect to footage it had already disclosed. (Morris Decl. ¶ 13 & Ex.
2 B.) The City replied with a link to its video of the Meeting. (*Ibid.*)

3 On October 28, 2025, the City restated its denial of the Request, but no longer relied on a
4 pending criminal investigation to support its position. (Morris Decl. ¶ 14 & Ex. C.) Instead, it
5 stated, “The City has released all records that are currently subject to public disclosure. The
6 remainder of the requested records remain exempt as the filing of criminal charges is yet to be
7 resolved in this matter. Therefore, the information in this case is exempt from disclosure pursuant
8 to Penal Code § 832.7(b)(8)(B).” (*Ibid.*)

9 After receiving the City’s second letter denying its Request based on a delay provision in
10 Penal Code section 832.7(b) rather than Government Code section 7923.625, the *Sun* filed this
11 lawsuit.

12 **III. ARGUMENT**

13 **A. THE REQUESTED RECORDS ARE PRESUMPTIVELY PUBLIC, AND THE CITY BEARS 14 THE BURDEN OF PROVING THAT ANY DELAY PROVISION OR EXEMPTION APPLIES**

15 The Public Records Act, Gov. Code § 7920.000 *et seq.*, Article I, section 3(b) of the
16 California Constitution, AB 748, Gov. Code § 7923.625, Senate Bills 1421 and 16, Pen. Code §
17 832.7(b), and other laws that require transparency in government serve public policy purposes that
18 are fundamental to our system of government. “Openness in government is essential to the
19 functioning of a democracy.” (*International Federation of Professional & Technical Engineers,
Local 21, AFL-CIO v. Superior Court (“IFPTE”)* (2007) 42 Cal.4th 319, 328.) “Implicit in the
20 democratic process is the notion that government should be accountable for its actions. In order to
21 verify accountability, individuals must have access to government files.” (*CBS, Inc. v. Block*
22 (1986) 42 Cal.3d 646, 651.)

23 Transparency is particularly important with respect to serious uses of force by law
24 enforcement officers. “Given the extraordinary authority with which they are entrusted, the need
25 for transparency, accountability and public access to information is particularly acute when the
26 information sought involves the conduct of police officers.” (*Pasadena Police Officers Assn. v.
Superior Court* (2015) 240 Cal.App.4th 268, 283.) “In order to maintain trust in its police

1 department, the public must be kept fully informed of the activities of its peace officers.” (*Com. on*
2 *Peace Officer Stds. & Training v. Superior Court* (2007) 42 Cal.4th 278, 297 [citation and
3 quotation marks omitted]; accord. *Long Beach Police Officers Assn. v. City of Long Beach* (2014)
4 59 Cal.4th 59, 74 [“In a case such as this one, which concerns officer-involved shootings, the
5 public’s interest in the conduct of its peace officers is particularly great because such shootings
6 often lead to severe injury or death.”].)

7 The Public Records Act, Gov. Code § 7920.000 *et seq.*, advances these public interests by
8 “establish[ing] a basic rule requiring disclosure of public records upon request. [. . .] In general, it
9 creates ‘a presumptive right of access to any record created or maintained by a public agency that
10 relates in any way to the business of the public agency.’ ” (*City of San Jose v. Superior Court*
11 (2017) 2 Cal.5th 608, 616 [citations omitted, italics in original]; see also *Pasadena Police Officers*
12 *Assn., supra*, 240 Cal.App.4th at p. 288 [records related to uses of force by peace officers are
13 public records].) “Every such record ‘must be disclosed unless a statutory exception is shown.’ ”
14 (*Ibid.*; accord. *Sierra Club v. Superior Court* (2013) 57 Cal.4th 157, 166 [all public records are
15 subject to disclosure unless the Legislature has expressly provided to the contrary.”] [citations and
16 quotation marks omitted].) Article I, section 3(b) of the California Constitution confirms and
17 enshrines the right of access to public records and supplements it with a rule of statutory
18 construction that should guide the Court’s analysis here: It provides that any statute, court rule, or
19 other authority must be construed in favor of access. (Cal. Const., art. I, § 3(b)(1)-(2).)

20 To sustain any withholding of public records in litigation, the City, as the proponent of
21 nondisclosure, bears the burden of justifying its withholdings by proving that one or more
22 statutory exemptions apply. (*IFPTE, supra*, 42 Cal.4th at pp. 328-29; Gov. Code § 7922.000;
23 Evid. Code § 500; see also, e.g., *Cal. State Univ. Fresno v. Superior Court* (“*CSU Fresno*”) (2001)
24 90 Cal.App.4th 810, 831, 835.) To do so, when relevant to an asserted exemption, the City “must
25 describe each document or portion thereof withheld, and for each withholding it must discuss the
26 consequences of disclosing the sought-after information.” (*ACLU of N. Cal. v. Superior Court*
27 (2011) 202 Cal.App.4th 55, 83 [internal citations and quotation marks omitted].) “Conclusory or
28 boilerplate assertions that merely recite statutory standards are not sufficient” to justify non-

1 disclosure. (*Ibid.*) The presumption of access means that “on the facts,” “doubtful cases must
2 always be resolved in favor of disclosure.” (*Essick v. County of Sonoma* (2022) 81 Cal.App.5th
3 941, 950.)

4 **B. THE REQUESTED RECORDS MUST BE DISCLOSED UNDER AB 748, AND THE
5 CITY’S CONTENTION TO THE CONTRARY BASED ON A PROVISION OF SB 1421 AND
6 THE PENDENCY OF A RELATED CRIMINAL CASE SHOULD BE REJECTED.**

7 Contrary to the City, Penal Code section 832.7(b)(8)(B) does not allow a public agency to
8 withhold critical incident recordings covered by AB 748 based solely on the pendency of a related
9 criminal case. The City’s contention to the contrary is inconsistent with the plain language of AB
10 748, the legislative history of AB 748, multiple canons of construction, and Article I, section
11 3(b)(2) of the California Constitution. It is also inconsistent with the Court of Appeal’s rejection
12 of an attempt to delay disclosing critical incident recordings under AB 748 based on the pendency
13 of a related criminal proceeding in *Sac. Television Stations Inc., supra*, 111 Cal.App.5th at p.
14 1000.

15 The City’s position requires the Court to consider two 2018 California police records
16 disclosure laws that govern separate, if sometimes overlapping,³ records: Government Code
17 section 7923.625 (created by AB 748) and Penal Code section 832.7(b) (created by SB 1421 and
modified by SB 16).

18 First, California enacted AB 748, which created a statutory framework that governs and
19 requires the prompt and proactive disclosure of video and audio recordings related to two of the
20 most serious kinds of “critical incident” involving peace officers: incidents involving the
21 discharge of a firearm at a person and incidents involving uses of force that result in great bodily
22 injury or death. (Gov. Code § 7923.625(e)(1)-(2).) AB 748 provides that “a video or audio
23 recording that relates to” either of these kinds of incident “may be withheld **only**” under one of the
24 limited justifications for doing so set forth elsewhere in the law. (Gov. Code § 7923.625 [emphasis
25 added].)

26
27 ³ Body camera video recordings are generally not “personnel records” under Penal Code section
832.7(a). “[T]he information contained in the initial incident reports of an on-duty shooting are
28 typically not ‘personnel records.’” (*Long Beach Police Officers Assn., supra*, 59 Cal. 4th at p. 71.)
The same is true for the video footage related to Mr. Schumann’s shooting that is at issue here.

1 The Court of Appeal in *Sacramento Television Stations Inc., supra*, 111 Cal.App.5th at p.
2 997, contextualized AB 748 as follows:

3 Before Assembly Bill No. 748, public agencies generally could decline to release
4 body camera footage by invoking a CPRA exemption for law enforcement
5 investigatory records. (See former § 6254, subd. (f); *Castañares v. Superior Court*
6 (2023) 98 Cal.App.5th 295, 305–306 & fn. 7 [316 Cal.Rptr.3d 422] [video footage
7 that is part of an investigatory file exempt from disclosure]; *Becerra v. Superior*
8 *Court* (2020) 44 Cal.App.5th 897, 914 [257 Cal. Rptr. 3d 897] (Becerra) [“law
9 enforcement investigatory files were, until recently, categorically exempted from
10 the CPRA’s general requirement of disclosure”]; Sen. Com. on Judiciary, Analysis
11 of Assem. Bill No. 748 (2017–2018 Reg. Sess.) as amended June 14, 2018, p. 9
12 [“This bill would require the disclosure of certain audio or visual records that a law
13 enforcement agency would otherwise be able to withhold under the investigatory
14 exemption”].)

15 Assembly Bill No. 748 limited the scope of this “investigatory exemption” by
16 “provid[ing] specific guidelines to govern the disclosure … of certain … recordings
17 held by law enforcement.” (Assem. Com. on Privacy and Consumer Protection,
18 Analysis of Assem. Bill No. 748, *supra*, p. 5.)[n.11]

19 Subdivision (a) of AB 748 places strict limits on delays in disclosing covered recordings.
20 (Gov. Code § 7923.625(a).) In substance, it provides that “[n]otwithstanding any other provision
21 of this article,” “[d]uring an ‘active criminal or administrative investigation,’ disclosure may be
22 delayed for no longer than” forty-five (45) days, *Sac. Television Stations Inc., supra*, 111
23 Cal.App.5th at p. 997, if “disclosure would substantially interfere with the investigation” based on
24 the content of the recordings, Gov. Code § 7923.625(a)(1). After forty-five (45) days and for up to
25 a year, an agency may continue to delay disclosure only to the extent that it can demonstrate that
26 disclosure will substantially interfere with its investigation. (Gov. Code § 7923.625(a)(2).)
27 Further, after a year, an agency can continue to delay disclosure only to the extent that it can
28 demonstrate this “by clear and convincing evidence.” (*Ibid.*) To delay disclosure under any of
these provisions, an agency must provide the requester with “the specific basis” in writing for its
determination that the interest in preventing interference with an active investigation outweighs
the public interest in access and provide an estimated disclosure date. (Gov. Code § 7923.625(a).)

29 AB 748 also places strict limits on redactions. (Gov. Code § 7923.625(b).) It provides,
30 If the agency demonstrates, on the facts of the particular case, that the public
31 interest in withholding a video or audio recording clearly outweighs the public
32 interest in disclosure because the release of the recording would, based on the facts
33 and circumstances depicted in the recording, violate the reasonable expectation of
34 privacy of a subject depicted in the recording, the agency shall provide in writing

1 to the requester the specific basis for the expectation of privacy and the public
2 interest served by withholding the recording and may use redaction technology,
3 including blurring or distorting images or audio, to obscure those specific portions
4 of the recording that protect that interest. However, the redaction shall not interfere
5 with the viewer's ability to fully, completely, and accurately comprehend the events
6 captured in the recording and the recording shall not otherwise be edited or altered.
7
8

9 (Ibid.)

10 Second, California enacted SB 1421 (which it strengthened in 2021 by enacting Senate Bill
11 16). While peace officer personnel records, including records of police misconduct investigations,
12 were once categorically exempt from disclosure, SB 1421 created an important exception to this
13 exemption. (See *Becerra v. Superior Court* (2020) 44 Cal.App.5th 897, 915.) Under SB 1421,
14 “peace officer or custodial officer personnel records and records maintained by any other state or
15 local agency” related to “the report, investigation, or findings” of a wider range of uses of force
16 and allegations of misconduct than AB 748 covers are generally no longer exempt from
17 disclosure. (Pen. Code § 832.7(b)(1)(A).) SB 1421 also applies to a different, broader universe of
18 documents than AB 748. (Pen. Code § 832.7(b)(3).)

19 SB 1421 allows agencies to delay disclosure for a wider range of reasons than AB 748, and
20 the justifications for delay it contains differ from those in AB 748 in important ways. In
21 subdivision (b)(8)(B), which the City contends applies here, SB 1421 provides that “[i]f criminal
22 charges are filed related to” a covered incident “the agency may delay” disclosure “until a verdict
23 on those charges is returned at trial or, if a plea of guilty or no contest is entered, the time to
24 withdraw the plea pursuant to Section 1018.” (Pen. Code § 832.7(b)(8)(B).) In subdivision
25 (b)(8)(A), it allows an agency to delay disclosure during an active criminal investigation for up to
26 sixty (60) days to the extent that the agency can show disclosure would reasonably be expected to
27 interfere with the investigation, and for longer to the extent that the agency can show that
28 disclosure would reasonably be expected to interfere with a future criminal proceeding against an
officer who committed misconduct or used force or a third party. (Pen. Code § 832.7(b)(8)(A).)
And, in subdivision (b)(8)(C), it allows an agency to delay disclosure during an administrative
investigation into a covered incident – although it caps any delay in disclosure on this basis at one
hundred and eighty (180) days. (Pen. Code § 832.7(b)(8)(C).)

1 The City contends that the criminal proceeding delay provision in SB 1421, Pen. Code §
2 832.7(b)(8)(B), applies to and allows the City to delay disclosing critical incident recordings, even
3 though the Legislature chose not to include a criminal proceeding delay provision in AB 748. To
4 evaluate that contention, the Court must interpret both statutes. In doing so, the Court’s

5 . . . fundamental task . . . is to determine the Legislature’s intent so as to effectuate
6 the law’s purpose. We first examine the statutory language, giving it a plain and
7 commonsense meaning. [. . .] If the language is clear, courts must generally follow
8 its plain meaning unless a literal interpretation would result in absurd consequences
9 the Legislature did not intend. If the statutory language permits more than one
10 reasonable interpretation, courts may consider other aids, such as the statute’s
11 purpose, legislative history, and public policy.” [Citation.] ‘Furthermore, we
12 consider portions of a statute in the context of the entire statute and the statutory
13 scheme of which it is a part, giving significance to every word, phrase, sentence,
14 and part of an act in pursuance of the legislative purpose.

15 (*City of San Jose, supra*, 2 Cal.5th at pp. 616-17 [internal citations and quotation marks omitted].)
16 Further, the Court should “avoid an interpretation that renders any portion of the statute
17 superfluous, unnecessary, or a nullity; this is so because we presume that the Legislature does not
18 engage in idle acts.” (*Teachers’ Retirement Bd. v. Genest* (2006) 154 Cal.App.4th 1021, 1028.)

19 The plain meaning of AB 748’s text resolves the interpretive question here in favor of
20 access. (See *Great Lakes Properties, Inc. v. City of El Segundo* (1977) 19 Cal.3d 152,155 [“It is
21 axiomatic that in the interpretation of a statute where the language is clear, its plain meaning
22 should be followed.”].) AB 748 explicitly provides at the outset that “a video or audio recording
23 that relates to a critical incident, as defined in subdivision (e), may be withheld **only**” when
24 permitted by the exemptions in AB 748 itself. (Gov. Code § 7923.625 [emphasis added].) This
25 “only” phrasing in AB 748 alone makes clear that critical incident recordings covered by AB 748
26 must be disclosed unless the agency demonstrates that one of the exemptions *in AB 748* applies
27 and provides otherwise. (See *Mustaqeem v. City of San Diego* (Cal.Ct.App. Jan. 22, 2026), No.
28 D085750, 2026 Cal. App. LEXIS 32, at *19 [holding that the Legislature’s use of the term “only”
in Government Code § 51039(a)(1) made the exclusivity of the list in that subdivision
“unambiguous”]; see also *id.*, at *20 [stating that “the Legislature was quite clear that violations of
a local authority’s sidewalk vending regulations are punishable *only* by the enumerated monetary
fines or the rescission of the vendor’s permit” under Gov. Code § 51039(a)].)

1 Two subdivisions of AB 748, Gov. Code § 7923.625(c), (f), confirm that the *Sun*'s plain
2 language interpretation of the statute is correct. First, subdivision (c) provides that "An agency
3 may provide greater public access to video or audio recordings than ***the minimum standards*** set
4 forth in this section." (Gov. Code § 7923.625(c) [emphasis added].) This characterization of AB
5 748 as creating "minimum standards" for disclosing critical incident recordings confirms that
6 delay provisions in other statutes, like the criminal proceeding delay provision raised by the City,
7 cannot reduce the City's disclosure obligations beyond the "minimum standards" in AB 748.
8 Second, subdivision (f) provides that AB 748 "does not alter, limit, or negate any other rights,
9 remedies, or obligations with respect to public records regarding an incident ***other than a critical***
10 ***incident as described in subdivision (e).***" (Gov. Code § 7923.625(f) [emphasis added].) This
11 supports interpreting AB 748 as establishing a new minimum standard for disclosing covered
12 recordings that overrides delay provisions in other statutes like SB 1421.

13 AB 748's legislative history confirms that the Legislature understood and intended that AB
14 748 alone would govern when covered critical incident recordings must be disclosed. For
15 example, an August 31, 2018 Assembly Floor Analysis summarized AB 748 as a statute that
16 would "establish[] a standard for the release of body-worn camera footage by balancing privacy
17 interests with the public's interest in the footage," and would "[p]rovide that" covered recordings
18 "may only be withheld" under the circumstances set forth in AB 748. (Field Decl., Ex. D, at p. 1.)
19 A June 25, 2018 Analysis by the Senate Judiciary Committee likewise characterized AB 748 as
20 providing that records covered by the law "may be withheld only" as provided in the body of AB
21 748 and as creating a "minimum standard" for disclosing covered records. (Field Decl., Ex. E, at
22 pp. 5-6.) The Legislative Counsel's Digest regarding AB 748 similarly explained that "***/b/y***
23 ***requiring local agencies to make these recordings available,***" AB 748 "would impose a state-
24 mandated local program" – confirming that AB 748 was intended to create a new disclosure
25 framework for critical incident recordings rather than one perforated by preexisting delay
26 provisions in other statutes. (Stats. 2017-18, ch. 960, Leg. Counsel's Digest [emphasis added];
27 accord *Sac. Television Stations Inc., supra*, 111 Cal.App.5th at pp. 997-999 & n.10 [taking judicial
28 notice of and discussing AB 748's legislative history, including a statement in a Consumer

1 Protection Committee Analysis that AB 748 would provide “specific guidelines to govern the
2 disclosure . . . of certain . . . recordings held by law enforcement”] [internal citations and quotation
3 marks omitted].)

4 The *expressio unius est exclusio alterius* canon of construction confirms the *Sun*’s reading
5 of AB 748 and further undermines the City’s. “Under the maxim of statutory construction,
6 *expressio unius est exclusio alterius*, if exemptions are specified in a statute,” courts “may not
7 imply additional exemptions unless there is a clear legislative intent to the contrary. [Citation.]”
8 (*Rojas v. Superior Court* (2004) 33 Cal.4th 407, 424 [internal citations and quotation marks
9 omitted].) In subdivisions (a)(1) and (a)(2), AB 748 created narrowly drawn exceptions, complete
10 with procedural and substantive requirements that evolve over time, from AB 748’s general rule
11 covered critical incident recordings must be disclosed. (Gov. Code § 7923.625(a)(1)-(2).) These
12 delay provisions are not the same as those of SB 1421, despite some resemblances. (Compare
13 Gov. Code § 7923.625(a)(1)-(2) with Pen. Code § 832.7(b)(8)(A)(i)-(iii), (b)(8)(B).) In particular,
14 despite knowing how to write delay provisions and incorporating some of them into AB 748, the
15 Legislature chose not to include a criminal proceeding delay provision like Penal Code section
16 832.7(b)(8)(B). Accordingly, the *expressio unius est exclusio alterius* canon applies. Because there
17 is no evidence of a “clear legislative intent to the contrary,” *Rojas, supra*, 33 Cal.4th at p. 424, the
18 Court should follow the Legislature’s decision not to include a criminal proceeding delay
19 exception in AB 748 and hold that Penal Code section 832.7(b)(8)(B) cannot relieve the City of its
20 AB 748 obligations.

21 The rule against interpreting statutory language in a way that would deprive it of its force
22 or effect also supports the *Sun*’s position and undermines the City’s. (See *Imperial Merchant*
23 *Services, Inc. v. Hunt* (2009) 47 Cal.4th 381, 390 [“We do not presume that the Legislature
24 performs idle acts, nor do we construe statutory provisions so as to render them superfluous.”]
25 [internal citations and quotation marks omitted]; see also, e.g., *TRW Inc. v. Andrews* (2001) 534
26 U.S. 19, 31 [characterizing the rule against surplusage as a “cardinal” rule of statutory
27 interpretation]; *Bennett v. Spear* (1997) 520 U.S. 154, 173 [applying the rule against surplusage to
28 reject an interpretation of a statute that would “emasculate an entire section”].) The City’s

1 position, if accepted, would deprive AB 748’s delay provisions and “only” and “minimum
2 standards” language of force and effect, and would result in agencies relying on SB 1421’s more
3 liberal delay provisions to delay the disclosure of AB 748 records.

4 The “well-established principles of statutory interpretation” that “the more specific
5 provision takes precedence over the more general one” when two statutory provisions are in
6 conflict also supports the *Sun*’s position. (*Salazar v. Eastin* (1995) 9 Cal.4th 836, 857.) AB 748 is
7 more specific than SB 1421, so if both statutes potentially apply, AB 748 should prevail.

8 If any doubt remains that SB 1421’s criminal proceeding delay provision cannot absolve
9 the City of AB 748’s disclosure requirements (and none should), Article I, section 3(b)(2) of the
10 California Constitution should dispel it and resolve the issue presented in favor of access. Article
11 I, section 3(b)(2) provides that laws that “further[] the people’s right of access” must be “broadly
12 construed” and laws that “limit[] the right of access” must be “narrowly construed.” (See also
13 *Nat’l Lawyers Guild v. City of Hayward* (2020) 9 Cal.5th 488, 507 [applying interpretive
14 mandate].) Here, that would mean resolving the question presented about whether AB 748’s delay
15 and disclosure framework (which is more favorable to access) and SB 1421’s delay and disclosure
16 framework (which is less favorable to access) in favor of access and granting the *Sun*’s petition.

17 The Court of Appeal’s analysis and decision in *Sac. Television Stations Inc., supra*, is also
18 dissonant with the City’s position. (111 Cal.App.5th at p. 1000.) There, the Court of Appeal held
19 that “a pending criminal prosecution, by itself and without more information, is not an ‘active
20 investigation’ within the meaning of [Gov. Code § 7923.625(a)],” AB 748’s delay provision, and
21 rejected the respondent’s attempt to delay the disclosure of AB 748 records on the grounds that a
22 related criminal case remained pending. (*Ibid.*) The respondent made this argument in *Sac.*
23 *Television Stations Inc.* in support of its attempt to invoke AB 748’s delay provisions, not SB
24 1421’s, so *Sac. Television Stations Inc.* is not controlling here. Still, the Court of Appeal’s
25 rejection of respondent’s attempt to justify delaying the disclosure of AB 748 records based on the
26 mere pendency of a related criminal proceeding is dissonant with and further undermines the
27 City’s position here. So, too, do references in the City’s police policy manual to AB 748, which
28 appear to recognize that AB 748’s delay and disclosure framework, not delay provisions in other

1 statutes, control here. (See Field Decl., Ex. A, at p. 71 [VPD Policy 302.5: Release of Video
2 Recordings].)

3 **C. THE CITY SHOULD BE ORDERED TO DISCLOSE VIDEO RECORDINGS CREATED
4 FROM THE TIME THAT POLICE OFFICERS WERE FIRST CONTACTED REGARDING
5 REPORTS OR 911 CALLS RELATED TO MR. SCHUMANN UNTIL THROUGH THE
6 TIME OF MR. SCHUMANN'S DEPARTURE FROM THE AREA OF THE SHOOTING BY
7 AMBULANCE.**

8 To ensure that the requested records enable the *Sun* and the public “to fully, completely,
9 and accurately comprehend” the incident, see *Sac. Television Stations Inc., supra*, 111
10 Cal.App.5th at pp. 1103-04, the City should be ordered to disclose video recordings created from
11 the time when police officers were first alerted to complaints or 911 calls about Mr. Schumann
12 until the time that Mr. Schumann was removed from the scene of the shooting by ambulance.
13 Disclosing video recordings related to the incident that were created during this time period is
14 critical to understanding this incident and to answering important, outstanding questions about
15 how to mitigate harm in similar situations moving forward.

16 **D. THE CITY SHOULD BE ORDERED TO DISCLOSE RESPONSIVE VIDEO RECORDINGS
17 WITHOUT REDACTIONS THAT CONCEAL THE IDENTITIES OF POLICE OFFICERS.**

18 The critical incident videos that the City played at its public meeting to discuss officers’
19 shooting of Mr. Schumann on September 11, 2025 contained numerous redactions, including
20 redactions of police officers’ faces. The City should be ordered to disclose all critical incident
21 video recordings related to the incident without these redactions, because it has not shown, and
22 cannot show, that they are permitted under AB 748. Further, it should not be permitted to make
23 any other redactions, either, except to the extent that it demonstrates to the Court, with non-
24 speculative, non-conclusory, and particularized evidence, that a redaction is permitted. (See Gov.
25 Code § 7923.625(b).)

26 Under AB 748, the City can redact critical incident recordings only to the extent that it can
27 “demonstrate[],” “on the facts of the particular case, that the public interest in” nondisclosure
28 “clearly outweighs the public interest in disclosure because” disclosure would “violate the
reasonable expectation of privacy of a subject depicted in the recording.” (Gov. Code §
7923.625(b).) This test all but forecloses redacting police officers’ faces or concealing their

1 identities, because police officers working in public places do not, and cannot, have a “reasonable
2 expectation of privacy.” Also, the names of peace officers involved in police shootings have long
3 been subject to disclosure under the Public Records Act notwithstanding the Public Records Act’s
4 similarly-worded catch-all exemption absent extenuating circumstances. (*Long Beach Police*
5 *Officers Assn.*, *supra*, 59 Cal.4th at p. 74.)

6 **IV. CONCLUSION**

7 For the foregoing reasons, the petition should be granted in its entirety. The City should be
8 ordered to disclose all responsive video recordings immediately. The City should also be ordered
9 not to redact police officers’ faces or identities in these recordings because it has not shown, and
10 cannot show, that AB 748 allows such redactions. Finally, the Court should find and declare that
11 the City’s denial of the *Sun*’s request based on the criminal proceeding delay provision in SB 1421
12 was unlawful.

13 Dated: January 23, 2026

14 FIRST AMENDMENT COALITION

15 By _____
16 _____
17 _____
18 _____
19 _____
20 _____
21 _____
22 _____
23 _____
24 _____
25 _____
26 _____
27 _____
28 _____

DAVID LOY
AARON R. FIELD
Attorneys for Petitioner FIRST
AMENDMENT COALITION

PROOF OF SERVICE

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Marin, State of California. My business address is 534 4th Street, Suite B, San Rafael, CA 94901-3334.

On January 23, 2026, I served true copies of the following document(s) described as **REQUEST
MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR
JUDGMENT GRANTING PETITION FOR DECLARATORY RELIEF AND WRIT OF
MANDATE** on the interested parties in this action as follows:

Katelyn M. Knight, Assistant City Attorney
Kristoffer S. Jacob, Assistant City Attorney
Sukhnandan Nijjar, Deputy City Attorney
CITY OF VALLEJO, City Hall
555 Santa Clara Street, 3rd Floor
Vallejo, CA 94590
Email: katelyn.knight@cityofvallejo.net;
Sarah.Chesser@cityofvallejo.net

BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the document(s) to be sent from e-mail address rregnier@firstamendmentcoalition.org to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on January 23, 2026, at East Palo Alto, California.

Robin P. Regnier