



# LEGAL DEFENSE TRUST

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## TRAINING BULLETIN

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### UPDATE - NEW LAWS FOR 2016

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**Here are a few of the new laws for 2016 and how they affect you:**

**Reporting prosecutors for bad-faith Brady violations.** Penal Code §1424.5 provides that a court finding a prosecutor intentionally withheld exculpatory evidence in bad faith adversely affecting the defense, may inform the State Bar. The court may also disqualify the prosecutor from the case, and if it does, the defense may move to disqualify the prosecutor's entire office if there is enough evidence that other employees shared in the bad faith as part of a pattern and practice. (AB1328)

**Police must get a warrant to search electronic data.** Penal Code §§ 1546, 1546.1, 1546.2 & 1546.4 are amended to require a court order before a government agent/entity can search data in electronic devices or the cloud, including emails, text messages, and location data. There is an exception if the government believes in good faith that it needs the data to address a life-threatening emergency, but even then, the government must apply for a warrant within three days. There are other rules that require the government to seal, retain, or destroy your data depending on what it finds

and to notify you of what it is doing. If the government doesn't follow these rules, you can move to exclude the evidence it obtained as a result. (SB178)

**Public right to record the police.** Penal Code §§ 69(b) & 148(g) confirms that the recording of police conduct is no per se violation- an individual cannot be stopped for or charged with resisting or obstructing a police officer (or public official) for recording, if the officer or official is in a public place or if the individual has a right to be there. (SB 411)

**Grand juries will no longer investigate or indict cases involving police shootings or the use of deadly force.** Penal Code §§ 917(b) & 919(c) are amended to bar grand juries from indicting or inquiring into cases involving a police officer's use of force that led to the death of someone he or she had detained or arrested. (SB 227)

**The state will collect and maintain more comprehensive data on police stops and profiling.** Government Code §12525.5 and Penal Code §§ 13012(a)(5) & 13519.4 are amended to require that state and local

“Defending Those Who Protect Others”

New Laws

law enforcement agencies collect data on every police stop and make annual report of the collected data to the AG. The data must include the time/date/location, reason, result and “perceived” ethnicity/gender/age of the person stopped. The law also expands the definition of police profiling beyond race to include gender, religion, national origin, and sexual orientation. Reporting requirements will begin between 2019-2023 depending on the agency size. (AB 953)

Stay Safe!

***Michael P. Stone*** is the firm’s founding partner and principal shareholder. He has practiced almost exclusively in police law and litigation for 35 years, following 13 years as a police officer, supervisor and police attorney.

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