No. F089987

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT

CITY OF FRESNO,
Defendant and Petitioner,

v.

SUPERIOR COURT OF THE STATE OF CALIFORNIA,
COUNTY OF FRESNO,
Respondent;

AMERICAN CIVIL LIBERTIES UNION OF SOUTHERN CALIFORNIA,
Plaintiff and Real Party in Interest.

From the Superior Court of the State of California
For the County of Fresno, Case No. 24CECG01635
The Hon. W. Kent Hamlin

PLAINTIFF AND REAL PARTY IN INTEREST'S OPPOSITION TO CITY OF FRESNO'S PETITION FOR WRIT OF MANDATE

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CERTIFICATE OF INTERESTED ENTITIES OR PERSONS

Pursuant to the California Rules of Court, Rule 8.208, the undersigned counsel of record certifies that there are no persons or entities with either (1) an ownership interest of 10 percent or more in the Plaintiff-Real Party in Interest; or (2) a financial or other interest in the outcome of this proceeding that the justices should consider in determining whether to disqualify themselves.

Dated: November 5, 2025

Respectfully Submitted,

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INTRODUCTION AND SUMMARY OF THE ARGUMENT

This case arises from Defendant and Petitioner City of Fresno's ("Fresno") unlawful refusal to produce non-privileged public records concerning the Fresno Police Department's use of police canines—records that are public and subject to disclosure under the California Public Records Act ("PRA"). The American Civil Liberties Union of Southern California ("ACLU") submitted its PRA request in response to mounting community concern over the Fresno Police Department's egregious and racially disproportionate use of police canines.

The use of police canines is a matter of urgent public interest, particularly given the grave physical harm these dogs have inflicted on civilians—including unarmed individuals and innocent bystanders. The deployment of attack dogs by law enforcement is deeply rooted in a legacy of racialized violence, a legacy that continues to manifest today in unjustified and excessive uses of force against communities of color.[1] Fresno is not immune from this pattern. Its own canine unit has been implicated in a series of disturbing incidents that underscore the critical need for transparency, including an incident involving a

[1] *See Weaponizing Dogs: The Brutal and Outdated Practice of Police Attack Dogs*, ACLU California Action (Jan.2024) at pp. 12–15 <https://aclucalaction.org/wp-content/uploads/2024/01/ACLUReport_Weaponizing-Dogs_1.10.2024.pdf> (as of Feb. 22, 2024) (hereafter Weaponizing Dogs).

child attending a police demonstration.[2] The public has a right to know when, how, and under what circumstances law enforcement officers are using police canines, especially when those deployments result in individuals sustaining injuries.

But despite the urgent public interest in ACLU's request, Fresno responded by improperly withholding entire categories of responsive public records, applying blanket redactions to hide disclosable information in canine use of force and accidental bite reports, and refusing to produce any such reports from 2021. Fresno's failure to produce these public records violates the PRA and the California Constitution, both of which support the public's right of access. (*See e.g., Lorig v. Medical Board* (2000) 78 Cal.App.4th 462, 467 [the PRA "embodies a strong policy in favor of disclosure of public records"]; Cal. Const., art. I, § 3, subd. (b), par. (2) ["A statute, court rule, or other authority . . . shall be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access."].)

Fresno's justification for withholding the public records rests on a mischaracterization of the issue: this case is not about a dispute over the definition of "great bodily injury" ("GBI") in

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[2] Miracle, *Fresno Police K-9 Attacks Innocent Bystander*, ABC30 (May 20, 2015) <https://abc30.com/hanley-sell-jerry-dyer-k-9-attack/733733/> (as of Feb. 24, 2022); *Weaponizing Dogs*, *supra*, at p. 19; *Fresno Police K9 Fatally Shot After Biting Officer*. ABC30 (Jan. 5, 2022) <https://abc30.com/fresno-police-k9-killed-officer-shot-odin-department/11425605/> (as of Feb. 24, 2022).

Penal Code § 832.7,[3] but about Fresno's refusal to produce records the statute plainly requires. Section 832.7 requires law enforcement agencies to make available pursuant to the PRA records "relating to the report, investigation, or findings" of "[a]n incident involving the use of force against a person by a peace officer or custodial officer that resulted in death or *great bodily injury*." [emphasis added]. GBI means any "significant or substantial physical injury," (Pen. Code, § 12022.7, subd. (f)(1)) and police canines unequivocally cause GBI. [5 App., Exh. 14 (ACLU Supplemental Brief) at pp. 1398–1400.] Fresno effectively asks this Court to rewrite section 832.7 to use the term "serious bodily injury" ("SBI") rather than GBI so it can avoid producing the very records that the statute requires. But section 832.7 clearly says GBI, and the California Supreme Court settled that GBI and SBI have "separate and distinct statutory definitions," and thus are neither "equivalent as a matter of law" nor "interchangeable." (*In re Cabrera* (2023) 14 Cal.5th 476, 484–485 [citations omitted].)

Fresno appears to be projecting when it suggests that by advocating for GBI to mean GBI rather than SBI, ACLU is "attempting to achieve by litigation what it was unable to achieve by legislation." [Petition at p. 56 n. 6.] ACLU requests only that the Court look to the plain language of section 832.7, while Fresno is the party asking the Court to rewrite the legislation.

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[3] Unless otherwise noted, all further statutory references are to the Penal Code.

To justify its request that the Court replace one clear statutory term with a preferred alternative, Fresno tries to manufacture ambiguity to distract the Court from the clear text of the statute and embarks on an unnecessary fishing expedition through the legislative history of section 832.7. Fresno does this by gesturing at different legal definitions, doctrines, and standards that have nothing to do with GBI and arguing that a parade of horribles would result should the Court order Fresno to comply with the law and fulfill its obligations to produce public records of paramount public concern.

The Superior Court saw through Fresno's smokescreen when it made similar arguments below, [6 App., Exh. 18 (Superior Court Statement of Decision) at p. 1624] rejecting Fresno's attempt to redefine the statutory term "great bodily injury" and finding that "Fresno's dissatisfaction with the term 'great bodily injury' in Penal Code section 832.7(b)(1)(A)(ii), which the Legislature specifically chose in the final adoption of Senate Bill 1421 ("SB 1421")[4] over the term 'serious bodily injury,' is for the Legislature. Fresno is not free to interpret the statute as they choose and ignore the plain language of the statute and the clear expression of legislative intent apparent from a review of the legislative history." [*Id*. at pp. 1623–1624.]

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[4] The California legislature amended section 832.7 to include the relevant disclosure requirements in 2018 in Senate Bill No. 1421. (Sen. Bill No. 1421 (2017–2018 Reg. Sess.) <https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB1421> [as of Nov. 4, 2025]).

Having failed to convince the Superior Court, Fresno now seeks a writ to excuse it from its obligations under the PRA and California Constitution. This Court should deny Fresno's request that the Court rewrite legislation and instead direct Fresno to comply with the Superior Court's writ. GBI has a clear and well-understood definition, section 832.7 unequivocally used the term GBI rather than SBI, the legislative history and case law support applying the well-understood definition in this context, and—even if Fresno could demonstrate legitimate ambiguity—it cannot demonstrate that interpreting GBI to mean GBI would lead to any absurd results.

This Court should deny Fresno's Petition for Writ of Mandate and order Fresno to comply with the Superior Court's order by immediately producing all responsive records containing evidence of GBI.[5]

ISSUE ON APPEAL

Whether the Superior Court erred in granting Plaintiff and Real Party in Interest's Petition for Writ of Mandate finding that City of Fresno had a duty to produce responsive records involving

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[5] The Court also requested informal briefing on the issue of the Superior Court's denial of ACLU's request for attorneys' fees. [August 12, 2025 Order.] Both parties presented informal briefing, in which Fresno conceded that "*if* ACLU was the prevailing party in this matter, it would be entitled to court costs and reasonable attorney fees as the CPRA requester." [Fresno Informal Reply at p. 23.] The issues of attorney fees is not on appeal in this case, but ACLU has appealed the Superior Court's denial of fees in a separate case before this Court. (*ACLU of Southern California v. City of Fresno*, Case No. F090114.)

police canines causing great bodily injury. As Fresno put it, the "crux" of the current dispute is how to define the term "great bodily injury" for the purposes of the California Public Records Act. [Petition at p. 11.] ACLU argues for a plain text interpretation of GBI based on the clear language of section 832.7 as well as the California Constitution, California case law, and established statutory interpretation principles, while Fresno asks the Court to replace one clear term of art with its preferred alternative and attempts to justify the swap by mudding the waters and then claiming ambiguity.

STATEMENT OF THE CASE

ACLU concurs with much of the procedural history provided in Fresno's Petition. [*See* Petition at ¶¶ 1–28.] Namely, that ACLU served a PRA request on Fresno seeking records related to police canine use of force [*id.* at ¶ 4], that Fresno's eventual response was insufficient, in part because Fresno redacted large sections of key documents and failed to provide any use of force records for the year 2021, [*id* at ¶ 8; *see also* 5 App., Exh. 14 at p. 1392], that ACLU sought a writ seeking to enforce Fresno's obligations under the PRA and California Constitution [Petition at ¶ 14], and that after multiple rounds of briefing [*id* at ¶¶ 15–21] and oral argument [*id.* at ¶¶ 18, 22], the Superior Court granted ACLU's petition [*id* at ¶¶ 23–25], finding that that Fresno "has a duty to produce every responsive record that evidences a canine deployment that caused great bodily injury, as defined in Penal Code Section 12022.7(f) . . . ." [6 App., Exh. 18 at p. 1624.] The Superior Court reasoned that Fresno is

bound by section 832.7's plain language and legislative history and "is not free to interpret the statute as they choose[.]" [*Id.* at pp. 1623–1624.] Finally, ACLU does not dispute that Fresno sought a petition from this Court to overturn the Superior Court decision holding the City to its obligations. [*See* Petition.]

I. Corrections to the Fresno Petition Background Section

Although ACLU agrees with Fresno's proffered background on the main points above, Fresno's Petition contains several inaccuracies that must be corrected.

First, Fresno contends that its June 30, 2023 production of records was "appropriately redacted pursuant to applicable exemptions." [Petition at ¶ 7.] Not so. Fresno's redactions were inappropriate because Fresno hid entire sections of its canine use of force and accidental bite records in violation of its obligations under the California Constitution and PRA. This dispute has been extensively briefed, [1 App., Exh. 3 (ACLU Motion for Judgement) at pp. 49–60; 5 App., Exh. 9 (ACLU Reply Memorandum) at pp. 1261–1270; 5 App., Exh. 14 (ACLU Supplemental Brief) at pp. 1392–1401], and the Superior Court ordered Fresno to produce incidents where GBI was inflicted with minimal redactions. [6 App., Exh. 18 at pp. 1624–1625.]

Second, Fresno contends that "the Respondent Court presumed that the police records sought by ACLU were police investigatory records . . ." and "that the City had conducted a particularized review of records in its possession: rather than

asserting a generalized exemption . . . .” [Petition at p. 24 n. 3.] This is inaccurate. Although both topics were briefed [*see e.g.*, 5 App., Exh. 14 at pp. 1392–1396], the Superior Court did not reach the issue of whether the records were investigatory or whether Fresno had conducted an appropriately individualized review. The Superior Court's statement of decision focused entirely on whether Fresno could replace the clearly-defined and understood term GBI in section 832.7 with its preferred alternative and concluded that it could not. [6 App., Exh. 18 at pp. 1631, 1636–1637.] Whether the requested records are investigatory and whether Fresno conducted an appropriately individualized review both remain open questions.

Third, Fresno contends that in ACLU's September 11, 2024 reply brief we argued that “the responsive records were not law enforcement/police investigatory records because they were created as part of routine operational procedures to document an officer's use of reportable force . . .” [Petition at p. 21, ¶ 17.] Fresno misrepresents ACLU's argument that the records were not investigatory, which is more expansive than presented.[6] But

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[6] The investigatory records exemption—like all exemptions to the PRA—must be interpreted narrowly and does not “shield everything law enforcement officers do from disclosure.” (*Haynie v. Superior Court* (2001) 26 Cal.4th 1061, 1071.) The exemption applies only where there is a “‘concrete and definite prospect’ of ‘*criminal* law enforcement’ proceedings. (*Dixon v. Superior Court* (2009) 170 Cal.App.4th 1271, 1277 [citations omitted] [italics added].) The requested use of force and accidental bite reports are created as part of officer's administrative duties, not to assist with criminal investigations and they are not placed in

this issue has been fully briefed [*see e.g.*, 5 App., Exh. 14 at pp. 1394–1395] and is not at issue on appeal because the Superior Court did not reach the issue of whether the records were investigatory.

II. Fresno's Use of Force and Accidental Bite Records

Here, the ACLU provides additional context regarding the specific records requested which is relevant to the Superior Court's decision.

The inappropriately withheld records in question are Fresno's use of force and accidental bite records, to which Fresno has applied blanket redactions covering entire narrative sections, making it impossible to review the records. These use of force and accidental bites records are created to "ensure accountability and transparency, and to enhance the community's trust," not for investigating criminal activity.[7] They do not contain targeted inquiries typically associated with police investigations, but are created as routine operational procedures to document use of force and include narrative details of the incident, such as the level and nature of force applied.

Generally, when police officers use force, they are required to document the incident, including by providing a written description and the type of force used. This reporting requirement applies for every use of force—regardless of whether

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investigatory files. These records are not covered by the investigatory records exemption. [*See* 5 App., Exh. 14 at pp. 1392–1396.]

[7] 6 App., Exh. 15(M) (Policy 300 Use of Force Policy) at p. 1502.

the incident is connected to a criminal investigation—and serves critical functions: promoting accountability and informing the need for changes in training, policies, procedures, equipment, or other areas. The Fresno Police Department Policy Manual applies these general rules to its officers who must report any use of force that results in injury, regardless of whether it is part of a criminal investigation.[8] The Policy Manual specifically addresses canine use of force—both when directed by a police officer and accidental—requiring that injuries caused by a police canine be "documented in a canine use report," and that "[u]nintended bites or injuries caused by a canine should be documented in an *administrative* report, not in a canine use report."[9] The Policy Manual does not refer to use of force or accidental bite reports as "investigatory," limit reporting requirements to force related to criminal investigations, require such reports be part of investigatory files, or state that their purpose is to assist with investigations. Rather, it specifies that the purpose of documentation is "to determine effectiveness of force, reliability of equipment, training needs, policy modifications, etc.," and that accidental bite reports are administrative reports.[10]

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[8] 6 App., Exh. 15(M) (Policy 300 Use of Force) at pp. 1506–1507 (force includes any time a person is injured by an officer or canine); *id.* at p. 1507 (use of force must be documented "promptly, completely, and accurately in an appropriate report").
[9] 6 App., Exh. 15(N) (Policy 318, Canine Program) at p. 1513 (italics added).
[10] *See* 6 App., Exh. 15(M) at p. 1508; *see also* 6 App., Exh. 15(N) at p. 1513.

STANDARD OF REVIEW

The California Public Records Act "embodies a strong policy in favor of disclosure of public records . . . and any refusal to disclose public information must be based on a specific exception to that policy." (*Lorig v. Medical Board* (2000) 78 Cal.App.4th 462, 467; *City of Hemet v. Superior Court* (1995) 37 Cal.App.4th 1411, 1425). The California Constitution requires any "statute, court rule, or other authority"—including Pen. Code § 832.7 (b) and the PRA itself—"be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access." (Cal. Const., art. I, § 3, subd. (b), par. (2); see also *ACLU Found. v. Superior Court* (2017) 3 Cal.5th 1032, 1042 ["Our Constitution requires that CPRA exemptions be narrowly construed"].)

"The burden of proof is on the proponent of nondisclosure, who must demonstrate a 'clear overbalance' on the side of confidentiality." (*California State University, Fresno Assn., Inc. v. Superior Court* (2001) 90 Cal.App.4th 810, 831) [*quoting* (*City of San Jose v. Superior Court* (1999) 74 CalApp.4th 1008, 1018].)

"The standard of review of an order of the superior court under the CPRA is 'independent review of the trial court's ruling; factual findings made by the trial court will be upheld if based on substantial evidence.'" (*Bakersfield City Sch. Dist. v. Superior Court* (2004) 118 Cal. App. 4th 1041, 1045 [*quoting Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325, 1336].)

ARGUMENT

I. The Superior Court Correctly Applied the Plain Text Reading of Section 832.7 and Ordered Disclosure of Records

Understanding that the PRA and California Constitution favor the people's right of access, the Superior Court correctly affirmed that section 832.7 means what it says: the governing standard is GBI, not SBI. In interpreting a statute, a court must "determine the Legislature's intent so as to effectuate the law's purpose," based first and foremost on "the statutory language," and must "follow the Legislature's intent, as exhibited by the plain meaning of the actual words of the law." (*Becerra v. Superior Court* (2020) 44 Cal.App.5th 897, 908, 917 [*quoting California Teachers Assn. v. Governing Bd. Of Rialton Unified School Dist.* (1997) 14 Cal.4th 627, 632].) Here, the statutory text is unambiguous. As the Supreme Court has explained, when the meaning of a statute is clear "in light of standard principles of interpretation, . . . there is no need to resort to legislative history." (*In re Greg F.* (2012) 55 Cal.4th 393, 408; *see also Hamilton & High, LLC v. City of Palo Alto* (2023) 89 Cal.App.5th 528, 549 [where statute is clear, it is "unnecessary to resort to extrinsic interpretive aids such as the legislative history"].) The Superior Court correctly rejected Fresno's attempt to convince the court to rewrite the statute by substituting SBI for the Legislature's choice of GBI. This Court should do the same and deny Fresno's Petition.

A. GBI is Well-Defined and has a Settled Meaning

GBI is defined as any "significant or substantial physical injury." (Pen. Code, § 12022.7(f).) Where the term is used elsewhere in California statutes, the code either defines GBI using identical terms, or else references the definition in section 12022.7. (*See e.g.*, Pen Code, § 198.5 [defining GBI as "significant or substantial physical injury"]; Pen. Code, § 16600 [same]; Health & Saf. Code, § 42400.3 [referring to Pen. Code § 12022.7 definition].) GBI is a well-understood term of art with a settled meaning in the California code and as the Superior Court noted, "FRESNO has been unable to cite to any statute or court decision that otherwise defines the term 'great bodily injury.'" [6 App., Exh. 18 at p. 1632.]

In determining what injuries qualify as GBI, California courts interpret the term broadly, [5 App., Exh. 9 (Petitioner's Reply Memorandum and Points of Authorities) at pp. 1266–1268.] This is consistent with the PRA's presumption in favor of disclosure, and courts also interpret the term broadly in criminal cases. GBI does not require "'permanent,' 'prolonged,' or 'protracted' disfigurement, impairment, or loss of bodily function," let alone any life-threatening injuries. (*People v. Escobar* (1992) 3 Cal.4th 740, 750.) But despite Fresno's assertions to the contrary, courts do not consider "some physical pain" sufficient to constitute GBI. Courts always require something more. [*Compare* Petition at 42 n. 4 *with* 5 App., Exh. 14 at pp. 1398–1400 (listing injuries that California courts consider GBI).] GBIs include lacerations, bruises, abrasions, deep

punctures, muscle and bone damage, disfigurement, and nerve damage. [1 App., Exh. 3 (ACLU Motion for Judgment) at p. 58 fn.9.]

Fresno claims supposed conflict amongst trial courts as to what constitutes GBI. [Petition at p. 57.] But no such conflict exists. Fresno cites a Fresno County Superior Court decision in *Howey v. City of Fresno, et al.* to suggest that the court has adopted conflicting definitions of GBI. (Nov. 1, 2023, No. 23CECG01468) But *Howey* simply reflects that two departments in the same superior court can reach different outcomes in different factual circumstances. *Howey* involved wounds from TASERs and had nothing to do with police canines. The *Howey* court itself declined to apply a different definition of GBI, instead finding that under the Pen. Code § 12022.7(f) definition (the definition supported by the constitution and clear text of section 832.7), the injury in that case did not amount to GBI. (*Howey* (Nov. 1, 2023, No. 23CECG01468) at p. 7). That the court in *Howey* did not consider TASER wounds to be GBI does not generate a conflict in law. (*See Childers v. Childers* (1946) 74 Cal.App.2d 56, 61 ["It is a fundamental rule of [stare decisis] that a decision is not authority for what is *said* in the opinion but only for the points *actually involved* and actually decided"].) Fresno's attempt to manufacture ambiguity by gesturing at a case considering whether a non-canine use of force resulted in GBI does not create a split in authority.

Although Fresno wishes the Court would find GBI in the statute actually means SBI, the California Supreme Court settled

that the terms GBI and SBI have "separate and distinct statutory definitions," and thus are neither "equivalent as a matter of law" nor "interchangeable." (*In re Cabrera* (2023) 14 Cal.5th 476, 484–485 [citations omitted].) While GBI means any "significant or substantial physical injury," (*id.* at 488 [quoting Pen. Code, § 12022.7, subd. (f)]),[11] SBI involves a "serious impairment of physical condition . . ." (*Id.* at 484 [quoting Pen. Code, § 243, subd. (f)(4)].)

Applying the correct definition, police canines clearly can, and frequently do, cause GBI. [5 App., Exh. 9 (ACLU Reply) at p. 1268.] Police officers,[12] state courts,[13] and medical experts[14] all

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[11] *See also Judicial Council of California Criminal Jury Instructions* (2025) Judicial Council of California Advisory Committee on Criminal Jury Instructions <https://courts.ca.gov/system/files/file/calcrim_2025_edition.pdf> (as of Aug. 25, 2025).

[12] A Modesto police officer testified "he was aware that a police dog is capable of inflicting great bodily injury and even death." (*Olvera v. City of Modesto* (E.D. Cal. 2014) 38 F.Supp.3d 1162, 1175.) A San Jose police officer was trained that "his dog's bite can cause lacerations, bruises, tear muscles and fracture bones . . ." (*Tovar v. City of San Jose* (N.D. Cal., Sept. 24, 2024, No. 5:21-CV-02497-EJD) 2024 WL 4280950, at *4.)

[13] The Fourth District Court of Appeal found "[a] dog may be the instrumentality of an attack causing great bodily injury . . ." (*People v. Frazier* (2009) 173 Cal.App.4th 613, 618.)

[14] Medical experts found California police canine bites cause "severe pain from deep wounds requiring extensive stitches or multiple surgical repairs given the depth and severity of the wounds, skin grafting, infectious complications, and traumatic brain injuries," and long-term harms "included disfigurement, scarring, nerve injury, loss of function of arms and legs, cognitive impairment, chronic pain, sequelae from traumatic brain

agree, as do numerous California cases, [*see* 5 App., Exh. 14 at pp. 1398–1400 (comparing police canine injuries to injuries considered GBI by California courts], including the Superior Court, which said that it "may be true" that "nearly every dog bite would qualify" because "puncture wounds or lacerations" qualify as GBI. [6 App., Exh. 18 at p. 1636]. Other police agencies that received similar PRA requests produced use of force reports involving police canines where evidence of GBI was not redacted. [*See* 6 App., Exh. 15(O–R) at pp. 1518–1575 (describing injuries similar to those above, including punctures, lacerations, torn skin, and broken bones).] Yet Fresno redacted this information, claiming police canines cannot cause GBI using their preferred definition. [1 App., Exh. 5 (Fresno's Opposition to ACLU's Motion for Judgment) at p. 187 (claiming none of the responsive records "involved the use of police K-9 that resulted in death or GBI pursuant to the proper, narrow definition of GBI.").]

B. Section 832.7 Clearly and Unambiguously Uses the Term GBI

Section 832.7 says law enforcement must make available for public inspection records of "an incident involving the use of force against a person by a police officer or custodial officer that resulted in death or in *great bodily injury*." [emphasis added.]

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injuries, post-traumatic stress disorder, and other mental health disorders." (Altaf Saadi, et al., *Unleashed Brutality: An Expert Medical Opinion on the Health Harms from California Police Attack Dogs,* Physicians for Human Rights (Jan. 2024) p. 3 <https://phr.org/wp-content/uploads/2024/01/PHR-Expert-Opinion-Police-Canine-Medical-Harms-January-2024.pdf> [as of February 27, 2025].)

The text of the statute is clear, police records involving GBI are disclosable. Fresno asked the Court to replace one defined term of art with its preferred alternative to justify its withholding of public records.

In rejecting Fresno's definition of GBI, the Superior Court recognized that "[i]n any case involving statutory interpretation, the Court's fundamental task is to determine the Legislature's intent in order to effectuate the law's purpose." [6 App., Exh. 18 at p. 1620.] The Superior Court went on to say that "[t]he text of the statute is the best indicator of legislative intent, but the court may reject a literal construction that is contrary to the legislative intent apparent in the statute or that would lead to absurd results." [*Id*.]

Here, the text of SB 1421 and the resulting text of section 832.7 itself are both clear and use the term GBI, not SBI. Where the statutory text is clear as it is here, the Court need not engage with legislative history. But even if the Court were to consider Fresno's historical arguments, the legislative history confirms that the Legislature rejected the term "serious bodily injury" in favor of "great bodily injury," with the intent to incorporate the well-developed case law interpreting that term. By adopting the GBI standard, the Legislature struck a deliberate balance—mandating disclosure of records concerning force that caused significant or substantial injury, while excluding incidents involving only minor or trivial harm.

The legislative history reinforces this plain meaning. On August 23, 2018, shortly before SB 1421 was approved and sent to the Governor, it was amended to substitute "great bodily injury" for "serious bodily injury." [1 App., Exh. 7(F) (Amendment to SB 1421) at pp. 261–263.] By deleting "serious bodily injury" in favor of "great bodily injury," the Legislature demonstrated its intent to make GBI the relevant standard for disclosure of records about use of force. That conclusion is reinforced by the Senate Floor Analysis of August 31, 2018, which stated that the foregoing amendment was intended to "clarify the level of injury that requires *release of records* is 'great bodily injury' due to the larger body of law interpreting that term."[15] The legislative history thus confirms the "plain-meaning construction" of GBI as used in SB 1421. (*Hughes v. Pair* (2009) 46 Cal.4th 1035, 1046.) Any "arguments as to what [Fresno] believes the Legislature should have enacted" cannot "change the plain language of the statute the Legislature did enact, or rewrite the legislative history evincing what the Legislature intended." (*State of California ex rel. Hindin v. Hewlett-Packard Co.* (2007) 153 Cal.App.4th 307, 320.)

Fresno decries ACLU and the Superior Court's reliance on section 12022.7(f) for the definition of GBI, claiming that because the term is not specifically defined in 832.7 it cannot mean what

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[15] Sen. Rules Com., Off. of Sen. Floor Analyses of Sen. Bill No. 1421 (2017-2018 Reg. Sess.) Aug. 31, 2018 <https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201720180SB1421> (as of Aug. 25, 2025) (emphasis added).

the legislature and courts understand it to mean. Fresno alleges "in the context of a statutory scheme relating to police uses of force," GBI actually means "a bodily injury that involves a substantial risk [or likelihood] of death, unconsciousness, protracted and obvious disfigurement, or protracted loss or [permanent] impairment of a bodily member or organ." [Petition at p. 40]. To support this maneuver, Fresno cites to Gov. Code § 12525.2, subd. (d)(4). But that section of the Government Code defines SBI, not GBI. As explained, these terms are legally distinct and not interchangeable, [s*ee Cabrera*, *supra*, 14 Cal.5th at pp. 484–485 [citations omitted]) and as the Superior Court found, Fresno has not provided any support for its alternative definition of GBI. [6 App., Exh. 18 at p. 1632.]

The Superior Court was not the first court to apply the correct definition of GBI to the PRA context. Recognizing the clear text of SB 1421 and the distinction between two terms of art, courts have held that GBI is distinct from SBI in the context of the PRA. Two other superior courts—in addition to the Superior Court on appeal—rejected the exact attempt to interchange definitions that Fresno made below and repeats on appeal.[16] The Contra Costa Superior Court found "there simply is no ambiguity at all" that "[t]he Legislature's choice of the phrase 'great bodily injury' [in SB 1421] signals its intent that this term

[16] While these decisions do not bind the Court, they reflect that multiple superior courts have interpreted section 832.7 and SB 1421 to include the well-known definition of GBI distinct from SBI.

of art be applied, and not the narrower (and equally well-established) term of art 'serious bodily injury.'" (*Richmond Police Officers' Assn. v. City of Richmond* (Super. Ct. Contra Costa County, 2020, No. MSN19-0169 at p. 26).) The Sacramento County Superior Court similarly found "the plain language of [SB 1421], its legislative history, and the text and purpose of the PRA, all show that the Legislature intended agencies to apply a broader definition of 'great bodily injury' [rather] than the overly-restrictive term 'serious bodily injury' when responding to . . . PRA requests." (*The Sacramento Bee v. Sacramento County Sheriff's Dept.* (Super. Ct. Sacramento County, 2019, No. 34-2019-80003062 at p. 7.)) In short, multiple courts have found there is simply no ambiguity. In section 832.7, GBI means GBI, not SBI.

Relying on its flawed interpretation of section 832.7, Fresno categorically redacted all canine use of force and accidental bite reports, claiming that police canines are incapable of causing GBI under its improperly narrowed definition. That position fails because GBI means exactly what the statute says—not "serious bodily injury"—and police canines can, and often do, cause GBI.

The Superior Court properly rejected Fresno's contrary interpretation of GBI, and this Court should do the same.

C. No Absurd Results Flow from the Plain Reading of Section 832.7

A plain reading of GBI in section 832.7 does not lead to any absurd results and Fresno's arguments to the contrary fail under

minimal scrutiny. Fresno conflates section 832.7 with the legal "threshold for when officers could use deadly force" under section 835a. [Petition at p. 43.] But these are separate statutes and the definition of GBI has no bearing on when officers can use deadly force. The standard of GBI under section 832.7 governs the *disclosure of public records* and is distinct from the separate legal standard that governs peace officers' *use* of deadly force.

Section 832.7 governs disclosure of police records, requiring public access to records of use of force incidents *resulting* in "great bodily injury." By contrast, section 835a—enacted through Assembly Bill 392 in 2019—permits officers to use deadly force only when necessary "[t]o defend against an imminent threat of death or serious bodily injury . . ." (Pen. Code, § 835a, subd. (c)(1)(A).) The Legislature used different terms with different meanings for different circumstances—one for public transparency, and the other for use of force justification; these standards are not interchangeable. Records about use of force must be *disclosed* when the force results in "great" bodily injury. Officers shall only *use deadly force* to defend against imminent threat of "serious" bodily injury or death. Fresno's attempt to collapse these definitions ignores the statutory text and structure. These terms are not equivalent, and decisions about one have nothing to do with the other.

Interpreting GBI to mean GBI in the context of 832.7 will have no impact on Fresno police officer's use of deadly force. Nor will it impact Fresno's ability to use weapons classified as "non-deadly." As the trial court correctly recognized at hearing, deadly

force and great or serious bodily injury are not equivalent issues. [6 App., Exh. 17 (Mar. 21, 2025 Hearing Transcript) p. 1592.] Great or serious bodily injuries are defined by injuries that *result* from use of force, while "deadly force" is determined by the *amount* and *type* of force applied. The definitions have no bearing on one another, and even if they did, California courts have not found that mere pain is sufficient to demonstrate GBI, so interpreting GBI correctly would not justify Fresno police using deadly force when faced with pain alone.

Fresno also claims that the Superior Court misinterpreted legislative intent. But the Superior Court's reading of section 832.7 was faithful to the Legislature's intent to enhance transparency and build public trust. This intent is discussed in detail above and the California Constitution instructs that a statutory provision "shall be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access." (Cal. Const., art. 1, § 3, subd. (b)(2).) SB 1421 is a public transparency statute. To interpret GBI narrowly would substitute Fresno's will for that of the Legislature, rewrite the clear text of a statute, and violate the California Constitution by severely limiting access to public records.

Fresno's own policy manual states that the purpose of the records that it now withholds is to "ensure accountability and transparency, and to enhance the community's trust and confidence in [Fresno's] officers' ability to protect and serve." [6 App., Exh. 15(M) at p. 1501.] Yet Fresno now claims that interpreting 832.7 to require Fresno to uphold that transparency

is an absurd result [Petition at p. 48–57] and that complying with the law would open the "floodgates of burden." [Petition at p. 30]. Taking the legislature at its word that GBI means GBI in section 832.7 does not create absurd results, even if it would require Fresno to do additional work to ensure compliance. The Superior Court order only compelled Fresno to do what every public agency must do: product responsive public records. And here, Fresno's additional work is minimal because it has already located compliant records for years other than 2021. To comply with the Superior Court's order, Fresno would only need to apply the correct definition of GBI, produce new versions of those records without the inappropriately broad redactions, and locate and produce responsive records from 2021, none of which would unduly burden Fresno.

Furthermore, despite several courts rejecting Fresno's exact arguments and interpreting GBI to mean GBI in this exact context, (*Richmond Police Officers' Assn., supra,* No. MSN19-0169 and *The Sacramento Bee, supra,* No. 34-2019-80003062) Fresno has not provided any evidence that complying with the correct interpretation of section 832.7 would require it to turn over all or even substantially all of its use of force reports, nor that such a result would be absurd given the transparency purpose of the law.

Fresno has failed to demonstrate anything absurd would result from a plain reading of section 832.7.

CONCLUSION

For the reasons stated above, ACLU respectfully requests this Court deny Fresno's Petition for Writ of Mandate and order Fresno to comply with the Superior Court's order by immediately producing all responsive records containing evidence of GBI.

Dated: November 5, 2025

Respectfully Submitted,

By: */s/ Nicolas Hidalgo*

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CERTIFICATE OF WORD COUNT

The text of this Opposition to the City of Fresno's Petition for Extraordinary Writ of Mandate comprises 5859 words as counted by the Microsoft Word program used to generate it. This includes footnotes but excludes the tables of contents and authorities, the cover information, any certificate of interested entities or persons, the signature blocks, the verifications, this certificate, any proof of service, and any attachment. See Rules of Court 8.204(c), 8.486(a)(6).

By: */s/ Nicolas Hidalgo*
Nicolas Hidalgo

PROOF OF SERVICE

I, Angelina Alas, declare that I am a resident of the State of California. I am over the age of eighteen years and not a party to the within action. My business address is 39 Drumm Street, San Francisco, CA 94111. My electronic service address is aalas@aclunc.org.

On November 5, 2025, I caused the following documents to be served:

PLAINTIFF AND REAL PARTY IN INTEREST'S OPPOSITION TO CITY OF FRESNO'S PETITION FOR WRIT OF MANDATE

BY ELECTRONIC TRANSMISSION OR E-MAIL: I caused to be transmitted to the following case participants a true electronic copy of the document via this Court's TrueFiling system:

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BY MAIL: I mailed a copy of the document identified above by depositing the sealed envelope with the U.S. Postal Service with postage fully prepaid.

Superior Court of California, County of Fresno
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I declare under penalty of perjury, under the laws of the United States of America and the State of California, that the above is true and correct. Executed on November 5, 2025, at Novato, California.

By: */s/ Angelina Alas*

Angelina Alas, Declarant