

March 23, 2020

## **Statement on open government amid COVID-19 crisis in California**

In response to the COVID-19 pandemic, some government agencies in California have announced that they intend to stop responding to California Public Records Act requests until the crisis passes. There is no legal basis for this extraordinary step. The California Public Records Act, Gov. Code § 6250, et seq., remains the law of the land, and Article I, section 3(b)(1) of the California Constitution provides that “The people have a right of access to information concerning the conduct of the people’s business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.”

The public’s right of access remains and is crucial in times of crisis. Just as the government’s power is at its apex during a crisis, the importance of the public’s right to know how their government is wielding that power could not be greater.

The undersigned groups therefore condemn moves by some government entities to abandon their obligations under the California Public Records Act and the California Constitution, and we strongly urge them to reconsider.

We recognize and understand the difficult choices that government agencies must make right now. Delayed responses to Public Records Act requests may be inevitable. But agencies have an obligation to take all reasonable measures to preserve and effectuate the rights of Californians to understand their government — rights which our Legislature has recognized are “fundamental” and “necessary” and our Supreme Court has held are “essential to the functioning of a democracy.” (See Gov. Code § 6250 [access to information is “a fundamental and necessary right of every person in this state”]; *Int’l Fed’n of Prof’l & Tech. Eng’rs, Local 21, AFL-CIO v. Superior Court* (2007) 42 Cal.4th 319, 328 [“Openness in government is essential to the functioning of a democracy.”].)

The coronavirus pandemic is not California’s first major crisis, and the Legislature has never authorized the suspension of the California Public Records Act. It enacted that law specifically “to safeguard the accountability of government to the public, for secrecy is antithetical to a democratic system of government of the people, by the people and for the people.” (See *San Gabriel Tribune v. Superior Court* (1983) 143 Cal.App.3d 762, 771-72.) Moreover, the Governor’s recent emergency orders do not waive any of the California Public Records Act’s requirements.

While we acknowledge the extraordinary stresses that government agencies face right now, we urge all government agencies to comply with the California Public Records Act and the California Constitution and take all reasonable measures to continue to provide information to the public and the press during these exceptionally difficult times.

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**Californians Aware**

**California News Publishers Association**

**Electronic Frontier Foundation**

**First Amendment Coalition**

**League of Women Voters California** (*added April 15, 2020*)

**Open Vallejo**

**Reporters Committee for Freedom of the Press**

**San Diego Pro Chapter of the Society of Professional Journalists**

**Society of Professional Journalists, Greater Los Angeles Chapter**

**Society of Professional Journalists Northern California Chapter**

**Society of Professional Journalists San Diego Pro Chapter**