



California Public Records Act Primer

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I. Public Records Act Framework

“A popular government, without popular information, or the means of acquiring it is but a prologue to a Farce or a Tragedy.” —James Madison

A. Basic structure

All public records are subject to disclosure unless they fall within one of the exemptions articulated in the Public Records Act (“PRA”).¹

B. “Public records” is broadly defined

The definition of public records in the PRA includes most documents generated or used by the government.²

C. Numerous exemptions

The PRA is subject to numerous exemptions. There are a number of categorical exemptions in Government Code section 6254, which are often invoked by public agencies in denying access to records. There is a general “Catch-All” exemption created by Government Code section 6255. In addition, there are several hundred exemptions not included in the PRA itself, but set forth in other statutes and incorporated into the PRA under Government Code section 6254(k). Government Code sections 6275-6276.48 provide a list of many (but not all) of the statutes that may limit disclosure of information contained in public records.

II. Agencies And Documents Governed By The Act

A. State

1. All state agencies except legislative and judicial agencies.³
2. Courts and court administrative bodies (such as the Judicial Council and the Administrative Office of the Courts) are not subject to the PRA. Access to court records is governed by constitutional and common law principles established by case law, by the California Rules of Court, and by separate statutes governing certain court records.
3. State legislative records not available under the PRA. There is a separate statute that governs records of the Legislature (the Legislative Open Records Act).⁴

¹ [The California Public Records Act is codified at Government Code sections 6250-6277.](#)

² [Gov. Code § 6252\(e\).](#)

³ [Gov. Code § 6252\(a\).](#)

⁴ [Gov. Code §§ 9070-9080.](#)

B. Local

1. All local agencies, including school districts and any board or commission of a city, county, municipal corporation or other political subdivision.⁵
2. Note: If a public body is subject to the Brown Act, it is also subject to the PRA.

C. Proposition 59

The coverage of Proposition 59 (Article I, section 3(b) of the California Constitution) appears to have broader applicability than the PRA. Specifically, courts and court administrative bodies may be subject to a constitutional right of access under Proposition 59.⁶

III. What Are Public Records?

A. Writing

1. Includes handwritings, photographs, films, sound recordings, maps, magnetic tape, computer disks – virtually any means of recording any form of communication.⁷ This includes information on officials’ personal devices, cell phones and social media accounts if it relates to the public’s business.⁸
2. Computer data is clearly within the definition of a public record.⁹

B. Containing information relating to the conduct of the public’s business

1. The requirement that a record relate to the conduct of the public’s business is broadly construed, and rarely contested.¹⁰ According to the legislative history of the PRA: This definition is intended to cover every conceivable kind of record that is involved in the governmental process. . . . Only purely personal information unrelated to “the conduct of the public’s business” could be considered exempt from this definition, i.e., the shopping list phoned from home, the letter to a public officer from a friend which is totally void of reference to governmental activities.¹¹

⁵ [Gov. Code § 6252\(b\)](#).

⁶ [Article I, section 3\(b\)\(1\)](#) of the California Constitution provides as follows: “The people have the right of access to information concerning the conduct of the people’s business, and, therefore, the meeting of public bodies and the writings of public officials and agencies shall be open to public scrutiny.” Although other provisions of Proposition 59 limit its application to the Legislature, nothing in Proposition 59 expressly exempts or limits its application to the judicial branch of the government. However, the application of Proposition 59 to the courts or court administrative bodies has not yet been determined.

⁷ [Gov. Code § 6252\(g\)](#).

⁸ [City of San Jose v. Superior Court, 2 Cal. 5th 608 \(2017\)](#).

⁹ [Gov. Code §§ 6252\(e\), 6253.9](#).

¹⁰ See, e.g., [California State University v. Superior Court, 90 Cal. App. 4th 810, 824-25 \(2001\)](#); [San Gabriel Tribune v. Superior Court, 143 Cal. App. 3d 762 \(1983\)](#).

¹¹ [San Gabriel Tribune v. Superior Court, 143 Cal. App. 3d 762, 774 \(1983\)](#).

2. Includes the names of public employees,¹² although it may not include home addresses and phone numbers of state employees.¹³ Note, however, that access to names of public officials and employees is increasingly disputed. Seeking access to names of public employees who are the subjects of investigations or controversies may be justified.¹⁴ However, as a practical matter, you will probably get more information sooner if you agree that the names of such employees can be withheld.
3. Note that the names and contact information for private citizens may also be exempt from disclosure, particularly those who submit information or complaints to the government with an expectation of confidentiality. Agreeing to allow public agencies to withhold such information may also expedite a request.

C. Prepared, owned, used or retained by state or local agency.

The records do not necessarily have to be in the actual custody of the public agency if they are prepared, owned, or used by the agency.

D. Regardless of physical form or characteristics.

Information retained in an electronic format must be made available in any electronic form in which the agency holds the information.¹⁵

IV. How To Gain Access To Public Records

A. Inspection

1. Records must be available for inspection during the regular office hours of the agency.¹⁶
2. Procedures. Agencies may adopt procedures to be followed, but such procedures cannot limit hours during which records are available during regular office hours. Some agencies are required to adopt written guidelines for

¹² [Assembly Comm. on Statewide Information Policy, Appendix 1 to Journal of Assembly \(1970 Reg. Sess.\) Final Report p. 9.](#)

¹³ See, e.g., [New York Times Co. v. Superior Court, 52 Cal. App. 4th 97 \(1997\)](#); [Gov. Code § 6254.3](#) (exempting home address and telephone numbers of state employees and employees of school districts and county offices of education); [Gov. Code § 6254.4](#) (home address, telephone number, and other information shown on voter registration card are exempt); [Gov. Code § 6254.21](#) (home address or telephone number of any elected or appointed official not to be posted on the Internet).

¹⁴ See, e.g., [Bakersfield City School Dist. v. Superior Court, 118 Cal. App. 4th 1041, 1045-46 \(2004\)](#); [American Federation of State, County and Municipal Employees v. Regents of the University of California, 80 Cal. App. 3d 913 \(1978\)](#).

¹⁵ [Gov. Code § 6253.9\(a\)](#).

¹⁶ [Gov. Code § 6253\(a\)](#).

accessibility of records, and to make those guidelines available free of charge upon a written request.¹⁷

3. Inspection is free of charge.

B. Copying

1. **You are entitled to copies of public records**¹⁸
2. Procedures: You are not required by law to make a request in writing, but put your request in writing anyway. It gives you a record of what was requested and establishes the date that starts time for a response running. The agency must respond to a request for public records within 10 days. The time for responding can be extended by the agency for an additional 14 days.¹⁹ “No further delays are authorized by the statute.”²⁰ You are entitled to an exact copy unless it is impracticable to provide one.²¹
3. The agency may charge a fee: “covering direct costs of duplication” (or a statutory fee).²²
 - a. “Direct costs of duplication” does not include search and retrieval time.²³
 - b. Direct cost does include maintenance costs and the salary of the clerk for time spent copying (essentially, what a copy shop would charge—usually \$.10-.25 per page, except for unusual copies).
 - c. Note: Counties may be allowed, by statute, to charge fees that exceed the “direct costs of duplication,” so long as the fees do not exceed the amount reasonably necessary to recover the cost of providing the copy.²⁴
4. You are entitled to copies of documents in electronic form, although public agencies may resist disclosure if the records are subject to manipulation in their original electronic form.²⁵ If such an issue is raised, see if the agency can readily convert the electronic document into a static form (e.g., converting a Word file into an Adobe .pdf file). The fees that may be charged for obtaining an electronic copy vary, but are generally limited to the direct cost of providing a copy in an

¹⁷ [Gov. Code § 6253.4.](#)

¹⁸ [Gov. Code § 6253\(b\).](#)

¹⁹ [Gov. Code § 6253\(c\).](#)

²⁰ [City of Los Angeles v. Metropolitan Water District of Southern California, 42 Cal. App. 5th 290, 297 \(2019\).](#)

²¹ [Gov. Code § 6253\(b\).](#)

²² [Gov. Code § 6253\(b\).](#)

²³ [North County Parents Organization v. Department of Education, 23 Cal. App. 4th 144, 146 \(1994\).](#)

²⁴ [85 Ops. Cal. Atty. Gen. 225 \(2002\).](#)

²⁵ [Gov. Code § 6253.9\(f\).](#)

electronic format.²⁶ While agencies may charge for the costs of data “compilation, extraction or programming,” they may not charge for staff time and other costs associated with redacting information from an electronic record.²⁷

5. You have the right, when inspecting records on the premises of an agency, to make copies of that record using your own equipment without being charged any fees or costs – though the agency may deny the use of such equipment if it would damage the record or result in “unauthorized access to the agency’s computer systems or secured networks by using software, equipment or any other technology capable of accessing, altering, or compromising the agency’s records.”²⁸

C. Materials containing both exempt and non-exempt information

1. You are entitled to non-exempt portions of a record if reasonably segregable, i.e., if exempt portions can be redacted.²⁹
2. Always ask to have any reasonably segregable portion provided.

D. Assistance

1. Government Code section 6253.1 obligates public agencies to assist the public to make focused and effective requests that reasonably describe identifiable records.
2. Public agencies are required, to the extent reasonable, to do all of the following:
 - a. Assist the public in identifying records and information responsive to the request or purpose of the request;
 - b. Describe the information technology and physical location in which the records exist;
 - c. Provide suggestions for overcoming any practical basis for denying access to the records or information sought.
3. Always include in your written PRA requests a request for assistance pursuant to Government Code section 6253.1.
 - a. In general, ask the agency to identify the records or information responsive to your request, and to describe their location.

²⁶ [Gov. Code § 6253.9\(a\)\(2\)](#). But see [Gov. Code § 6253.9\(b\)](#).

²⁷ [National Lawyers Guild, San Francisco Bay Area Chapter v. City of Hayward](#), 9 Cal. 5th 488 (2020).

²⁸ [Gov. Code § 6253\(d\)\(1\)-\(2\)](#).

²⁹ [Gov. Code § 6253](#).

V. CPRA Exemptions

A. The Public Records Act contains or incorporates numerous exemptions

1. The PRA itself contains many exemptions permitting public agencies to withhold certain categories of records. Most of these are set out in Government Code section 6254. Additional exemptions are included in separate sections.
2. The PRA also includes a provision exempting records the disclosure of which is exempted or prohibited under federal or other state law. Government Code section 6254(k) incorporates literally hundreds of specific statutory exemptions, most of which are listed at the end of the PRA (Government Code § 6275 et seq.), including, for example:
 - a. Rap sheets (“criminal offender record information”).³⁰
 - b. Medical records.³¹
 - c. Court records in unlawful detainer proceedings (sealed for 60 days, or indefinitely if the defendant prevails).³²
 - d. Strawberry marketing information.³³
3. Note: the fact that a statute is included in the list does not mean that it necessarily creates an exemption.³⁴ You need to look at the statute to determine if it actually prevents disclosure of public records.

B. Frequently invoked exemptions

The following are some of the most frequent exemptions:

1. **Preliminary drafts or notes** not normally retained, provided the public interest in withholding outweighs the public interest in disclosure (Government Code § 6254(a)).
2. **Personnel, medical, and similar files** (Government Code § 6254(c)). This exemption is routinely invoked when the public agency believes a request seeks information pertaining to identifiable public officials or employees that is private, sensitive or controversial. But in fact, the information may only be withheld if its disclosure “would constitute an unwarranted invasion of personal privacy.” (Government Code § 6254(c)). That is and is meant to be, a high threshold.

³⁰ [Gov. Code § 6276.12](#), referring to [Penal Code §§ 11076](#) and [13202](#).

³¹ [Gov. Code § 6276.30](#), referring to [Civil Code § 56.16](#).

³² [Gov. Code § 6276.12](#), referring to [Code of Civil Procedure § 1161.2](#).

³³ [Gov. Code § 6276.42](#), referring to [Food and Agriculture Code § 63124](#).

³⁴ [Gov. Code § 6275](#).

3. **Salary information:** The salaries (and other cash compensation, such as bonuses and overtime pay) of specific, named public employees must be disclosed in response to a public records request. While public employees have a legitimate privacy interest in such information, the California Supreme Court reasoned that this interest is outweighed by the public interest in how the government spends the public's money.³⁵ Amounts received by former government employees in the form of pension payments also must be disclosed.³⁶
4. **Investigations of employee misconduct:** The California courts have established a fairly liberal standard for disclosure of public records relating to complaints or investigations of misconduct by public employees or officials.
 - a. They have held that there is a public policy against disclosure of "trivial or groundless charges," but that "where the charges are found true, or discipline is imposed, the strong public policy against disclosure vanishes; this is true even where the sanction is a private reproof. In such cases, a member of the public is entitled to information about the complaint, the discipline, and the 'information upon which it was based.'"³⁷
 - b. In addition, they have held that "where there is reasonable cause to believe the complaint to be well founded, the right of public access to related public records exists."³⁸
 - c. With respect to high-level public servants, such as a superintendent of schools, disclosure of records relating to misconduct is required even if the charges are found not to be reliable and the official is exonerated.³⁹
5. **Records pertaining to pending litigation** to which public agency is a party (Government Code § 6254(b)).
 - a. To qualify, the records must have been prepared for use in the litigation.⁴⁰
 - b. The PRA may be used to obtain documents generated in litigation in which the requestor was a party.⁴¹

³⁵ [*International Federation of Professional and Technical Engineers, Local 21, AFL-CIO v. Superior Court*, 42 Cal. 4th 319 \(2007\).](#)

³⁶ [*Sacramento County Employees Retirement System v. Superior Court*, 195 Cal. App. 4th 440 \(2011\).](#)

³⁷ [*American Federation of State, County and Municipal Employees v. Regents of the University of California*, 80 Cal. App. 3d 913, 918 \(1978\) \("AFSCME"\).](#) Accord, [*Bakersfield City School Dist. v. Superior Court*, 118 Cal. App. 4th 1041, 1044, 1046 \(2004\).](#)

³⁸ *Id.*

³⁹ [*BRV, Inc. v. Superior Court*, 143 Cal. App. 4th 742 \(2006\).](#)

⁴⁰ [*County of Los Angeles v. Superior Court \("Axelrad"\)*, 82 Cal. App. 4th 819, 830 \(2000\).](#)

⁴¹ [*City of Los Angeles v. Superior Court*, 41 Cal. App. 4th 1083\(1996\).](#)

- c. The exemption terminates when the litigation is resolved.⁴² Invoices showing how much an agency has spent on outside lawyers are protected from public disclosure by the attorney-client privilege until the litigation is concluded, at which time the privilege no longer bars public release.⁴³
 - d. The exemption is broader than the attorney work-product exemption; it protects any work product generated by a public agency in anticipation of litigation.⁴⁴
 - e. But note: records protected by the attorney-client privilege or attorney work-product doctrine remain exempt from disclosure (under section 6254(k) and the California Evidence Code) even after the litigation is resolved.
6. **Law enforcement/licensing agency records** of complaints, investigative, and security files (Government Code § 6254(f)).
- a. This is a complex exemption. In general, law enforcement investigatory files are not required to be made public. The most typical example of such records is police reports. However, law enforcement agencies are required to make certain categories of information public, even though those categories of information are generally contained in law enforcement investigatory files. The information required to be made public is discussed in more detail below.
 - b. The exemption for law enforcement and licensing agency investigatory files arises “only when the prospect of enforcement proceedings becomes concrete and definite.”⁴⁵ Therefore, any records created without enforcement or licensing purposes are not exempt.⁴⁶ A recent case suggested that “case-by-case” balancing is appropriate to determine whether record requests ask for complaints and law enforcement assistance requests.⁴⁷
 - c. However, once materials have become exempt, they remain permanently exempt, even after the investigation is over.⁴⁸

⁴² [Gov. Code § 6254\(b\)](#) (“ . . . until the pending litigation or claim has been finally adjudicated or otherwise settled.”).

⁴³ [County of Los Angeles Board of Supervisors v Superior Court, 2 Cal. 5th 282 \(2016\)](#).

⁴⁴ [Fairley v. Superior Court, 66 Cal.App.4th 1414, 1422, n. 5 \(1998\)](#).

⁴⁵ [Williams v. Superior Court, 5 Cal. 4th 337, 356 \(1993\)](#).

⁴⁶ [Uribe v. Howie, 19 Cal. App. 3d \(1971\)](#) (county agricultural commissioner report regarding pesticide spraying was not exempt from disclosure simply because it could be used for enforcement or licensing; it was not created for that purpose and there was no prospect of an enforcement proceeding.)

⁴⁷ [Fredericks v. Superior Court, 233 Cal. App. 4th 209, 234 \(2015\)](#).

⁴⁸ [Williams v. Superior Court, 5 Cal. 4th 337, 361-362 \(1993\)](#).

- d. In 2018, the California Legislature passed two important police transparency bills.
- (1) Senate Bill 1421 expanded public access to police records involving: (1) officer-involved shootings, (2) uses of force resulting in great bodily injury or death, (3) sustained findings that an officer committed sexual assault against a member of the public, (4) sustained findings of officer dishonesty.⁴⁹ The California Supreme Court has held that it does not matter which agency initially created the records -- if an agency has in its possession records subject to disclosure, it must disclose them even if it did not initially create them or the records pertain to officers from a different agency.⁵⁰ Records created prior to the bills passage must also be disclosed.⁵¹
 - (2) Assembly Bill 748 requires disclosure of audio and video recordings of “critical incidents.”⁵² A “critical incident” is defined as: (i) An incident involving the discharge of a firearm at a person by a peace officer or custodial officer; or (ii) An incident in which the use of force by a peace officer or custodial officer against a person resulted in death or in great bodily injury.⁵³ Please see our [Police Transparency Guide](#) for further details.
- e. In 2021, the California Legislature passed legislation (Senate Bill 16) that further expanded the types of incidents as to which records must be disclosed, to include sustained findings that an officer:
- (1) Used unreasonable or excessive force;
 - (2) Failed to intervene against another officer using unreasonable or excessive force;
 - (3) Effectuated an unlawful arrest or unlawful search; or
 - (4) Engaged in conduct involving prejudice or discrimination on the basis of certain legally protected classes.

Records falling within these categories created before January 1, 2022 do not have to be released until starting on January 1, 2023.⁵⁴

⁴⁹ [Pen. Code § 832.7\(b\)\(1\)](#).

⁵⁰ [Becerra v. Superior Court](#), 44 Cal. App. 5th 897 (2020).

⁵¹ [Walnut Creek Police Officers’ Ass’n v. City of Walnut Creek](#), 33 Cal. App. 5th 940, 941 (2019).

⁵² [Gov. Code § 6254\(f\)\(4\)](#).

⁵³ [Gov. Code § 6254\(f\)\(4\)\(C\)](#).

⁵⁴ [Pen. Code § 832.7\(b\)](#)

C. Catch-all exemptions

1. Government Code § 6255 exempts from disclosure any records if “on the facts of the particular case the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record.”
2. Deliberative process privilege. This exemption includes the “deliberative process privilege,” allowing nondisclosure of records revealing the deliberations of agency officials. This doctrine was created by the California Supreme Court in 1991, in a case involving a request for the calendars of then-Governor Deukmejian, and has since been applied in many other contexts, including records of phone calls by city council members, and records regarding applications to the Government for appointment to fill vacancies on county boards of supervisors. According to the Supreme Court, “the key question in every case is whether disclosure of the materials would expose an agency’s decision-making process in such a way as to discourage candid discussion with the agency and thereby undermine the agency’s ability to perform its functions.”⁵⁵
 - a. Proposition 59. Proposition 59 was intended to eliminate the “deliberative process privilege.” The Ballot Argument in favor of Proposition 59 states in part as follows: “What will Proposition 59 do? It will create a new civil right: a constitutional right to know what the government is doing, why it is doing it, and how. . . It will allow the public to see and understand the deliberative process through which decisions are made. The courts, however, continue to apply the “deliberative process privilege” despite Proposition 59.

D. Exemptions are not mandatory

1. Despite the existence of an exemption, an agency may allow inspection unless disclosure is prohibited by law.⁵⁶
2. Thus, if an agency has disclosed the information sought, it may have waived right to claim exemption (Government Code § 6254.5).

VI. Disclosure Of Law Enforcement Information Required Under Government Code Section 6254

A. Information required to be disclosed upon the arrest of an individual or individuals

1. To whom the information must be disclosed: The public.
2. Information about the arrested individual that must be disclosed:

⁵⁵ [Times Mirror Co. v. Superior Court, 53 Cal. 3d 1325, 1342 \(1991\)](#).

⁵⁶ [Gov. Code § 6254](#) (“Nothing in this section prevents any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law.”).

- a. Full name and occupation;
- b. Physical description including date of birth, color of eyes and hair, sex, height and weight;
- c. The time and date of the arrest;
- d. The time and date of booking;
- e. The location of the arrest;
- f. The factual circumstances surrounding the arrest;
- g. The amount of bail set;
- h. The time and manner of release or the location where the individual is currently being held; and
- i. All charges upon which the individual is being held, including any outstanding warrants from other jurisdictions and parole or probation holds.

B. Exceptions to the obligations to disclose the information

- 1. A particular item of information otherwise required to be disclosed may be withheld if disclosure of that information would endanger the safety of a person involved in an investigation, or if disclosure of that information would endanger the successful completion of the investigation or a related investigation.

C. Information required to be disclosed regarding complaints or requests for assistance received by the agency:

- 1. To whom the information must be disclosed: The public.
- 2. Information that must be disclosed:
 - a. The time, substance and location of all complaints or requests for assistance;
 - b. The time and nature of the response thereto;
 - c. If information regarding crimes alleged or committed, or any other incident investigated, is recorded:
 - (1) The time, date and location of occurrence of the alleged crime or other incident;
 - (2) The time and date of the report;
 - d. The name, age and current address of the victim except that:

- (1) the address of a victim of certain crimes involving sexual assault, unjustifiable punishment of a child, interference with the exercise of civil rights, or corporal injury shall not be disclosed; and
- (2) the name of a victim of those same crimes may be withheld at the request of the victim or the parents or guardian if the victim is a minor.

D. Exceptions to the obligations to disclose the information

1. A particular item of information otherwise required to be disclosed may be withheld if:
 - a. Disclosure of that information would endanger the safety of a person involved in an investigation; or
 - b. Disclosure of that information would endanger the successful completion of the investigation or a related investigation.

E. Information required to be disclosed regarding incidents caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism, vehicle theft, or a crime as defined by Government Code section 13951(b).⁵⁷

1. To whom the information must be disclosed:
 - a. The victims of the incident or their authorized representative;
 - b. An insurance carrier against which a claim has been or might be made as a result of the incident; and
 - c. Any person suffering bodily injury or property damage or loss as a result of the incident.
2. Information that must be disclosed:
 - a. Names and addresses of persons involved in the incident;
 - b. Names and addresses of witnesses (other than confidential informants) to the incident;
 - c. The description of any property involved;
 - d. The date, time and location of the incident;
 - e. All diagrams of the incident;
 - f. Statements of the parties involved in the incident; and

⁵⁷ [Gov. Code § 6254\(f\)](#).

- g. The statements of all witnesses (other than confidential informants).
3. Exceptions to the obligation to disclose the specified information: Any or all of the above information may be withheld if:
- a. Disclosure would endanger a witness or other person involved in the investigation; or
 - b. Disclosure would endanger the successful completion of the investigation or a related investigation.
 - c. That portion of investigative files that reflects the analysis or conclusions of the investigating officer need not be disclosed.ⁱ

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