

The California Public Records Act (CA PRA)

"THE PEOPLE OF THIS STATE DO NOT YIELD THEIR SOVEREIGNTY TO THE AGENCIES WHICH SERVE THEM. THE PEOPLE, IN DELEGATING AUTHORITY, DO NOT GIVE THEIR PUBLIC SERVANTS THE RIGHT TO DECIDE WHAT IS GOOD FOR THE PEOPLE TO KNOW AND WHAT IS NOT GOOD FOR THEM TO KNOW. THE PEOPLE INSIST THEY MAY RETAIN CONTROL OVER THE INSTRUMENTS THEY HAVE CREATED."
— CA PUBLIC RECORDS ACT

(The following guide is intended to be a quick reference and provide general information to journalists and citizens. It addresses some common access problems, but does not substitute for research or consultation with a lawyer on detailed questions.)

[Pocket Guide to the California Public Records Act \(PDF file\)](#)

A GUIDE TO THE CALIFORNIA PUBLIC RECORDS ACT

THE BASICS

The Public Records Act ([GOVT. CODE § 6250 - 6276.48](#)) is designed to give the public access to information in possession of public agencies: "public records are open to inspection at all times during the office hours of the...agency and every person has a right to inspect any public record, except as...provided, [and to receive] an exact copy [of] an identifiable record" unless impracticable. (§ 6253). Specific exceptions to disclosure are listed in sections 6253.5-6253.7, 6254, 6254.1-6254.21, 6255, 6267 and 6276; to ensure maximum access, they are read narrowly. The agency always bears the burden of justifying nondisclosure, and "any reasonably segregable portion... shall be provided...after deletion of the portions which are exempt." (§ 6253(a))

WHO'S COVERED

All state and local agencies, including: (1) any officer, bureau, or dept.; (2) any "board, commission or agency" created by the agency (including advisory boards); and (3) nonprofit entities that are legislative bodies of a local agency. (§ 6252(a),(b)). Many state and regional agencies are required to have written public record policies. A list appears in § 6253.4.

WHO'S NOT COVERED

- Courts (except itemized statements of total expenditures and disbursement). (§ 6252(a), 6261)
- The Legislature. (§ 6252) See Legislative Open Records Act, Govt. Code § 9070-9080.
- Private, non-profit corporations and entities.
- Federal agencies. See Federal Freedom Of Information Act, 5 U.S.C. § 552.

ACCESS TIP Look to access laws (e.g. Legislative Open Records Act, IRS rules, court cases) that permit inspection and copying of records of agencies not subject to the Public Records Act. Many local jurisdictions also have Sunshine laws that grant greater rights of access to records.

WHAT'S COVERED

- "Records" includes all forms of communication related to public business "regardless of physical form or characteristics, including any writing, picture, sound, or symbol, whether paper, fiber, magnetic, or other media." (§ 6252(e)) Electronic records are included, but software may be exempt. (§ 6253.9(a),(g), 6254.9(a),(d))

WHAT MUST HAPPEN

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- **Access is immediate** and allowed at all times during business hours. (§ 6253(a)). Staff need not disrupt operations to allow immediate access, but a decision on whether to grant access must be prompt. An agency may not adopt rules that limit the hours records are open for viewing and inspection. (§ 6253(d); 6253.4(b))
- **The agency must provide assistance** by helping to identify records and information relevant to the request and suggesting ways to overcome any practical basis for denying access. (§ 6253.1)
- **An agency has 10 days to decide if copies will be provided.** In "unusual" cases (request is "voluminous," seeks records held off-site, OR requires consultation with other agencies), the agency may upon written notice to the requestors give itself an additional 14 days to respond. (§6253(c)) These time periods may not be used solely to delay access to the records. (§ 6253(d))
- **The agency may never make records available only in electronic form.** (§ 6253.9(e))
- **Access is always free.** Fees for "inspection" or "processing" are prohibited. (§ 6253)
- **Copy costs are limited to "statutory fees"** set by the Legislature (*not* by local ordinance) or the "direct cost of duplication", typically 10-25 cents per page. Charges for search, review or deletion are not allowed. (§ 6253(b)); *North County Parents v. DOE*, 23 Cal.App.4th 144 (1994). If a request for electronic records either (1) is for a record normally issued only periodically, or (2) requires data compilation, extraction, or programming, copying costs may include the cost of the programming. (§ 6253.9(a),(b))
- **The agency must justify the withholding of any record** by demonstrating that the record is exempt or that the public interest in confidentiality outweighs the public interest in disclosure. (§6255)

ACCESS TIP: Always ask for both copies and access; after inspection you can reduce the copy request (and associated costs) to the materials you need.

REQUESTING PUBLIC RECORDS

- Plan your request; know what exemptions may apply.
- Ask informally before invoking the law. If necessary, use this guide to state your rights under the Act.
- Don't ask the agency to create a record or list.
- A written request is not required, but may help if your request is complex, or you anticipate trouble.
- Put date limits on any search.

If the agency claims the records don't exist, ask what files were searched; offer any search clues you can.

- Limit pre-authorized costs (or ask for a cost waiver), and pay only copying charges.
- Demand a written response within 10 days.

If Your Request is Denied...

WHAT'S NOT COVERED

1. Employees' private papers, unless they "relat[e] to the conduct of the public's business [and are] prepared, owned, used, or retained by the agency." (§ 6252(e))
2. Computer software "developed by a state or local agency...includ[ing] computer mapping systems, computer programs, and computer graphic systems." (§ 6254.9(a),(b))
3. Records not yet in existence: The PRA covers only records that already exist; an agency cannot be required to create a record, list, or compilation. "Rolling requests" for future-generated records are not permitted.

RECORDS EXEMPT FROM DISCLOSURE

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The Act exempts certain records from disclosure in whole or in part. This does not mean they are not public records or that disclosure is prohibited. An agency may withhold the records, but can allow greater access if it wishes. (§ 6253(e)). However, "selective" or "favored" access is prohibited; once it is disclosed to one requester, the record is public for all. (§ 6254.5) Many categories of records are exempt, some by the Act itself, (§ 6254(a)-(z)) and some by other laws (§ 6275-6276.48). These include:

- **Attorney-Client discussions** are confidential, even if the agency is the client, but the agency (not the lawyer) may waive secrecy. (§ 6254(k), 6254.25, 6276.04)
- **Appointment calendars and applications, phone records, and other records which impair the deliberative process** by revealing the thought process of government decision-makers may be withheld *only* if "the public interest served by not making the records public clearly *outweighs* the public interest served by disclosure of the records." (§ 6255; *Times Mirror v. Sup. Ct.*, 53 Cal.3d 1325 (1991); *Rogers v. Sup. Ct.*, 19 Cal.App.4th 469 (1993); *CFAC v. Sup. Ct.*, 67 Cal.App.4th 159 (1998)). If the interest in secrecy does not *clearly outweigh* the interest in disclosure, the records *must* be disclosed, "whatever the incidental impact on the deliberative process." (*Times Mirror v. Sup. Ct.*) The agency must explain, not merely state, why the public interest does not favor disclosure.
- **Preliminary drafts, notes and memos** may be withheld *only if*: 1) they are "not retained...in the ordinary course of business" and 2) "the public interest in with-holding *clearly outweighs* the public interest in disclosure." Drafts are not exempted if: 1) staff normally keep copies; or 2) the report or document is final even if a decision is not. (§ 6254(a)) Where a draft contains both facts and recommendations, only the latter may be withheld. The facts *must* be disclosed. *CBE v. CDFCA.*, 171 Cal.App.3d 704 (1985).
- **Home Addresses** in DMV, voter registration, gun license, public housing, local agency utility and public employee records are exempt, as are addresses of certain crime victims. (§ 6254(f),(u), 6254.1, 6254.3, 6254.4, 6254.16, 6254.21)
- **Records concerning agency litigation** are exempt, *but only* until the claim is resolved or settled. The complaint, claim, or records filed in court, records that pre-date the suit (e.g., reports about projects that eventually end in litigation), and settlement records are *public*. (§ 6254(b), 6254.25); *Register Div. of Freedom Newspapers, Inc. v. Orange County*, 158 Cal. App. 3d 893 (1984)) (*County of Los Angeles v. Superior Court* 82 Cal App. 4th 819 (2000)).
- **"Personnel, medical and similar files"** are exempt *only if* disclosure would reveal intimate, private details (§ 6254(c)). Employment and appointment applications are exempt but employee contracts are not. (§ 6254.8)
- **Police Incident reports, rap sheets and arrest records** are exempt (Penal Code § 11075, 11105, 11105.1), but information in the "police blotter" (time and circumstances of calls to police; name and details of arrests, warrants, charges, hearing dates; etc.) *must* be disclosed unless disclosure would endanger an investigation or the life of an investigator. *Investigative files* may be withheld, even after an investigation is over. (Gov. Code §6254(f)); *Williams v. Sup. Ct.* 5 Cal. 4th 337 (1993); *County of L.A. v. Sup. Ct.* 18 Cal. App. 4th 588 (1994). Identifying data in *police personnel files* and *misconduct complaints* are exempt, but disclosure may be obtained using special procedures under Evidence Code section 1043.

Financial data submitted for licenses, certificates, or permits, or given in confidence to agencies that oversee insurance, securities, or banking firms; **tax, welfare, and family/adoption/birth** records are all exempt. (§ 6254(d), (k), (l), 6276).

Any act by any public officer either supports and upholds the Constitution, or opposes and violates it.

On August 3rd we met with Don Ashton, Supervisor Ranalli & Roger Trout for a “Come to Jesus” meeting concerning the River Management Plan, Code & Law Enforcement and Public Record Act requests. Sheriff D’Agostini refused to participate. The same day of our meeting Sergeant Danny Bears left me a phone message with an implied threat when he stated, *“And just FYI it is against the law to record people, especially law enforcement officers.”*

Police officers are not attorneys. They are not trained in constitutional law. Not only do most police officers demonstrate a serious lack of constitutional acumen, some police officers even demonstrate a serious animus AGAINST the Constitution. These same officers consider people who believe in the Constitution to be “anti-police.” Such an attitude does nothing but insure increasing abusive behavior against the very people police officers are sworn to protect: the American citizenry.

Look at the average police officer today: his equipment, dress, and mannerisms more resemble a special ops military soldier than a peace officer. Three times in a matter of weeks two deputies showed up unannounced in separate cars at my home. Not only is that a poor use of EDSO resources, it undermines the public’s trust in law enforcement.

After Deputy Ragusano showed up unannounced at my home I called Laura Lyons to request a meeting with Sheriff D’Agostini advising that somebody would accompany me.

Laura called back the following day at 10:29 AM and left the following message: *“Hello Melody. This is Laura at the Sheriff’s office. I’m just returning your call from our conversation last night and I just want to let you know I will NOT be making an appointment for you. This command made comes from Sheriff D’Agostini. Alright. Thank you. Bye bye.”*

Former EDSO Deputy Bernie Brown was assigned to interview community members suspected of hacking of my computer, Face Book, email, identity theft, and harassment. During one of our conversations about whether or not Sheriff D’Agostini would approve my CCW, Deputy Brown stated, *“Maybe he thinks you’ll bring a gun to an RMAC meeting.”*

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For the record you've all received copies of the Guide to Public Record Act Requests prepared for our October 4th meeting with Don Ashton and attorney Paula Franz. In violation of his Oath of Office Mike Ranalli refused to participate in the meeting I'd requested to address specific Code & Law Enforcement issues within District #4 and non-compliance of related CPRAs.

In closing I'd like to play the audio of a recent encounter with Sheriff D'Agostini and Mike Ciccozzi in the lobby of EDSO and witnessed by others. (play 9/22/16 D'Agostini/Ciccozzi audio)

Melody: Hey John. When are we going to talk?

D'Agostini: We're not.

Melody: We're not going to talk?

D'Agostini: Not to you.

Melody: Oh really? I think you've got a little problem with the Constitution and who you work for? You too Mike.

Ciccozzi: I don't have a problem with the Constitution. (approaching me to shut the door)

Melody: Yeah you do...and your Oath of Office.

The Sheriff is not above the law. It's time "we the people" start demanding that their crooked, self-absorbed politicians start honoring their oaths of office to the Constitution and eviscerate the gun-control laws that make residents easy prey for the criminal element within their own neighborhoods so that people can start lawfully defending themselves. And "conservative" folks need to get their heads out of the sand and realize that there is a REAL problem with police abuse in this country and start demanding that their local judges and prosecutors start holding these lawless lawmen accountable to the same laws that the rest of us are held to.

Madam Clerk: Please enter these documents into the public record and note the previously submitted CPRA re: Proof of EDSO Disciplinary hearings.

- 1) This transcript
- 2) Guide to CA Public Record Act Requests\
- 3) 10/7/16 EDSO Proof of Disciplinary Hearings

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Compass2Truth

Citizens Serving God in Truth and Liberty

P.O. Box 598
Coloma, CA 95613

October 7, 2016

To: El Dorado County Board of Supervisors EDC Clerk to the Board Jim Mitrison
CAO Don Ashton

CA PUBLIC RECORDS ACT REQUEST

The following advisement appears on the El Dorado County Sheriff's Office Citizen Complaint Form as is required by state law:

YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A PEACE OFFICER FOR ANY IMPROPER CONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CITIZENS' COMPLAINTS. YOU HAVE THE RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT. **NEVERTHELESS, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER ACTED IMPROPERLY.** CITIZEN COMPLAINTS AND ANY REPORTS OR FINDINGS RELATED TO COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS.

* Formal – a matter in which the complaining party requests further investigation or which a department supervisor determines that further action is warranted.

All investigations will be thorough, objective, and focused on maintaining public confidence and departmental integrity. The goal of every investigation will be to identify and evaluate all the facts surrounding the incident in question.

I had requested in writing my right to provide testimony at hearings relevant to specific formal citizen complaints against EDSO staff for misconduct. Pursuant to my rights under the California Public Records Act (Government Code Section 6250 et seq.), I ask to obtain documentary proof that EDSO formal disciplinary hearing dates actually took place for the following EDSO personnel:

- Deputy Terri Cissna
- Deputy T. Katz
- Deputy Ford
- Deputy Jencks
- Deputy Engelbrektson
- Lt. Tim Becker
- Deputy M. Elledge
- Deputy N. Cortez

If you determine that some but not all of the information is exempt from disclosure and that you intend to withhold it, I ask that you provide a signed notification citing the specific legal authorities on whom you rely.

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To avoid unnecessary costs of duplication, electronic copies are acceptable and may be emailed to
. It is requested that your determination be made within **10 days** as stipulated within
the California Public Records Act, **Government Code 6253(c)**.

Thank you for your compliance and timely response.

Sincerely,

A handwritten signature in cursive script, appearing to read "Melody Lane".

Melody Lane
Founder - Compass2Truth

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