

M. Lanz #30 10/21/14

Lt. Golmitz was in error when he responded with a demand for a \$10 fee using Resolution 113-95 as justification. For your information AB1234 – Mandatory Ethics Training--was passed in 2005 which superseded Resolution 113-95 therefore it is OBSOLETE and no longer posted on the government website. The **Guide to CA Public Record Act** states in part:

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).

An example: CA Department of Justice charges \$.10 per page.

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... Identifying data in *police personnel files* and *misconduct complaints* are exempt, but disclosure may be obtained using special procedures under Evidence Code section 1043.

Madam Chair: This (stack) represents just a small portion of violations of CPRAs primarily concerning the Mt. Murphy Rd. Bridge, the Coloma Resort and the Sheriff's Department. During our June monthly meeting you indicated County Counsel Ed Knapp was working on correcting this matter of "Unjust Enrichment." Per your agreement yesterday, I expect this to be resolved by tomorrow since it is applicable to the CPRAs submitted this morning.

Additionally this stack of maps instead of correspondence requested via a CPRA relevant to the Coloma Resort and the Mt. Murphy Bridge represents yet another major screw up or deliberate act of deceit by the CAO and County Assessor Karl Weiland.

With that being said, I'd like to submit yet another CPRA into the public record along with an article in the Lake Tahoe News entitled, "Ousted Yolo County Counsel Hired by EDC." (Read Robyn Drivon & Deputy Terri Cissna CPRAs) As goes EDC, so goes CA.

Mr./Madam Clerk: Please enter these items into the public record and note you have 10 days to respond to the CPRAs:

1. This transcript
2. Deputy Terri Cissna CPRA
3. Robyn Drivon CPRA
4. Ousted Yolo County Counsel Hired by EDC
5. A Guide to the CA Public Records Act
6. AB1234 – Fees for Duplication of Records
7. Obsolete Resolution 113-95

CC: D.A. Vern Pierson

As you all know, I may not be politically correct, but I am biblically correct. I'll predicate what I'm about to say with a quote from Jesus when he said, "Take heed that no man deceive you." *If you can read, then you can understand & interpret the law. However what County Counsel tells you may not be the gospel truth.* You've heard me quote Sheriff D'Agostini before, "**Hold their feet to the fire. Mine too. I work for you.**" I've said this before but it also bears repeating: ***I won't tolerate being bullied, lied to, or lied about.*** What you witnessed this morning by Sheriff D'Agostini was a gross abuse of the Public's Trust particularly toward a senior citizen and an evangelical minister. As Peter and the Apostles said in Acts 5:29, "*We ought to obey God rather than men.*"

You may wonder what caused his reprehensible behavior that was grossly out of order? It is my firm belief that the Sheriff reacted out of retaliation for holding his feet to the fire during a September 18, 2013 Tea Party Patriots of El Dorado Hills meeting:

ML: In regard to the CA Public Record Act requests for information, I've submitted a couple of them publicly at the Board of Supervisors and some of them have included case file numbers specific to correspondence that I hand delivered to your office on Monday. In the response that I got back from the Clerk of the Board on Friday which was 2 days delinquent according to the 10-day statute that's on the CPRA, there were 2 letters from the Sheriff's department that were never sent to me, and requesting \$10 for those reports that I had asked for via a CPRA. My question is--which I put to you in that correspondence (9/16/13)--would you be willing to waive the fees for Public Record information?

JD: Uhhhhmm, probably not Melody. Everybody has to pay for it. My staff's time costs money and that's one of the areas per the law that I can recoup some fees. So if I did it for you I'd have to do it for everybody, so probably not.

ML: So in other words, if you want justice you have to pay for it?

JD: If you want public records, yes, you'll have to pay for it.

ML: And again, which is an abuse of the justice system, huh?

JD: Anybody else? Thank you very much for having me. (The Sheriff then stormed out of the room visibly upset as several people gathered around me.)

Ladies & gentlemen, that's known as Unjust Enrichment described in ***American Jurisprudence***: [5] Furthermore, it has been stated that any enterprise undertaken by the public official who tends to **weaken public confidence and undermine the sense of security for individual rights is against public policy.** Fraud is its elementary common law sense of deceit and this is one of the meanings that fraud bears [483 U.S. 372] in the statute.



Compass2Truth

Citizens Serving God in Truth and Liberty

P.O. Box 598
Coloma, CA 95613
(530) 642-1670
melody.lane@reagan.com

October 21, 2014

To: El Dorado County Board of Supervisors
EDC Clerk to the Board
Sheriff John D'Agostini

CA PUBLIC RECORDS ACT REQUEST

Pursuant to my rights under the California Public Records Act (Government Code Section 6250 et seq.), and Evidence Code Section 1043, I ask to obtain copies of the following pertaining to Deputy Terri Cissna:

1. Documentation indicating the total number of citizen complaints filed against Deputy Terri Cissna from 2005 to 2014 inclusive.

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 legal authorities on whom you rely.

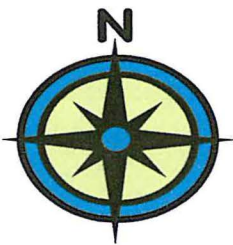
To avoid unnecessary costs of duplication, electronic copies are acceptable and may be emailed to melody.lane@reagan.com. It is requested that your determination be made within **10 days** as stipulated within the California Public Records Act, **Government Code 6253(c)**.

If you have any questions please do not hesitate to contact me.

Thanks for your anticipated cooperation.

Melody Lane
Founder – Compass2Truth

CC: D. A. Vern Pierson



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October 21, 2014

To: El Dorado County Board of Supervisors
EDC Clerk to the Board

CA PUBLIC RECORDS ACT REQUEST

Pursuant to my rights under the California Public Records Act (Government Code Section 6250 et seq.), I ask to obtain copies of the following pertaining to Chief Counsel Robyn Drivon:

1. Resume of Qualifications.
2. Signed Oath of Office.
3. Offer letter of employment. If this information is not available, please provide an explanation.
4. Names of all other applicants interviewed for the vacated position of Chief Counsel Ed Knapp.

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 legal authorities on whom you rely.

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

If you have any questions please do not hesitate to contact me.

Thanks for your anticipated cooperation.

Melody Lane
Founder – **Compass2Truth**

Ousted Yolo County counsel hired by El Dorado

Published: July 29, 2014 By: [admin](#), In: [News](#), [4 Comments](#)

By Kathryn Reed

Beginning Sept. 2, El Dorado County will have a new county counsel.

Ed Knapp is retiring effective Aug. 29. Taking his place is Robyn Drivon.



Robyn Drivon

Per state law, county counsels serve four-year terms.

“There was about a year and a half left in Lou (Green’s) term when he retired, so the board appointed me as county counsel to fill out the last year and a half of Lou’s term. That term ended May 5, 2014. I advised the board that I didn’t want to put my name in for the next four-year term since I’m 65 years old and didn’t particularly relish the prospect of working until I was 69,” Knapp told *Lake Tahoe News*.

Knapp started with the county as assistant counsel in the early 1990s.

Drivon’s term in Yolo County ended April 5. However, this is from the Feb. 19 *Davis Enterprise*, “The Board of Supervisors emerged from closed session last week with a two-sentence statement announcing that recruitment would be getting under way for a replacement for current County Counsel Robyn Drivon, but no additional information or explanation was provided. Evaluation of the county counsel, however, was one of the items on the closed session agenda.”

Drivon was hired by Yolo County in 2006 as chief counsel, having spent a year as assistant. She also was interim chief administrative officer in 2009.

She has been hired by El Dorado County at step 5, which has a salary range between \$12,833.60 and \$15,600 per month.

Stephanie McCorkle, public information officer for El Dorado, said finalizing the contract would occur before Drivon starts.

The July 14 El Dorado County supes’ meeting minutes say, “She is hired at step 5 of the salary range plus contingent upon board approval on an open agenda item the 5 percent salary increase already scheduled to

commence in January 2015 will be accelerated to her start date plus she will be given credit for 80 hours of vacation and 80 hours of sick leave on her start date."

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

- **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

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. CDFR.*, 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 of 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).

AB 1234 Ethics Training was signed by the Governor on October 7, 2005 – Fees for Duplication of Records: Agencies may charge the direct cost of producing a copy of a record.

The DIRECT COST of duplication includes the pro-rata (proportionate cost) of copying equipment as well as the pro-rata cost of the person running the equipment (a proportion of their salary and benefits, for example).

The direct costs of duplication ***DO NOT*** include costs affiliated with the research, retrieval, or redaction of a record as the Sheriff publicly indicated to a group of us on September 18th. An agency ***CANNOT*** charge a person requesting copies of records for these costs. **The theory is that these costs must be born by the agency as part of its duty to serve the public.**

UNJUST ENRICHMENT occurs when one person receives benefits at the expense of another. One such example I cited at that event was the Sheriff charging \$10 for a 1-page report as a means to raise funds to supplement his budget.

Direct cost includes:

- Pro-rata cost of duplication equipment.
- Pro-rata cost of equipment operator (salary and benefits for clerical employee).
- Does not include costs for research, retrieval, or redaction.

Example: California Department of Justice charges \$.10 per page



see R ~~113-95~~
283-98 for
fingerprinting
only

RESOLUTION No. 113-95

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO

WHEREAS Government Code Section 54985 authorizes the El Dorado County Board of Supervisors to adopt new fees, fee levels, and charges.

THEREFORE BE IT RESOLVED that the following fees, fee levels and charges be adopted by El Dorado County effective July 1, 1995.

<i>Service</i>	<i>Authorized by Government Code Section</i>	<i>Current Fee</i>	<i>Proposed Fee (rounded to nearest \$)</i>
Good Conduct Letter	54985	\$ 2.00	\$30.00
Itinerant Permit	54985	5.00	15.00
Explosive Permit	54985	3.50	15.00
Records Check	54985	5.00	5.00
Concealed Weapon	54985	3.00	30.00
Report Copies	54985	3.50	10.00
File Search	54985	0.00	15.00
Fingerprint	54985	5.00	10.00
Second Hand Dealer	54985	27.00	27.00
Card Rooms	54985	40.00	50.00
Service Notice	26721	24.00	25.00
Cancel Service	26736	24.00	25.00
Not Found Return	26738	24.00	25.00
Delivery of Instruments	26742	24.00	25.00
Service of Pre-judgement	26721.1	25.00	25.00
Service Possession/Property	26722	75.00	75.00
Service on Real Property	26725	25.00	25.00
Keeper	26726	75.00	75.00
Personal Property Sales	26728	21.00	21.00
Notice for Publication	26729	10.00	10.00
Writ of Possession	26733.5	75.00	75.00
Subpoena	26743	25.00	25.00
Bench Warrant	26744	50.00	50.00

RESOLUTION NO. 113-95

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held on the 16TH day of MAY, 1995, by the following vote of said Board:


Ayes: SUPERVISORS William S. Bradley, Raymond J. Nutting, J. Mark Nielsen, Walter L. Shultz, John E. Upton

ATTEST

DIXIE L. FOOTE

Clerk of the Board of Supervisors

By


Deputy Clerk

Noes: none
Absent: none


Chairman, Board of Supervisors

I CERTIFY THAT:

THE FOREGOING INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE.

DATE _____

ATTEST: DIXIE L. FOOTE, Clerk of the Board of Supervisors of the County of El Dorado, State of California.

By _____

M. Smith #30 BOS 10/21/14

OCTOBER 21, 2014 MARK E. SMITH GARDEN VALLEY. Submit as evidence.
COMMENT RE: Item 30, CALIFORNIA Public Records Act Requests (CPRA)

Government Records and Business MUST be:

- * TRANSPARENT
- * Ethical + Honest
- * In the best Public Interest
- * Constitutional

Documents + Records Requested should be provided:

- * Complete
- * Timely
- * IN A FORMAT useful to the general public or
 - * Printed + mailed without charge on request in a timely manner (not more than 3 business days)
- * Accurate
- * IF NOT provided or redacted, REASON must be given IN writing AS REQUESTED IN CPRA.

CPRA Requests should be:

- * AVAILABLE ONLINE FOR public inspection by ALL
- * LINKS TO ANSWERS/RESPONSES should be posted
- * Should be open, transparent, AND complete.

The entire process, all CPRA's, requests AND responses, should be online, easily searchable, complete, with links to relevant information + documents. This is the intent of the law... Public disclosure of the public's business. Government AND government contractors must be subject to oversight AND this CPRA LAW IS A PRIMARY tool FOR citizens to carry out their duty.

Thank you - Mall Sm

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