

## SOME IMPORTANT DEFINITIONS

**"State Agency"** means every state office, officer, department, division, bureau, board, and commission or other state body or agency, except those agencies provided for in Article IV or article VI of the California Constitution.

**"Local Agency"** includes a county; city, whether general law or chartered; city and county; school district; municipal corporation; district; political subdivision; or any board, commission or agency thereof, other local public agency; or nonprofit organizations of local governmental agencies and officials which are supported solely by public funds.

**"Person"** includes any natural person, corporation, partnership, limited liability company, firm, or association.

**"Public records"** includes any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. "Public records in the custody of, or maintained by, the Governor's office means any writing prepared on or after January 6, 1975.

**"Writing,"** means handwriting, typewriting, printing, photostating, photographing, and every other means or recording upon any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films or prints, magnetic or punched cards, discs, drums, and other documents.

**"Member of the public"** means any person, except a member, agent, officer, or employee of the federal, state, local agency acting within the scope of his or her membership, agency, office, or employment

## OUR PURPOSE

The California Law Enforcement Association of Records Supervisors, CLEARs, Inc, was formed to help train and educate records supervisors/managers from law enforcement agencies from throughout California. These agencies include, but are not limited to, county sheriff's department, police agencies, district attorney's offices, state agencies and local court personnel. CLEARs goal is to provide legal updates and to create a network of resources to provide members with the latest information available.

## CLEARs GOALS

- To associate persons who are actively engaged in the management or supervision of criminal justice records in an organized body so that the profession in all branches maybe standardized and effectively practiced.
- To encourage research for the betterment of records keeping.
- To keep its members apprised of the latest changes in record management, to provide training on issues of relevance to criminal justice personnel.
- To effect and maintain liaison with legislation concerning records keeping and confidentiality.
- To achieve professionalism, maintain high standards of performance among managers and supervisors of criminal justice records and assist them in the discharge of their responsibilities.



# UNDERSTANDING THE CALIFORNIA PUBLIC RECORDS ACT

*Published by the California Law Enforcement Association of Records Supervisors, CLEARs, Inc.*



# CALIFORNIA PUBLIC RECORDS ACT

## I. WHAT IS THE PUBLIC RECORDS ACT?

### INTRODUCTION

In 1968, the California Legislature enacted the California Public Records Act (CPRA) under Government Code sections 6250-6270. In its findings and declarations, mindful of the right of individuals' privacy, the Legislature declared it was the public's right to access information concerning the people business.

## II. WHAT IS A PUBLIC RECORD

As defined in the Public Records Act, GC 6252 "public records include any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics."

### POLICE REPORTS

Based on this definition, the report of crimes and incidents written in the course of business of a law enforcement agency are public records and subject to release under the Act, with some exemptions.

## III. BURDEN ON AGENCY TO DENY RELEASE

The agency has the burden of justifying the denial of access. Requestors do not have to prove or even state a "need to know" to justify access. However, an agency may ask for the request to be in writing.

### SCOPE

The scope of the request must be reasonably clear. Public records must be described clearly enough for the agency to determine if they have such records.

The agency need not compile lists or write reports. The rights under the PRA provide for the inspection of public records or to obtain copies of identifiable records, it does not compel the agency to create lists or reports in response to requests.

### FEES FOR COPYING

Agencies may charge for the "direct cost" for providing copies of an identifiable record (6253b). This cost does not include the hourly cost of labor, but only the cost of things like paper, machine maintenance, etc. The cost should be set by the local governing body, either City Council or Board of Supervisors.

## IV. PROMPT ACCESS TO RECORDS

### RESPONSE TIME

Prompt access to public records is required by the CPRA (GC 6253). The 10-day period mentioned in the act is not a legal deadline for producing the records. These 10 days allows the agency to review records if it is not clear that they are public records. As soon as a determination is made, at that time then the records shall be released.

### TIME EXTENSION

If the agency makes notice to the requesting party, the agency can get an additional 14 days to determine if records requested are public or not. There only four specific reasons for requesting the extra time, they are:

1. Need to search and collect information from another location.
2. Need to search through voluminous amount of documents
3. Need for consultation with another agency that may have interest in the release of the records.

4. Need to compile data or create a computer program.

## V. THE PRESS AND INFORMATION

### RIGHT TO ACCESS

Under the CPRA, the press has no more of a right to access to information than any other person does.

The Public Records Act also states that an elected member or officer of any state or local agency is entitled to access to public records of that agency on the same basis as any other person. Nothing in this section shall limit the ability of elected members or officers to access public records permitted by law in the administration of their duties.

## HOW TO OBTAIN INFORMATION VIA THE INTERNET

*We encourage people to research subjects on their own. This process allows you to become more familiar with your resources and the law.*

*The Internet address to access information about California law is [www.leginfo.legislature.ca.gov](http://www.leginfo.legislature.ca.gov)*

*Scroll down on the page and click on the button marked **California Law**. This will then take you to a page that lists all of the laws of the state, from the Penal Code to all Government Codes.*