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DEPARTMENT OF AUDITOR-CONTROLLER**

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Received
June 23, 2011
Commission on
State Mandates

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June 22, 2011

Drew Bohan
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, California 95814

Dear Mr. Bohan:

**LOS ANGELES COUNTY'S PROPOSED PARAMETERS AND GUIDELINES
CALIFORNIA PUBLIC RECORDS ACT TEST CLAIMS (02-TC-10, 02-TC-51)**

The County of Los Angeles respectfully submits its parameters and guidelines for the California Public Records Act reimbursement program.

If you have any questions, please contact Leonard Kaye at (213) 974-9791 or via e-mail at lkaye@auditor.lacounty.gov.

Very truly yours,

John Naimo FOR
Wendy L. Watanabe
Auditor-Controller

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Enclosure

Los Angeles County's Proposed Parameters and Guidelines
California Public Records Act Test Claims (02-TC-10, 02-TC-51)

Executive Summary

On May 26, 2011, the Commission on State Mandates (Commission) adopted a landmark decision. For the first time in California, local agencies and schools could receive State reimbursement for performing California Public Records Act (CPRA) services.

The parameters and guidelines (Ps&Gs) proposed by Los Angeles County (County) include only the local agency CPRA's services found to be reimbursable by the Commission. These services require local agencies to:

- (1) Provide copies of disclosable electronic records,
- (2) Determine if requested records are disclosable and notify the requestor within 10 days of the determination and reasons for the determination.
- (3) If the 10-day time limit is extended by a local agency due to "unusual circumstances", to provide written notice to the person making the request which includes reasons of the extension and the date on which a determination is expected.
- (4) Assist members of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated; describe the information technology and physical location in which the records exist; and provide suggestions for overcoming any practical basis for denying access to the records or information sought.
- (5) If a request is denied, in whole or in part, prepare or review a written response to a written request for inspection or copies of public records that includes a determination that the request is denied.

As is permitted under Government Code section 17557(a), the County's CPRA Ps&Gs include reimbursable activities which are 'reasonably necessary' in implementing the (above stated) mandates. The inclusion of these activities is based on the declarations of four County experts with long-standing experience in the provision of CPRA services. Accordingly, there is substantial evidence that the proposed 'reasonably necessary' activities are reimbursable as specified herein.

'Reasonably Necessary' Activities

The use of 'reasonably necessary' activities in further defining what may be allowable or reimbursable in implementing broadly-stated statutory provisions is well established and permitted under California law. Specifically, reimbursement for 'reasonably necessary' activities is permitted by Government Code section 71557(a) which provides in pertinent part that:

“The proposed Ps&Gs may include proposed reimbursable activities that are reasonably necessary for the performance of the state mandated program.”

County experts with long-standing experience in the provision of CPRA services were consulted and asked to opine on activities they felt would be reasonably necessary in performing the specific CPRA services found to be reimbursable by the Commission. Their declarations are attached as Exhibits 1 – 4.

Diane C. Reagan

Exhibit 1 contains the declaration of Diane C. Reagan, Principal Deputy County Counsel assigned to respond to CPRA requests and work with the Board of Supervisors' staff as well as staff from the Animal Care and Control, Auditor-Controller, Health Services, Public Health, and Public Social Services departments and Office of the Chief Executive officer.

In addition, Ms. Reagan has been assigned to work with one CPRA requestor in responding to voluminous requests for public records. In this regard, Ms. Reagan provides an Attachment B, on page 10 of Exhibit 1, which catalogs 20 such requests during the January 1, 2011- June 17, 2011 period. In this regard, she notes on pages 3-4 that she spent 48 hours responding to this one requestor during the first five months of 2011 at a billing rate of \$226.07 per hour. In Attachment C, found in Exhibit 1, pages 21-31, Ms. Reagan further illustrates the work that this assignment has involved by including 21 pages of correspondence in responding to just two of these requests.

Also, Ms. Reagan has prepared an Attachment A to her declaration (on pages 5-9) which details those activities that are 'reasonably necessary' in implementing the CPRA statutory provisions found to be reimbursable by the Commission.

Nancy Takade

Exhibit 2 contains the declaration of Nancy Takade, Principal Deputy County Counsel assigned to work as "office coordinator" of matters related to the CPRA. Since 2003 she has provided guidance and assistance to other County attorneys providing legal CPRA services to the Board of Supervisors, 37 County departments and the County's "numerous agencies, commissions, boards and committees".

Ms. Takade describes the importance of CPRA legal advice and/or assistance. On page 1 of Exhibit 2, she indicates that:

"This is particularly true when a request is worded in an extremely broad or general manner, covers a number of years, requires referral to and/or coordination with numerous County departments, requires extraction and compilation of electronic information, impacts privacy rights, relates to matters that are exempt from disclosure, or any combination thereof. In such instances, a staff attorney assigned to the Client Department will assist department staff in understanding the request, locating and identifying potentially responsive records, determining whether records are disclosable or exempt from disclosure, providing appropriate responses to the requests, and any other necessary assistance."

Also, Ms. Takade has prepared an Attachment A to her declaration (on pages 4-8 of Exhibit 2) which details those activities that are 'reasonably necessary' in implementing the CPRA statutory provisions found to be reimbursable by the Commission.

Rick Brower

Exhibit 3 contains the declaration of Rick Brower, Principal Deputy County Counsel. Mr. Brower supervises the Sheriff's Department Advocacy Unit with 6 lawyers and six support staff and has done so for the past 13 years. Among other things, his unit provides legal CPRA services to the Sheriff's Department. He has been personally responsible for providing CPRA assistance.

Also, Mr. Brower has prepared an Attachment A to his declaration (on pages 4-11 of Exhibit 3) which details those activities that are 'reasonably necessary' in implementing the CPRA statutory provisions found to be reimbursable by the Commission.

Shaun Mathers

Exhibit 4 contains the declaration of Shaun Mathers, a Captain in the Risk Management Bureau of the County Sheriff's Department. Captain Mathers has 30 years of experience in law enforcement and has handled CPRA requests for his department for the past 8 years.

On pages 12-13 of Exhibit 4, Captain Mathers details the number and types of CPRA requiring a focused and effective search. He further illustrates some "recent time-intensive requests" by providing examples on page 12. In addition, on page 13, he details CPRA processing steps that he and his staff uses in providing CPRA services and computes the cost of providing such services to be \$92,041.08 for the 2010 calendar year.

Also, Captain Mathers has prepared an Attachment A to his declaration (on pages 4-11 of Exhibit 4) which details those activities that are 'reasonably necessary' in implementing the CPRA statutory provisions found to be reimbursable by the Commission.

Attorney General

Literature from the California Attorney Generals Office (AG) provided insight into the provision of CPRA services which are pertinent to the County's proposed Ps&Gs. Exhibit 6 contains the AG's "Summary of the California Public Records Act (2004) and is useful in understanding the implementation of CPRA. For example, on pages 3-4 in Exhibit 6, this summary report address the concept of "identifiable information" in responding to CPRA requests as follows:

"In order to invoke the CPRA, the request for records must be both specific and focused. The requirement for clarity must be tempered by the reality that a requestor, having no access to agency files or their scheme of organization, may be unable to precisely identify the documents sought. Thus writings may be described by their content.

To the extent reasonable, agencies are generally required to assist members of the public in making focused and effective requests for identifiable records."

Further, the summary reports notes on page 4 of Exhibit 6 that:

“When an oral request is received, the agency may wish to consider confirming the request in writing in order to eliminate any confusion regarding the request.”

Therefore, the AG appears to be confirming the County’s position that providing CPRA services may at times require considerable effort in assisting members of the public in making focused and effective requests for identifiable records.

Californians Aware

As noted by Californians Aware in their publication “Top 10 Points to Remember about the California Public Records Act”, included on pages 3-5 of Exhibit 7, some CPRA disclosure exemptions are not clear cut. In some cases, invoking these exemptions may require considerable legal analysis --- as is provided for in the County’s proposed Ps&Gs. For example, The Top 10 publication indicates, on page 3 of Exhibit 7, that:

- “1. Most CPRA exemptions are discretionary.
2. Exemptions are waived by selective disclosure.”

Therefore, the County’s CPRA Ps&Gs include ‘reasonably necessary’ activities to meet the requirements to assist members of the public in making a focused and effective search for requested documents which may be lawfully disclosed.

Reimbursable Activities

For all of the above reasons, the County’s CPRA Ps&Gs include the following ‘reasonably necessary’ activities (*italized* below) in Section IV. Reimbursable Activities:

1. *To develop policies, protocols, manuals and procedures for implementing following reimbursable California Public Record Act (CPRA) provisions:*
 - a. Determining whether electronic records or parts thereof are not subject to statutory and case law exemptions in order to determine if such records are disclosable. (Gov. Code, § 6253.9, subd. (a)(2) (Stats. 2000, ch. 982).)

- b. Within 10 days, determining whether records or parts thereof are not subject to statutory and case law exemptions in order to determine if such records are disclosable; and, developing or reviewing language to notify the person making the request of the determination and the reasons for the determination. ((Gov. Code, § 6253, subd. (c) (Stats. 2001, ch. 982).)
 - c. When an extension of time is required in complying with the 10 day requirement, developing or reviewing language providing a legal basis for the extension. (Gov. Code, § 6253, subd. (c) (Stats. 2001, ch. 982).)
 - d. Identifying litigation, claims, and related records which may be disclosable and may be responsive to the request or to the purpose of the request, if stated; and provide suggestions for overcoming any practical basis for denying access to the records or information sought. (Gov. Code, § 6253.1, subs. (a) and (d) (Stats. 2001, ch. 355).)
 - e. If a request is denied, in whole or in part, preparing or reviewing a written response to a written request for inspection or copies of public records that includes a determination that the request is denied. (Gov. Code, § 6255, subd. (b) (Stats. 2000, ch. 982).)
2. *To develop data base software or manual system(s) for tracking and processing public records request actions to implement reimbursable test claim provisions (as stated above).*
 3. *To purchase or lease computers to monitor and document public records request actions to implement reimbursable test claim provisions (as stated above). (Use for other purposes is not reimbursable.)*
 4. *To develop or update web site(s) for public record act requests to implement reimbursable test claim provisions (as stated above).*
 5. *Annual training programs on implementing reimbursable test claim provisions, including reimbursement for trainee and trainer participation, curriculum development, equipment and supplies*
 6. Determining whether electronic records or parts thereof are not subject to statutory and case law exemptions in order to determine if such

records are disclosable. (Gov. Code, § 6253.9, subd. (a)(2) (Stats. 2000, ch. 982).)

- a. *Receiving, logging and tracking oral (in-person or telephone), written, e-mail and fax requests for electronic public records.*
- b. *Determining whether the electronic public records request falls within the agency's jurisdiction.*
- c. *Determining whether the request reasonably describes any identifiable electronic records(s) and conferring with the requestor if clarification is needed.*
- d. *Meeting and/or conferring with specialized systems and/or other local agency staff to identify access to pertinent electronic records. If external public entities have oversight and/or ownership of the requested electronic data or information, meeting and/or conferring with those entities to provide the requested electronic data or information.*
- e. *Conducting legal reviews, research and analysis of the requested electronic record(s) to determine if the requested electronic record(s) or parts thereof are subject to statutory and case law disclaimers, i.e. are disclosable. Reimbursement includes, but is not limited to, legal staff and/or legal contract services costs and the associated costs of legal data base services.*
- f. *Processing the requested electronic record(s) or parts thereof that are disclosable.*
- g. *Reviewing the electronic record(s) to be sent to the requestor to ensure compliance with statutory and case law exemptions.*
- h. *Preparing, and obtaining supervisory approval and signature of, correspondence accompanying the requested electronic record(s).*
- i. *Copying or saving electronic record(s) and accompanying correspondence.*
- j. *Sending or transmitting the electronic records to the requestor.*
- k. *Tracking the shipment of requested CPRA electronic records.*

7. Within 10 days, determining whether records or parts thereof are not subject to statutory and case law exemptions in order to determine if such records are disclosable; and, developing or reviewing language to notify the person making the request of the determination and the reasons for the determination. ((Gov. Code, § 6253, subd. (c) (Stats. 2001, ch. 982).)
 - a. *Receiving, logging and tracking oral (in-person or telephone), written, e-mail and fax requests to comply with the 10 day time limit to notify the requestor if the requested record(s) or parts thereof are disclosable and the reason for the determination.*
 - b. *Determining whether the public record(s) request falls within the agency's jurisdiction.*
 - c. *Determining whether the request reasonably describes any identifiable records(s) and conferring with the requestor if clarification is needed.*
 - d. *Meeting and/or conferring with local agency staff to identify access to pertinent records. If external public entities have oversight and/or ownership of the requested data or information, meeting and/or conferring with those entities to provide the requested data or information.*
 - e. *Conducting legal reviews, research and analysis of the requested records to determine if the requested electronic record(s) or parts thereof are subject to statutory and case law disclaimers, i.e. are disclosable. Reimbursement includes, but is not limited to, legal staff and/or legal contract services costs and the costs of legal data base services.*
 - f. *Within 10 days of receipt of the public record(s) request, developing and reviewing language to notify the requestor of the disclosure determination and the reasons for the determination.*
 - g. *Processing and reviewing the record(s) to be sent to the requestor to ensure compliance with statutory and case law exemptions*
 - h. *Preparing, and obtaining supervisory approval and signature of, correspondence accompanying the requested record(s).*

- i. Copying or saving record(s) and accompanying correspondence.*
 - j. Sending or transmitting the records to the requestor.*
 - k. Tracking the shipment of requested CPRA records.*
8. If the 10-day time limit of Government Code section 6253 is extended by a local agency or K-14 district due to "unusual circumstances" as defined by Government Code section 6253, subdivision (c)(1)-(4) (Stats. 2001, ch. 982), the agency head, or his or her designee, shall provide written notice to the person making the request, setting forth the reasons of the extension and the date on which a determination is expected to be dispatched. (Gov. Code, § 6253, subd. (c) (Stats. 2001, ch. 982).)
- a. Reviewing the following "unusual circumstances" (in Government Code section 6253, subdivision (c)(1)-(4)) to determine which are relevant in justifying an extension of the 10 day time limit in providing the requested document(s).*
 - (1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.
 - (2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.
 - (3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.
 - (4) The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.
 - b. Meeting and/or conferring with local agency staff, including legal staff, to determine the date on which a determination is expected to be dispatched to the person making the request. If other establishments have oversight and/or ownership of the requested data or information,*

meeting and/or conferring with those staff to ascertain an expected determination date.

- c. Drafting, editing and reviewing a written notice to the person making the request, setting forth the reasons of the extension and the date on which a determination is expected to be dispatched.*
 - d. Preparing, and obtaining agency head, or his or her designee, approval and signature of, the extension notice and accompanying correspondence.*
 - e. Copying or saving the extension notice and accompanying correspondence.*
 - f. Sending or transmitting the notice and accompanying correspondence to the requestor.*
 - g. Tracking delivery of the notice and accompanying correspondence to the requestor.*
9. When a member of the public requests to inspect a public record or obtain a copy of a public record:
- a. assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated;
 - b. describe the information technology and physical location in which the records exist; and
 - c. provide suggestions for overcoming any practical basis for denying access to the records or information sought.

To implement Sections (9) a., b., c. (above):

- (i) Receiving, logging and tracking oral (in-person or telephone), written, e-mail and fax requests to comply with public requests to inspect a public record or obtain a copy of a public record.*
- (ii) Determining whether the public record(s) request falls within the agency's jurisdiction.*

- (iii) Determining whether the request reasonably describes any identifiable records(s) and conferring with the requestor if clarification is needed.*
- (iv) Meeting and/or conferring with local agency staff to identify access to pertinent records. If external public entities have oversight and/or ownership of the requested data or information, meeting and/or conferring with those entities to provide the requested data or information.*
- (v) Conducting legal reviews, research and analysis of the requested records to determine if the requested record(s) or parts thereof are subject to statutory and case law disclaimers, i.e. are disclosable. Reimbursement includes, but is not limited to, legal staff and/or legal contract services costs and the costs of legal data base services.*
- (vi) Identifying litigation, claims, and related record(s) which may be disclosable and may be responsive to the request or to the purpose of the request, if stated; and provide suggestions for overcoming any practical basis for denying access to the records or information sought.*
- (vii) Developing and reviewing language to notify the requestor of the disclosure determination and the reasons for the determination.*
- (viii) Processing and reviewing the record(s) to be sent to the requestor to ensure compliance with statutory and case law exemptions.*
- (ix) Preparing, and obtaining supervisory approval and signature of, correspondence accompanying the requested record(s).*
- (x) Preparing, and obtaining supervisory approval and signature of, correspondence accompanying the requested record(s).*
- (xi) Copying or saving record(s) and accompanying correspondence.*
- (xii) Sending or transmitting the records to the requestor.*
- (xiii) Sending or transmitting the records to the requestor.*

These activities are not reimbursable when: (1) the public records requested are made available to the member of the public through the procedures set forth in Government Code section 6253; (2) the public agency determines that the request should be denied and bases that determination solely on an exemption listed in Government Code section 6254; or (3) the public agency

makes available an index of its records. (Gov. Code, § 6253.1, subds. (a) and (d) (Stats. 2001, ch. 355).)

- h. Analyzing practical problems in providing access to the records or information sought and developing suggestions for overcoming any practical basis for denying access to the records or information sought.
9. If a request is denied, in whole or in part, preparing or reviewing a written response to a written request for inspection or copies of public records that includes a determination that the request is denied. (Gov. Code, § 6255, subd. (b) (Stats. 2000, ch. 982).

If a written request for inspection or copies of public records is denied in whole or in part:

- a. *Meeting and/or conferring with staff, including but not limited to legal staff, to review and finalize the analysis, findings and conclusions providing the basis for the denial determination.*
- b. *Drafting and editing a written response that includes a determination that the request is denied.*
- c. *Preparing, and obtaining agency head, or his or her designee, approval and signature of, the denial response and accompanying correspondence.*
- d. *Copying or saving the written denial response and accompanying correspondence.*
- e. *Copying or saving the denial response and accompanying correspondence.*
- f. *Sending the denial response and accompanying correspondence to the requestor.*
- g. *Tracking delivery of the denial response and accompanying correspondence to the requestor.*

Accordingly, the (above) statutory provisions and related ‘reasonably necessary’ activities are included in Section IV. (REIMBURSABLE ACTIVITIES) of the County’s proposed CPRA Ps&Gs that follow on the next page.

Los Angeles County's Proposed Parameters and Guidelines
California Public Records Act Test Claims (02-TC-10, 02-TC-51)

I. SUMMARY OF THE MANDATE

This consolidated test claim filed by County of Los Angeles and Riverside Unified School District addresses activities associated with the California Public Records Act (CPRA) (Gov. Code, § 6250 et seq.), which provides for the disclosure of public records kept by state, local agencies, kindergarten through 12th grade school districts and community college districts (K-14 districts), and county offices of education. These activities include: (1) providing copies of public records with portions exempted from disclosure redacted; (2) notifying a person making a public records request whether the requested records are disclosable; (3) assisting members of the public to identify records and information that are responsive to the request or the purpose of the request; (4) making disclosable public records in electronic formats available in electronic formats; and (5) removing an employee's home address and home telephone number from any mailing list maintained by the agency when requested by the employee.

II. ELIGIBLE CLAIMANTS

Any city, county, city and county; special district; or municipal corporation; or other political subdivision; or any board, commission or agency thereof; or other local public agency; joint powers authority or entities that are legislative bodies of a local agency pursuant to subdivisions (c) and (d) of Government Code Section 54952; and, any kindergarten through 12th grade school districts and community college districts (K-14 districts), and county offices of education.

III. PERIOD OF REIMBURSEMENT

Government Code section 17557, as amended by Statutes of 1998, Chapter 681 (which became effective on September 22, 1998), states that a test claim shall be submitted on or before June 30 following a fiscal year in order to establish eligibility for reimbursement for that fiscal year.

On October 10, 2002, the County of Los Angeles filed the subject test claim and therefore the reimbursement period is considered to have begun on July 1, 2001 for those statutory provisions then in effect.

Actual costs for one fiscal year shall be included in each claim. Pursuant to section 17561, subdivision (d)(1) of the Government Code, all claims for reimbursement

of initial years' costs shall be submitted within 120 days of notification by the State Controller of the issuance of claiming instructions.

If the total costs for a given year do not exceed \$1,000, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

IV. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed

Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records, including time survey forms, time logs, sign-in sheets, and, invoices, receipts and unit cost studies using source documents.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

Claimants may use time studies to support labor [salary, benefit and associated indirect] costs when an activity is task-repetitive. Time study usage is subject to the review and audit conducted by the State Controller's Office. The reimbursable time recorded on each time survey form must be for specific reimbursable activities as detailed herein. An employees reimbursable time is totaled and then multiplied by their productive hourly rate, as that term is defined in the State Controller's Office annual claiming instruction manual, found on www.sco.ca.gov. If a time study sample is used to claim time for 4 through 9 staff, at least 2 staff should be time surveyed. If 10 or more staff are claimed, a 20% sample, rounded to the nearest whole number of cases, should be taken.

Scope of Reimbursable Activities

The claimant is only allowed to claim, and be reimbursed for, increased costs for reimbursable activities identified below. Increased cost are limited to the costs of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant, the following activities are reimbursable:

1. To develop policies, protocols, manuals and procedures for implementing following reimbursable California Public Record Act (CPRA) provisions:

a. Determining whether electronic records or parts thereof are not subject to statutory and case law exemptions in order to determine if such records are disclosable. (Gov. Code, § 6253.9, subd. (a)(2) (Stats. 2000, ch. 982).)

b. Within 10 days, determining whether records or parts thereof are not subject to statutory and case law exemptions in order to determine if such records are disclosable; and, developing or reviewing language to notify the person making the request of the determination and the reasons for the determination. ((Gov. Code, § 6253, subd. (c) (Stats. 2001, ch. 982).)

c. Within 10 days, determining whether records or parts thereof are not subject to statutory and case law exemptions in order to determine if such records are disclosable; and, developing or reviewing language to notify the person making the request of the determination and the reasons for the determination. ((Gov. Code, § 6253, subd. (c) (Stats. 2001, ch. 982).)

d. When an extension of time is required in complying with the 10 day requirement, developing or reviewing language providing a legal basis for the extension. (Gov. Code, § 6253, subd. (c) (Stats. 2001, ch. 982).)

e. Identifying litigation, claims, and related records which may be disclosable and may be responsive to the request or to the purpose of the request, if stated; and provide suggestions for overcoming any practical basis for denying access to the records or information sought. (Gov. Code, § 6253.1, subds. (a) and (d) (Stats. 2001, ch. 355).)

f. If a request is denied, in whole or in part, preparing or reviewing a written response to a written request for inspection or copies of public records that includes a determination that the request is denied. (Gov. Code, § 6255, subd. (b) (Stats. 2000, ch. 982).

2. To develop data base software or manual system(s) for tracking and processing public records request actions to implement reimbursable test claim provisions (as stated above).

3. To purchase or lease computers to monitor and document public records request actions to implement reimbursable test claim provisions (as stated above). (Use for other purposes is not reimbursable.)

4. To develop or update web site(s) for public record act requests to implement reimbursable test claim provisions (as stated above).

5. Annual training programs on implementing reimbursable test claim provisions, including reimbursement for trainee and trainer participation, curriculum development, equipment and supplies

6. Determining whether electronic records or parts thereof are not subject to statutory and case law exemptions in order to determine if such records are disclosable. (Gov. Code, § 6253.9, subd. (a)(2) (Stats. 2000, ch. 982).)

a. Receiving, logging and tracking oral (in-person or telephone), written, e-mail and fax requests for electronic public records.

b. Determining whether the electronic public records request falls within the agency's jurisdiction.

c. Determining whether the request reasonably describes any identifiable electronic records(s) and conferring with the requestor if clarification is needed.

d. Meeting and/or conferring with specialized systems and/or other local agency staff to identify access to pertinent electronic records. If external public entities have oversight and/or ownership of the requested electronic data or information, meeting and/or conferring with those entities to provide the requested electronic data or information.

e. Conducting legal reviews, research and analysis of the requested electronic record(s) to determine if the requested electronic record(s) or parts thereof are subject to statutory and case law disclaimers, i.e. are disclosable. Reimbursement includes, but is not limited to, legal staff and/or legal contract services costs and the associated costs of legal data base services.

f. Processing the requested electronic record(s) or parts thereof that are disclosable.

g. Reviewing the electronic record(s) to be sent to the requestor to ensure compliance with statutory and case law exemptions.

h. Preparing, and obtaining supervisory approval and signature of, correspondence accompanying the requested electronic record(s).

i. Copying or saving electronic record(s) and accompanying correspondence.\

j. Sending or transmitting the electronic records to the requestor

k. Sending or transmitting the electronic records to the requestor.

l. Tracking the shipment of requested CPRA electronic records.

7. Within 10 days, determining whether records or parts thereof are not subject to statutory and case law exemptions in order to determine if such records are disclosable; and, developing or reviewing language to notify the person making the request of the determination and the reasons for the determination. ((Gov. Code, § 6253, subd. (c) (Stats. 2001, ch. 982).)

a. Receiving, logging and tracking oral (in-person or telephone), written, e-mail and fax requests to comply with the 10 day time limit to notify the requestor if the requested record(s) or parts thereof are disclosable and the reason for the determination.

b. Determining whether the public record(s) request falls within the agency's jurisdiction.

- c. Determining whether the request reasonably describes any identifiable records(s) and conferring with the requestor if clarification is needed.
- d. Meeting and/or conferring with local agency staff to identify access to pertinent records. If external public entities have oversight and/or ownership of the requested data or information, meeting and/or conferring with those entities to provide the requested data or information.
- e. Conducting legal reviews, research and analysis of the requested records to determine if the requested electronic record(s) or parts thereof are subject to statutory and case law disclaimers, i.e. are disclosable. Reimbursement includes, but is not limited to, legal staff and/or legal contract services costs and the costs of legal data base services.
- f. Within 10 days of receipt of the public record(s) request, developing and reviewing language to notify the requestor of the disclosure determination and the reasons for the determination.
- g. Processing and reviewing the record(s) to be sent to the requestor to ensure compliance with statutory and case law exemptions
- h. Preparing, and obtaining supervisory approval and signature of, correspondence accompanying the requested record(s).
- i. Copying or saving record(s) and accompanying correspondence.
- j. Sending or transmitting the records to the requestor.
- k. Tracking the shipment of requested CPRA records.
- l. If the 10-day time limit of Government Code section 6253 is extended by a local agency or K-14 district due to "unusual circumstances" as defined by Government Code section 6253, subdivision (c)(1)-(4) (Stats. 2001, ch. 982), the agency head, or his or her designee, shall provide written notice to the person making the request, setting forth the reasons of the extension and the date on which a determination is expected to be dispatched. (Gov. Code, § 6253, subd. (c) (Stats. 2001, ch. 982).)

a. Reviewing the following "unusual circumstances" (in Government Code section 6253, subdivision (c)(1)-(4)) to determine which are relevant in justifying an extension of the 10 day time limit in providing the requested document(s).

- (1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.
- (2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.
- (3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.
- (4) The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

a. Meeting and/or conferring with local agency staff, including legal staff, to determine the date on which a determination is expected to be dispatched to the person making the request. If other establishments have oversight and/or ownership of the requested data or information, meeting and/or conferring with those staff to ascertain an expected determination date.

b. Drafting, editing and reviewing a written notice to the person making the request, setting forth the reasons of the extension and the date on which a determination is expected to be dispatched.

c. Preparing, and obtaining agency head, or his or her designee, approval and signature of, the extension notice and accompanying correspondence.

d. Copying or saving the extension notice and accompanying correspondence.

- e. Sending or transmitting the notice and accompanying correspondence to the requestor.
 - f. Tracking delivery of the notice and accompanying correspondence to the requestor.
9. When a member of the public requests to inspect a public record or obtain a copy of a public record:
- a. assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated;
 - b. describe the information technology and physical location in which the records exist; and
 - c. provide suggestions for overcoming any practical basis for denying access to the records or information sought.

To implement Sections (9) a., b., c. (above):

- (i) Receiving, logging and tracking oral (in-person or telephone), written, e-mail and fax requests to comply with public requests to inspect a public record or obtain a copy of a public record.
- (ii) Determining whether the public record(s) request falls within the agency's jurisdiction.
- (iii) Determining whether the request reasonably describes any identifiable records(s) and conferring with the requestor if clarification is needed.
- (iv) Meeting and/or conferring with local agency staff to identify access to pertinent records. If external public entities have oversight and/or ownership of the requested data or information, meeting and/or conferring with those entities to provide the requested data or information.
- (v) Conducting legal reviews, research and analysis of the requested records to determine if the requested record(s) or parts thereof are subject to statutory and case law disclaimers, i.e. are disclosable. Reimbursement includes, but is not limited to, legal staff and/or legal contract services costs and the costs of legal data base services.

- (vi) Identifying litigation, claims, and related record(s) which may be disclosable and may be responsive to the request or to the purpose of the request, if stated; and provide suggestions for overcoming any practical basis for denying access to the records or information sought.
- (vii) Developing and reviewing language to notify the requestor of the disclosure determination and the reasons for the determination.
- (viii) Processing and reviewing the record(s) to be sent to the requestor to ensure compliance with statutory and case law exemptions.
- (ix) Preparing, and obtaining supervisory approval and signature of, correspondence accompanying the requested record(s).
- (x) Preparing, and obtaining supervisory approval and signature of, correspondence accompanying the requested record(s).
- (xi) Copying or saving record(s) and accompanying correspondence.
- (xii) Sending or transmitting the records to the requestor.
- (xiii) Sending or transmitting the records to the requestor.

These activities are not reimbursable when: (1) the public records requested are made available to the member of the public through the procedures set forth in Government Code section 6253; (2) the public agency determines that the request should be denied and bases that determination solely on an exemption listed in Government Code section 6254; or (3) the public agency makes available an index of its records. (Gov. Code, § 6253.1, subs. (a) and (d) (Stats. 2001, ch. 355).)

g. Analyzing practical problems in providing access to the records or information sought and developing suggestions for overcoming any practical basis for denying access to the records or information sought.

9. If a request is denied, in whole or in part, preparing or reviewing a written response to a written request for inspection or copies of public records that includes a determination that the request is denied. (Gov. Code, § 6255, subd. (b) (Stats. 2000, ch. 982).

If a written request for inspection or copies of public records is denied in whole or in part:

- a. Meeting and/or conferring with staff, including but not limited to legal staff, to review and finalize the analysis, findings and conclusions providing the basis for the denial determination.
- b. Drafting and editing a written response that includes a determination that the request is denied.
- c. Preparing, and obtaining agency head, or his or her designee, approval and signature of, the denial response and accompanying correspondence.
- d. Copying or saving the written denial response and accompanying correspondence.
- e. Copying or saving the denial response and accompanying correspondence.
- f. Sending the denial response and accompanying correspondence to the requestor.
- g. Tracking delivery of the denial response and accompanying correspondence to the requestor.

V. CLAIM PREPARATION AND SUBMISSION

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV, Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the services that were performed during the period covered by the reimbursement claim. If the contract services are also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and attorney invoices with the claim and a description of the contract scope of services.

4. Capital Assets and Equipment

Report the purchase price paid for capital assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the capital asset or equipment is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1, Salaries and Benefits, for each applicable reimbursable activity.

B. Indirect Cost Rates

Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both (1) overhead costs of the unit performing the mandate; and (2) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the Office of Management and Budget (OMB) Circular A-87. Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10%.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in OMB Circular A-87 Attachments A and B) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in OMB Circular A-87 Attachments A and B). However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

The distribution base may be (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.), (2) direct salaries and wages, or (3) another base which results in an equitable distribution.

In calculating an ICRP, the claimant shall have the choice of one of the following methodologies:

1. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) classifying a department's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected; or
2. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect

costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING SAVINGS AND REIMBURSEMENTS

Any offsetting savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the test claim decision and the parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, subdivision (d)(1), issuance of the claiming instructions shall constitute a notice of the right of the local agencies and

school districts to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (d), and California Code of Regulations, title 2, section 1183.2.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The Statement of Decision is legally binding on all parties and provides the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim. The administrative record, including the Statement of Decision, is on file with the Commission.

DECLARATION OF DIANE C. REAGAN

I, Diane C. Reagan, declare as follows:

1. I am a licensed, practicing attorney in the State of California. I have been a member of the California Bar since 1981; my state bar number is 98709. Immediately before beginning my employment with the Office of the Los Angeles County Counsel in 1994, I was engaged in an estate planning and probate private practice, and prior to that, I was employed by the State of California Department of Corporations, in the Securities Regulation Division, as Senior Corporations Counsel. I am a Principal Deputy County Counsel in the Office of the Los Angeles County Counsel, attorneys of record for the County of Los Angeles. I have represented many County departments and several commissions during my seventeen (17) year tenure with this office. I have personal knowledge of the facts set forth herein, except as to those stated on information and belief and, as to those, I am informed and believe them to be true. If called as a witness, I could and would competently testify to the matters stated herein.

2. Among other assignments in the Health Services Division, my primary responsibility is provide advice, transactional and litigation services to the Department of Animal Care and Control. Currently, I am also the County Counsel attorney designated to respond to Public Record Act requests from a specific requestor, which includes working with the Board of Supervisors' staff, and several other County departments, including, but not limited to, the Office of the Chief Executive Officer, the Auditor/Controller, the Health Services Department, the Department of Public Health, the Department of Public Social Services, and the Sheriff Department. I have represented the Department of Animal Care and Control ("DACC") as its general counsel for over twelve (12) years. During that time period, I have been personally responsible for assisting DACC in responding to requests for public records under the California Public Records Act (CPRA).

3. I declare that I have read the conclusion of the Commission on State Mandates' California Public Records Act decision, issued on May 31, 2011, finding that the following local agency services are reimbursable:

1 a. If requested by a person making a public records request for a public record
2 kept in an electronic format, provide a copy of a disclosable electronic record in the
3 electronic format requested if the requested format is one that has been used by the agency
4 to create copies for its own use or for provision to other agencies. (Gov. Code, § 6253.9,
5 subd. (a)(2) (Stats. 2000, ch. 982).)

6
7 b. Within 10 days from receipt of a request for a copy of records determine whether
8 the request, in whole or in part, seeks copies of disclosable public records in the possession
9 of the local agency or K-14 district and notify the person making the request of the
10 determination and the reasons for the determination. (Gov. Code, § 6253, subd. (c) (Stats.
11 2001, ch. 982).)

12 c. If the 10-day time limit of Government Code section 6253 is extended by a local
13 agency or K-14 district due to “unusual circumstances” as defined by Government Code section
14 6253, subdivision (c)(1)-(4) (Stats. 2001, ch. 982), the agency head, or his or her designee, shall
15 provide written notice to the person making the request, setting forth the reasons of the extension
16 and the date on which a determination is expected to be dispatched. (Gov. Code, § 6253, subd. (c)
17 (Stats. 2001, ch. 982).)

18 d. When a member of the public requests to inspect a public record or obtain a
19 copy of a public record:

20 i. assist the member of the public to identify records and information that
21 are responsive to the request or to the purpose of the request, if stated;

22 ii. describe the information technology and physical location in which the
23 records exist; and

24 iii. provide suggestions for overcoming any practical basis for denying
25 access to the records or information sought.

26 These activities are not reimbursable when: (1) the public records requested are made
27 available to the member of the public through the procedures set forth in Government Code
28 section 6253; (2) the public agency determines that the request should be denied and bases that

1 determination solely on an exemption listed in Government Code section 6254; or (3) the public
2 agency makes available an index of its records. (Gov. Code, § 6253.1, subds. (a) and (d) (Stats.
3 2001, ch. 355).)

4 e. Not applicable to the County of Los Angeles.

5 f. Not applicable to the County of Los Angeles.

6 g. If a request is denied, in whole or in part, respond in writing to a written request
7 for inspection or copies of public records that includes a determination that the request is denied.
8 (Gov. Code, § 6255, subd. (b) (Stats. 2000, ch. 982).)

9 4. I have analyzed the activities that I have been doing to assist DACC and other
10 County departments to comply with the Public Record Act requirements set forth above.

11 5. It is my information and belief that the legal activities performed by me on behalf
12 of the County are reasonably necessary in the implementation of the above provisions of the
13 California Public Record Act.

14 6. I have reviewed Attachment A which includes and summarizes County Counsel's
15 statutory and reasonably necessary activities for inclusion in Los Angeles County's proposed
16 parameters and guidelines as reimbursable service components.

17 7. On occasion, I have acted as the County designated responder to frequent
18 requesters who make frequent requests for public records over a period of months, or even
19 years. Often, such requests lack specificity, are misdirected to the wrong department or person,
20 involve voluminous records or are records that must be culled from databases. Frequently,
21 requests for public records are buried within long e-mails or letters. These type of requests are
22 extremely time consuming to respond to, and often require research, meetings, phone calls and
23 e-mail exchanges to determine an appropriate response. For example, Attachment B is a listing
24 of responses to one frequent requestor relating to public records requests and related requests for
25 the first six months of 2011. Attachment C includes two examples of responses to that
26 requestor. I declare on information and belief that between January 31, 2011 and May 31, 2011,
27 I spent forty-eight (48) hours performing tasks relating to correspondence from the frequent
28 requestor referenced in Attachments B and C. Most of the tasks performed to respond to the

1 correspondence were performed to comply with the reimbursable public record requirements set
2 forth above and in Attachment A. My hourly billing rate is \$226.07 per hour.

3 8. I am personally conversant with the foregoing facts and if so required, I could
4 and would testify to the statements made herein.

5 I declare under penalty of perjury under the laws of the State of California that the
6 foregoing is true and correct of my own knowledge, except as to the matters which are therein
7 stated as information and belief, and as to those matters I believe them to be true.

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Executed on June ²¹/~~20~~, 2011, at Los Angeles, California.


Diane C. Reagan

Attachment A to Declaration of Diane C. Reagan

**Los Angeles County's Proposed Parameters and Guidelines
Statutorily Required and 'Reasonably Necessary' [Govt. Code § 17557(a)] Activities
California Public Record Act Test Claims (02-TC-10, 02-TC-51)**

1. To assist the Department of Animal Care and Control to develop and update policies, protocols, manuals and procedures for implementing following reimbursable California Public Record Act (CPRA) provisions:
 - a. Determining whether electronic records or parts thereof are not subject to statutory and case law exemptions in order to determine if such records are disclosable. (Gov. Code, § 6253.9, subd. (a)(2) (Stats. 2000, ch. 982).)
 - b. Within 10 days, determining whether records or parts thereof are not subject to statutory and case law exemptions in order to determine if such records are disclosable; and, developing or reviewing language to notify the person making the request of the determination and the reasons for the determination. ((Gov. Code, § 6253, subd. (c) (Stats. 2001, ch. 982).)
 - c. When an extension of time is required in complying with the 10 day requirement, developing or reviewing language providing a legal basis for the extension. (Gov. Code, § 6253, subd. (c) (Stats. 2001, ch. 982).)
 - d. When a member of the public requests to inspect a public record or obtain a copy of a public record:
 1. assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated;
 2. describe the information technology and physical location in which the records exist; and
 3. provide suggestions for overcoming any practical basis for denying access to the records or information sought.

These activities are not reimbursable when: (1) the public records requested are made available to the member of the public through the procedures set forth in Government Code section 6253; (2) the public agency determines that the request should be denied and bases that determination solely on an exemption listed in Government Code section 6254; or (3) the public agency makes available an index of its records. (Gov. Code, § 6253.1, subds. (a) and (d) (Stats. 2001, ch. 355).)

- e. If a request is denied, in whole or in part, preparing or reviewing a written response to a written request for inspection or copies of public records that includes a determination that the request is denied. (Gov. Code, § 6255, subd. (b) (Stats. 2000, ch. 982).)
2. On-going training to implement reimbursable test claim provisions, including reimbursement for policy guidelines.

3. Determining whether electronic records or parts thereof are not subject to statutory and case law exemptions in order to determine if such records are disclosable. (Gov. Code, § 6253.9, subd. (a)(2) (Stats. 2000, ch. 982).)
 - a. Receiving, logging and tracking oral (in-person or telephone), written, e-mail and fax requests for electronic public records.
 - b. Determining whether the electronic public records request falls within the agency's jurisdiction.
 - c. Determining whether the request reasonably describes any identifiable electronic records(s) and conferring with the requestor if clarification is needed.
 - d. Meeting and/or conferring with specialized systems and/or other local agency staff to identify access to pertinent electronic records. If external public entities have oversight and/or ownership of the requested electronic data or information, meeting and/or conferring with those entities to provide the requested electronic data or information.
 - e. Conducting legal reviews, research and analysis of the requested electronic record(s) to determine if the requested electronic record(s) or parts thereof are subject to statutory and case law disclaimers, i.e. are disclosable. Reimbursement includes, but is not limited to, legal staff and/or legal contract services costs and the associated costs of legal data base services.
 - f. Processing the requested electronic record(s) or parts thereof that are disclosable.
 - g. Reviewing the electronic record(s) to be sent to the requestor to ensure compliance with statutory and case law exemptions.
 - h. Preparing, and obtaining supervisory approval and signature of, correspondence accompanying the requested electronic record(s).
 - i. Copying or saving electronic record(s) and accompanying correspondence.
 - j. Sending or transmitting the electronic records to the requestor.
 - k. Tracking the shipment of requested CPRA electronic records.
4. Within 10 days, determining whether records or parts thereof are not subject to statutory and case law exemptions in order to determine if such records are disclosable; and, developing or reviewing language to notify the person making the request of the determination and the reasons for the determination. ((Gov. Code, § 6253, subd. (c) (Stats. 2001, ch. 982).)
 - a. Receiving, logging and tracking oral (in-person or telephone), written, e-mail and fax requests to comply with the 10 day time limit to notify the requestor if the requested record(s) or parts thereof are disclosable and the reason for the determination.
 - b. Determining whether the public record(s) request falls within the agency's jurisdiction.

- c. Determining whether the request reasonably describes any identifiable records(s) and conferring with the requestor if clarification is needed.
 - d. Meeting and/or conferring with local agency staff to identify access to pertinent records. If external public entities have oversight and/or ownership of the requested data or information, meeting and/or conferring with those entities to provide the requested data or information.
 - e. Conducting legal reviews, research and analysis of the requested records to determine if the requested electronic record(s) or parts thereof are subject to statutory and case law disclaimers, i.e. are disclosable. Reimbursement includes, but is not limited to, legal staff and/or legal contract services costs and the costs of legal data base services.
 - f. Within 10 days of receipt of the public record(s) request, developing and reviewing language to notify the requestor of the disclosure determination and the reasons for the determination.
 - g. Processing and reviewing the record(s) to be sent to the requestor to ensure compliance with statutory and case law exemptions.
 - h. Preparing, and obtaining supervisory approval and signature of, correspondence accompanying the requested record(s).
 - i. Copying or saving record(s) and accompanying correspondence.
 - j. Sending or transmitting the records to the requestor.
 - k. Tracking the shipment of requested CPRA records.
5. If the 10-day time limit of Government Code section 6253 is extended by a local agency or K-14 district due to "unusual circumstances" as defined by Government Code section 6253, subdivision (c)(1)-(4) (Stats. 2001, ch. 982), the agency head, or his or her designee, shall provide written notice to the person making the request, setting forth the reasons of the extension and the date on which a determination is expected to be dispatched. (Gov. Code, § 6253, subd. (c) (Stats. 2001, ch. 982).)
- a. Reviewing the following "unusual circumstances" (in Government Code section 6253, subdivision (c)(1)-(4)) to determine which are relevant in justifying an extension of the 10 day time limit in providing the requested document(s).
 - (i) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.
 - (ii) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.
 - (iii) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among

two or more components of the agency having substantial subject matter interest therein.

- (iv) The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.
 - b. Meeting and/or conferring with local agency staff, including legal staff, to determine the date on which a determination is expected to be dispatched to the person making the request. If other establishments have oversight and/or ownership of the requested data or information, meeting and/or conferring with those staff to ascertain an expected determination date.
 - c. Drafting, editing and reviewing a written notice to the person making the request, setting forth the reasons of the extension and the date on which a determination is expected to be dispatched.
 - d. Preparing, and obtaining agency head, or his or her designee, approval and signature of, the extension notice and accompanying correspondence.
 - e. Copying or saving the extension notice and accompanying correspondence.
 - f. Sending or transmitting the notice and accompanying correspondence to the requestor.
 - g. Tracking delivery of the notice and accompanying correspondence to the requestor.
6. When a member of the public requests to inspect a public record or obtain a copy of a public record:
- a. assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated;
 - b. describe the information technology and physical location in which the records exist; and
 - c. provide suggestions for overcoming any practical basis for denying access to the records or information sought.

To implement Sections (6) a., b., c. (above):

- (i) Receiving, logging and tracking oral (in-person or telephone), written, e-mail and fax requests to comply with public requests to inspect a public record or obtain a copy of a public record.
- (ii) Determining whether the public record(s) request falls within the agency's jurisdiction.
- (iii) Determining whether the request reasonably describes any identifiable records(s) and conferring with the requestor if clarification is needed.
- (iv) Meeting and/or conferring with local agency staff to identify access to pertinent records. If external public entities have oversight and/or ownership of the requested

data or information, meeting and/or conferring with those entities to provide the requested data or information.

- (v) Conducting legal reviews, research and analysis of the requested records to determine if the requested record(s) or parts thereof are subject to statutory and case law disclaimers, i.e. are disclosable. Reimbursement includes, but is not limited to, legal staff and/or legal contract services costs and the costs of legal data base services.
- (vi) Identifying litigation, claims, and related record(s) which may be disclosable and may be responsive to the request or to the purpose of the request, if stated; and provide suggestions for overcoming any practical basis for denying access to the records or information sought.
- (vii) Developing and reviewing language to notify the requestor of the disclosure determination and the reasons for the determination.
- (viii) Processing and reviewing the record(s) to be sent to the requestor to ensure compliance with statutory and case law exemptions.
- (ix) Preparing, and obtaining supervisory approval and signature of, correspondence accompanying the requested record(s).
- (x) Preparing, and obtaining supervisory approval and signature of, correspondence accompanying the requested record(s).
- (xi) Copying or saving record(s) and accompanying correspondence.
- (xii) Sending or transmitting the records to the requestor.
- (xiii) Sending or transmitting the records to the requestor.

These activities are not reimbursable when: (1) the public records requested are made available to the member of the public through the procedures set forth in Government Code section 6253; (2) the public agency determines that the request should be denied and bases that determination solely on an exemption listed in Government Code section 6254; or (3) the public agency makes available an index of its records. (Gov. Code, § 6253.1, subs. (a) and (d) (Stats. 2001, ch. 355).)

Attachment B

Received
June 23, 2011
Commission on
State Mandates

List of 2011 County Correspondence/Relevant Documents
Regarding [REDACTED] Public Record Act Requests/Claims

Tab No.	Date	Author	Description of Response
1	1/4/11	Diane Reagan	Letter responding to e-mails of 12/31/10 and 1/3/11.
2	1/6/11	Diane Reagan	Letter responding to e-mail of 1/4/11.
3	1/14/11	Diane Reagan	Letter responding to Recent Correspondence of 1/4/11, 1/6/11, 1/10/11 and 1/12/11.
4	1/27/11	Diane Reagan	Letter responding to various communications to County officials and employees of 1/20/11, 1/21/11 and 1/25/11.
5	2/4/11	Diane Reagan	Letter responding to various communications to County officials and employees of 1/25/11, 1/28/11 and 2/3/11.
6	2/14/11	Diane Reagan	Letter responding to various communications to County officials and employees of 2/3/11, 2/8/11 and 2/11/11.
7	2/28/11	Diane Reagan	Letter responding to various communications to County officials and employees of 2/15/11, 2/18/11 and 2/23/11.
8	3/17/11	Diane Reagan	Letter responding to various communications to County officials and employees of 2/24/11, 3/7/11, 3/10/11 – 3/16/11 and 3/11/11.
9	4/4/11	Diane Reagan	Letter responding to various communications to County officials and employees of 3/22/11 and 3/25/11.
10	5/13/11	Diane Reagan	Letter responding to various communications to County officials and employees of 5/6/11, 5/7/11 and 4/5/11.
11	5/16/11	Richard Mason	E-mail responding to e-mail of 5/13/11.
12	5/18/11	Diane Reagan	Letter
13	5/18/11	Richard Kudo	E-mail responding to e-mail of 5/17/11.
14	5/27/11	Diane Reagan	Letter responding to E-mail to County officials and employees of 5/18/11.
15	6/1/11	Katherine Medina	E-mail regarding review of claims.
16	6/3/11	Diane Reagan	Response to Recent e-mails to County officials/employees of 5/25/11.
17	6/7/11	Jackie Lacey Chief Deputy District Attorney	Response to Mr. [REDACTED] request for a meeting with District Attorney Steve Cooley.
18	6/10/11	Diane Reagan	Letter responding to various communications to County officials/employees of 5/31/11 and 6/7/11.
19	6/13/11	Katherine Medina	E-mail regarding BOS meeting minutes.
20	6/17/11	Diane Reagan	Letter responding to various communications to County officials/employees of 6/6/11, 6/7/11, 6/10/11 and 6/11/11.
21			
22			
23			
24			



COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL

648 KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012-2713

TELEPHONE
(213) 974-1868
FACSIMILE
(213) 680-2165
TDD
(213) 633-0901

ANDREA SHERIDAN ORDIN
County Counsel

June 17, 2011

VIA E-MAIL & U.S. MAIL



Re: **Response to various communications to County officials
and employees**

Dear Mr.

This is in response to your requests for records under the Public Records Act (Govt. Code § 6250 et seq.) and for other information, received on June 6, June 7, June 10 and June 11, 2011, addressed to various County officials and employees.

1. Enclosed fax request of June 6, 2011 to Ms. Hamai asking for a copy of County Counsel's response to the Board of Supervisors' March 8, 2011 request relating to the dangerous dog ordinance:

Any response to the Board of Supervisors from County Counsel on this subject is privileged under the attorney-client privilege, and is therefore, exempt from disclosure under Government Code § 6254(k).

2. Enclosed e-mail and fax request dated June 7, 2011 entitled: "Supervisory Trips to Washington, D.C. by the {LA County Board of Supervisors}":

We have begun to gather the information you requested relating to the Board's trips to Washington, D.C. for the years 2008-2011. Please be advised that we are extending the time to respond by an additional fourteen (14) days, under Government Code § 6253 subd. (c) due to the existence of unusual circumstances arising from the broad scope of your request. These unusual circumstances include the need to consult with other county departments and to search for, collect and review records from several years in order to identify responsive, non-

exempt records. You will be provided with a determination on or before July 1, 2011, as to whether or not we are able to identify any disclosable public records responsive to the terms of your request. At that time, we will also give you an estimate of when these records will be available.

Please note, however, that some of the disclosable records may need to be redacted, or may be exempt from disclosure under the following authority: Government Code Sec. 6254 (k); Government Code Sec. 6255 and protections relating to the right to privacy under Art.1 sec.1 of the California Constitution and California common law.

In addition, item numbers 3, 4 and 8 in your list of 8 items, are not requests for public records under the Public Records Act. If you have a request for a public record relative to the statements made under those items, please identify the record(s) requested.

3. Enclosed e-mail dated June 10, 2011 to the Executive Office regarding a landscaping project in Cudahy:

The questions regarding the landscaping project are not a request for public records under the Public Records Act. Accordingly, your inquiries will be forwarded to the Department of Public Works for response.

4. Enclosed e-mail dated Saturday, June 11, 2011 (deemed received on June 13, 2011) to Richard Kudo stating that "PRA requests below have still not been fulfilled:"

Your request is vague and ambiguous as to what request for public records has not been fulfilled. Please identify with specificity the public record(s) sought.

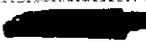
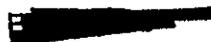
In accordance with your mother's and Mr. Bowen's request, we will not copy them on our correspondence with you. You may forward any further written questions to me.

Very truly yours,

ANDREA SHERIDAN ORDIN
County Counsel

By 
DIANE C. REAGAN
Principal Deputy County Counsel
Health Services Division

DCR:vn
Enclosures



To: Sachi Hamai

213-620-2636

Fr:



CR03

The link on the website of
Transcripts + Statement of proceedings
for March 8, 2011 - only contained
the attached 4 pages. Please
attach the response to Mr. Antonovich.

Thank you.



SACHI A. HAMAI
EXECUTIVE OFFICER

COUNTY OF LOS ANGELES BOARD OF SUPERVISORS

KENNETH HAHN HALL OF ADMINISTRATION
50 WEST TEMPLE STREET, ROOM 313
LOS ANGELES, CALIFORNIA 90012
(213) 974-1411 • FAX (213) 620-2616

MEMBERS OF THE BOARD

GLORIA NOLETA

MARK RIDLEY-THOMAS

ZEV VABOSLAVSKY

DON KNABE

MICHAEL D. ANTONOVICH

March 9, 2011

TO: Andrea Sheridan Ordin
County Counsel

FROM: Sachi A. Hamai
Executive Officer

SUBJECT: PUBLIC COMMENT REVIEW AND RESPONSE

At the Board of Supervisors' meeting held March 8, 2011, during the Public Comment portion of the meeting, [REDACTED] addressed the Board regarding issues of clarity in the current County Code relating to the time frame for an agent to petition a judge when an animal is seized. During the discussion, Supervisor Antonovich requested you to review [REDACTED] testimony, and report back to the Board.

Enclosed is a "Request to Address the Board" form filled out by [REDACTED] and a copy of the transcript to assist you in preparing your report.

SAH:ct

Enclosure

c: Each Supervisor
Director of Animal Care and Control

09030811 adminmemo... [REDACTED]

Received
2011
on on
dates

March 8, 2011



The Preliminary Transcript of the Meeting of
The Los Angeles County Board of Supervisors

1 MOUNTAINS. AND THEY FALL, TOO. AND ALL OF THIS CATACLASMIC
 2 DESTRUCTION THROUGHOUT LOS ANGELES COUNTY ALONG WITH THE GREAT
 3 NUMBER OF LARGE BUILDINGS THAT COLLAPSED INTO RUINS SUCH AS
 4 THE OLD COUNTY HOSPITAL ON MISSION MORENO IN LOS ANGELES AND
 5 OLD BUILDING DOWNTOWN L.A. WILL CREATE SMOKE, DUST DIRT AND
 6 DEBRIS THAT WILL QUICKLY RISE INTO THE ATMOSPHERE AND ENTER
 7 INTO THE DARK THUNDER CLOUDS AND WILL WORK WITH THE STORM TO
 8 BLOCK OUT THE SUNLIGHT WHILE ALSO PROVIDING A SUDDEN GIANT
 9 AMOUNT OF CONDENSATION NUCLEI FOR THE GIANT STORM CAUSING
 10 HEAVY HAIL. AL-QAEDA IS SATANIC. SATANIC AL-QAEDA TERRORISTS
 11 ATTACK THE USA ON 9/11/01 AND AFTER THE WORLD TRADE CENTERS
 12 FELL, GIANT SMOKE, DUST, DIRT AND DEBRIS FILLED THAT
 13 MANHATTAN. LOOK AT THE ARCHIVAL FOOTAGE FOR YOURSELF. WHEN IT
 14 HAPPENS IN MAY, WHOLE MOUNTAIN SIPPEDZ WILL COME CRASHING DOWN
 15 AND ENTIRE CITIES WILL BE DESTROYED CAUSING.

16
 17 MIKE ANTONOVICH, MAYOR: OKAY. NOW YOU CRASHED. THANK YOU. MR.

18 [REDACTED]

19

20 SPEAKER: [REDACTED] AND I AM THE COUNTY RESIDENT FROM DISTRICT
 21 3. AND MAYOR ANTONOVICH, I KNOW YOU ARE A DOG NOT JUST OWNER
 22 BUT A BIG FAN OF THE DOGS BECAUSE YOU'RE FREQUENTLY HANDLING
 23 THEM AT THE BEGINNING OF THIS TELECAST. I THINK IT'S A GREAT
 24 MESSAGE AND SERVICE THAT YOU'RE PROVIDING BY OFFERING THESE
 25 ADOPTED ANIMALS OFF TO THE PEOPLE OF LOS ANGELES. I THINK YOU

This transcript was prepared from television closed captioning and is not certified for its content or form.

March 8, 2011

2011
on on
plates

The Preliminary Transcript of the Meeting of
The Los Angeles County Board of Supervisors

1 KNOW THAT WE'VE HAD A RUN-IN WITH THE LOS ANGELES COUNTY
2 COUNTY COUNSEL AND THE DEPARTMENT OF ANIMAL CARE AND CONTROL
3 BECAUSE THEY DID TAKE OUR ANIMALS AND HELD THEM FOR SIX MONTHS
4 IN AN UNLAWFUL MANNER WITHOUT A HEARING. NOW, YOU'VE HEARD
5 MANY TIMES, I'M NOT GOING TO BORE YOU WITH HOW UPSETTING THAT
6 WAS. WE TRIED NOT TO MAKE THAT SUPER EMOTION. I DIDN'T COME
7 DOWN HERE WITH PICTURES OF A BEAUTIFUL STORY. BUT WHY I'M HERE
8 IS BECAUSE I NOW FEEL -- AND I MENTIONED THIS TO MS. ORDER INA
9 NUMBER OF TIMES IN WRITING, THAT THERE IS SOMETHING WRONG WITH
10 THE CURRENT COUNTY CODE. THE CODE DOES NOT REQUIRE THAT WHEN
11 AN ANIMAL IS SEIZED THAT THE AGENTS PETITION A JUDGE IN A TIME
12 PERIOD. SO IT'S LEFT OPEN TO THEM, WHICH IS OF COURSE HARSHLY
13 DESIRABLE. BUT THERE NEEDS TO BE SOME LIMIT ON THAT TIME FRAME
14 SO THAT THINGS LIKE OCCURRED WITH MY MOM'S DOGS CAN NEVER
15 HAPPEN AGAIN. AND I BELIEVE THAT THE ABSENCE OF THAT LANGUAGE
16 IN THE LAW, MS. ORDERREN MAKES IT UNCONSTITUTIONAL ON ITS
17 FACE. AND I'VE BEEN LOOKING INTO THE REMEDIES FOR SOLVING THAT
18 AND IT'S NOT THAT EASY. I THINK THE FIRST STEP, WHICH IS MY
19 SECOND TIME BRINGING IT TO YOUR ATTENTION IN THIS FORUM, IS
20 FOR YOU TO VOLUNTARILY AMEND THAT LAW SO THAT IT REQUIRES A
21 REASONABLE TIME FRAME SO THAT A LIEUTENANT REAL WHO IN THIS
22 CASE DIDN'T DO ANYTHING, OR TERRY DIDN'T DO ANYTHING BUT IN
23 FACT WERE COMPELLED TO GATHER THEIR EVIDENCE, CONCLUDE THEIR
24 INVESTIGATION BECAUSE THE NOTION THAT THE INVESTIGATION WENT
25 ON FOR SIX MONTHS IS FLATLY ABSURD, AS ANYONE COULD SEE. I

This transcript was prepared from television closed
captioning and is not certified for its content or form.

March 8, 2011

2011
on on
dates



The Preliminary Transcript of the Meeting of
The Los Angeles County Board of Supervisors

1 MEAN, EVEN THEY SORT OF ACKNOWLEDGED IT. THAT'S WHY DIANE
 2 REAGAN RELEASED THE ANIMALS. SO I'M HOPEFUL THAT THERE'S SOME
 3 WAY THAT WE CAN WORK ON THAT WITHOUT HAVING TO, YOU KNOW -- I
 4 WAS LOOKING INTO HOW YOU HAVE TO DO IT LEGALLY. IT'S A BIG JOB
 5 FOR NONLAWYERS. WE'RE NOT INTERESTED IN A LAWSUIT. I'VE SAID
 6 THAT BEFORE. OBVIOUSLY WE KNOW ABOUT THE TIME LIMIT THERE. BUT
 7 I WOULD BE OPEN TO YOU GUYS VOLUNTARILY LOOKING AT THAT LAW. I
 8 KNOW THAT YOU WOULD NEVER WANT YOUR ANIMALS TAKEN, EVEN IF
 9 THERE WAS SOME ALLEGATIONS THAT WERE TRUE OR FALSE. IN OUR
 10 CASE THEY WERE COMPLETELY FALSE. THE ANIMALS WERE INVOLVED IN
 11 A SCUFFLE WITH OTHER DOGS. AND THE OTHER DOGS WERE
 12 TRESPASSING. NONE OF THE DOGS WERE HURT. AND IT RESULTED IN
 13 THIS HORRIFYING THING. SO, YOU KNOW, MR. KNABE, DO YOU HAVE
 14 ANYTHING TO SAY ABOUT THAT? YOU'RE NOT REALLY -- I KNOW MR.
 15 RIDLEY-THOMAS, WHO I DIDN'T REQUEST RESPOND TO OUR ONE PAGE
 16 DOCUMENT --

17
 18 MIKE ANTONOVICH, MAYOR: THANK YOU. WE WILL ASK THE DEPARTMENT
 19 IF THERE ARE ANY NEED TO CHANGE THE REPORTING TIME.

20
 21 SPEAKER: I APPRECIATE THAT. MR. SACHS? YOU'RE ON. YOU'RE
 22 ALWAYS ON. YOU'VE BEEN ON ALL DAY. ALL AFTERNOON.

23
 24 ARNOLD SACHS: THANK YOU. ESTIMATES I'M OFF -- SOMETIMES I'M
 25 OFF. ONE SECOND ONE MONTH I'M OFF. CONSISTENTLY.

This transcript was prepared from television closed captioning and is not certified for its content or form.

CONSTITUENT

From: [REDACTED]
Sent: Tuesday, June 07, 2011 8:45 AM
To: CONSTITUENT
Subject: Supervisorial Trips to Washington D.C. by the (LA County Board of Supervisors) Via Facsimile: (213) 626-5427

Please provide timely responses to the following reasonable questions about the annual pattern of supervisorial trips to Washington.

In this unprecedented time of belt-tightening, we the residents, feel that we must be vigilant as to the manner in which each and every cent is deployed by our trusted leaders. Efforts to understand the nature of the meetings in D.C. were ignored or responded to insufficiently. The below request will provide some transparency.

Please confirm receipt of this document and indicate when those responses will be provided according to the Public Records act.

- 1) Please provide a copy of the complete roster of County employees who travelled to Washington, D.C. in 2008, 2009, 2010 and recently in May of 2011. [During the 'Supervisors trip to Washington', as defined by the period when the regularly scheduled board meeting is delayed, cancelled, or held in Washington]
- 2) Please provide a comprehensive list of the meeting schedules and itineraries for each of the supervisors who were acting on our behalf as our county representatives in the nation's capital.
- 3) The County website, indicates that there was only one meeting scheduled as a matter of official business and that it was with Senator Dianne Feinstein of California in the Hart building.
- 4) Apparently, Supervisor Molina was absent from that May 4, 2011 meeting, as indicated on the Statement of proceedings.
- 5) Please provide a copy of each of the expense reports [or travel allowances issued] for individual County employees who travelled to Washington, D.C. in 2008, 2009, 2010 and recently in May of 2011.
- 6) Please provide a copy of the hotel bills for each of the County employees who travelled to Washington, D.C. in 2008, 2009, 2010 and recently in May of 2011.
- 7) Please provide a copy of all airline tickets, including cost detail, for the supervisors trip to Washington or in the alternative any invoice(s) for use of a non-commercial aircraft.
- 8) Please clarify that any frequent flier miles for flights to and from Washington, that were paid for with County funds for County employees, are accrued into a separate account for the County; supervisors should not accrue mileage at taxpayer expense.

June 4, 2011

Fighting Words

Gov. Chris Christie of New Jersey, a Republican who has won attention for preaching belt-tightening, faced criticism himself last week after he took a state helicopter to see his son play a high school baseball game and then flew to a meeting of political supporters. (Mr. Christie later paid \$2,151 for the cost of flights he took to his son's games; the State Republican Party reimbursed the state \$1,232 for the flight to meet with supporters.)

6/15/2011

“Leaving in the fifth inning to meet with wealthy Iowa political donors says something about the governor’s priorities. Perhaps his presidential courters can help him foot the bill so our taxpayers aren’t on the hook for such perks when he is calling for sacrifice.”

— Assemblywoman Valerie Vainieri Huttle, Democrat of Bergen County

“She should really be embarrassed at what a jerk she is.”

— Mr. Christie

Supervisory Trips to Washington D.C. by the (LA County Board of Supervisors) Via Facsimile: (213) 626-5427

From: [REDACTED]

To: constituent@auditor.lacounty.gov

Subject: Supervisory Trips to Washington D.C. by the (LA County Board of Supervisors) Via Facsimile: (213) 626-5427

Date: Tue, Jun 7, 2011 8:45 am

Please provide timely responses to the following reasonable questions about the annual pattern of supervisory trips to Washington.

In this unprecedented time of belt-tightening, we the residents, feel that we must be vigilant as to the manner in which each and every cent is deployed by our trusted leaders. Efforts to understand the nature of the meetings in D.C. were ignored or responded to insufficiently. The below request will provide some transparency.

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- 8) Please clarify that any frequent flier miles for flights to and from Washington, that were payed for with County funds for County employees, are accrued into a separate account for the County; supervisors should not accrue mileage at taxpayer expense.

June 4, 2011

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Jun 07 11:08:49a

Exhibit 1 - Page 21

Supervisory Trips to Washington D.C. by the [LA County Board of Supervisors] Via Facsimile: (213) 626-5427

Received
June 23, 2011
Commission on
State Mandates
6/21/11 8:45 AM

"Leaving in the fifth inning to meet with wealthy Iowa political donors says something about the governor's priorities. Perhaps his presidential courters can help him foot the bill so our taxpayers aren't on the hook for such perks when he is calling for sacrifice."

— Assemblywoman Valerie Vainieri Huttle, Democrat of Bergen County

"She should really be embarrassed at what a jerk she is."

— Mr. Christie

Reagan, Diane

From: Reagan, Diane
Sent: Tuesday, June 14, 2011 12:23 PM
To: Reagan, Diane
Subject: FW: Query RE: Project in Cudahy (CRD3)

From: [REDACTED]
Sent: Friday, June 10, 2011 2:48 PM
To: ExecutiveOffice
Subject: Fwd: Query RE: Project in Cudahy (CRD3)

Please respond appropriately in accordance with the PRA.

-----Original Message-----

From: ExecutiveOffice <ExecutiveOffice@bos.lacounty.gov>
To: [REDACTED]
Sent: Thu, May 19, 2011 9:30 am
Subject: RE: Query RE: Project in Cudahy (CRD3)

Thank you for visiting the County of Los Angeles, Board of Supervisors' website. In response, the following e-mail has been forwarded to each of the Five Supervisorial Districts.

From: [REDACTED]
Sent: Thursday, May 19, 2011 9:01 AM
To: ExecutiveOffice
Cc: Michael D. Antonovich
Subject: Query RE: Project in Cudahy (CRD3)

This bike path landscaping project in Cudahy is going out to bids in June. The residents are curious:

Clearly, the bid number is \$215,000, plus a \$32,000 contingency, please explain the \$299,000 in county management costs? [\$25,000 in quality control inspections...?! Your taxpaying residents do not like the sound of that very much.]

Also, what is the length of this bikepath and the wood composite deck and bench?
 What is the distance from this proposed recreation area and CLARA PARK ?

What is the distance from this proposed recreation area and CUDAHY CITY PARK ?

What is the distance from this proposed recreation area and PRITCHARD FIELD ?

What is the distance from this proposed recreation area and CITY OF BELL GARDENS JOHN ANSON FORD PARK?

In light of those distances (please disclose them) does this seem like a good use of more than half a million dollars? I know from the budget hearing that Mayor Antonovich is concerned about funding Probation and Sheriff. And he was worried that the unconstitutional conduct was being permitted...he used a very disturbing example, but we knew what he meant.

<http://documents.latimes.com/la-county-supervisors-meeting-transcripts/>

6/14/2011

Reagan, Diane

From: Reagan, Diane
Sent: Tuesday, June 14, 2011 12:35 PM
To: Reagan, Diane
Subject: FW: [REDACTED] et al. v. County of Los Angeles et al. CV-2340
Attachments: 10_20_[REDACTED]S_CLAIM_-
 AND_THE_RETRIBUTIVE_LEGAL_ACTION_THAT_FOLLOWED9.pdf;
 9_13_Fwd_Claim_of_[REDACTED]-10-1081147_001.pdf;
 10_22_[REDACTED]_CLAIM_&_R[REDACTED]S_2ND_CLAIM.pdf;
 10_25_Re_County_of_Los_Angeles_v._P[REDACTED]n_LASC_-_Case_No._[REDACTED]
 Demand_to_withdraw_subpoena.pdf

From: [REDACTED]
Sent: Saturday, June 11, 2011 6:43 PM
To: Kudo, Richard
Cc: [REDACTED]
Subject: Fwd: [REDACTED] et al. v. County of Los Angeles et al. CV-2340

What is the time frame on our case CV 11-2340 according to your understanding, if you have one? RESPOND

Has Judicial officer Block indicated a date on which he would publish something? RESPOND
 We have not heard back from your clients regarding the last settlement proposal.

Did you share it with them? RESPOND

To be clear, please show us the document you circulated with that proposal so we know you complied. We have told you about our suspicion that you are not even remotely paying attention and will simply attempt to wear down our resolve through the clumsy time consuming, energy and resource tapping judicial process. Ask Richard Mason about it. He loves the long drawn out litigation, more than some love poetry. It's funny how nice people get caught up in a weird business and wind up defending odd positions that make no sense and squander precious resources. I remember when he told me in an email that he would never settle, because he disagreed with us about the law... I asked him what he was talking about...we wanted reimbursement for the illegal impoundment of our virtual love ones. He reminded me that he had an old dog that died... I asked what six months of life-extension would be worth to him. You know his pension is quite robust because he's an old timer. He confessed, alot. It was a human moment. We don't get why someone doesn't organize the motion to settle under 913.2 - I know, Diane would be embarassed but still, it's the way to go.

Please respond on Monday before 10am so that we can adjust our schedule.

* [Also, the PRA requests below have still not been fulfilled] Ms. Jenkins has taken a new job in case you did not know, as Supervisor Ridley-Thomas's chief of staff. We were concerned that maybe you dropped another ball and wanted to be sure PRA fulfillment would be forthcoming.... in good faith, we will not seek legal action, as we hear you are struggling at trial these days ... but take the time to read this down and provide what has been appropriately requested.

And refrain, from future tampering of documents, such as the Lt. Real (post dated) bite report that is a bald faced lie
 In County ink.

Thank you, Richard. Am I required to copy Nedra and Andrea on this? RESPOND

[REDACTED]

6/14/2011

-----Original Message-----

From: [REDACTED]
To: aordin@counsel.lacounty.gov
Sent: Fri, Apr 8, 2011 5:09 pm
Subject: Fwd: [REDACTED] et al. v. County of Los Angeles et al. CV--2340

fyi

-----Original Message-----

From: [REDACTED]
To: njenkins@counsel.lacounty.gov
Cc: [REDACTED]
Sent: Fri, Apr 8, 2011 5:02 pm
Subject: [REDACTED] et al. v. County of Los Angeles et al. CV--2340

Nedra:

Awkwardly, we have not heard from you regarding our desire to meet and confer re: amending the complaint. Therefore, we will wait for your motion and respond with as much vigor as we can possibly muster, at the appropriate time. Hopefully, the Judicial officer will understand that we are not lawyers and look more closely and carefully at the facts than you have.

- 1) Are you aware of any relationship between your client, Alonso Real and Judge Manuel Real, the presiding judge in this matter? Pls Respond.
- 2) We are very concerned that instead of making any effort to settle our good claim, your actions and inactions have already increased the settlement demand and thus constitute a further squandering of limited County resources during a time when many critical services are in serious jeopardy. The motion that you proposed and then threatened, the other day, will burden the judge, increase the costs for all concerned, and cause more unwanted delay to an already protracted matter.
- 3) Unless you are sure that the defect in our complaint cannot be corrected by amendment, or some absolute bar to relief appears on the face of the complaint, we suggest that you refrain from taking such an action for the aforementioned as well as following reasons.
- 4) The Court will very likely deny a Rule 12 (b) 6 motion. Even if you ultimately obtain a dismissal with prejudice, it may not hold up... because we understand that dismissals for failure to state a claim have a high reversal rate on appeal.
- 5) You have refused to meet and confer or pass along your concerns in writing, thus we, in Pro per, do not understand the manner in which you want us to amend our complaint. For instance you verbally questioned Mr. Bowen's standing on some but not all of our claims. What about [REDACTED] standing? [REDACTED] standing? We asked you to provide this information in writing so we could understand what specifically you had in mind, and you said you were only obliged to speak to us individually, but then you failed to do that and never provided your confusing questions in writing.
- 6) The Court must decide whether the facts alleged in the complaint, if true, would entitle plaintiffs to some form of legal remedy. Unless the answer is unequivocally "no" any motion you file must be denied. Thus a Rule 12 (b) 6 dismissal is proper only where there is either a "lack of cognizable legal theory" or "the absence of sufficient facts alleged under a cognizable theory." A cognizable claim or controversy is one that meets the basic criteria of viability for being tried or adjudicated before a particular tribunal. The term means that the claim or controversy is within the power or jurisdiction of a particular court to adjudicate.

6/14/2011

7) "A suit should not be dismissed if it is possible to hypothesize facts, consistent with the complaint, that would make out a claim."

8) Normally, plaintiff is not required to anticipate in his or her complaint defenses that may be raised in the answer.

9) We urge you to speak to all your clients, as you are obliged to do, and then arrange to meet and confer on Monday.

10) You have asserted that settlement is 'premature.' We disagree. We think it is in fact long overdue. Please feel free to serve the documents you intend to file on us the plaintiffs at the Board Meeting on Tuesday. We will only be there until the meeting's end. If you agree to waive any concern re: one of us accepting on behalf of the other two of us, we approve that method of service, in the interest of avoiding the expenditure of a single additional penny of the taxpayers money in this kafka-esque waste of time. We are still awaiting information about the budget of this matter that Mr. Estabrook indicated accompany all litigations (that we loathe). And we still want to know why you sent a messenger to Malibu, without picking up the telephone, and at what cost?

11) Mediation? (third request)

12) We firmly believe that the factual contentions in our complaint have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

14) We have made numerous good faith efforts to obtain relevant information from Los Angeles County that clearly should have already been provided under the Public Records Act. The County Counsel's frequent, unreasonable withholding of information is beyond intolerable. To be very specific we are still waiting for all the Animal Control records that were requested formally in writing on October 20, 2010. (attached)

15) We believe that all law abiding residents who live on a road in California are permitted to be informed about and included in meetings or hearings with residents about their animals. We intend to bring the members of our community forward at the appropriate time, voluntarily, to testify about such meetings that we know took place on October 13, 2010 and other dates. As you know, those meetings, it is alleged, were critical in the the drafting and manufacturing of evidence for the vile and repugnant search and seizure warrant that was based on the insidious and nakedly malicious and retributive motives of your clients. Ask ~~_____~~ or ~~_____~~ or Joe Heath or Maria Chong-Castillo and many others. The attorneys who put forth the strategy of retaliation - that failed - are guilty of an egregious violation of the Rules of Professional conduct 8.4 or worse.

16) Any sanction imposed under rule 11 must be limited to what suffices to deter repetition of the conduct or comparable conduct by others similarly situated. Yet, Counselor Jenkins, you have refused to explain what you want to sanction plaintiffs for or about. You have ignored entreaties to meet and confer intended to ease the burden on the Court entirely. Counselor Jenkins, when you poked the plaintiffs in the chest with the threat of sanctions, as some form of threat, you undercut your own credibility. It is both preposterous and insulting to think that we, the moving parties in this grievous matter, should be sanctioned for declining to, as you put it, "walk away."

Have a nice weekend.

6/14/2011



COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL

648 KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012-2713

Received
June 23, 2011
Commission on
State Mandates

ANDREA SHERIDAN ORDIN
County Counsel

June 10, 2011

TELEPHONE
(213) 974-1868
FACSIMILE
(213) 680-2165
TDD
(213) 633-0901

VIA E-MAIL & U.S. MAIL

[REDACTED]

**Re: Response to various communications to County officials
and employees**

Dear [REDACTED]

This is in response to your requests for records under the Public Records Act (Govt. Code § 6250 et seq.) and for other information, received on May 31, 2011 and June 7, 2011, addressed to County officials and employees.

1. Enclosed e-mail request of May 31, 2011 to Ms. Logan regarding meetings of the Board of Supervisors:

a. Since I have been designated to be the contact person with respect to your non-litigation inquiries, Ms. Hamai respectfully declines your request for her to call you.

b. Meetings begin at approximately the time stated on the agenda; records of exact meeting beginning and ending times are not available.

c. Public comments are generally taken before closed session items are heard. The Board room was available for public comment prior to the beginning of the 10 am closed session on May 31, 2011. Another public comment period was available during the regular meeting which began at approximately 1 p.m. Any items a member of the public wishes to comment on may be noted on the form completed by each speaker.

d. You may access the County Code through the County website at <http://lacounty.gov/wps/portal/lac>. Click on "Public Information" in the top right corner of the page, then go to "County Code." When you reach the County Code page, you will find a search box, permitting you to type in a code section.

2. Enclosed e-mail request dated May 31, 2011 to various County officials and employees regarding ethics training:

Please note that Mr. Chu's December 29, 2010 letter was sent in response to the following question: "What documents on ethics are circulated to all county employees who deal with Risk? Please provide a copy."

Mr. Chu's statement that "The requested documents will not be produced because they do not exist" was responsive to your vague and ambiguous question, and did not contemplate your current follow-up question relating to training records and materials.

Your May 31, 2011 request is vague as to the time frame of the records requested. It is also vague and ambiguous as to who is meant by "the individuals who they have deputized to handle County claims under their delegated quasi-judicial authority."

The County has conducted over fifty AB 1234 Ethics instructor-led training sessions since September 2006 and also offers a web-based course through the Los Angeles County Learning Net. In accordance with AB 1234, the training is offered to elected County officials, members of certain County commissions, and employees designated by the County to receive such training. In addition, training is offered through the Fair Political Practices Commission and other local agencies.

In response to your request, we have attached electronic copies of our most recent training materials and the most recent certificates for the Board of Supervisors to our e-mail with this letter. You may print the training materials at your own expense, if you wish to do so.

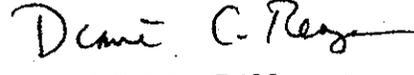
3. Enclosed e-mail dated June 7, 2011 to Katherine Medina regarding three years of claims that have been held for your review for over six months:

As Ms. Medina advised you on June 1, 2011, you have only reviewed three months of the three years of claims (2007-2009) that you requested to review in January 2011. The claims will be returned to storage on June 15, 2011. You may review these claims prior to that date. If you cannot review them by June 15, 2011, you may request some of the records from storage at some point in the future when you are ready to resume your review.

You may forward any further written questions to me.

Very truly yours,

ANDREA SHERIDAN ORDIN
County Counsel

By 

DIANE C. REAGAN
Principal Deputy County Counsel
Health Services Division

DCR:vn

Enclosures (training materials and certificates by e-mail only)

c: 

Reagan, Diane

From: Reagan, Diane
Sent: Wednesday, June 08, 2011 12:31 PM
To: Reagan, Diane
Subject: FW: Meeting Schedule

From: [REDACTED]
Sent: Tuesday, May 31, 2011 11:49 AM
To: Logan, Janet
Cc: ExecutiveOffice
Subject: Meeting Schedule

1) Please ask Ms. Hamail to give me a call. Thank you.

2) How long was this mornings closed session? I'm sure there will be a recap of any actions taken etc. What time did the supervisors go in and come out?

Also, I am confused by the following: From county website: **NOTE: A Special Meeting will be held on Tuesday, May 31, 2011 at 10:00 a.m. for the Purpose of meeting in Closed Session. The Special Agenda is attached to the Regular Meeting Agenda.**

From the 10:00am agenda: **"Opportunity for members of the public to address the Board on items of interest that are within the subject matter jurisdiction of the Board."**

3) How can members of the public address the board on only closed-session items?

We may need an opinion on that.

In any case, all of the items on the agenda should be available at 1:00pm since only some closed-session items were

scheduled for this morning. Public Comment should be up first, as a courtesy to the public.

4) Finally, please provide in connection with the PRA a clear link to the text of **County Code Section 3.100.030A -**

I have had trouble finding it.

Reagan, Diane

From: Reagan, Diane
Sent: Wednesday, June 08, 2011 12:28 PM
To: Reagan, Diane
Subject: FW: ETHICS IN LA COUNTY GOVT -

From: [REDACTED]
Sent: Tuesday, May 31, 2011 5:16 PM
To: Kapur, Leela; jsnyder@da.lacounty.gov; njenkins@bos.lacounty.gov; lmlhiser@ceo.lacounty.gov
Subject: ETHICS IN LA COUNTY GOVT --

Deputy Kapur:

As you know we are very interested in Ethics in local government. All of our numerous inquiries about the manner in which our local county officials have been trained on ethics have been responded to in one sentence written by Brian Chu on December 29, 2010:

"The requested documents [on ethics] will not be produced because they do not exist."

Cities, counties and special districts in California are required by law (AB 1234, Chapter 700, Stats. of 2005) to provide ethics training to their local officials. A free on-line ethics training course is available to satisfy the local government ethics training requirement.

Government Code section 53235.2 requires local agency officials to maintain records that indicate both the dates of training and the entity that provided the training. These records are disclosable public records and must be maintained for five years after the training.

Please provide these records and the training materials for the Board of Supervisors and the individuals who they have deputized to handle County claims under their delegated quasi-judicial authority.

AB 1234 Ethics Training for Local Officials

Other training courses may be made available from commercial enterprises, nonprofit organizations and a local agency's own legal counsel. Persons preparing ethics training courses should review the Attorney General's guidelines.

[REDACTED]

Reagan, Diane

From: Reagan, Diane
Sent: Wednesday, June 08, 2011 12:33 PM
To: Reagan, Diane
Subject: FW: Public Records Request for Claims 2007-2009

From: [REDACTED]
Sent: Tuesday, June 07, 2011 9:08 AM
To: Medina, Katherine
Subject: Re: Public Records Request for Claims 2007-2009

I have different records about which records I have reviewed. I admit it is a lot of material but I still feel that I have the right to review those records and will continue as my schedule permits. It would go much faster if the Board were able to help resolve the parking validation issue. The issue of parking so far has been unresolved and thus, I will discuss it with the Board of Supervisors.

Only the Board can accommodate the residents regarding research projects of any kind involving attorney work product. Thank you for your patience.

Please continue to provide the as needed records on Tuesdays until further notice.

[REDACTED]
CRD3

-----Original Message-----

From: Medina, Katherine <KMedina@bos.lacounty.gov>
To: [REDACTED]
Sent: Wed, Jun 1, 2011 4:25 pm
Subject: Public Records Request for Claims 2007-2009

Dear [REDACTED]:

You submitted a request on January 4, 2011 to review claims for the years 2007 through 2009. You have reviewed three months of the three years worth of claims to date. We will maintain the following claims for your review in our office for two more weeks:

January 2007 through December 2009

If you have not completed your review by June 15, 2011, we shall return the records to storage.

Katherine Medina
Customer Service Center
Executive Office, Board of Supervisors
383 Kenneth Hahn Hall of Administration
500 W. Temple Street
Los Angeles, CA 90012
213 974-1411

6/8/2011

**Los Angeles County's Proposed Parameters and Guidelines
California Public Record Act Test Claims (02-TC-10, 02-TC-51)**

Declaration of Nancy Takade

I, Nancy Takade, state and declare as follows:

Since December 1990, I have been an attorney licensed to practice in the State of California. I am currently employed by the County of Los Angeles, as a Principal Deputy County Counsel in the Office of the County Counsel. I have personal knowledge of the facts set forth herein, except as to those stated on information and belief, which I believe to be true. If called as a witness, I could and would competently testify to the matters stated herein.

The Office of County Counsel ("Office") is administratively divided into divisions ("Divisions") such as Law Enforcement, Social Services, Health Services, Labor and Employment, Government Services, etc. The Divisions provide legal advice and support to the Board of Supervisors, the County's thirty-seven departments and the County's other numerous agencies, commissions, boards, and committees ("Client Departments").

I have been a staff attorney in the Government Services Division for nearly fourteen (14) years. As is the case with many staff attorneys in the Office, my assignments include providing assistance to various Client Departments in responding to California Public Records Act ("CPRA"). In addition, since 2003, I have acted as "office coordinator" of matters relating to the CPRA. The office coordinator provides guidance and assistance to other staff attorneys advising the Client Departments on matters relating to the CPRA.

Upon receiving a CPRA request, a Client Department will often require legal advice and/or assistance. This is particularly true when a request is worded in an extremely broad or general manner, covers a number of years, requires referral to and/or coordination with numerous County departments, requires extraction and compilation of electronic information, impacts privacy rights, relates to matters that are exempt from disclosure, or any combination thereof. In such instances, a staff attorney assigned to the Client Department will assist department staff in understanding the request, locating and identifying potentially responsive records, determining whether records are disclosable or exempt from disclosure, providing appropriate responses to the requests, and any other necessary assistance.

I have read the conclusion of the Commission on State Mandates' California Public Records Act decision ("Commission Decision"), issued on May 31, 2011, finding that the following local agency services are reimbursable:

"1. If requested by a person making a public records request for a public record kept in an electronic format, provide a copy of a disclosable electronic record in the electronic format requested if the requested format is one that has been used by the agency to create copies for its own use or for provision to other agencies. (Gov. Code, § 6253.9, subd. (a)(2) (Stats. 2000, ch. 982).)

"2. Within 10 days from receipt of a request for a copy of records determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the local agency or K-14 district and notify the person making the request of the determination and the reasons for the determination. (Gov. Code, § 6253, subd. (c) (Stats. 2001, ch. 982).)

"3. If the 10-day time limit of Government Code section 6253 is extended by a local agency or K-14 district due to "unusual circumstances" as defined by Government Code section 6253, subdivision (c)(1)-(4) (Stats. 2001, ch. 982), the agency head, or his or her designee, shall provide written notice to the person making the request, setting forth the reasons of the extension and the date on which a determination is expected to be dispatched. (Gov. Code, § 6253, subd. (c) (Stats. 2001, ch. 982).)

"4. When a member of the public requests to inspect a public record or obtain a copy of a public record:

"a. assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated;

"b. describe the information technology and physical location in which the records exist; and

"c. provide suggestions for overcoming any practical basis for denying access to the records or information sought.

"These activities are not reimbursable when: (1) the public records requested are made available to the member of the public through the procedures set

forth in Government Code section 6253; (2) the public agency determines that the request should be denied and bases that determination solely on an exemption listed in Government Code section 6254; or (3) the public agency makes available an index of its records. (Gov. Code, § 6253.1, subs. (a) and (d) (Stats. 2001, ch. 355).)

"5. [Not applicable to counties.]

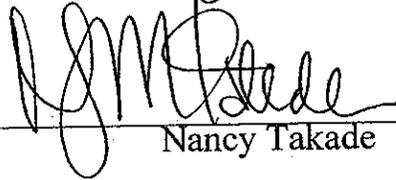
"6. [Not applicable to counties.]

"7. If a request is denied, in whole or in part, respond in writing to a written request for inspection or copies of public records that includes a determination that the request is denied. (Gov. Code, § 6255, subd. (b) (Stats. 2000, ch. 982).)"

I have reviewed Attachment A which describes and summarizes the reasonably necessary activities for inclusion in Los Angeles County's proposed parameters and guidelines as reimbursable service components. These reasonably necessary activities include the services that the attorneys in this Office currently provide and will continue to provide to Client Departments to assist them in performing the reimbursable CPRA activities described in the Commission Decision.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 21, 2011, at Los Angeles, California.



Nancy Takade

Attachment A

***'Reasonably Necessary' Activities*¹**
Los Angeles County's Proposed Parameters and Guidelines
California Public Record Act Test Claims (02-TC-10, 02-TC-51)

A. *One-time Activities (Local Agencies)*

1. To develop policies, protocols, manuals and procedures for implementing following reimbursable California Public Record Act (CPRA) activities:
 - a. Providing a copy of electronic records exist in the electronic format requested if the format is one used by the agency to create copies for its own use or for provision to other agencies. (Gov. Code, § 6253.9, subd. (a)(2).)
 - b. Within 10 days from receipt of a request for a copy of records, determining whether the request, in whole or in part, seeks copies of disclosable records in the possession of the local agency and notifying the person making the request of the determination and the reasons for the determination. (Gov. Code, § 6253, subd. (c).)
 - c. If the 10 day time limit must be extended by the local agency due to "unusual circumstances" as defined in Government Code § 6253, subd. (c)(1)-(4), providing written notice to the requester, setting forth the reasons for the extension and the date on which a determination is expected to be provided. (Gov. Code, § 6253, subd. (c).)
 - d. When a member of the public requests to inspect or obtain a copy of a public record, and the request is not focused and effective nor reasonably describes an identifiable record or records:
 - (1) assisting the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated;
 - (2) describing the information technology and physical location in which the records exist; and
 - (3) providing suggestions for overcoming any practical basis for denying access to the records or information sought.
 (Gov. Code, § 6253.1, subs. (a) and (d).)
 - e. If a request is denied, in whole or in part, providing a written response to a written request for inspection or copies of public records that includes a determination that the request is denied. (Gov. Code, § 6255, subd. (b).)

¹ Indicated in *italics*.

2. To develop data base software or manual system(s) for tracking and processing public records request actions to implement reimbursable test claim provisions (as stated above).
3. To purchase or lease computers to monitor and document public records request actions to implement reimbursable test claim provisions (as stated above). (Use for other purposes is not reimbursable.)
4. To develop or update web site(s) for public record act requests to implement reimbursable test claim provisions (as stated above).

B. Continuing Activities (Local Agencies)

1. Annual training programs on implementing reimbursable test claim provisions, including reimbursement for trainee and trainer participation, curriculum development, equipment and supplies.
2. Determining within 10 days of receipt of request as to whether there are any disclosable records responsive to the request, and, developing or reviewing language to notify the person making the request of the determination and the reasons for the determination, including:
 - a. Receiving, logging and tracking oral (in-person or telephone) or written (hand delivered, mailed, e-mail and fax requests) to monitor compliance with the 10 day time period.
 - b. Determining whether the agency would have custody or control of the records sought by the requester.
 - c. Determining whether the request reasonably describes any identifiable records(s) and conferring with the requester if clarification is needed.
 - d. Meeting and/or conferring with local agency staff to identify location of and access to potentially responsive records. If multiple departments have oversight and/or custody of the requested data or information, meeting and/or conferring with those entities to determine coordination of efforts, as appropriate.
 - e. Conducting legal and factual review, research and analysis to determine whether the requested record(s) or parts thereof are disclosable or exempt from disclosure. Reimbursement includes, but is not limited to, legal staff and/or legal contract services costs and the costs of legal data base services.
 - f. Developing and reviewing language to notify the requester of the determination on the request and where appropriate, the reasons for the determination.
 - g. Reviewing the record(s) prior to transmission to the requester to ensure that responsive disclosable records are provided by the agency.
 - h. Preparing, and obtaining supervisory approval and signature of, correspondence accompanying the requested record(s).

Exhibit 2 – Page 6

- i. Copying or saving record(s) and accompanying correspondence.
 - j. Sending or transmitting the records to the requester.
 - k. Tracking the shipment of requested CPRA records.
3. Determining when the 10-day response period Government Code section 6253 must be extended due to "unusual circumstances" as defined by Government Code section 6253, subdivision (c), and the agency head, or his or her designee, shall provide written notice to the person making the request, setting forth the reasons of the extension and the date on which a determination is expected to be dispatched. Activities include:
- a. Determining the existence of the "unusual circumstances" (in Government Code section 6253, subdivision (c)) to justify an extension of the 10 day time limit in providing the requested document(s), which include:
 - (1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.
 - (2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.
 - (3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.
 - (4) The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.
 - b. Meeting and/or conferring with local agency staff, including legal staff, to determine the date on which a determination is expected to be dispatched to the person making the request.
 - c. Drafting, editing and reviewing a written notice to the person making the request, setting forth the reasons of the extension and the date on which a determination is expected to be dispatched.
 - d. Preparing, and obtaining agency head, or his or her designee, approval and signature of, the extension notice and accompanying correspondence.
 - e. Copying or saving the extension notice and accompanying correspondence.
 - f. Sending or transmitting the notice and accompanying correspondence to the requester.

- g. Tracking delivery of the notice and accompanying correspondence to the requester.
4. Determining when a request of a member of the public requests to inspect a public record or obtain a copy of a public record is neither focused and effective nor reasonably describes an identifiable record or records, and performing the following activities to the extent reasonably necessary:
- a. assisting the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated;
 - b. describing the information technology and physical location in which the records exist; and
 - c. providing suggestions for overcoming any practical basis for denying access to the records or information sought.
5. To implement Section (4) a., b., and c, above:
- a. Receiving, logging and tracking oral (in-person or telephone) or written (hand delivered, mailed, e-mail and fax requests) to monitor compliance with the 10 day time period.
 - b. Determining whether the agency would have custody or control of the records sought by the requester.
 - c. Determining whether the request reasonably describes any identifiable records(s) and conferring with the requester if clarification is needed.
 - d. Meeting and/or conferring with local agency staff to identify location of and access to potentially responsive records. If multiple departments have oversight and/or custody of the requested data or information, meeting and/or conferring with those entities to determine coordination of efforts, as appropriate
 - e. Conducting legal and factual review, research and analysis to determine whether the requested record(s) or parts thereof are disclosable or exempt from disclosure. Reimbursement includes, but is not limited to, legal staff and/or legal contract services costs and the costs of legal data base services.
 - f. Identifying litigation, claims, and related record(s) which may be disclosable and responsive to the request or to the purpose of the request, if stated.
 - g. Developing and reviewing language to notify the requester of the determination on the request and where appropriate, the reasons for the determination.
 - h. Reviewing the record(s) prior to transmission to the requester to ensure that responsive disclosable records are provided by the agency.
 - i. Preparing, and obtaining supervisory approval and signature of,

- correspondence accompanying the requested record(s).
- j. Copying or saving record(s) and accompanying correspondence.
 - k. Sending or transmitting the records to the requestor.
 - l. Tracking the shipment of requested CPRA records.
6. These activities do not include when: (1) the public records requested are made available to the member of the public through the procedures set forth in Government Code section 6253; (2) the public agency determines that the request should be denied and bases that determination solely on an exemption listed in Government Code section 6254; or (3) the public agency makes available an index of its records. (Gov. Code, § 6253.1, subds. (a) and (d) (Stats. 2001, ch. 355).)
7. When a request is denied, in whole or in part, preparing or reviewing a written response to a written request for inspection or copies of public records that includes a determination that the request is denied. (Gov. Code, § 6255, subd. (b) (Stats. 2000, ch. 982):
- a. Meeting and/or conferring with staff, including but not limited to legal staff, to review the basis for the determination to deny a request in whole or in part.
 - b. Drafting, reviewing, and editing a written response that includes a determination that the request is denied.
 - c. Preparing, and obtaining agency head, or his or her designee, approval and signature of, the denial response and accompanying correspondence.
 - d. Copying or saving the written denial and accompanying correspondence.
 - e. Sending the written denial and accompanying correspondence to the requester.
 - f. Tracking delivery of the written denial and accompanying correspondence to the requester.

**Los Angeles County's Proposed Parameters and Guidelines
California Public Record Act Test Claims (02-TC-10, 02-TC-51)**

Declaration of Rick Brouwer

I, Rick Brouwer, make the following declaration and statement under oath:

I am a licensed, practicing attorney in the State of California. I have been practicing law since 1992 and my State Bar No. is 162220. I am currently employed by the County of Los Angeles, in the Office of the County Counsel as a Principal Deputy County Counsel.

As a Principal Deputy County Counsel my primary job responsibility is to supervise the Los Angeles County Sheriff's Department's Advocacy Unit. The Advocacy Unit has six (6) lawyers and six (6) support staff and is responsible for handling all peace officer related matters including labor and employment litigation, advice, document requests, subpoena's and other legal matters for the Sheriff's Department. The Advocacy Unit is stationed in the Sheriff's Department.

I declare that I have supervised the Advocacy Unit for the Sheriff's Department for thirteen (13) years. During that time period, I have been personally responsible for assisting the Sheriff's department in responding to public record act requests pursuant to the California Public Records Act (CPRA).

I declare that I have read the conclusion of the Commission on State Mandates' California Public Records Act decision, issued on May 31, 2011, finding that the following local agency services are reimbursable:

"1. If requested by a person making a public records request for a public record kept in an electronic format, provide a copy of a disclosable electronic record in the electronic format requested if the requested format is one that has been used by the agency to create copies for its own use or for provision to other agencies. (Gov. Code, § 6253.9, subd. (a)(2) (Stats. 2000, ch. 982).)

2. Within 10 days from receipt of a request for a copy of records determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the local agency or K-14 district and notify the person making the request of the determination and the reasons for the determination. (Gov. Code, § 6253, subd. (c) (Stats. 2001, ch. 982).)

3. If the 10-day time limit of Government Code section 6253 is extended by a local agency or K-14 district due to “unusual circumstances” as defined by Government Code section 6253, subdivision (c)(1)-(4) (Stats. 2001, ch. 982), the agency head, or his or her designee, shall provide written notice to the person making the request, setting forth the reasons of the extension and the date on which a determination is expected to be dispatched. (Gov. Code, § 6253, subd. (c) (Stats. 2001, ch. 982).)

4. When a member of the public requests to inspect a public record or obtain a copy of a public record:

a. assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated;

b. describe the information technology and physical location in which the records exist; and

c. provide suggestions for overcoming any practical basis for denying access to the records or information sought.

These activities are not reimbursable when: (1) the public records requested are made available to the member of the public through the procedures set forth in Government Code section 6253; (2) the public agency determines that the request should be denied and bases that determination solely on an exemption listed in Government Code section 6254; or (3) the public agency makes available an index of its records. (Gov. Code, § 6253.1, subds. (a) and (d) (Stats. 2001, ch. 355).)

5. Not applicable to local agencies.

6. Not applicable to local agencies.

7. If a request is denied, in whole or in part, respond in writing to a written request for inspection or copies of public records that includes a determination that the request is denied. (Gov. Code, § 6255, subd. (b) (Stats. 2000, ch. 982).)

I declare that I have analyzed the activities that I have been doing in assisting the Los Angeles County Sheriff's department to comply with the additional or supplemental public record act requirements set forth above.

I declare that it is my information and belief that the legal activities performed by the County Counsel Unit stationed at the Los Angeles County Sheriff's department are reasonably necessary in the Sheriff's implementation of the above provisions of the California Public Record Act.

I declare that I have reviewed Attachment A which includes and summarizes County Counsels' reasonably necessary activities for inclusion in Los Angeles County's proposed parameters and guidelines as reimbursable service components.

I am personally conversant with the foregoing facts and if so required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge, except as to the matters which are therein stated as information and belief, and as to those matters I believe them to be true.

6/13/2011

Date and Place



Signature

Attachment A

Declaration of Rick Brouwer

Attachment A

Declaration of Rick Brouwer

**‘Reasonably Necessary’ (*Italicized*) Activities
Los Angeles County’s Proposed Parameters and Guidelines
California Public Record Act Test Claims (02-TC-10, 02-TC-51)**

A. One-time Activities (Local Agencies)

1. ***To develop policies, protocols, manuals and procedures for implementing following reimbursable California Public Record Act (CPRA) provisions:***
 - a. Determining whether electronic records or parts thereof are not subject to statutory and case law exemptions in order to determine if such records are disclosable. (Gov. Code, § 6253.9, subd. (a)(2) (Stats. 2000, ch. 982).)
 - b. Within 10 days, determining whether records or parts thereof are not subject to statutory and case law exemptions in order to determine if such records are disclosable; and, developing or reviewing language to notify the person making the request of the determination and the reasons for the determination. ((Gov. Code, § 6253, subd. (c) (Stats. 2001, ch. 982).)
 - c. When an extension of time is required in complying with the 10 day requirement, developing or reviewing language providing a legal basis for the extension. (Gov. Code, § 6253, subd. (c) (Stats. 2001, ch. 982).)
 - d. When a member of the public requests to inspect a public record or obtain a copy of a public record:
 1. assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated;
 2. describe the information technology and physical location in which the records exist; and

3. provide suggestions for overcoming any practical basis for denying access to the records or information sought.

These activities are not reimbursable when: (1) the public records requested are made available to the member of the public through the procedures set forth in Government Code section 6253; (2) the public agency determines that the request should be denied and bases that determination solely on an exemption listed in Government Code section 6254; or (3) the public agency makes available an index of its records. (Gov. Code, § 6253.1, subs. (a) and (d) (Stats. 2001, ch. 355).)

- e. If a request is denied, in whole or in part, preparing or reviewing a written response to a written request for inspection or copies of public records that includes a determination that the request is denied. (Gov. Code, § 6255, subd. (b) (Stats. 2000, ch. 982).

(1) To develop data base software or manual system(s) for tracking and processing public records request actions to implement reimbursable test claim provisions (as stated above).

(2) To purchase or lease computers to monitor and document public records request actions to implement reimbursable test claim provisions (as stated above). (Use for other purposes is not reimbursable.)

(3) To develop or update web site(s) for public record act requests to implement reimbursable test claim provisions (as stated above).

B. Continuing Activities (Local Agencies)

1. Annual training programs on implementing reimbursable test claim provisions, including reimbursement for trainee and trainer participation, curriculum development, equipment and supplies.

2. Determining whether electronic records or parts thereof are not subject to statutory and case law exemptions in order to determine if such records are disclosable. (Gov. Code, § 6253.9, subd. (a)(2) (Stats. 2000, ch. 982).)

- a. *Receiving, logging and tracking oral (in-person or telephone), written, e-mail and fax requests for electronic public records.*
 - b. *Determining whether the electronic public records request falls within the agency's jurisdiction.*
 - c. *Determining whether the request reasonably describes any identifiable electronic records(s) and conferring with the requestor if clarification is needed.*
 - d. *Meeting and/or conferring with specialized systems and/or other local agency staff to identify access to pertinent electronic records. If external public entities have oversight and/or ownership of the requested electronic data or information, meeting and/or conferring with those entities to provide the requested electronic data or information.*
 - e. *Conducting legal reviews, research and analysis of the requested electronic record(s) to determine if the requested electronic record(s) or parts thereof are subject to statutory and case law disclaimers, i.e. are disclosable. Reimbursement includes, but is not limited to, legal staff and/or legal contract services costs and the associated costs of legal data base services.*
 - f. *Processing the requested electronic record(s) or parts thereof that are disclosable.*
 - g. *Reviewing the electronic record(s) to be sent to the requestor to ensure compliance with statutory and case law exemptions.*
 - h. *Preparing, and obtaining supervisory approval and signature of, correspondence accompanying the requested electronic record(s).*
 - i. *Copying or saving electronic record(s) and accompanying correspondence.*
 - j. *Sending or transmitting the electronic records to the requestor.*
 - k. *Tracking the shipment of requested CPRA electronic records.*
3. Within 10 days, determining whether records or parts thereof are not subject to statutory and case law exemptions in order to determine if such records are disclosable; and, developing or reviewing language to notify the person making the request of the determination and the reasons for the determination. ((Gov. Code, § 6253, subd. (c) (Stats. 2001, ch. 982).)
- a. *Receiving, logging and tracking oral (in-person or telephone), written, e-mail and fax requests to comply with the 10 day time*

- limit to notify the requestor if the requested record(s) or parts thereof are disclosable and the reason for the determination.*
- b. Determining whether the public record(s) request falls within the agency's jurisdiction.*
 - c. Determining whether the request reasonably describes any identifiable records(s) and conferring with the requestor if clarification is needed.*
 - d. Meeting and/or conferring with local agency staff to identify access to pertinent records. If external public entities have oversight and/or ownership of the requested data or information, meeting and/or conferring with those entities to provide the requested data or information.*
 - e. Conducting legal reviews, research and analysis of the requested records to determine if the requested electronic record(s) or parts thereof are subject to statutory and case law disclaimers, i.e. are disclosable. Reimbursement includes, but is not limited to, legal staff and/or legal contract services costs and the costs of legal data base services.*
 - f. Within 10 days of receipt of the public record(s) request, developing and reviewing language to notify the requestor of the disclosure determination and the reasons for the determination.*
 - g. Processing and reviewing the record(s) to be sent to the requestor to ensure compliance with statutory and case law exemptions*
 - h. Preparing, and obtaining supervisory approval and signature of, correspondence accompanying the requested record(s).*
 - i. Copying or saving record(s) and accompanying correspondence.*
 - j. Sending or transmitting the records to the requestor.*
 - k. Tracking the shipment of requested CPRA records.*
4. If the 10-day time limit of Government Code section 6253 is extended by a local agency or K-14 district due to "unusual circumstances" as defined by Government Code section 6253, subdivision (c)(1)-(4) (Stats. 2001, ch. 982), the agency head, or his or her designee, shall provide written notice to the person making the request, setting forth the reasons of the extension and the date on which a determination is expected to be dispatched. (Gov. Code, § 6253, subd. (c) (Stats. 2001, ch. 982).)
- a. Reviewing the following "unusual circumstances" (in Government Code section 6253, subdivision (c)(1)-(4)) to determine which are*

relevant in justifying an extension of the 10 day time limit in providing the requested document(s).

- (1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.*
 - (2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.*
 - (3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.*
 - (4) The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.*
- b. Meeting and/or conferring with local agency staff, including legal staff, to determine the date on which a determination is expected to be dispatched to the person making the request. If other establishments have oversight and/or ownership of the requested data or information, meeting and/or conferring with those staff to ascertain an expected determination date.*
 - c. Drafting, editing and reviewing a written notice to the person making the request, setting forth the reasons of the extension and the date on which a determination is expected to be dispatched.*
 - d. Preparing, and obtaining agency head, or his or her designee, approval and signature of, the extension notice and accompanying correspondence.*
 - e. Copying or saving the extension notice and accompanying correspondence.*

- f. Sending or transmitting the notice and accompanying correspondence to the requestor.*
 - g. Tracking delivery of the notice and accompanying correspondence to the requestor.*
- (5) When a member of the public requests to inspect a public record or obtain a copy of a public record:
- a. assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated;
 - b. describe the information technology and physical location in which the records exist; and
 - c. provide suggestions for overcoming any practical basis for denying access to the records or information sought.

To implement Sections (5) a., b., c. (above):

- 1. Receiving, logging and tracking oral (in-person or telephone), written, e-mail and fax requests to comply with public requests to inspect a public record or obtain a copy of a public record.*
- 2. Determining whether the public record(s) request falls within the agency's jurisdiction.*
- 3. Determining whether the request reasonably describes any identifiable records(s) and conferring with the requestor if clarification is needed.*
- 4. Meeting and/or conferring with local agency staff to identify access to pertinent records. If external public entities have oversight and/or ownership of the requested data or information, meeting and/or conferring with those entities to provide the requested data or information.*

- 5. *Conducting legal reviews, research and analysis of the requested records to determine if the requested record(s) or parts thereof are subject to statutory and case law disclaimers, i.e. are disclosable. Reimbursement includes, but is not limited to, legal staff and/or legal contract services costs and the costs of legal data base services.***
- 6. *Identifying litigation, claims, and related record(s) which may be disclosable and may be responsive to the request or to the purpose of the request, if stated; and provide suggestions for overcoming any practical basis for denying access to the records or information sought.***
- 7. *Developing and reviewing language to notify the requestor of the disclosure determination and the reasons for the determination.***
- 8. *Processing and reviewing the record(s) to be sent to the requestor to ensure compliance with statutory and case law exemptions***
- 9. *Preparing, and obtaining supervisory approval and signature of, correspondence accompanying the requested record(s).***
- 10. *Preparing, and obtaining supervisory approval and signature of, correspondence accompanying the requested record(s).***
- 11. *Copying or saving record(s) and accompanying correspondence.***
- 12. *Sending or transmitting the records to the requestor.***
- 13. *Sending or transmitting the records to the requestor.***
- 14. *Tracking the shipment of requested CPRA records.***

These activities are not reimbursable when: (1) the public records requested are made available to the member of the public through the procedures set forth in Government Code section 6253; (2) the public agency determines that the request should be denied and bases that determination solely on an exemption listed in Government Code section 6254; or (3) the public agency makes available an index of its records. (Gov. Code, § 6253.1, subs. (a) and (d) (Stats. 2001, ch. 355).)

6. If a request is denied, in whole or in part, preparing or reviewing a written response to a written request for inspection or copies of public records that includes a determination that the request is denied. (Gov. Code, § 6255, subd. (b) (Stats. 2000, ch. 982).

If a written request for inspection or copies of public records is denied in whole or in part:

- a. Meeting and/or conferring with staff, including but not limited to legal staff, to review and finalize the analysis, findings and conclusions providing the basis for the denial determination.*
- b. Drafting and editing a written response that includes a determination that the request is denied.*
- c. Preparing, and obtaining agency head, or his or her designee, approval and signature of, the denial response and accompanying correspondence.*
- d. Copying or saving the written denial response and accompanying correspondence.*
- e. Copying or saving the denial response and accompanying correspondence.*
- f. Sending the denial response and accompanying correspondence to the requestor.*
- g. Tracking delivery of the denial response and accompanying correspondence to the requestor.*

**Los Angeles County's Proposed Parameters and Guidelines
California Public Record Act Test Claims (02-TC-10, 02-TC-51)**

Declaration of Shaun Mathers

I, Shaun Mathers, make the following declaration and statement under oath:

I, Shaun Mathers, Captain in the Risk Management Bureau of the Los Angeles County Sheriff's Department, declare that I have served thirty (30) years in law enforcement and the past eight (8) years in the Risk Management Bureau where I am responsible for handling public record act requests for the Sheriff's department.

I declare that I have read the conclusion of the Commission on State Mandates' California Public Records Act decision, issued on May 31, 2011, finding that the following local agency services are reimbursable:

“1. If requested by a person making a public records request for a public record kept in an electronic format, provide a copy of a disclosable electronic record in the electronic format requested if the requested format is one that has been used by the agency to create copies for its own use or for provision to other agencies. (Gov. Code, § 6253.9, subd. (a)(2) (Stats. 2000, ch. 982).)

2. Within 10 days from receipt of a request for a copy of records determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the local agency or K-14 district and notify the person making the request of the determination and the reasons for the determination. (Gov. Code, § 6253, subd. (c) (Stats. 2001, ch. 982).)

3. If the 10-day time limit of Government Code section 6253 is extended by a local agency or K-14 district due to “unusual circumstances” as defined by Government Code section 6253, subdivision (c)(1)-(4) (Stats. 2001, ch. 982), the agency head, or his or her designee, shall provide written notice to the person making the request, setting forth the reasons of the extension and the date on which a determination is expected to be dispatched. (Gov. Code, § 6253, subd. (c) (Stats. 2001, ch. 982).)

4. When a member of the public requests to inspect a public record or obtain a copy of a public record:

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- a. assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated;
- b. describe the information technology and physical location in which the records exist; and
- c. provide suggestions for overcoming any practical basis for denying access to the records or information sought.

These activities are not reimbursable when: (1) the public records requested are made available to the member of the public through the procedures set forth in Government Code section 6253; (2) the public agency determines that the request should be denied and bases that determination solely on an exemption listed in Government Code section 6254; or (3) the public agency makes available an index of its records. (Gov. Code, § 6253.1, subds. (a) and (d) (Stats. 2001, ch. 355).)

5. Not applicable to local agencies.

6. Not applicable to local agencies.

7. If a request is denied, in whole or in part, respond in writing to a written request for inspection or copies of public records that includes a determination that the request is denied. (Gov. Code, § 6255, subd. (b) (Stats. 2000, ch. 982).)

I declare that I have analyzed the activities that I and Risk Management Bureau staff of the Los Angeles County Sheriff's Department are performing to comply with the additional or supplemental public record act requirements set forth above.

I declare that it is my information and belief that the activities that I and Risk Management Bureau staff of the Los Angeles County Sheriff's Department perform to comply with the additional or supplemental public record act requirements set forth above are reasonably necessary in the Sheriff's implementation of the above provisions of the California Public Record Act.

I declare that I have reviewed Attachment A which includes and summarizes reasonably necessary activities to comply with the additional or supplemental

Exhibit 4 – Page 3

public record act requirements set forth above for inclusion in Los Angeles County's proposed parameters and guidelines as reimbursable service components.

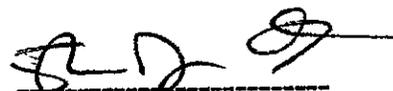
I declare that I have prepared Attachment B which includes examples and costs of reasonably necessary activities performed by myself and Risk Management Bureau staff of the Los Angeles County Sheriff's Department to comply with the additional or supplemental public record act requirements set forth above

I am personally conversant with the foregoing facts and if so required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge, except as to the matters which are therein stated as information and belief, and as to those matters I believe them to be true.

6/16/11 Los Angeles, CA

Date and Place



Signature

Attachment A

**'Reasonably Necessary' (*Italicized*) Activities
Los Angeles County's Proposed Parameters and Guidelines
California Public Record Act Test Claims (02-TC-10, 02-TC-51)**

A. *One-time Activities (Local Agencies)*

1. *To develop policies, protocols, manuals and procedures for implementing following reimbursable California Public Record Act (CPRA) provisions:*

- a. Determining whether electronic records or parts thereof are not subject to statutory and case law exemptions in order to determine if such records are disclosable. (Gov. Code, § 6253.9, subd. (a)(2) (Stats. 2000, ch. 982).)
- b. Within 10 days, determining whether records or parts thereof are not subject to statutory and case law exemptions in order to determine if such records are disclosable; and, developing or reviewing language to notify the person making the request of the determination and the reasons for the determination. ((Gov. Code, § 6253, subd. (c) (Stats. 2001, ch. 982).)
- c. When an extension of time is required in complying with the 10 day requirement, developing or reviewing language providing a legal basis for the extension. (Gov. Code, § 6253, subd. (c) (Stats. 2001, ch. 982).)
- d. When a member of the public requests to inspect a public record or obtain a copy of a public record:
 1. assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated;
 2. describe the information technology and physical location in which the records exist; and

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3. provide suggestions for overcoming any practical basis for denying access to the records or information sought.

These activities are not reimbursable when: (1) the public records requested are made available to the member of the public through the procedures set forth in Government Code section 6253; (2) the public agency determines that the request should be denied and bases that determination solely on an exemption listed in Government Code section 6254; or (3) the public agency makes available an index of its records. (Gov. Code, § 6253.1, subs. (a) and (d) (Stats. 2001, ch. 355).)

- e. If a request is denied, in whole or in part, preparing or reviewing a written response to a written request for inspection or copies of public records that includes a determination that the request is denied. (Gov. Code, § 6255, subd. (b) (Stats. 2000, ch. 982).

(1) To develop data base software or manual system(s) for tracking and processing public records request actions to implement reimbursable test claim provisions (as stated above).

(2) To purchase or lease computers to monitor and document public records request actions to implement reimbursable test claim provisions (as stated above). (Use for other purposes is not reimbursable.)

(3) To develop or update web site(s) for public record act requests to implement reimbursable test claim provisions (as stated above).

B. Continuing Activities (Local Agencies)

1. *Annual training programs on implementing reimbursable test claim provisions, including reimbursement for trainee and trainer participation, curriculum development, equipment and supplies.*
2. Determining whether electronic records or parts thereof are not subject to statutory and case law exemptions in order to determine if such records are disclosable. (Gov. Code, § 6253.9, subd. (a)(2) (Stats. 2000, ch. 982).)

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- a. *Receiving, logging and tracking oral (in-person or telephone), written, e-mail and fax requests for electronic public records.*
 - b. *Determining whether the electronic public records request falls within the agency's jurisdiction.*
 - c. *Determining whether the request reasonably describes any identifiable electronic records(s) and conferring with the requestor if clarification is needed.*
 - d. *Meeting and/or conferring with specialized systems and/or other local agency staff to identify access to pertinent electronic records. If external public entities have oversight and/or ownership of the requested electronic data or information, meeting and/or conferring with those entities to provide the requested electronic data or information.*
 - e. *Conducting legal reviews, research and analysis of the requested electronic record(s) to determine if the requested electronic record(s) or parts thereof are subject to statutory and case law disclaimers, i.e. are disclosable. Reimbursement includes, but is not limited to, legal staff and/or legal contract services costs and the associated costs of legal data base services.*
 - f. *Processing the requested electronic record(s) or parts thereof that are disclosable.*
 - g. *Reviewing the electronic record(s) to be sent to the requestor to ensure compliance with statutory and case law exemptions.*
 - h. *Preparing, and obtaining supervisory approval and signature of, correspondence accompanying the requested electronic record(s).*
 - i. *Copying or saving electronic record(s) and accompanying correspondence.*
 - j. *Sending or transmitting the electronic records to the requestor.*
 - k. *Tracking the shipment of requested CPRA electronic records.*
3. Within 10 days, determining whether records or parts thereof are not subject to statutory and case law exemptions in order to determine if such records are disclosable; and, developing or reviewing language to notify the person making the request of the determination and the reasons for the determination. ((Gov. Code, § 6253, subd. (c) (Stats. 2001, ch. 982).)
- a. *Receiving, logging and tracking oral (in-person or telephone), written, e-mail and fax requests to comply with the 10 day time*

- limit to notify the requestor if the requested record(s) or parts thereof are disclosable and the reason for the determination.*
- b. Determining whether the public record(s) request falls within the agency's jurisdiction.*
 - c. Determining whether the request reasonably describes any identifiable records(s) and conferring with the requestor if clarification is needed.*
 - d. Meeting and/or conferring with local agency staff to identify access to pertinent records. If external public entities have oversight and/or ownership of the requested data or information, meeting and/or conferring with those entities to provide the requested data or information.*
 - e. Conducting legal reviews, research and analysis of the requested records to determine if the requested electronic record(s) or parts thereof are subject to statutory and case law disclaimers, i.e. are disclosable. Reimbursement includes, but is not limited to, legal staff and/or legal contract services costs and the costs of legal data base services.*
 - f. Within 10 days of receipt of the public record(s) request, developing and reviewing language to notify the requestor of the disclosure determination and the reasons for the determination.*
 - g. Processing and reviewing the record(s) to be sent to the requestor to ensure compliance with statutory and case law exemptions*
 - h. Preparing, and obtaining supervisory approval and signature of, correspondence accompanying the requested record(s).*
 - i. Copying or saving record(s) and accompanying correspondence.*
 - j. Sending or transmitting the records to the requestor.*
 - k. Tracking the shipment of requested CPRA records.*
4. If the 10-day time limit of Government Code section 6253 is extended by a local agency or K-14 district due to "unusual circumstances" as defined by Government Code section 6253, subdivision (c)(1)-(4) (Stats. 2001, ch. 982), the agency head, or his or her designee, shall provide written notice to the person making the request, setting forth the reasons of the extension and the date on which a determination is expected to be dispatched. (Gov. Code, § 6253, subd. (c) (Stats. 2001, ch. 982).)
- a. Reviewing the following "unusual circumstances" (in Government Code section 6253, subdivision (c)(1)-(4)) to determine which are*

relevant in justifying an extension of the 10 day time limit in providing the requested document(s).

- (1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.*
 - (2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.*
 - (3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.*
 - (4) The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.*
- b. Meeting and/or conferring with local agency staff, including legal staff, to determine the date on which a determination is expected to be dispatched to the person making the request. If other establishments have oversight and/or ownership of the requested data or information, meeting and/or conferring with those staff to ascertain an expected determination date.*
 - c. Drafting, editing and reviewing a written notice to the person making the request, setting forth the reasons of the extension and the date on which a determination is expected to be dispatched.*
 - d. Preparing, and obtaining agency head, or his or her designee, approval and signature of, the extension notice and accompanying correspondence.*
 - e. Copying or saving the extension notice and accompanying correspondence.*

- f. Sending or transmitting the notice and accompanying correspondence to the requestor.*
- g. Tracking delivery of the notice and accompanying correspondence to the requestor.*

(5) When a member of the public requests to inspect a public record or obtain a copy of a public record:

- a. assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated;
- b. describe the information technology and physical location in which the records exist; and
- c. provide suggestions for overcoming any practical basis for denying access to the records or information sought.

To implement Sections (5) a., b., c. (above):

- 1. Receiving, logging and tracking oral (in-person or telephone), written, e-mail and fax requests to comply with public requests to inspect a public record or obtain a copy of a public record.*
- 2. Determining whether the public record(s) request falls within the agency's jurisdiction.*
- 3. Determining whether the request reasonably describes any identifiable records(s) and conferring with the requestor if clarification is needed.*
- 4. Meeting and/or conferring with local agency staff to identify access to pertinent records. If external public entities have oversight and/or ownership of the requested data or information, meeting and/or conferring with those entities to provide the requested data or information.*

5. *Conducting legal reviews, research and analysis of the requested records to determine if the requested record(s) or parts thereof are subject to statutory and case law disclaimers, i.e. are disclosable. Reimbursement includes, but is not limited to, legal staff and/or legal contract services costs and the costs of legal data base services.*
6. *Identifying litigation, claims, and related record(s) which may be disclosable and may be responsive to the request or to the purpose of the request, if stated; and provide suggestions for overcoming any practical basis for denying access to the records or information sought.*
7. *Developing and reviewing language to notify the requestor of the disclosure determination and the reasons for the determination.*
8. *Processing and reviewing the record(s) to be sent to the requestor to ensure compliance with statutory and case law exemptions*
9. *Preparing, and obtaining supervisory approval and signature of, correspondence accompanying the requested record(s).*
10. *Preparing, and obtaining supervisory approval and signature of, correspondence accompanying the requested record(s).*
11. *Copying or saving record(s) and accompanying correspondence.*
12. *Sending or transmitting the records to the requestor.*
13. *Sending or transmitting the records to the requestor.*
14. *Tracking the shipment of requested CPRA records.*

These activities are not reimbursable when: (1) the public records requested are made available to the member of the public through the procedures set forth in Government Code section 6253; (2) the public agency determines that the request should be denied and bases that determination solely on an exemption listed in Government Code section 6254; or (3) the public agency makes available an index of its records. (Gov. Code, § 6253.1, subs. (a) and (d) (Stats. 2001, ch. 355).)

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6. If a request is denied, in whole or in part, preparing or reviewing a written response to a written request for inspection or copies of public records that includes a determination that the request is denied. (Gov. Code, § 6255, subd. (b) (Stats. 2000, ch. 982).

If a written request for inspection or copies of public records is denied in whole or in part:

- a. Meeting and/or conferring with staff, including but not limited to legal staff, to review and finalize the analysis, findings and conclusions providing the basis for the denial determination.*
- b. Drafting and editing a written response that includes a determination that the request is denied.*
- c. Preparing, and obtaining agency head, or his or her designee, approval and signature of, the denial response and accompanying correspondence.*
- d. Copying or saving the written denial response and accompanying correspondence.*
- e. Copying or saving the denial response and accompanying correspondence.*
- f. Sending the denial response and accompanying correspondence to the requestor.*
- g. Tracking delivery of the denial response and accompanying correspondence to the requestor.*

**ATTACHMENT B
PUBLIC RECORDS ACT REQUESTS
2004 - 2010**

	2004	2005	2006	2007	2008	2009	2010*	Total
Total Requests	111	151	101	204	276	284	312	1439

Listed, below, are the main topic areas tracked during 2009 and 2010.

Not all requests are reflected, as they might lie outside the main categories.

	2004	2005	2006	2007	2008	2009	2010*	Total
Appellate Project						0	10	10
Audio 9-1-1						15	28	43
Booking Photos						4	3	7
Calls for Service						39	33	72
Contracts						7	16	23
Crime Statistics						10	18	28
Evidence Preservation						0	5	5
Incarceration						34	36	70
Miscellaneous						57	95	152
Personnel						5	4	9

* 2010 to date

The categories of Audio 9-1-1, Booking Photos, Calls for Service, Contracts, Crime Statistics, Incarceration, Personnel and a myriad of queries within Miscellaneous category, involve researching via a wide variety of databases, spreadsheets, and electronic systems, etc.

Some of the documents can be presented as printed, while others require labor-intensive redactions to be in compliance with privacy laws, security concerns, and/or policies regulating release of information. Depending on the nature and complexity of the request, some requests can require multiple man-hours of labor to generate the end-product as requested.

Examples of some recent time-intensive requests:

- 36 months of 9-1-1 calls for each station, by each Contract City and County area, for routine, priority and emergency response and the corresponding response times.
- Copies of Contracts for each of the City Contracts, Phase I and II Contracts for Maywood and Cudahy, and for any other cities from July 2005 to present.
- Requests for archival records related to the deployment and response of Department personnel at the Station Fire event.
- Crime stats within a 2 mile radius of a crime scene over a stated period of time - for use in a civil trial.
- A complex 4-page ACLU request for data, statistics, documents, from 2005 to present about our Mira Loma Facility, providing contracted services, etc., for housing Federal detainees.
- SEIU requesting personnel and demographic data on multiple payroll titles.
- Media requests for Rubén Salazar shooting archives.

Exhibit 4 – Page 13 PUBLIC RECORDS ACT PROCESSING

Public Records Act requests are received by the Discovery Unit via e-mail, facsimile, in person, incoming phone call, and forwarded from Stations, Bureaus, and Units within the Sheriff's Department, and from other County Departments.

- Track receipt of all Public Records Act requests.
- Determine whether the request falls within the jurisdiction of the Los Angeles Sheriff's Department (as we border many other jurisdictions).
- Determine whether the request reasonably describes any identifiable record(s).
 - Contact with the requesting party to clarify the request, as needed.
- Determine where the records(s) reside within the Department. This may entail research and coordination with a variety of entities that have oversight and/or ownership of the requested data/information.
 - Contact the appropriate Station, Bureau and/or Unit to initiate the acquisition of the record(s).
 - Ascertain an estimated time frame for producing the requested record(s).
 - Generate a 14-day extension letter, as needed.
 - Follow-up contacting the Station, Bureau, and/or Unit, as needed, for timely compliance.
 - Consult with County Counsel to clarify any legal concerns.
 - Send previously identified topic-specific requests to specialized personnel for processing external to the Discovery Unit's Public Records Act staff.
- Access the appropriate database to obtain the identified record(s).
- Assemble the requested record(s).
 - Review for content that must be redacted.
 - Redact the record(s) as required.
- Prepare outgoing correspondence to accompany the record(s).
 - Obtain supervisory approval and signature on outgoing correspondence.
- Copy and scan all documents.
- Obtain postage (metered) and take to the post office if it is after the daily US Mail delivery.
- Track the sending of all Public Records Act responses.

Personnel Assigned to Public Records Act Processing	Monthly	Yearly (2010)
Operations Assistant III (Full Time)	\$ 5,685.36	\$ 68,224.32
Administrative Services Manager II (\$ 7,457.09 [10% Time])	\$ 754.70	\$ 9,056.40
Lieutenant (\$ 12,300.27 [10% Time])	\$1,230.03	\$ 14,760.36
Total	\$ 7,670.09	\$ 92,041.08



**COUNTY OF LOS ANGELES
DEPARTMENT OF AUDITOR-CONTROLLER**

KENNETH HAHN HALL OF ADMINISTRATION
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JOHN NAIMO
JAMES L. SCHNEIDERMAN
JUDI E. THOMAS

**Los Angeles County's Proposed Parameters and Guidelines
California Public Records Act Test Claims (02-TC-10, 02-TC-51)**

Declaration of Leonard Kaye

I, Leonard Kaye, make the following declaration and statement under oath:

I, Leonard Kaye, Los Angeles County's [County] representative in this matter, have prepared the attached parameters and guidelines (Ps&Gs) which detail reimbursement provisions for local agency implementation of the California Public Records Act (CPRA) State mandates found to be reimbursable by the Commission on State Mandates (Commission) on May 26, 2011.

I declare that I drafted a list of statutory requirements and 'reasonably necessary' activities (under Government Code section 17557(a)) in implementing the (above stated) reimbursable CPRA State mandates.

I declare that I provided County staff responsible for implementing CPRA with the Commission's CPRA reimbursement decision and the (above stated) statutory requirements and 'reasonably necessary' activities; and, that I incorporated their declarations in the County's proposed CPRA Ps&Gs.

I declare that it is my information and belief that the County's proposed CPRA Ps&Gs comply with funding requirements under article XIII B, section 6 of the California Constitution and Government Code section 17500 et seq. and that reimbursement is required as claimed in the County's proposed CPRA Ps&Gs.

I am personally conversant with the foregoing facts and if so required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge, except as to the matters which are therein stated as information and belief, and as to those matters I believe them to be true.

Los Angeles CA 6/20/11
Date and Place

Leonard Kaye
Signature



Summary
of the
California Public Records Act 2004

California Attorney General's Office

SUMMARY
CALIFORNIA PUBLIC RECORDS ACT
GOVERNMENT CODE SECTION¹ 6250 ET SEQ.
August, 2004

I

OVERVIEW

Legislation enacting the California Public Records Act (hereinafter, "CPRA") was signed in 1968, culminating a 15-year-long effort to create a general records law for California. Previously, one was required to look at the law governing the specific type of record in question in order to determine its disclosability. When the CPRA was enacted, an attempt was made to remove a number of these specific laws from the books. However, preexisting privileges such as the attorney-client privilege have been incorporated by reference into the provisions of the CPRA.

The fundamental precept of the CPRA is that governmental records shall be disclosed to the public, upon request, unless there is a specific reason not to do so. Most of the reasons for withholding disclosure of a record are set forth in specific exemptions contained in the CPRA. However, some confidentiality provisions are incorporated by reference to other laws. Also, the CPRA provides for a general balancing test by which an agency may withhold records from disclosure, if it can establish that the public interest in nondisclosure clearly outweighs the public interest in disclosure.

There are two recurring interests that justify most of the exemptions from disclosure. First, several CPRA exemptions are based on a recognition of the individual's right to privacy (e.g., privacy in certain personnel, medical or similar records). Second, a number of disclosure exemptions are based on the government's need to perform its assigned functions in a reasonably efficient manner (e.g., maintaining confidentiality of investigative records, official information, records related to pending litigation, and preliminary notes or memoranda).

If a record contains exempt information, the agency generally must segregate or redact the exempt information and disclose the remainder of the record. If an agency improperly withholds records, a member of the public may enforce, in court, his or her right to inspect or copy the records and receive payment for court costs and attorney's fees.

1. All section references are to the Government Code unless otherwise indicated.

II

PUBLIC ACCESS v. RIGHTS OF PRIVACY

A. Right To Monitor Government

In enacting the CPRA, the Legislature stated that access to information concerning the conduct of the public's business is a fundamental and necessary right for every person in the State.¹ Cases interpreting the CPRA also have emphasized that its primary purpose is to give the public an opportunity to monitor the functioning of their government.² The greater and more unfettered the public official's power, the greater the public's interest in monitoring the governmental action.³

B. The Right Of Privacy

Privacy is a constitutional right and a fundamental interest recognized by the CPRA.⁴ Although there is no general right to privacy articulated in the CPRA, the Legislature recognized the individual right to privacy in crafting a number of its exemptions. Thus, in administering the provisions of the CPRA, agencies must sometimes use the general balancing test to determine whether the right of privacy in a given circumstance outweighs the interests of the public in access to the information. If personal or intimate information is extracted from a person (e.g., a government employee or appointee, or an applicant for government employment/appointments a precondition for the employment or appointment), a privacy interest in such information is likely to be recognized.⁵ However, if information is provided voluntarily in order to acquire a benefit, a privacy right is less likely to be recognized.⁶ Sometimes, the question of disclosure depends upon whether the invasion of an individual's privacy is sufficiently invasive so as to outweigh the public interest in disclosure.

III

SCOPE OF COVERAGE

A. Public Record Defined

1. Identifiable Information

The public may inspect or obtain a copy of identifiable public records.⁷ Writings held by state or local government are public records.⁸ A writing includes all forms of recorded information that currently exist or that may exist in the future.⁹ The essence of the CPRA is to provide access to information, not merely documents and files.¹⁰ However, it is not enough to provide extracted information to the requestor, the document containing the information must be provided. In order to invoke the CPRA, the request for records must be both specific and focused. The requirement of clarity must be tempered by the reality that

a requester, having no access to agency files or their scheme of organization, may be unable to precisely identify the documents sought. Thus, writings may be described by their content.¹¹

To the extent reasonable, agencies are generally required to assist members of the public in making focused and effective requests for identifiable records.¹² One legislatively-approved method of providing assistance is to make available an index of the agency's records.¹³ A request for records may be made orally or in writing.¹⁴ When an oral request is received, the agency may wish to consider confirming the request in writing in order to eliminate any confusion regarding the request.

2. Computer Information

When a person seeks a record in an electronic format, the agency shall, upon request, make the information available in any electronic format in which it holds the information.¹⁵ Computer software developed by the government is exempt from disclosure.¹⁶

B. Agencies Covered

All state and local government agencies are covered by the CPRA.¹⁷ Non-profit and for-profit entities subject to the Ralph M. Brown Act are covered as well.¹⁸ The CPRA is not applicable to the Legislature, which is instead covered by the Legislative Open Records Act.¹⁹ The judicial branch is not bound by the CPRA, although most court records are disclosable as a matter of public rights of access to courts.²⁰ Federal government agencies are covered by the Federal Freedom of Information Act.²¹

C. Member Of The Public

The CPRA entitles natural persons and business entities as members of the public to inspect public records in the possession of government agencies.²² Persons who have filed claims or litigation against the government, or who are investigating the possibility of so doing, generally retain their identity as members of the public.²³ Representatives of the news media have no greater rights than members of the public.²⁴ Government employees acting in their official capacity are not considered to be members of the public.²⁵ Individuals may have greater access to records about themselves than public records, generally.²⁶

D. Right To Inspect And Copy Public Records

Records may be inspected at an agency during its regular office hours.²⁷ The CPRA contains no provision for a charge to be imposed in connection with the mere inspection of records. Copies of records may be obtained for the direct cost of duplication, unless the Legislature has established a statutory fee.²⁸ The direct cost of duplication includes the pro rata expense of the duplicating equipment utilized in making a copy of a record and, conceivably, the pro rata expense in terms of staff time (salary/benefits) required to produce the copy.²⁹ A staff

person's time in researching, retrieving and mailing the record is not included in the direct cost of duplication. By contrast, when an agency must compile records or extract information from an electronic record or undertake programming to satisfy a request, the requestor must bear the full cost, not merely the direct cost of duplication.³⁰ The right to inspect and copy records does not extend to records that are exempt from disclosure.

IV

REQUEST FOR RECORDS AND AGENCY RESPONSE

A. Procedures

A person need not give notice in order to inspect public records at an agency's offices during normal working hours. However, if the records are not readily accessible or if portions of the records must be redacted in order to protect exempt material, the agency must be given a reasonable period of time to perform these functions.

When a copy of a record is requested, the agency shall determine within ten days whether to comply with the request, and shall promptly inform the requester of its decision and the reasons therefor.³¹ Where necessary, because either the records or the personnel that need to be consulted regarding the records are not readily available, the initial ten-day period to make a determination may be extended for up to fourteen days.³² If possible, records deemed subject to disclosure should be provided at the time the determination is made. If immediate disclosure is not possible, the agency must provide the records within a reasonable period of time, along with an estimate of the date that the records will be available. The Public Records Act does not permit an agency to delay or obstruct the inspection or copying of public records.³³ Finally, when a written request is denied, it must be denied in writing.³⁴

B. Claim Of Exemption

Under specified circumstances, the CPRA affords agencies a variety of discretionary exemptions which they may utilize as a basis for withholding records from disclosure. These exemptions generally include personnel records, investigative records, drafts, and material made confidential by other state or federal statutes. In addition, a record may be withheld whenever the public interest in nondisclosure clearly outweighs the public interest in disclosure. When an agency withholds a record because it is exempt from disclosure, the agency must notify the requester of the reasons for withholding the record. However, the agency is not required to provide a list identifying each record withheld and the specific justification for withholding the record.³⁵

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C. Segregation Of Exempt From Nonexempt Material

When a record contains exempt material, it does not necessarily mean that the entire record may be withheld from disclosure. Rather, the general rule is that the exempt material may be withheld but the remainder of the record must be disclosed.³⁶ The fact that it is time consuming to segregate exempt material does not obviate the requirement to do it, unless the burden is so onerous as to clearly outweigh the public interest in disclosure.³⁷ If the information which would remain after exempt material has been redacted would be of little or no value to the requester, the agency may refuse to disclose the record on the grounds that the segregation process is unduly burdensome.³⁸ The difficulty in segregating exempt from nonexempt information is relevant in determining the amount of time which is reasonable for producing the records in question.

D. Waiver Of Exemption

Exempt material must not be disclosed to any member of the public if the material is to remain exempt from disclosure.³⁹ Once material has been disclosed to a member of the public, it generally is available upon request to any and all members of the public. Confidential disclosures to another governmental agency in connection with the performance of its official duties, or disclosures in a legal proceeding are not disclosures to members of the public under the CPRA and do not constitute a waiver of exempt material.⁴⁰

V

EXEMPTION FOR PERSONNEL, MEDICAL OR SIMILAR RECORDS
(Gov. Code, § 6254(c))

A. Records Covered

A personnel, medical or similar record generally refers to intimate or personal information which an individual is required to provide to a government agency frequently in connection with employment.⁴¹ The fact that information is in a personnel file does not necessarily make it exempt information.⁴² Information such as an individual's qualifications, training, or employment background, which are generally public in nature, ordinarily are not exempt.⁴³

Information submitted by license applicants is not covered by section 6254(c) but is protected under section 6254(n) and, under special circumstances, may be withheld under the balancing test in section 6255.⁴⁴

B. Disclosure Would Constitute An Unwarranted Invasion Of Privacy

If information is intimate or personal in nature and has not been provided to a government agency as part of an attempt to acquire a benefit, disclosure of the information probably would constitute a violation of the individual's privacy. However, the invasion of an individual's privacy must be balanced against the public's need for the information. Only where the invasion of privacy is unwarranted as compared to the public interest in the information does the exemption permit the agency to withhold the record from disclosure. If this balancing test indicates that the privacy interest outweighs the public interest in disclosure, disclosure of the record by the government would appear to constitute an unwarranted invasion of privacy.

Courts have reached different conclusions regarding whether the investigation or audit of a public employee's performance is disclosable.⁴⁵ The gross salary and benefits of high-level state and local officials are a matter of public record. However, a recent case indicated that absent a showing that the name of a particular civil service employee is important in monitoring government performance, civil service employees have an expectation of privacy in individually identifiable salary information.⁴⁶

VI

EXEMPTION FOR PRELIMINARY NOTES, DRAFTS AND MEMORANDA
(Gov. Code, § 6254(a))

Under this exemption, materials must be (1) notes, drafts or memoranda (2) which are not retained in the ordinary course of business (3) where the public interest in nondisclosure clearly outweighs the public interest in disclosure. This exemption has little or no effect since the deliberative process privilege was clearly established under the balancing test in section 6255 in 1991, but is mentioned here because it is in the Act.⁴⁷

VII

**EXEMPTION FOR INVESTIGATIVE RECORDS
AND INTELLIGENCE INFORMATION**
(Gov. Code, § 6254(f))

A. Investigative Records

Records of complaints, preliminary inquiries to determine if a crime has been committed, and full-scale investigations, as well as closure memoranda are investigative records.⁴⁸ In addition, records that are not inherently investigatory may be covered by the exemption where they pertain to an enforcement proceeding that has become concrete and definite.⁴⁹

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Investigative and security records created for law enforcement, correctional or licensing purposes also are covered by the exemption from disclosure. The term “law enforcement” agency refers to traditional criminal law enforcement agencies.⁵⁰ Records created in connection with administrative investigations unrelated to licensing are not subject to the exemption. The exemption is permanent and does not terminate once the investigation has been completed.⁵¹

Even though investigative records themselves may be withheld, section 6254(f) mandates that law enforcement agencies disclose specified information about investigative activities.⁵² However, the agency’s duty to disclose information pursuant to section 6254(f) only applies if the request is made contemporaneously with the creation of the record in which the requested information is contained.⁵³ This framework is fundamentally different from the approach followed by other exemptions in the Public Records Act and in federal law, in which the records themselves are disclosable once confidential information has been redacted.

Specifically, section 6254(f) requires that basic information must be disclosed by law enforcement agencies in connection with calls for assistance or arrests, unless to do so would endanger the safety of an individual or interfere with an investigation.⁵⁴ With respect to public disclosures concerning calls for assistance and the identification of arrestees, the law restricts disclosure of address information to specified persons.⁵⁵ However, section 6254(f) expressly permits agencies to withhold the analysis and conclusions of investigative personnel. Thus, specified facts may be disclosable pursuant to the statutory directive, but the analysis and recommendations of investigative personnel concerning such facts are exempt.

B. Intelligence Information

Records of intelligence information collected by the Attorney General and state and local police agencies are exempt from disclosure. Intelligence information is related to criminal activity but is not focused on a concrete prospect of enforcement.

VIII

EXEMPTIONS FOR LITIGATION AND ATTORNEY RECORDS
(Gov. Code, § 6254 (b), (k))

A. Pending Claims And Litigation

Section 6254(b) permits documents specifically prepared in connection with filed litigation to be withheld from disclosure.⁵⁶ The exemption has been interpreted to apply only to documents created after the commencement of the litigation.⁵⁷ For example, it does not apply to the claim that initiates the administrative or court process. Once litigation is

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resolved, this exemption no longer protects records from disclosure, although other exemptions (e.g., attorney-client privilege) may be ongoing.⁵⁸

Nonexempt records pertaining to the litigation are disclosable to requestors, including prospective or actual parties to the litigation.⁵⁹ Generally, a request from actual or prospective litigants can be barred only where an independent statutory prohibition or collateral estoppel applies. If the agency believes that providing the record would violate a discovery order, it should bring the matter to the attention of the court that issued the order.⁶⁰

In discovery during civil litigation unrelated to the Public Records Act, Evidence Code section 1040 (as opposed to the Act's exemptions) governs.⁶¹

B. Attorney-Client Privilege

The attorney-client privilege covers confidential communications between an attorney and his or her client. The privilege applies to litigation and nonlitigation situations.⁶² The privilege appears in section 954 of the Evidence Code and is incorporated into the CPRA through section 6254(k). The privilege lasts forever unless waived. However, the privilege is not waived when a confidential communication is provided to an opposing party where to do so is reasonably necessary to assist the parties in finalizing their negotiations.⁶³

C. Attorney Work Product

The attorney work product rule covers research, analysis, impressions and conclusions of an attorney. This confidentiality rule appears in section 2018 of the Code of Civil Procedure and is incorporated into the CPRA through section 6254(k). Records subject to the rule are confidential forever. The rule applies in litigation and nonlitigation circumstances alike.⁶⁴

IX

OTHER EXEMPTIONS

A. Official Information

Information gathered by a government agency under assurances of confidentiality may be withheld if it is in the public interest to do so. The official information privilege appears in Evidence Code section 1040 and is incorporated into the CPRA through section 6254(k). The analysis and balancing of competing interests in withholding versus disclosure is the same under Evidence Code section 1040 as it is under section 6255.⁶⁵ When an agency is in litigation, it may not resist discovery by asserting exemptions under the CPRA; rather, it must rely on the official information privilege.⁶⁶

B. Trade Secrets

Agencies may withhold confidential trade secret information pursuant to Evidence Code section 1060 which is incorporated into the CPRA through section 6254(k). However, with respect to state contracts, bids and their resulting contracts generally are disclosable after bids have been opened or the contracts awarded.⁶⁷ Although the agency has the obligation to initially determine when records are exempt as trade secrets, a person or entity disclosing trade secret information to an agency may be required to assist in the identification of the information to be protected and may be required to litigate any claim of trade secret which exceeds that which the agency has asserted.

C. Other Express Exemptions

Other express exemptions include records relating to: securities and financial institutions;⁶⁸ utility, market and crop reports;⁶⁹ testing information;⁷⁰ appraisals and feasibility reports;⁷¹ gubernatorial correspondence;⁷² legislative counsel records;⁷³ personal financial data used to establish a license applicant's personal qualifications;⁷⁴ home addresses;⁷⁵ and election petitions.⁷⁶

The exemptions for testing information and personal financial data are of particular interest to licensing boards which must determine the competence and character of applicants in order to protect the public welfare.

X

THE PUBLIC INTEREST EXEMPTION
(Gov. Code, § 6255)

A. The Deliberative Process Privilege

The deliberative process privilege is intended to afford a measure of privacy to decision makers. This doctrine permits decision makers to receive recommendatory information from and engage in general discussions with their advisors without the fear of publicity. As a general rule, the deliberative process privilege does not protect facts from disclosure but rather protects the process by which policy decisions are made.⁷⁷ Records which reflect a final decision and the reasoning which supports that decision are not covered by the deliberative process privilege. If a record contains both factual and deliberative materials, the deliberative materials may be redacted and the remainder of the record must be disclosed, unless the factual material is inextricably intertwined with the deliberative material. Under section 6255, a balancing test is applied in each instance to determine whether the public interest in maintaining the deliberative process privilege outweighs the public interest in disclosure of the particular information in question.⁷⁸

B. Other Applications Of The Public Interest Exemption

In order to withhold a record under section 6255, an agency must demonstrate that the public's interest in nondisclosure clearly outweighs the public's interest in disclosure. A particular agency's interest in nondisclosure is of little consequence in performing this balancing test; it is the public's interest, not the agency's that is weighed. This "public interest balancing test" has been the subject of several court decisions.

In a case involving the licensing of concealed weapons, the permits and applications were found to be disclosable in order for the public to properly monitor the government's administration of concealed weapons permits.⁷⁹ The court carved out a narrow exemption where disclosure would render an individual vulnerable to attack at a specific time and place. The court also permitted withholding of psychiatric information on privacy grounds.

In another case, a city sought to maintain the confidentiality of names and addresses of water users who violated the city's water rationing program. The court concluded that the public's interest in disclosure outweighed the public's interest in nondisclosure since disclosure would assist in enforcing the water rationing program.⁸⁰ The court rejected arguments that the water users' interests in privacy and maintaining freedom from intimidation justified nondisclosure.

The names, addresses, and telephone numbers of persons who have filed noise complaints concerning the operation of a city airport are protected from disclosure where under the particular facts involved, the court found that there were less burdensome alternatives available to serve the public interest.⁸¹

In a case involving a request for the names of persons who, as a result of gifts to a public university, had obtained licenses for the use of seats at an athletic arena, and the terms of those licenses, the court found that the university failed to establish its claim of confidentiality by a "clear overbalance." The court found the university's claims that disclosure would chill donations to be unsubstantiated. It further found a substantial public interest in such disclosure to permit public monitoring and avoid favoritism or discrimination in the operation of the arena.⁸²

XI

LITIGATION UNDER THE ACT

A requester, but not a public agency, may bring an action seeking mandamus, injunctive relief or declaratory relief under sections 6258 or 6259.⁸³ To assist the court in making a decision, the documents in question may be inspected at an in-camera hearing (i.e. a private hearing with a judge). An in-camera hearing is held at the court's discretion, and the parties have no right to such a hearing. Prevailing plaintiffs shall be awarded court costs and attorney's fees. A plaintiff need not obtain all of the requested records in order to be the prevailing party in litigation.⁸⁴ A plaintiff is also considered the prevailing party if the lawsuit ultimately motivated the agency to provide the requested records.⁸⁵ Prevailing defendants may be awarded court costs and attorney fees only if the requestor's claim is clearly frivolous. There is no right of appeal, but the losing party may bring a petition for extraordinary relief to the court of appeal.

If you wish to obtain additional copies of this pamphlet, they may be ordered or downloaded via the Attorney General's Home Page, located on the World Wide Web at <http://caag.state.ca.us>. You may also write to the Attorney General's Office, Public Inquiry Unit, P.O. Box 944255, Sacramento, CA 94244-2550 or call us at (800) 952-5225 (for callers within California), or (916) 322-3360 (for callers outside of California); the TTY/TDD telephone numbers are (800) 952-5548 (for callers within California), or (916) 324-5564 (for callers outside of California).

Deputy Attorney General Ted Prim, Editor
Special thanks to Neil Gould, Senior Staff Counsel, Department of Water Resources, for his assistance.

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1. Government Code section 6250.
2. *U.S. Dept. of Justice v. Reporters Committee for Freedom of Press* (1989) 489 U.S. 749; *Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325; *CBS, Inc. v. Block* (1986) 42 Cal.3d 646.
3. *New York Times Co. v. Superior Court* (1997) 52 Cal.App.4th 97, involving public's rights to acquire names of officers using deadly force; *CBS, Inc. v. Block* (1986) 42 Cal.3d 646, involving public's right to monitor Sheriff's unfettered power to award concealed weapons permits.
4. Article 1, section 1 of the California Constitution; Government Code sections 6254(c), 6254(k), and 6255; *New York Times Co. v. Superior Court* (1990) 218 Cal.App.3d 1579.
5. *California First Amendment Coalition v. Superior Court* (1998) 67 Cal.App.4th 159; *Wilson v. Superior Court* (1996) 51 Cal.App.4th 1136; *Braun v. City of Taft* (1984) 154 Cal.App.3d 332, but see *Braun v. City of Taft, supra*, 154 Cal.App.3d at p. 344, where disclosure of personal information was not found to constitute invasion of privacy; *San Gabriel Tribune v. Superior Court* (1983) 143 Cal.App.3d 762, 777.
6. *CBS, Inc. v. Block* (1986) 42 Cal.3d 646, where information provided to government in order to obtain concealed weapon permit; *Register Div. Freedom Newspapers, Inc. v. County of Orange* (1984) 158 Cal.App.3d 893, 902, where litigant submitted medical information to induce settlement of law suit; *San Gabriel Tribune v. Superior Court* (1983) 143 Cal.App.3d 762, 781, where contractor sought to modify existing contract.
7. Government Code section 6253.
8. Government Code section 6252(e).
9. Government Code section 6252(f); 71 Ops.Cal.Atty.Gen. 235, 236 (1988).
10. *San Gabriel Tribune v. Superior Court* (1983) 143 Cal.App.3d 762, 774; *Cook v. Craig* (1976) 55 Cal.App.3d 773, 782.
11. *California First Amendment Coalition v. Superior Court* (1998) 67 Cal.App.4th 159; *Rogers v. Superior Court* (1993) 19 Cal.App.4th 469.
12. Government Code section 6253.1.
13. Government Code section 6253.1(d)(3).
14. *Los Angeles Times v. Alameda Corridor Transp. Auth.* (2001) 88 Cal.App.4th 1381, 1392.
15. Government Code section 6253.9.
16. Government Code section 6254.9.
17. Government Code section 6252(a) and (b); *Michael J. Mack v. State Bar of California* (2001) 92 Cal.App.4th 957, 962, CPRA inapplicable to State Bar.

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18. Government Code section 6252(b) as amended by AB 2937, Stats. 2002, Ch. 1073. A nongovernmental auxiliary association is not a state agency; *California State University, Fresno Assn., Inc. v. Superior Court* (2001) 90 Cal.App.4th 810, 829; 85 Ops.Cal.Atty.Gen. 55 (2002). A nonprofit corporation designated by a city to provide programming to a cable television channel set aside for educational purposes is subject to the Public Records Act because it qualifies as a local legislative body under the Brown Act.
19. Government Code section 9071.
20. *Estate of Hearst v. Leland Lubinski, et al.* (1977) 67 Cal.App.3d 777.
21. 5 U.S.C. 552.
22. Government Code sections 6252(c), (e) and 6253; *Connell v. Superior Court* (1997) 56 Cal.App.4th 601.
23. *Wilder v. Superior Court* (1998) 66 Cal.App.4th 77; *Fairley v. Superior Court* (1998) 66 Cal.App.4th 1414.
24. *San Gabriel Tribune v. Superior Court* (1983) 143 Cal.App.3d 762, 774.
25. Government Code section 6252(g).
26. Civil Code section 1798 (Information Practices Act), which applies to persons referenced in state government records.
27. Government Code section 6253(a).
28. Government Code section 6253(b).
29. *North County Parents Organization v. Department of Education* (1994) 23 Cal.App.4th 144, 148; Informal opinion from Attorney General to Senator Gary K. Hart, dated April 11, 1991.
30. Government Code section 6253.9(b)(2).
31. Government Code section 6253(c).
32. Government Code section 6253(c).
33. Government Code section 6253(c).
34. Government Code section 6255(b).
35. *Haynie v. Superior Court* (2001) 26 Cal.4th 1061, 1074-1075.
36. Government Code section 6253(a); *American Civil Liberties Union Foundation v. Deukmejian* (1982) 32 Cal.3d 440, 447; *Connell v. Superior Court* (1997) 56 Cal.App.4th 601; *State Bd. of Equalization v. Superior Court* (1992) 10 Cal.App.4th 1177, 1187.

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37. *State Bd. of Equalization v. Superior Court* (1992) 10 Cal.App.4th 1177, 1190, fn. 14.
38. *American Civil Liberties Union Foundation v. Deukmejian* (1982) 32 Cal.3d 440, 447.
39. Government Code section 6254.5; *Black Panther Party v. Kehoe* (1974) 42 Cal.App.3d 645.
40. Government Code section 6254.5(b) and (e).
41. *Register Div. of Freedom Newspapers, Inc. v. County of Orange* (1984) 158 Cal.App.3d, 893; *San Gabriel Tribune v. Superior Court* (1983) 143 Cal.App.3d 762.
42. *New York Times Co. v. Superior Court* (1997) 52 Cal.App.4th 97, 103.
43. *Eskaton Monterey Hospital v. Myers* (1982) 134 Cal.App.3d 788.
44. *CBS, Inc. v. Block* (1986) 42 Cal.3d 646, applied the balancing test to protect certain privacy information in concealed weapons permits from disclosure. Protection for the particular information exempted by the Court in that decision was later codified in section 6254, subdivision (u).
45. *Bakersfield City School District v. Superior Court* 2004 WL 1120036 (Cal.App. 5 Dist.); *Payton v. City of Santa Clara* (1982) 132 Cal.App.3d 152, disciplinary records were not disclosable unless the state could demonstrate a compelling interest in disclosure; *AFSCME v. Regents of University of California* (1978) 80 Cal.App.3d 913, performance audit was disclosable unless charges were found to be groundless.
46. Government Code section 6254.8; *Teamsters Local 856 v. Priceless, LLC* (2003) 112 Cal.App.4th 1500; 68 Ops.Cal.Atty.Gen.73 (1985).
47. *Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325.
48. *Haynie v. Superior Court* (2001) 26 Cal.4th 1061; *Rackauckas v. Superior Court* (2002) 104 Cal.App.4th 169.
49. *Haynie v. Superior Court* (2001) 26 Cal.4th 1061, 1068-1072.
50. *State of California ex rel. Division of Industrial Safety v. Superior Court* (1974) 43 Cal.App.3d 778.
51. *Dick Williams v. Superior Court* (1993) 5 Cal.4th 337, 354-362.
52. *Dick Williams v. Superior Court* (1993) 5 Cal.4th 337, 348-354.
53. *County of Los Angeles v. Superior Court (Kusar)* (1993) 18 Cal.App.4th 588.
54. 86 Ops.Cal.Atty.Gen. 132 (2003), release of mug shot is one way for a law enforcement agency to fulfill its obligation to provide information.
55. *Los Angeles Police Dept. v. United Reporting Publishing Corp.*, 528 U.S. 32 (1999).

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56. *Fairley v. Superior Court* (1998) 66 Cal.App.4th 1414; *City of Hemet v. Superior Court (Press-Enterprise)* (1995) 37 Cal.App.4th 1411.
57. *Fairley v. Superior Court* (1998) 66 Cal.App.4th 1414; 71 Ops.Cal.Atty.Gen. 235 (1988).
58. *City of Los Angeles v. Superior Court (Axelrad)* (1996) 41 Cal.App.4th 1083.
59. *County of Los Angeles v. Superior Court (Axelrad II)* (2000) 82 Cal.App.4th 819, 826; *Wilder v. Superior Court* (1998) 66 Cal.App.4th 77; *Fairley v. Superior Court* (1998) 66 Cal.App.4th 1414; *City of Hemet v. Superior Court (Press-Enterprise)* (1995) 37 Cal.App.4th 1411, 1420-1421, fn. 11; but see dicta in *Roberts v. City of Palmdale* (1993) 5 Cal.4th 363, 372.
60. *County of Los Angeles v. Superior Court (Axelrad II)* (2000) 82 Cal.App.4th 819, 830.
61. *Marylander v. Superior Court* (2000) 81 Cal.App.4th 1119, 1124-25.
62. *Roberts v. City of Palmdale* (1993) 5 Cal.4th 363, 371.
63. *STI Outdoor v. Superior Court* (2001) 91 Cal.App.4th 334, 341.
64. *County of Los Angeles v. Superior Court (Axelrad II)* (2000) 82 Cal.App.4th 819, 833.
65. *California State University, Fresno Assn., Inc. v. Superior Court* (2001) 90 Cal.App.4th 810, 832.
66. *Michael P. v. Superior Court* (2001) 92 Cal.App.4th 1036, 1042; *Marylander v. Superior Court* (2000) 81 Cal.App.4th 1119, 1125.
67. Public Contract Code sections 10305 and 10342.
68. Government Code section 6254(d).
69. Government Code section 6254(e).
70. Government Code section 6254(g).
71. Government Code section 6254(h).
72. Government Code section 6254(l); *California First Amendment Coalition v. Superior Court* (1998) 67 Cal.App.4th 159; *Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325.
73. Government Code section 6254(m).
74. Government Code section 6254(n).
75. State employees, Government Code section 6254.3; Registered voters, Government Code section 6254.4; Persons appearing in records of DMV, Government Code section 6254.1(b).

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76. Government Code section 6253.5.

77. *Times Mirror* and *First Amendment Coalition*, established this general principle but, in light of special circumstances, an agency may withhold information that is essentially factual in nature.

78. The California Supreme Court's decision in *Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325 is the source of the above information concerning deliberative process privilege. See also *Rogers v. Superior Court* (1993) 19 Cal.App.4th 469.

79. *CBS, Inc. v. Block* (1986) 42 Cal.3d 646.

80. *New York Times Co. v. Superior Court* (1990) 218 Cal.App.3d 1579; but see Government Code section 6254.16 adopted subsequently.

81. *City of San Jose v. Superior Court* (1999) 74 Cal.App.4th 1008.

82. *California State University, Fresno Assn., Inc. v. Superior Court* (2001) 90 Cal.App.4th 810, 834-835.

83. *Filarsky v. Superior Court* (2002) 28 Cal.4th 419, 423.

84. *Los Angeles Times v. Alameda Corridor Transp. Auth.* (2001) 88 Cal.App.4th 1381, 1391-1392.

85. *Roberts v. City of Palmdale* (1993) 19 Cal.App.4th 469, 482; *Belth v. Garamendi* (1991) 232 Cal.App.3d 896, 898.



Top 10 Points to Remember about Making a California Public Records Act Request

1. The agency has the burden of justifying the denial of access.

Perhaps the most fundamental rule in the California Public Records Act (CPRA) is the presumption of public access. Requesters do not have to prove or even state a “need to know” to justify access. On the contrary, the government agency must justify *not* providing the information by citing the law: a statute or a case interpreting a statute. “In other words, all public records are subject to disclosure unless the Legislature has expressly provided to the contrary.” *Williams v. Superior Court*, 5 Cal. 4th 337 (1993) “It’s not our policy” or “We never give that out” is not a legally sufficient response to a public records request, nor is anything else short of citing the law that bars or excuses the agency from providing access.

2. The request need not be in writing.

A written request often has advantages for the requester as well as the agency. Practically, it may be necessary where an oral request has been turned down for what appear to be inadequate or misinformed reasons, or where the kind or number of documents being sought needs detailed description. Legally, a written request sent by e-mail, fax or registered postal mail provably records the date on which certain response deadlines are set, and also entitles the requester to a written response from the agency giving the reasons and legal authority for withholding all or part of the requested records. But, as observed by the California Court of Appeal, “It is clear from the requirements for writings in the same and other provisions of the Act that when the Legislature intended to require a writing, it did so explicitly. The California Public Records Act plainly does not require a written request.” *Los Angeles Times v. Alameda Corridor Transportation Authority*, 88 Cal.App.4th 1381 (2001)

3. The request need not identify the requester.

Likewise, nothing in the law precludes an anonymous request, and the CPRA requires identification (by a signed affirmation or declaration, respectively) only when the requester is seeking information about pesticides (Government Code §6254.2) or seeking the addresses of persons arrested or crime victims (Government Code §6254, subd. (f), par. (3)). Practically, it may be mutually convenient for a requester to provide a name and contact information if the request cannot be fulfilled immediately or if copying will take some time, but the requester’s option is to keep checking back on his or her own initiative. Legally, apart from the two situations noted above, an agency may not insist that the requester be identified.

4. The request need not state the requester’s purpose.

Demanding to know the purpose of the request or the intended use of the information is, again, not something the agency may do, apart from the pesticide and address provisions noted in (2) above. The CPRA states, in Government Code §6257.5: “This chapter does not allow limitations on access to a public record based upon the purpose for which the record is being requested, if the record is otherwise subject to disclosure.”

5. The scope of the request must be reasonably clear.

“Unquestionably, public records must be described clearly enough to permit the agency to determine whether writings of the type described in the request are under its control. (The CPRA) compels an agency to provide a copy of nonexempt records upon a request ‘which reasonably describes an identifiable record, or information produced therefrom . . .’ However, the requirement of clarity must be tempered by the reality that a requester, having no access to agency files, may be unable to precisely identify the documents sought. Thus, writings may be described by their content. The agency must then determine whether it has such writings under its control and the applicability of any exemption. An agency is thus obliged to search for records based on criteria set forth in the search request.” *California First Amendment Coalition v. Superior Court*, 67 Cal.App.4th 159 (1998)

6. The agency need not compile lists or write reports.

The rights provided in the law are to “inspect” (look at words, symbols or images; listen to sounds) public records and/or to “obtain a copy” of those records, not to compel the agency to create lists or reports in response to questions. In only one instance is the agency required to generate a record that does not already exist, and that is if the information sought is distributed in computerized form in a database or otherwise and must be assembled in a single record. As provided in Government Code §6253.9, if the agency cannot “produce” or “construct” the record sought without special programming, the requester must pay for that work.

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7. The agency must do its best to help the requester succeed.

Government Code Section 6253.1 states:

(a) When a member of the public requests to inspect a public record or obtain a copy of a public record, the public agency, in order to assist the member of the public make a focused and effective request that reasonably describes an identifiable record or records, shall do all of the following, to the extent reasonable under the circumstances:

“(1) Assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated.

“(2) Describe the information technology and physical location in which the records exist.

“(3) Provide suggestions for overcoming any practical basis for denying access to the records or information sought.

“(b) The requirements of paragraph (1) of subdivision (a) shall be deemed to have been satisfied if the public agency is unable to identify the requested information after making a reasonable effort to elicit additional clarifying information from the requester that will help identify the record or records.”

These assistance requirements do not apply, obviously, if the agency fully grants the request, or denies access based on one of the exemptions in Government Code §6254. Also, if the agency has an index to its records and makes it available, no further help in refining the request is required.

8. Fees are for the costs of copying, not for those of inspection.

As noted by the Attorney General in an opinion concluding that counties may charge a fee “reasonably necessary” to recover wider costs for copying public records—costs beyond the strict “direct cost of duplication”—inspection is free: “In any event, a ‘reasonably necessary’ fee for a copy of a public record would have no effect upon the public’s right of access to and inspection of public records free of charge.” (Opinion No 01-605, November 1, 2002). Moreover, the “direct cost of duplication” that, pursuant to Government Code §6253, subd. (b), may be charged to the requester by agencies other than counties may not include overhead. “The direct cost of duplication is the cost of running the copy machine, and conceivably also the expense of the person operating it. ‘Direct cost’ does not include the ancillary tasks necessarily associated with the retrieval, inspection and handling of the file from which the copy is extracted.” *North County Parents Organization v. Department of Education*, 23 Cal.App.4th 146 (4th Dist. 1994)

9. Prompt access is required for clearly public records.

Delay is allowed only to resolve good faith doubts as to whether all or part of a record is accessible by the public. So, for example, if the requester asks to see the minutes of public meetings, there is no need to make the “determination” as to whether or not they are public, since minutes of public meetings are, without question, public records. That being the case, access is to be provided “promptly,” not put off for 10 days (Government Code §6253, subd. (b)); to underscore this point, subd. (d) states that “Nothing in (the CPRA) shall be construed to permit an agency to delay or obstruct the inspection or copying of public records.” And while the 10-day period is not a legal deadline for producing the records, the date of production should not lag the 10-day (or, if extended with notice to the requester, up to 14 days more) “determination” point by much, because in most if not all cases, *the person making the determination will have already had to assemble and review the records in order to do so*. Once the determination has been made, in other words, actual release of the records in question should not take much time to accomplish.

10. Journalists and other people have the same rights of access.

Journalists’ rights to inspect and copy public records are the same under the CPRA as those of any other person—no worse and, despite the free press guarantees of the state and federal constitutions, no better. “No California or federal judicial decision has ever attributed accessibility to public records upon First Amendment freedoms of speech or press.” *Register Division of Freedom Newspapers v. County of Orange*, 158 Cal.App.3d 893 (1984) And while we often speak of “citizens” having the access rights, one need not be a California resident or even a U.S. citizen to inspect or copy state or local public records. “(W)hen section 6253 declares every person has a right to inspect any public record, when section 6257 commands state and local agencies to make records promptly available to any person on request, and when section 6258 expressly states any person may institute proceedings to enforce the right of inspection, they mean what they say.” *Connell v. Superior Court*, 56 Cal.App.4th 601 (1997)

Top 10 Points to Remember about Exemptions from the California Public Records Act

1. Most CPRA exemptions are discretionary.

The main exemption section in the Act, for example—Government Code §6254—does not prohibit disclosure of the records it lists, but simply provides that “nothing in this chapter shall be construed to *require* disclosure” of them. Accordingly officials misstate the law in many cases when they say, “We can’t give that out.” It depends on the particular rule governing particular types of information. They may have the discretion to decide in favor of disclosure in the public interest.

2. Exemptions are waived by selective disclosure.

Generally, once a particular record has been provided to a “member of the public,” access may not be denied to others, even though an exemption might have otherwise applied (Government Code §6254.5). A member of the public is anyone other than a governmental officer, employee or agent receiving the record in his or her official capacity. So, for example, an inspection, audit or investigation report shared with the subject investigated would, in all but a handful of cases, be a public record although, if not shared with the subject, it might have been exempt from public disclosure (see 7 below).

3. An exempt part does not justify withholding the whole.

Pursuant to Government Code §6253, subd. (a), any non-exempt (public) part of a record must be made available after any exempt information has been redacted (removed or obliterated). This rule applies unless redaction is impossible because the public and confidential material are so tightly interwoven as to be “inextricably intertwined” *Northern California Police Practices Project v. Craig*, 90 Cal. App. 3d 116 (1979), or unless multiple redactions applied to a large number of requested records would leave them so bereft of substantive information relevant to the requester’s purpose that the benefit to him or her would be “marginal and speculative.” *American Civil Liberties Union Foundation of Northern California Inc. v. Deukmejian*, 32 Cal. 3d 440 (1982).

4. Drafts are not inherently and entirely exempt.

The word “draft,” even if accurately descriptive of a document, does not exempt it from disclosure. Government Code §6254, subd. (a) applies only to “preliminary” drafts, notes or memos “that are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding those records clearly outweighs the public interest in disclosure.” Moreover, the exemption applies only if the record was created to inform or advise a particular administrative or executive decision. Also, the document must be of the kind customarily disposed of: “If preliminary materials are not customarily discarded or have not in fact been discarded as is customary they must be disclosed.” *Citizens for A Better Environment v. Department of Food and Agriculture*, 171 Cal. App. 3d 704 (1985)

Finally, the exemption applies only to the “recommendatory opinion” of its author, making a judgment or offering advice as a conclusion based on a set of facts. Those facts, however, remain accessible to the public, and only the author’s conclusion is protected (see *Citizens* above).

5. Litigation documents may be withheld while the case is alive.

Government Code §6254, subd. (b) exempts “Records pertaining to pending litigation to which the public agency is a party, or to claims ..., until the pending litigation or claim has been finally adjudicated or otherwise settled.” This exemption includes communications between the agency and its attorney, which are privileged in any event as long as the agency wishes to assert the privilege (see 8 below). Otherwise, “a document is protected from disclosure only if it was specifically prepared for use in litigation.” *City of Hemet v. Superior Court*, 37 Cal.App.4th 1411 (1995) The claim itself is not exempt. *Poway Unified School District v. Superior Court*, 62 Cal.App.4th 1496 (1998) And when a case

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has been fully adjudicated (no appeal possible) or settled, records covered by this exemption that are not communications between the agency and its attorney—for example, communications between the agency and the other party—become accessible to the public.

6. Personal information may be withheld if release would unjustifiably invade privacy.

The CPRA allows withholding of “Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy” (Government Code §6254, subd. (c)). The rule covers more than “personnel” files and reaches any information in government records linked to an identified or readily identifiable individual. But it allows withholding only where the person in question has an objectively reasonable expectation of privacy, which would not apply, for example, to resume-type “information as to the education, training, experience, awards, previous positions and publications” of a public employee. *Eskaton Monterey Hospital v. Myers*, 134 Cal.App.3d 788 (1982) Even when a privacy expectation would be normally reasonable, disclosure may be justified—“warranted”—and required if the public interest in having it known outweighs the public interest to the contrary.

For example, when a public official denied taking an unlawful personnel action, “access to records proving it then became in the public interest.” *Braun v. City of Taft*, 154 Cal. App. 3d 332 (1984) Likewise, the actual pay of a non-contract public employee is not automatically public, but disclosure may be warranted depending on the extent to which it would “shed light on the public agency’s performance if its duty” *Teamsters Local 856 v. Priceless, LLC*, 112 Cal.App.4th 1500 (2003) But pay and other particulars in police and other peace officers’ personnel files are made confidential under Penal Code §§ 832.5-832.8, and are not accessible under the CPRA. *City of Hemet v. Superior Court*, 37 Cal.App.4th 1411 (1995) Complaints about the performance of public employees other than peace officers are public if they lead to disciplinary action, *AFSCME v. Regents*, 80 Cal. App. 3d 913 (1978), or even, discipline or not, if they are “well-founded” or reasonably reliable in terms, for instance, of their substance, frequency and/or sources *Bakersfield City School District v. Superior Court*, 118 Cal.App.4th 1041 (2004).

7. Law enforcement investigative files may be withheld, but not the basic facts.

With respect to police and other criminal justice law enforcement agencies, Government Code §6254, subd. (f) applies to records that “encompass only those investigations undertaken for the purpose of determining whether a violation of law may occur or has occurred. If a violation or potential violation is detected, the exemption also extends to records of investigations conducted for the purpose of uncovering information surrounding the commission of the violation and its agency.” *Haynie v. Superior Court*, 26 Cal.4th 1061 (2001) But the exemption also applies to “any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes,” including investigations by state or local regulatory agencies. If the investigation does not have one of these purposes, the exemption does not apply. *Register Division of Freedom Newspapers Inc. v. County of Orange*, 158 Cal. App. 3d 893 (1984). The exemption may be asserted no matter how old and dead the investigation may be. *Williams v. Superior Court*, 5 Cal. 4th 337 (1993) But unless disclosure would threaten the successful completion of an investigation or the safety of a person involved, an agency must disclose the basic “who/what/where/when” facts in crime, incidents and arrest reports, including requests for assistance, at least with respect to “contemporaneous police activity” rather than attempts to obtain information about an officer’s long-term performance that would otherwise be confidential (see 6 above) *County of Los Angeles v. Superior Court*, 18 Cal.App.4th 588 (1993).

8. Information that is privileged or confidential otherwise is exempt.

Numerous other laws outside the CPRA either prohibit disclosure of certain information, limit its disclosure to certain persons, purposes or both, or give the agency discretion over release. Moreover, the Evidence Code contains a number of privileges that allow information to be withheld even from a court proceeding. The CPRA incorporates these laws and privileges as exemptions from disclosure (Government Code §6254, subd. (k)). The attorney-client privilege, for example, allows communications between a public agency and its lawyers to be kept confidential (see 5 above). But a federal court has

observed that “the identity of the client, the amount of the fee, the identification of payment by case file name, and the general purpose of the work performed are usually not protected” (*Clarke v. American Commerce National Bank*, 974 F.2d 127 (1992)). The official information privilege allows a public official to withhold information submitted to him or her in confidence, until and unless it has been expressly relied upon in the making of a decision, if the public interest in such secrecy outweighs the public interest in disclosure. *San Gabriel Valley Tribune v. Superior Court*, 143 Cal.App.3d 762 (1983). Government agencies may acquire business or industry information protected by the trade secret privilege, but to be protected, the formula, pattern, compilation, process, device, method, etc. must derive independent value from not being known to the public or a competitor, and must be subject to reasonable efforts to maintain its secrecy otherwise (Civil Code §3426.1, subd. (d)).

9. The “balancing test” may justify non-disclosure in well-defined instances.

Even if no specific exemption in the CPRA applies, information may be withheld “by demonstrating ... that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.” As the wording suggests, this exemption is applicable on a case-by-case basis, and in particular a targeted request for a particular record will be circumstantially easier to justify in the public interest than a wholesale request for a large volume of records. *American Civil Liberties Union Foundation v. Deukmejian*, 32 Cal.3d 440 (1986), *Times Mirror Co. v. Superior Court*, 53 Cal.3d 1325 (1991).

10. The deliberative process privilege may apply to pre-decisional records. While the deliberative process privilege originates with the common law and is not codified in California statutes, its policy has been recognized as supporting, in certain circumstances, a withholding of access under the “balancing test” (see 9 above). Its rationale is the same as that underlying the draft exemption (see 4 above), namely the need of government officials and their advisors to discuss policy options freely and frankly in the course of developing a decision, without fear of political recrimination upon disclosure. But unlike the draft exemption with its limited application, the privilege invoked under the balancing test applies to documents that are not preliminary drafts or memos but that otherwise would impede or chill candid pre-decisional deliberation. Cases so far have applied the privilege in a balancing test to deny disclosure, concluding that:

- The pragmatic chill on candor and effectiveness of the governor’s consultations with visitors resulting from wholesale disclosure of his appointment calendars, and risk to his security posed by wholesale disclosure of his travel itineraries, outweigh the arguable public interest in understanding patterns of access to and influences affecting state’s chief executive. *Times Mirror Co. v. Superior Court*, 53 Cal.3d 1325 (1991)
- With respect to a request filed during the pendency of an appointive decision, avoiding the interference with the governor’s exercise of his or her prerogative to make appointments to fill vacancies on boards of supervisors that would result from disclosing information submitted by applicants for appointment—and thus deterring the full and candid flow of information supporting that decision—outweighs the voters’ interest in knowing who is applying for the normally elective position and what qualifications they are citing in their favor. *California First Amendment Coalition v. Superior Court*, 67 Cal.App.4th 159 (1998)
- With respect to a request for such records filed five months after the governor made the appointive decision, the same factors outweigh the voters’ interest in an appointment to the board of a county emerging from bankruptcy. *Wilson v. Superior Court*, 51 Cal.App.4th 1136 (1997).
- Disclosing the telephone numbers of persons with whom a city council member has spoken over a year’s time equates to revealing the substance or direction of the member’s judgment and mental process, and the inhibiting intrusion posed by such disclosures outweighs the public interest in learning which private citizens are influencing the member’s decisions, especially where no misuse of public funds or other improprieties are alleged. *Rogers v. Superior Court*, 19 Cal.App.4th 469 (1993).