

Memorandum

Date: February 18, 2015
To: All Personnel
From: Undersheriff Bernard Melekian
Subject: PRA (Public Records Act) Guidelines
Sheriff's Bulletin: 15-1



This will serve as a guideline for individuals receiving any PRA (Public Records Act) requests to the Office of the Sheriff.

Public Records Act Response Procedures

The public's right to access information concerning the conduct of the people's business is a right under the California Constitution and implemented through the California Public Records Act (Government Code § 6250 et seq.). A record should not be withheld from disclosure unless it is confidential under applicable laws. The California Public Records Act permits local agencies to adopt regulations stating the procedures to be followed when making their records available to the public. It is the intent of the Sheriff's Office to adopt a policy that strikes an appropriate balance between the objectives of open government, appropriate protection for confidential information, and an individual's right of privacy.

Coordination with County Counsel

Questions regarding the Public Records Act, or any documents that may be exempt from disclosure, shall promptly be forwarded to the Support Services Division Commander for review. After conferring with County Counsel, he/she will advise staff as soon as reasonably possible on which documents are subject to disclosure and/or exemption.

The Support Services Division staff shall complete the response based on the direction from the Division Commander or County Counsel.

Department Coordination

If a request seeks information from more than one division from within the Sheriff's Office, the Support Services Commander (or his/her designee) will forward the request to the affected division commander (or his/her designee) so that he/she may assign someone to collect the necessary documents. Once the documents have been collected, they will be forwarded back to the Support Services Commander (or his/her designee) for final review and release.

The initial PRA request must be responded to within 10 days of the request. That response should include an offer to produce documents, notice that no such documents exist, or a decision on why they will not be produced. In “unusual situations” the initial response may declare the need for up to 14 days additional time to respond. Staff will ensure the material needed for a response is given to Support Services in time to meet the 10-day deadline. The Support Services Commander will make any decision as to need for additional time.

Making a Request for Records

There is no specific form that must be used to request records, nor is there any language that must be used when making a request. Requests for public records may be made orally or in writing. Requests may be made in person, through the mail, via e-mail, or over the telephone. Requests should contain a reasonable description of the desired records in order to expedite processing of the request. Staff may request, but may not demand, that complicated or voluminous requests be made in writing or email in order to confirm the request and to provide sufficient specificity concerning the records being requested.

The responding representative shall also, to the extent reasonably practicable, assist the public in making focused and effective requests for records and information. In order to accomplish this, the representative shall: (1) assist the member of the public with identification of records and information that are responsive to the request or the purpose of the request, if known; (2) describe the information technology and physical location in which the records exist; and (3) provide suggestions for overcoming any practical basis for denying the request. It is best if this interactive process occurs in writing or email. If assistance is provided verbally, a confirming email or letter should be sent.

Denial of Request

If a request for information is denied in whole or in part, the denial shall be in writing and shall contain the explicit reasons for denial of access to the subject records, as well as the names and titles or positions of each person responsible for the denial. **Staff should contact County Counsel for specific advice before denying any part of a public records request.**

If there is a question as to what records are exempt and/or may not be disclosed, the below will serve as some guidelines. Any clarifying questions should be directed to County Counsel.

- Certain incident/offense reports, criminal histories and arrest records
- Information from a case that would endanger an investigation or the lives of an investigator or other involved parties
- Data in law enforcement personnel files and misconduct complaints (Disclosure may be obtained using special procedures under Evidence Code 1043.)
- Home addresses

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- Personnel, medical and similar files
- Records concerning agency litigation
- Records involving investigations or investigatory practices
- Records which identify certain witnesses and victims of crimes
- Preliminary drafts, notes and memos under certain conditions
- Proprietary or copyrighted information
- Attorney-client discussions
- Records not yet in existence
- Employees' private papers with certain exceptions
- Records deemed confidential or protected by State or Federal law
- Any reports not yet adjudicated by the District Attorney
- Any 5150 W.I. holds and elder abuse cases

If, after consultation with County Counsel it is determined that the records sought in a written/oral request for records are not subject to disclosure either in whole or in part, then the Support Services Commander (or his/her designee) shall advise the requestor in writing that the records will not be made available and shall include the reasons why access is being denied.

Fees and Charges

The Sheriff's Office may charge for the actual costs of duplicating records or, when a statutory fee applies, the Sheriff's Office may charge the fee established by the state statute. If the requestor asks for the records to be mailed to him or her, the Sheriff's Office may charge the actual cost of postage. The Sheriff's Office may also charge for duplication costs in another medium (e.g. video or audio recordings); generally, these costs are limited to the cost of the media on which the information is recorded (e.g., tape, compact disc, digital video disc, etc.).

In most situations, the Sheriff's Office may not charge for the staff time spent searching for, locating or collecting records. An exception to this rule exists for requests for copies of electronic records. In the case of electronic records, the Sheriff's Office may charge for staff time, including the cost to construct the record and the cost of programming and computer services necessary to produce the copy. Staff should contact County Counsel for specific advice before charging for staff time.

The Sheriff's Office PRA fees are \$0.10 per page and reasonable clerical costs incurred in locating and making the records available to be billed at the maximum rate of twenty-four dollars (\$24) per hour per person, computed on the basis of six dollars (\$6) per quarter hour or fraction thereof; actual postage charges; and the actual cost, if any, charged to the department by a third person for the retrieval and return of records held offsite by that third

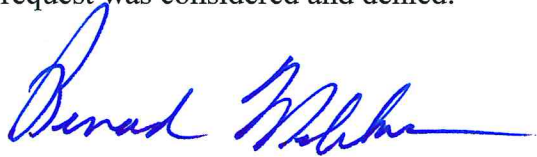
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person. All fees must be paid prior to delivery, and, in cases of significant costs, they must be prepaid prior to copying.

The BOS can set fees outside of existing statutes which can include both direct and indirect costs (54985(a)CGC).

Waiver for Fees

A requestor may request the fees waived. The Sheriff's Office will consider the request and may decide to grant or not to grant the waiver. If the requestor asks for fees to be waived and the Sheriff's Office decides against waiving fees, the requestor will be notified the fee waiver request was considered and denied.



BERNARD MELEKIAN
Undersheriff