



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

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

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

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

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.

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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.

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.

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).

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).

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.