



Copwatch Guide to California Public Records Act Requests

The Public Records Act (PRA) is California's version of the federal Freedom of Information Act (FOIA). The CPRA grants the right for any person in the state to access government records that are: (1) related to the conduct of public business, (2) identifiable, and (3) not confidential.

(1) Related to the conduct of public business

Many types of documents can pertain to the conduct of public business: handwritten documents, photographs, sound recordings, digital files, etc. Get creative with your PRA requests! Even text messages or emails from a personal device or account are considered records when they pertain to public business.

(2) Identifiable

The government body will not crunch data for you, nor generate new records. You must identify the *specific* documents you are requesting. If you are not sure how to describe the records you want to obtain, you can request that the agency assist you in identifying relevant records.

(3) Not confidential

Records are considered exempt from the PRA when “the public interest served by **not** making the record public clearly outweigh the public interest served by disclosure of the record.” Confidential records include: private personal information (including personnel records), preliminary drafts, pending litigation, etc. Additionally, law enforcement agencies are exempt from releasing information that would endanger someone's safety or would endanger the successful completion of an investigation. The subject of a police interaction may request a police report of the incident in which they were involved.

How to Make a PRA Request

You can make a PRA request by email, mail, phone, or in-person, though it is best to have a written record of your request. Address the custodian of records of the agency, and include:

- Reference to the California Public Records Act
- Clear description of the records you are seeking
- Date limits for your search
- A statement that if portions of the records are exempted, that you would still like the non-exempt portions
- A way for them to contact you about your request

Template for Making a PRA Request

Dear Custodian of Records,

I am requesting access to records in possession or control of the relevant department or agency (ex: Berkeley Police Department) for the purposes of inspection and copying pursuant to the California Public Records Act, California Government Code § 6250 et seq. (“CPRA”), and Article I, § 3(b) of the California Constitution. The specific records I seek to inspect and copy are listed below. As used herein, “Record” includes “Public Records” and “Writings” as those terms are defined at Government Code § 6252(e) & (g). I request access to inspect/copies of:

- List specific documents related to a specific timeline
- (For example, Officer rosters that include names and badge numbers for the years 2019 and 2020.)

Please provide these documents to the email address: email-address@email.com as soon as possible and in accordance with the CPRA.

If the records are deemed to be exempt, please provide a redacted version.

Thanks in advance for your assistance,

Name

In the **City of Berkeley**, as of December 11, 2020, you may also make a Public Records Act request through the Public Records Act Portal (<https://cityofberkeleyca.nextrequest.com/>). There, you may also view and search past requests that others have made. An email request sent directly to a department still counts and it can not be disregarded or ignored simply because it was not sent via a particular portal or on a particular form.

Tip: Be sure to include the date in the title of your CPRA request for future reference.

Troubleshooting PRA Issues

- The agency does not have the right to ask you why you are requesting the records.
- The agency must respond to your PRA request within 10 days, except in unusual circumstances, where it may grant itself an extension of 14 days. Agencies frequently miss these deadlines; mark them in your calendar so you can follow up on the request.
- An agency is only allowed to charge you the “direct cost” for reproducing the

documents, i.e. the cost of making copies, the cost of the disc, the cost of retrieving offsite records, or the cost of postage. Wherever possible, request your records be sent via email to avoid these fees.

- If the agency claims they cannot give you the records due to an “exemption” or due to the record’s confidential nature, ask for them to provide you a “nonexempt version” that is redacted.
- If the agency claims the record does not exist, but you know that it does exist, make an argument using the reason you know the record exists. For example, if a news article mentioned a type of data or record kept by the agency, you can argue that it must exist because the news article cites the record.
- If you believe the agency has violated your rights to access public information, you may consider taking legal action. You may want to find legal assistance through a nonprofit legal aid organization in your area.
 - For legal questions, call or email the First Amendment Project (510-208-7744 or fap@thefirstamendment.org) OR contact the First Amendment Coalition by filling out this online form: <https://firstamendmentcoalition.org/legal-hotline/>
 - For a legal referral in Alameda County, call the Alameda County Bar Association at (510) 302-2222 and select option 4
- When departments do not comply with the PRA, this is evidence of a lack of transparency and accountability. In addition to taking legal action, you can address this through community organizing. Remember to document all instances of communications and noncompliance so you can present the facts in court or to the community.

For more information:

- <https://www.thefirstamendment.org/media/publicrecordsact.pdf>
- <https://firstamendmentcoalition.org/public-records/>