

## **PUBLIC RECORDS ACT GUIDELINES**

### **INTRODUCTION**

These California Public Records Act guidelines describe the prescribed steps necessary for requesting access to inspect and/or obtain copies of public records maintained by the Department of California Highway Patrol ("the Department").

The legislative enactment of the California Public Records Act ("the Act") constituted a statement of policy that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state. This policy was made part of the California State Constitution in 2004. It is the policy of the State that governmental records will be disclosed to the public upon request, unless the law provides an exemption from disclosure.

The general assumption is that all records held by state agencies are public and must be made available to the public promptly upon request. However, the Legislature has recognized the need to balance the public's right to know against compelling rights to privacy and the government's need to perform its functions in a reasonable efficient manner. As such, the Act contains several specific exemptions from disclosure and incorporates several other statutes that prohibit state employees from disclosing certain types of public records. It is the Department's burden to justify any withholding of public records.

The Act also establishes reasonable procedures providing for prompt disclosure while allowing state agencies the time to locate records and to determine which records, if any, are exempt from disclosure. The Department's policy is to provide all members of the public convenient access to, and to promptly make the fullest possible disclosure of, its public records. Department personnel are available to assist persons making such requests and will solicit the assistance of the requestor when clarification of requested records is needed so as to make focused and effective requests that reasonably describe identifiable records. As a law enforcement agency the Department is entitled to treat certain records as exempt from disclosure, and express provisions of the Act, Penal Code, and Vehicle Code, among others, preclude public disclosure of certain records. When a request to review or obtain records is received, whether made in person, by mail, or by other means, it may be necessary for staff to first locate, then secure, and then review the requested items so that a determination can be made whether one or more exemptions apply, prior to having the records made available for viewing or copies provided.

### **HOW TO REQUEST ACCESS TO A PUBLIC RECORD**

Anyone wishing to make a public records request in person may do so during regular business hours at any Department office that is open to the public. Department personnel shall not ask or demand that persons requesting to inspect records provide their identification or the reasons for wanting to inspect records. However, if records are to be picked up or mailed to a requestor, relevant identifying information must be provided. Written requests to inspect or to obtain a copy of a public record should be

addressed to the Department, to any area office, field division office, or to Department Headquarters. The Headquarters address is

California Highway Patrol  
601 North 7<sup>th</sup> Street  
Sacramento, CA 95811

Attention: Public Records Coordinator

The Headquarters facsimile for requests under the Act is 916-322-3219. The written request need not be in any particular form, but should sufficiently describe the requested records to enable Department personnel to identify and locate the records sought. While not required by the Act, it is helpful for the request to include a telephone number or address where the person requesting the record can be reached to expedite the resolution of any questions concerning the request that may arise.

#### **THE DEPARTMENT'S RESPONSE TO PUBLIC RECORDS REQUESTS**

If the records are clearly disclosable, they will be made available as soon as possible. However, in most cases staff will have to review the records to determine whether all or part maybe privileged, confidential, or otherwise exempt from disclosure. Within 10 days from the date the request is received, the Department will determine whether the request, in whole or in part, seeks copies of disclosable public records in the Department's possession and notify the requestor of such determination. In unusual circumstances, the 10-day time limit may be extended up to an additional 14 days by written notice to the requestor, setting forth the reason for the time extension (i.e., the request is too voluminous, seeks records held off site, or requires consultation with other agencies). The Department may need to request additional information if the request is not specific enough to permit the identification of the requested records. If the determination by the Department is made to comply with the request, the records will be made available as promptly as is reasonably practicable. While the Department will disclose or otherwise make available identifiable and existing records, the Act does not require the Department to create, synthesize, manufacture, or summarize records: the Act specifically does not obligate the Department to develop new records so as to be able to respond to a request.

Any request may be denied if the records sought are determined to be privileged, confidential or otherwise exempt from disclosure, or are not found in the Department's files or records. Notification of such a determination will be provided. The Department must justify the withholding of any record by demonstrating that the record is exempt under the Act or that the public interest in nondisclosure outweighs the public interest in disclosure. In most circumstances, when the Department removes or redacts exempt information from the record, it will disclose the remainder of the record.

#### **REQUESTS TO VIEW PUBLIC RECORDS**

Public records may be reviewed during regular business hours (generally weekdays from 8:00 a.m. to 5:00 p.m. excluding holidays), at Department offices open to the public. Individuals who are interested in viewing public records are encouraged to make an appointment in advance. Appointments are not mandatory but can help Department staff facilitate the request, and the failure to make an appointment may result in a delay while the records are located and reviewed. Persons wishing to enter secured parts of the Department buildings must comply with the Department's security protocol, including providing identification.

#### **REQUEST FOR COPIES OF PUBLIC RECORDS**

The Department will make copies of records for members of the public upon request. The Act provides that copies of records will be made promptly available upon payment of fees that cover the direct costs of duplication. The Department currently charges \$0.30 per page for copying. The direct cost of duplication includes the pro rata expense of the duplicating equipment and the staff required to make a copy of that record. Direct costs of duplication does not include the staff person's time in researching, retrieving, redacting and mailing the record. When the Department must compile electronic data, extract information from an electronic record, or undertake computer programming to satisfy a request, the Department may require the requestor to bear the full costs, not just the direct cost of duplication.

A public record that is not exempt from disclosure that is in an electronic format will be made available in an electronic format, if requested, but only if it does not jeopardize the security or integrity of the record or any proprietary software. The requestor will be charged the cost of producing an electronic copy of the record. Alternative charges apply for public records that are maintained in other formats, such as audio or video.

#### **HOW TO CHALLENGE THE DEPARTMENT'S DETERMINATION NOT TO DISCLOSE RECORDS**

Under the Act any person may seek mandamus, injunctive or declarative relief in any court of competent jurisdiction to enforce the right to inspect or to receive a copy of any public record.

These guidelines are posted in a conspicuous public place at Department offices that are open to the public, are available free of charge to any person who requests them, and are also available on the Department's website ([www.chp.ca.gov](http://www.chp.ca.gov)).