

Public Records Act Protocol



Effective: March 2019

From: Diana Becton, District Attorney

Pursuant to the California Public Records Act and the Contra Costa County Better Government Ordinance, any person is entitled to inspect and to receive copies of the disclosable public records of the County. The District Attorney's Office is committed to the public's access to nonexempt records, and this protocol establishes the internal process to insure compliance with these laws and County Administrative Bulletin 120.5.

I. Definitions- The following definitions will apply:

Public Record- Any existing writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by the County regardless of physical form or characteristics. Writings can include, but are not limited to, papers, books, maps, charts, photographs, audio tapes, videotapes, information stored in nonpaper form on a computer or other electronic media and other material. County Admin Bulletin 120.5. A public record includes emails and text messages sent or received conducting County business on personal devices or social media.

Exempt Record- Those records that fall within the list of exemptions provided in California Government Code Section 6254, right to privacy provisions of the California Constitution, privileged documents under Penal Code Sections 1040 and 1041, attorney work product, and those records that are exempt as otherwise provided by law. In rare instances, when the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record, the record will be exempt. Government Code Section 6255. All requests for exemption pursuant to Government Code Section 6255 must be approved by County Counsel.

PRA- A public records act request received by the District Attorney's Office.

DA Administrative Assistant- This person is the Administrative Assistant of the District Attorney who will have the responsibility to insure that all PRA's have been documented on a log used solely for the purpose of the PRA's, and disseminating them to the PRA Group. (See Definition PRA Group)

Public Information Officer (PIO)- The Public Information Officer or PIO will be the person responsible for coordinating the response for all media PRA's.

Designated Deputy District Attorney (DDA)- The Deputy District Attorney or DDA designated by the District Attorney as the person responsible for coordinating the response for all non-media PRA's.

PRA Group- The District Attorney, Chief Assistant District Attorney, PIO, DDA and DA Administrative Assistant.

II. Receipt and Documentation of PRA- All PRA's, immediately upon receipt, shall be documented in the log designated solely for that purpose. If support staff at any District Attorney Office location receives a PRA, they shall document the receipt of the PRA in the log, and immediately scan the PRA and email it to the DA Administrative Assistant. The original PRA shall be maintained in a folder with the Office Manager at the location of origin. The log will contain the following information: date of request, clerk/person who received the request, office that received the request, how the request was received, date scanned to the DA Administrative Assistant, the subject matter of the request, name of the requestor (if known from the request- See Below)*, requestor contact information, date sent to PRA Group, the PIO or DDA assigned, documentation of any mutual agreement

to extend a deadline, the date the documents were produced, the number of documents produced, fees collected and receipts for them if applicable and any brief, necessary notes. The log should document all efforts to insure a timely response to the PRA and contain related correspondence.

The PRA log is located in the P:\Public Records Act\Request For Public Records.

*A requestor is not required to provide their identity in order to inspect or obtain public records, and they are not required to provide a reason for the request. Administrative Bulletin 120.5.

III. Distribution of PRA and Procedure- The DA Administrative Assistant shall review the PRA log for completeness and then distribute the PRA to the PRA Group. The response to all media PRA's will be coordinated by the PIO and the response to all non-media PRA's will be coordinated by the DDA. Upon receipt, the Chief Assistant District Attorney will notify employees who are specifically named in a PRA or the Unit Supervisor when a PRA requests unit specific records; inform them who is coordinating the PRA and if any action is needed by the employee or Unit Supervisor. The Chief Deputy will inform the employee or Unit Supervisor of the outcome of the PRA.

A. Clarification- The request for inspection or copying of records should reasonably describe an identifiable writing or writings. Government Code Section 6253(b). If the request is vague, the PIO/DDA should ask for clarification, and assist the requestor when possible to make a focused request for a reasonably identifiable set of records. Government Code Section 6253.1. The PIO/DDA shall request clarification in writing when possible. (See Admin. Bulletin 120.5)

B. PRA Form- The District Attorney's Office will provide a PRA form upon request, and the PRA form will be available on the District Attorney website and the DA Intranet (Forms, General Office). Use of this form by a requestor of records is not required.

C. Response- The PIO/DDA shall determine whether the PRA seeks disclosable records of the District Attorney's Office. If the request is simple, routine and readily answerable then the PIO/DDA will respond and satisfy the request the following business day. If the request is for voluminous information, information that is located remotely or the request warrants the need to consult with legal counsel, the PIO/DDA will respond in writing to the requestor with an acknowledgement of receipt of the PRA, and contact information for the PIO/DDA responsible for the response within three business days; the PIO/DDA may request an extension of 10 business days to respond to the request in those situations. Contra Costa County Ordinance Code 25-4.604. If the PIO/DDA determines that the PRA seeks disclosable public records, the PIO/DDA shall provide a good faith estimate in the response as to when they will be available to the requestor. Government Code Section 6254(c).

D. Extension- If unusual circumstances exist, the law allows an extension of 14 calendar days to determine whether disclosable records are in the possession of the District Attorney's Office. Government Code Section 6253(c) Subsections 1-4. The PIO/DDA shall provide a written notification of the 14-day extension to the requestor, which details the basis for the extension request, and an estimated date of the determination.

E. Exempt Records- If the PIO/DDA determines that some or all of the requested records are exempt, the PIO/DDA shall send the requestor a letter or email, explaining why the records are exempt and citing the basis for the exemption.

Investigation reports are exempt except in certain circumstances. Government Code 6254(f). All requests for investigative reports will be forwarded to the DA Administrative Assistant for distribution to the PRA group.

F. No Responsive Records- If the PIO/DDA determines that the District Attorney's Office has not located any documents that are responsive to the request, they will notify the requestor in writing that the District Attorney's Office has not located documents that respond to the request. The PIO/DDA shall also attempt to determine if any other county department has records that are responsive to the PRA and then forward the request to the other department as set forth in Administrative Bulletin 120.5. The PIO/DDA will update the PRA log in the "Notes" section with the name of the other county department and when the PIO/DDA forwarded the PRA to the other county department.

G. Fees- Fees may be assessed as set forth in Administrative Bulletin 120.5.

H. PRA Log Status Update- The PIO/DDA will notify the DA Administrative Assistant upon completion of the PRA and the DA Administrative Assistant will update the PRA log. When a member of the PRA Group receives information from another county department about their response to a PRA originally requested from the District Attorney's Office, they will forward that information to the DA Administrative Assistant to update the PRA log.

I. Consultation- The PIO/DDA may consult with County Counsel as provided in Administrative bulletin 120.5.

