



# **EXPOSING GOVERNMENT SURVEILLANCE WITH PUBLIC RECORDS IN CALIFORNIA**



# Exposing Government Surveillance in California with Public Records

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## 1 Introduction

### **About Oakland Privacy**

Oakland Privacy is a citizens' coalition that works regionally to defend the right to privacy and enhance public transparency and oversight regarding the use of surveillance techniques and equipment. We were instrumental in the creation of the first standing municipal citizens' privacy advisory commission in the City of Oakland, and we have engaged in privacy enhancing legislative efforts with several Northern California cities and regional entities.

As experts on municipal privacy reform, we have written use policies and impact reports for a variety of surveillance technologies, conducted research and investigations, and developed frameworks for the implementation of equipment with respect for civil rights, privacy protections and community control. Occasionally we provide input on criminal justice issues that impact civil rights and liberties.

### **Statement of purpose**

Oakland Privacy has used public records research to find out what surveillance equipment is in use in a given city or county, how it was paid for, whether there is a usage policy in effect, how the equipment has been used including the frequency and purposes of such use, and complaints or legal actions as a result of such use.

Records requests, among others, have identified helicopter aircraft in use in the East Bay, captured the volume of automated license plate readers (ALPR) scans and queries sent to the Northern California fusion center (NCRIC) and verified ICE and DHS participation in Alameda County training exercises.

The purpose of this public records guide is to share what we have learned about public records as a tool for surveillance advocacy and enable others to continue and build upon our efforts throughout California and beyond.

## 2 Public Records Background

### **What is a public record?**

Every state has its own laws that govern the public's access to government records. Referred to as open records laws, public records laws or FOIA laws, these laws are modeled after federal FOIA, Freedom of Information Act.

In California, a public record is "any writing containing information relating to the conduct of the public's business prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics." See California Government Code §6252(e).

## 2.1 Public Records Case Law in California

Under the California Constitution and the California Public Records Act (CPRA), most government records are open to the public.

### **California Public Records Act**

The California Public Records Act (CPRA) is the legislation that governs the rules regarding the public's access to public records of government bodies in California. The CPRA is outlined in California Government Code §6250.

### **Who can request public records?**

Any member of the public can request public records in California. "[E]very person has a right to inspect any public record". Furthermore, California Government Code §6252(c) defines "person" to include any natural person, corporation, partnership, limited liability company, firm or association. Foreign and domestic corporations are also included in the CPRA's definition of a "person."

### **What records are covered under CPRA?**

You can request "public records" that relate to the conduct of the public's business. Specifically, documents including "any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds or symbols, or combination thereof, and any record thereby created, regardless of the manner in which the record has been stored." See California Government Code § 6252(g).

There are further clarifications about what constitutes a public record which can be found in the legal cases listed under 2.2 Relevant California Public Records Legal Cases.

### **How much time are agencies allowed to produce records?**

Agencies must produce records "promptly". More specifically, the CPRA provides agencies with 10 days to send you a response or acknowledgement. See California Government Code §6253(c).

The agency can extend the time it takes to produce records in certain instances, and must provide you with a written notice stating so. Specifically, the extension letter should state the reasons for the extension. More information is available in section 5.1 Agency Responses.

### **What agencies are covered under CPRA?**

All state offices, officers, departments, divisions, bureaus, boards and commissions or other state bodies or agencies are covered by the CPRA except for the state legislature and the courts.

Local agencies covered by the CPRA include counties, cities, school districts, municipal corporations, districts, political subdivisions, or any board, commission or agency thereof; other local public agencies; or nonprofit entities that are legislative bodies of a local agency. See California Government Code §6252(a).

Although the judicial branch of the government is not covered by CPRA, there are federal laws, other California laws, and common laws under which some records of the judicial branch can be considered public records. In addition, the public can access judicial administrative records under California Court Rule 10.500.

### **Sunshine laws**

Sunshine laws are local laws that provide additional transparency and access to public records at the local level, such as cities and counties above what is required by the state of California.

In California, there are local sunshine laws in: Alameda, Benicia, Contra Costa County, Gilroy, Milpitas, Oakland, Riverside, San Francisco and Vallejo.<sup>1</sup>

## **2.2 Relevant California Public Records Legal Cases**

Legal cases in California concerning public records are listed below:

- Dixon v. Superior Court, 2009
- Californians Aware v. Orange Unified School District, 2006
- Desert Sun v. Palm Springs Desert Resorts Convention and Visitors Authority, 2005
- Versaci v. Superior Court, 2005
- Bakersfield City School Dist. v. Superior Court, 2004
- Coronado Police Officers Association v. Carroll, 2003
- CBS Broadcasting v. Superior Court, 2001
- California State University, Fresno Assn., Inc. v. Superior Court, 2001
- Epstein v. Hollywood Entertainment Dist. II Business Improvement Dist., 2001
- Lorig v. Medical Board, 2000
- International Longshoremen's & Warehousemen's Union v. Los Angeles Export Terminal, Inc., 1999
- City of Hemet v. Superior Court, 1995
- Cohan v. City of Thousand Oaks, 1994
- County of Los Angeles v. Superior Court, 1993
- Williams v. Superior Court, 1993
- State Board of Equalization v. Superior Court, 1992
- Times Mirror Co. v. Superior Court (public interest), 1991
- CBS Inc. v. Block, 1986
- Citizens for a Better Environment v. Dept. of Food & Agriculture, 1985
- Braun v. City of Taft, 1984

<sup>1</sup><https://firstamendmentcoalition.org/cpra-primer/>

- Register Div. of Freedom Newspapers Inc. v. County of Orange, 1984
- San Gabriel Tribune v. Superior Court, 1983
- American Civil Liberties Union Foundation v. Deukmejian (public interest), 1982
- American Federation of State etc. Employees v. Regents of University of California, 1978
- Black Panther Party v. Kehoe, 1974
- Sacramento Newspaper Guild v. Sacramento County Board of Supervisors, 1968
- Adler v. City Council of Culver City, 1960
- Chronicle Publishing Company v. Superior Court, 1960
- City & County of San Francisco v. Superior Court, 1951
- Mushet v. Department of Public Service of City of Los Angeles, 1917

## 2.3 Other Public Records Resources

Below are resources for further information regarding submitting public records requests and related laws.

### [California Open Government Guide](#)

#### **Reporters Committee for the Freedom of the Press**

A guide geared towards journalists. This resource is very extensive and has additional information pertaining to accessing law enforcement records. Probably more than you ever wanted to know about anything public record related.

### [CPRA Primer](#)

#### **First Amendment Coalition**

A reference guide with more heavy use of CPRA citations. If you try reading the law itself and find it too dense, but still like to see the relevant laws, this might be a good place for you to start reading up further on the CPRA.

### [Guide to California Public Records Act](#)

#### **Muckrock**

A succinct, straight-forward Q&A-style reference guide. This also has some California public records stats and agency scoreboard. Take a look!

### [The California Public Records Act](#)

#### **League of CA Cities**

A collaborative effort of several city attorneys and outside counsel created this CPRA guide for local governments. It provides an overview of CPRA, guidance on how to respond to a public records request, exemptions, judicial review and records management. This guide is helpful to see how the government views CPRA compliance, and gives you a good overview of the lawsuit process. Furthermore, it provides insight about the government records process which may be helpful for you to understand where your records may be located. Of particular note are record retention and destruction laws.

### 3 What You Can Find Out About Surveillance with a Public Records Request

While not exhaustive, the most common types of surveillance equipment used by law enforcement agencies are provided below.

#### Body Cameras

Body-worn cameras are often assigned to officers of a particular law enforcement agency. Their purpose is to increase transparency with the public while also logging video of police encounters with the public that can be used as potential evidence. Body-worn camera videos are subject to an additional piece of state legislation, AB 748 by Assemblymember Phil Ting (D-San Francisco) passed in 2018. See section 6254(4 a-d) of the California Government Code.



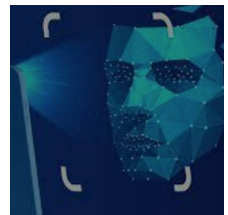
#### Drones

Law enforcement drones (Unmanned Aerial Vehicles or UAV's) can have the capability of capturing video. Some advanced versions of drones may also have the technology to intercept phone calls, pinpoint GPS locations, and gather license plate information. Drones can also be weaponized in various ways.



#### Facial Recognition/Detection

Facial recognition systems are software that is used to identify people either from photos, videos, or in real-time such as during traffic stops or at public events. Facial recognition has different brands, which vary from facial/object detection software which can differentiate between faces and other kinds of objects to full recognition programs which reduce facial features to pixels and attempt to match the pixels to provide a match. Facial recognition software was often used with law enforcement mugshot databases, until Clearview AI weaponized social media to extract - without consent - pictures of most of the world's faces and then placing them into a database that was sold to law enforcement agencies, allowing the identification of people without previous encounters with the justice system. Due to its authoritarian nature, facial recognition use has been banned or restricted in some cities in the U.S. Closely related to facial recognition are other kinds of biometric identification tools including voice recognition, vein recognition, gait recognition, iris recognition and fingerprinting.



#### FLIR Thermal Cameras

Thermal cameras provide thermal imaging to pick up heat and motion through walls and other barriers. There are handheld versions or can be mounted onto other equipment such as helicopters.





## GPS Trackers

GPS trackers are placed by law enforcement on suspect's vehicles, making it possible to track location data over an extensive period of time. The commercial market has also provided a variety of GPS products including tags that can be placed on items that people carry around, sometimes with and sometimes without their consent.



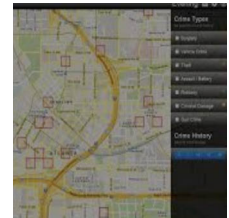
## Automated License Plate Readers

Automated license plate readers (ALPR) scan all license plate numbers that come into view of the camera tagging the location, date, and time as well as the license plate number. They can be mounted on street poles, traffic lights, or mounted on police squad cars. ALPRS scans are usually stored in cloud databases operated by the camera manufacturer and are kept for long periods of time. Most law enforcement agencies will let some - sometimes a great many - other law enforcement agencies search their scans in the cloud at will.



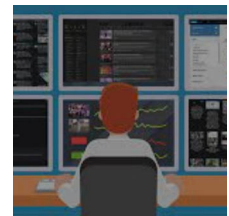
## Predictive Policing Crime Forecasting Software

Predictive software "PredPol" or "pre-crime" uses large datasets of criminal justice information to provide recommendations regarding where to deploy law enforcement resources. Because predictive policing uses data sets that reflect historic over-policing of black and brown neighborhoods, the software generally serves to concentrate police resources in those same areas, using the software as justification. The basic premise of predictive policing was featured in the science fiction novel *Minority Report*, which explored a future society that not only deployed extra cops at pre-crime locations, but pre-arrested the perpetrators. Some versions of predictive policing are only location-based, others use the same formulas to identify individuals as high risks in committing a crime.



## Social Media Monitoring Software

Software used by law enforcement mainly to track individuals or organizations through social media. Social Media Monitoring software (Geofeedia, now defunct or Social Sentinel) uses keywords to identify people using social media for further observation. Among common law enforcement uses are attempting to entrap human traffickers and monitoring protest activities.



## Gunshot Detection Microphones

A system of microphones and sensors used to detect and record, and geo-locate the sound of suspected gun fire and send an alert to law enforcement is called gunshot detection. These systems are mounted on street lights or other elevated surfaces and are usually deployed in low-





income neighborhoods with high rates of purported gun violence. The sensors pick up a wide-range of noises including backfiring of cars, firecrackers, and other loud noises.

### **Cell Site Simulators**

These box-like devices impersonate legitimate cell-phone towers and trick phones in the area to connect to the cell site simulator device rather than the real cell tower. Once connected, this device can determine your phone's location and access call metadata. There is generally a high degree of secrecy associated with their use and for the first ten years or so of use, the devices came with NDA's or legally binding non-disclosure agreements.



### **Ankle Bracelets or Electronic Monitoring Devices**

A form of digital incarceration that can monitor a subject's location and sometimes, their blood alcohol level. These are mostly used during periods of pretrial release, for immigration detention or during probation or parole. Electronic monitoring is billed as a way to reduce the prison population, but the surveillance devices are intrusive and restrictive. Ankle bracelets fasten around a person's ankle and can never be removed during the period of supervision, requiring the person being monitored to charge the device regularly and prioritize keeping the device up and running at all times. In addition, smartphone programs like "SmartLink" are being developed to modernize digital incarceration.



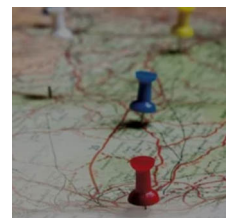
### **Smart Cameras**

Smart Cameras that are embedded with auxiliary features such as microphones and object detection. Smart cameras are slowly replacing CC or closed circuit security cameras and by adding features are becoming more versatile surveillance devices.



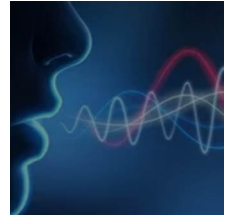
### **Geo-Location Databases**

Private companies that grab and analyze commercially available smartphone location data to provide location data on individuals. This packaged data is then sold to law enforcement agencies enabling them to bypass the requirement of getting a warrant to access this information. Fog Reveal is the latest example.



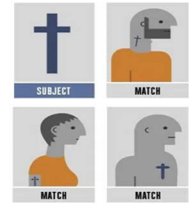
## Voice Recognition

Voice recognition is software that seeks to identify individuals by the time, frequency, and intensity of their speech-sound waves on auditory data such as phone calls. Some voice recognition software also claim to have emotion detection capabilities that can detect anger, frustration, hostility, sadness and other emotions.



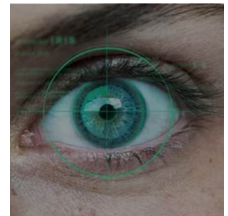
## Tattoo Recognition

Tattoo recognition is software that uses images of a tattoo to identify a person, their associations/affiliations, and possibly their religious and political beliefs.



## Iris Recognition

Iris technology is tech that allows law enforcement to take a high-contrast photograph of a person's iris which can then be used with software to determine the subject's identity from an existing "eyeball database". This is in use by Customs and Border Patrol on the U.S. Southern border.



For surveillance equipment such as those mentioned above, there are a variety of records that can be requested which can provide information relating to the use, quantity, cost, deployment and more.

Records that may be available about surveillance equipment include:

- Purchase Orders
- Staff reports and recommendations
- Use Policies
- Usage logs
- Flight records
- Technical manuals
- Memorandums of Understanding "MOU"
- Data Sharing Reports
- Email correspondence
- Grant applications
- Lawsuits
- Citizen complaints received
- Investigatory documents
- Audit documents

## 4 How To Frame a Public Records Request

Anyone from the public can write a public record request, and it doesn't require a law degree to figure out what elements should go into the request letter. Also, there's no 'right way' to draft a record request letter, however, there are particular elements that you should include in your record request letter.

### **Addressing the agency**

Before writing your request, first identify the proper agency or agencies and review their public records protocol. This should be posted on the agency's website. You may also need to identify related agencies that may also possess relevant records. For example, you may want to submit your records request to both the police department and other related departments like the City Council.

### **Introduction**

A brief introduction is sufficient, as well as including the relevant public records law (in California the CPRA). It helps convey to the agency that you know your rights.

### **Citing statutes and regulations**

Another way to show you know your rights is to include relevant statutes in your request letter.

### **The ask**

Be concise and summarize the records you are seeking. If your request is too broad or vague, you may get nothing back, or way more than is relevant to you. For example, in requesting emails, provide keywords that should be searched.

### **Time frame**

Including a time frame can help narrow your ask, or be specific if you know when a record was created. As with the ask, if your time frame is too long it may be difficult to get relevant records or get back too many.

### **Fees**

In your letter, ask that the agency notify you in advance if your records request will incur fees to process, and if so, what they are. You can also request a fee waiver, which we go into more detail in section 4.2 Payment and making a "fee waiver" request.

### **Intended use of records**

State in your request letter that records you obtain will be made available to the general public and that it will not be made for commercial purposes.

### **Method of delivery**

Specify in your request letter the format you want to receive records in, and where to send them. For example, if you want the records emailed, be sure to provide the email

address you want records to be emailed to. If you want physical copies or a CD, state that and provide a mailing address. Alternatively, you can provide the agency with a telephone number where you can be notified that the records are available for you to pick up in person.

### **Submit your records request**

Double-check you have included all elements above, and submit your records request via an agency's online portal, via email, or by mail. Make a note of the date of your submission so you can keep track of the process and follow up as needed.

### **Using a platform such as Muckrock to submit public records requests**

Muckrock is a great source to draw upon when creating and submitting your public records request. Muckrock has an extensive collection of records requests that have been submitted by others who use their platform and can be used as a reference to help you create a request of your own. You can see the life of public records requests such as timelines, and the ultimate outcome (voluminous records, denials, no response, etc.) which can provide an indication beforehand of the likelihood of your request being fulfilled.

Muckrock can also help you submit requests and automate follow-up on your behalf. They already have a database of agencies and their public records contact information which will save you time. In cases of delayed responses from agencies, Muckrock will send status requests to the agency as well. The service is reasonably priced at \$20 for four records requests.

### **Template letters for public records request specific to surveillance**

We have compiled template letters specific to government surveillance to help in drafting your own records request.

- Physical Equipment (see Appendix A)
- Software and Applications (see Appendix B)
- MOU (see Appendix C)

## **4.1 Payment and Making a "Fee Waiver" Request**

While filing a public records request in California is free, agencies are permitted to charge reasonable fees to cover the costs relating to processing and furnishing records. See California Government Code § 6253(b). So be aware that fee waivers are not automatic, and if an agency notifies you about the cost of producing the records you are requesting, you have the option of paying the fee, or asking the agency to waive the fee.

### **Asking for a fee waiver**

It is helpful to include language requesting a fee waiver. It will also help down the line if

your fee waiver request is denied. You can request that the agency contact you to provide a cost estimate or if the cost of generating and furnishing records will exceed a certain amount. For example, you can state "If no fee waiver is granted and the fees exceed \$50.00, please contact me to obtain consent before processing records."

## **5 What Happens After Filing a Public Records Request**

So you submitted your public records request, now what? Now it's time to stay on top of the agency's response (or lack thereof). No two records requests are alike, and neither are the agency's responses. Timeframes can vary from agency to agency while some will respond promptly, others may not provide any response. In some instances, you may get an acknowledgement or records from other agencies or departments you didn't direct your record request to.

Be sure to document all your interactions with the agency, even if they don't respond or get back to you. After the initial response window, you can ask about the status of your request. This information will be of service if later you decide to submit an appeal or file a lawsuit. As mentioned earlier, if you use a service, it will help you with the follow-up and tracking the progress of your record request.

### **5.1 Agency Responses**

An agency's response to your records request will usually fall under one of these three general categories:

#### **1. Initial response**

Within 10 days, the agency should send an acknowledgement or initial response that they are in receipt of your records request. The response should have the contact information of the agency, the date, and a tracking number of the request. Keep this information for your records as you may need to reference in future follow up. Sometimes an agency will respond stating they will be using an extension for responding to your request. In California, the agency can have an additional 14 days to respond to the request. See California Government Code § 6253(c).

#### **2. Administrative closure response**

Sometimes, an agency may respond stating that your request is too vague or doesn't have enough detail for them to conduct a search for records. They will also state that your request will be closed administratively after 30 days if you do not take any action to provide them with more information to process your request.

In this scenario, you do not need to submit a new records request. You should respond promptly and explain your request or obtain more information about what is too vague or broad to help you further specify your request. Where possible, try to provide enough clarity that still preserves your original request as much as possible.

### 3. Substantive response

The agency can send you a variety of substantive responses which are short of providing you with records. The agency may respond with any the following:

- The agency does not have the records being requested
- The agency is searching for records being requested and will follow up
- Your request has been forwarded to another agency or department
- If your fee waiver request was denied or granted

### Delays

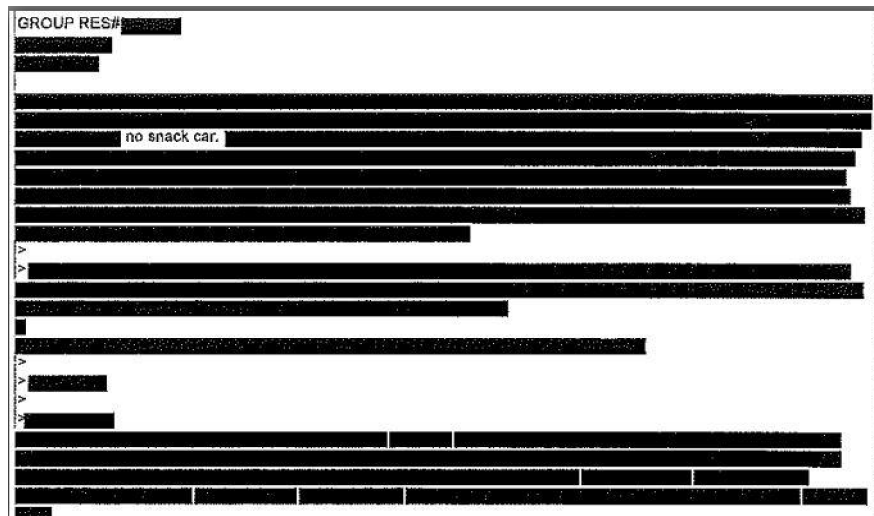
Delays from agencies responding to public records requests are inevitable. Expect them. It helps to be proactive and monitor for a response - irrespective of whether you use an automated reminder system such as Muckrock or set reminders for yourself. Up to a point, be polite because records clerks are just human beings and the system is not any individual's fault. Many big city records departments are overwhelmed and most small ones are understaffed. However, you are entitled to government records by law, so be persistent about securing the eventual fulfillment of your request.

You can also send follow-up letters which not only serves as a reminder but also helps make the case later on (if needed) that delays are violating the CPRA.

## 5.2 Public Records Redactions and Exemptions

Agencies can redact (black-out) text before relinquishing records. Redactions can be very limited or you may receive documents redacted completely. Agencies are permitted to redact information if it is exempt from disclosure under law.

However, even when records are sent with redactions, the agency should outline the relevant law under which they are justifying the redaction. If they do not provide this information, you can request for the reasons in writing.





## California public records exemptions

CPRA Statute 6254 outlines a number of exemptions to public records disclosure. However, the agency can decide to allow greater disclosure of records.

Exemptions include (with caveats and carve-outs):

- Agency litigation until the claim is resolved or settled, however, the complaint, claim, or records filed in court, records that pre-date the suit and settlement records are public
- Appointment calendars and applications, phone records, and other records
- Attorney-Client communications
- Crime victims' addresses in some instances
- Financial data submitted for licenses, certificates, or permits, or given in confidence to oversight bodies of insurance, securities, or banking firms
- Home Addresses in DMV, voter registration, gun license, public housing, local agency utility and public employee records
- Personnel, medical and similar files if disclosure would reveal intimate, private details
- Police incident reports, rap sheets and arrest records
- Preliminary drafts, notes and memos
- Tax, welfare, and family/adoption/birth records

In addition to exemptions outlined in CPRA statute 6254, CPRA statute 6255 provides a catch-all "Public Interest" exemption which states: "The agency shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of this chapter or that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record."

## 5.3 Public Record Request Denials

While there are a variety of public records request denials, they generally fall under three main categories:

### 1. "No responsive records"

When an agency responds with "no responsive records", it can mean that the records clerk conducted a search based on the parameters requested in the public records letter and did not find anything. This can be both a true and a false conclusion.

What to do: further refine the public records request parameters, for example, asking for different documents, submit an appeal or accept the "no" and call it a day.

### 2. Personnel information

More often than not, this excuse surfaces with investigatory proceedings where various

police officer bill of rights laws and aggressive police unions have constructed broad walls against disclosure. In California, a few new laws have cracked through this slightly - at least as far as sustained complaints - but nonetheless having an agency tell you that your request can't be filled because of personnel confidentiality is not unusual.

What to do: Your option is to either re-calibrate your request if it is possible to request records that don't directly impact personnel, or to appeal the denial if the denial appears to be in excess of what the law states.

### **3. National security**

Surveillance is often done in secret and oftentimes the powers that be want to keep it that way. National security denials, while more common on the federal level, are not unheard of at the state and local levels. The national security claim is that by providing you with the records you ask for will compromise public safety.

What to do: National security denials can be appealed, but will generally be upheld. So the meaningful way to fight a national security denial is through court where an agency is forced to prove to a judge that fulfilling your records request does actually threaten national security.

## **6 Filing an Appeal**

If an agency denies your request for public records, fee waiver or expedited processing, you can appeal. The agency should provide you with the information of who to address your appeal to and their contact information. Be aware of time-limits on filing an appeal and make sure to make your appeal in writing. Your appeal should also contain any new information that can justify overturning the denial. Monitor for the agency's response to your appeal.

### **Suggestions for responses to common reasons given by the agency for record request denials**

#### **Agency claims the record request was not sufficiently described or is too vague**

Emphasis or reiterate the reasons why the records request is specific and demonstrate examples where possible that indicate the specific information sought.

#### **Agency states they conducted a search that did not result in records that are responsive to the records request**

Just as with the claim that records do not exist, a search of available public records can be used to counter this objection. Search for information about how the agency handles and stores records that can help respond to the agency with specific information about where the records can be located, such as specific database or software system.

### **Agency claims that records do not exist or are not available through their agency**

When appealing an agency claims that documents do not exist, conduct research through publicly available information and use that information in the appeal. References to data, news articles or other online information can help build a case for the existence of records.

### **Agency claims all or part of the record request falls under an exemption**

While agencies are permitted by law to redact information in records they furnish, they must supply a reason for their redactions with one or more of the exemptions they claim. First check if the denial lists out the relevant exemptions. If no exemptions are listed, your appeal should outline that the agency failed to provide relevant exemptions for justifying their denial. If, on the other hand, exemptions are listed, check if the exemption is applicable to the type of information you requested. This will not always be straightforward, and will require that you look up the relevant exemption rules and determine their applicability. Keep records of both your written and verbal communication.

If you are still not getting access to records, you can try getting the local press involved by writing a letter to the Editor and raising the issue of the local agency's lack of transparency.

### **File a lawsuit**

If after you have submitted a written appeal and have tried other tactics, you still aren't able to obtain records, then your next option is to file a lawsuit against the agency. Try to exhaust all other means available before resorting to lawsuits as this can be a long process and further delay obtaining records.

Where to find a lawyer: search for a lawyer who has knowledge and experience ideally with public records and dealing with government agencies. Look at law school legal clinics, the National Lawyers Guild and the First Amendment Center.

You also have the option to file pro se, or without a lawyer. Because it is not easy to represent yourself in this kind of legal matter, it is not advised. However, legal briefs from other public records lawsuits can be a very valuable resource in drafting your complaint. It will cost about \$500 to file the lawsuit and those fees are only refunded if you are successful in your lawsuit. When drafting your complaint, be concise and also express a willingness to settle the case.

## **7 What to do with Public Records**

You have received public records - congrats! So what do you do now? Now you should go through documents and begin analyzing their contents. This might be quick and straightforward, or cumbersome and time-consuming depending on the kind of records that you were given. Usually records will be in a low-resolution scanned PDF but there will be the rare instance where you will receive readable PDFs where you can do a ctrl+find search.

Depending on the purpose of your research from the outset, you can utilize the information you have obtained to bring more awareness around government surveillance and drive change.

### **Write about government surveillance**

You can write about your research and findings and create a report, write a letter to the editor, or blog about it. Below are some examples that talk about government surveillance

[Check LBPD](#), a blog that discusses surveillance tactics of the Long Beach Police Department. It has public records, reports and articles.

[ACLU](#), as part of their civil liberties work, conducts various projects related to government surveillance.

[EFF](#), the Electronic Frontier Foundation, a nonprofit focused on digital civil liberties.

### **Share your findings with local news media**

Local media should be reporting on things relevant to its community, including government surveillance that's happening locally.

### **Hold government accountable through local activism and get others involved**

Use the information you have uncovered to push for change in local government. Push back on surveillance by generating public awareness and putting collective pressure on local elected officials to curtail surveillance activities. Oakland Privacy in collaboration with ACLU developed a [surveillance advocacy toolkit](#).

### **File more records requests**

The fight against government surveillance is not a one-time activity. We have to constantly keep vigilant and protect our civil liberties, push for transparency and demand accountability. Even if your local government proclaims to curb surveillance, it often becomes the public's responsibility to ensure the government follows through on its commitments. There may be other instances where a government only temporarily pauses use of surveillance tech, and then starts using it again when the public pressure subsides. Finally, just because government abandons one piece of surveillance tech, it does not mean that it will not revisit at a future date or turn to other surveillance equipment.



[www.oaklandprivacy.org](http://www.oaklandprivacy.org)

### **Credits**

Authors: David Fang, Tracy Rosenberg, Yadi Younse

Support: with generous support from the Rose Foundation ([www.rosefdn.org](http://www.rosefdn.org))

# Appendix A

## Public Record Request Letter Template - Physical Equipment

CALIFORNIA PUBLIC RECORDS REQUEST – {INSERT TECH NAME}

{INSERT DATE}

Public Information Officer, Public Records Department  
{INSERT LAW ENFORCEMENT AGENCY} of {INSERT COUNTY NAME}

Per the California Public Records Act (Govt. Code 6250-6270), I am writing to request the following information from your office for the following period.

- Number, if any, of {Insert Piece of Tech} owned by this department or agency. {INSERT POTENTIAL SPECIFICATIONS OF INTEREST HERE}
- 
- Number, if any, of {INSERT PIECE OF TECH} available for use by this department or agency via collaborative agreements that were utilized within the period encompassing this request. Please provide the name of the department or agency that made {INSERT PIECE OF TECH} devices available to this department or agency for use.
- 
- Any documents or correspondence during the period encompassing this request regarding possible or planned acquisition of {INSERT PIECE OF TECH HERE}.
- 
- Any existing or proposed usage policies regarding the use of {INSERT PIECE OF TECH HERE} including protocols, training documents, data storage procedures and prohibited activities.
- 
- Any log of use or audit performed.
- 
- Any current or past litigation involving or referencing this department or agency involving the use of {INSERT PIECE OF TECH}.

The requested documents will be made available to the general public, and this request is not being made for commercial purposes. In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request be filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 10 calendar days, as the statute requires.

If you have any questions regarding this request, please call me at {INSERT PHONE # WHERE YOU CAN BE REACHED}

Sincerely,

{INSERT NAME AND ADDRESS}



## Appendix B

### Public Record Request Letter Template - Software and Applications

CALIFORNIA PUBLIC RECORDS REQUEST – {INSERT TECH NAME}

{INSERT DATE}

Public Information Officer, Public Records Department

{INSERT LAW ENFORCEMENT AGENCY} of {INSERT CITY NAME}

Per the California Public Records Act (Govt. Code 6250-6270), I am writing to request the following information from your office for the following period

- Number, if any, of {INSERT PIECE OF TECH HERE} or service agreements in place with this department or agency. Please specify if software has been purchased or if services are performed by outside contractors for the department or agency. Please include pilot or testing programs within the scope of this request
- Any documents or correspondence during the period encompassing this request regarding possible or planned acquisition of {INSERT PIECE OF TECH HERE} or service agreements.
- Any existing or proposed usage policies regarding the use of {INSERT PIECE OF TECH HERE} or service agreements. including protocols, training documents, data storage procedures and prohibited activities.
- Any logs of use or audits performed.
- Any current or past litigation involving or referencing this department or agency involving the use of {INSERT PIECE OF TECH HERE} or Service Contractors.

The requested documents will be made available to the general public, and this request is not being made for commercial purposes. In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request be filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 10 calendar days, as the statute requires.

If you have any questions regarding this request, please call me at {INSERT PHONE # WHERE YOU CAN BE REACHED}

Sincerely,

{INSERT NAME AND ADDRESS}

## **Appendix C**

### **Public Record Request Letter Template - MOU**

CALIFORNIA PUBLIC RECORDS REQUEST - Federal MOU

[INSERT DATE]

[INSERT NAME]

Public Information Officer, Public Records Department

[INSERT LAW ENFORCEMENT AGENCY HERE] of [INSERT CITY NAME]

Per the California Public Records Act (Govt. Code 6250-6270), I am writing to request the following information from your office for the following period.

- Please provide copies of all executed agreements with the following federal law enforcement agencies, if any: Homeland Security Investigations, Federal Bureau of Investigation, US Marshalls, Drug Enforcement Administration, Alcohol, Tobacco and Firearms, Joint Terrorism Task Force, Northern California Regional Intelligence Center (NCRIC), San Diego Law Enforcement Coordination Center, Orange County Intelligence Assessment Center, Los Angeles Joint Regional Intelligence Center, and Central California Intelligence Center [OR ANY POTENTIAL AGENCIES OF INTEREST].
- Any documents or correspondence during the period encompassing this request regarding possible or planned agreements with the aforementioned federal law enforcement agencies.
- Any existing or proposed internal protocols, training documents, data-sharing agreements, data storage procedures and prohibited activities governing such agreements or joint activities.
- Any current or past litigation involving or referencing this department or agency involving joint activities with the above-mentioned federal law enforcement agencies.

The requested documents will be made available to the general public, and this request is not being made for commercial purposes. In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request be filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 10 calendar days, as the statute requires.

If you have any questions regarding this request, please call me at [INSERT PHONE # WHERE YOU CAN BE REACHED]

Sincerely,

[INSERT NAME AND ADDRESS]