

Audit Report 2007

Public Access to Law Enforcement Information

Findings and Conclusions

Findings

The Oral Request to Police and Sheriff's Departments

- Form 700 Statement of Economic Interest** of commander or senior officer
 - 43% - Must go elsewhere to acquire
 - 23% - Don't know of/haven't heard of this form
 - 17% - Made form available
- Crime information** on any burglaries, armed robberies or sexual assaults November 1-15
 - 40% - Made some information available (½ of these did not release names of burglary and/or armed robbery victims)
 - 15% - Must go to another office/officer to acquire
 - 11% - Information is not public
- Arrest information** on persons apprehended for the crimes reported November 1-15
 - 25% - Information made available*
 - 16% - Information was confidential
 - 10% - Info unknown, other officer must be contacted
 - 8% - No document exists that contains this info
 - 8% - No response to request

*of this information, 27% of departments omitted the age of the arrestee, 22% omitted the arrestee's sex, and 16% failed to state the charges the arrestee was being held on.

The Written Request to Police and Sheriff's Departments

NOTE: Thirteen percent of departments simply refused to accept auditor's written request.

- The record of asset forfeiture fund distribution**
 - 36% - Made information available
 - 10% - Have no document responsive to request
 - 16% - No response to request
 - 13% - Refused to accept the written request
- Statistical data on complaints about officers**
 - 40% - Made information available
 - 14% - Have no document responsive to request
 - 15% - No response to request
 - 13% - Refused to accept the written request

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| 6. The salary schedule for peace officers | 47% - Made information available
13% - No response to request
13% - Refused to accept the written request |
| 7. Actual earnings information for (unidentified) officers | 15% - Made information available
32% - Information was confidential
15% - No response to request
13% - Refused to accept the written request |
| 8. Worker's comp claims made by (unidentified) officers | 10% - Made information available
42% - Information is confidential
14% - No response to request
13% - Refused to accept the written request |
| 9. Second job (outside employment) information for (unidentified) officers | 6½% - Made information available
43% - Information is confidential
10% - Have no document responsive to request
15% - No response to request
13% - Refused to accept the written request |
| 10. The most recent death in custody report | 29% - Made information available
28% - Have no document responsive to request
13% - No response to request
13% - Refused to accept the written request |
| 11. The employment contract for the department's commanding officer | 25% - Made information available
28% - Have no document responsive to request
14% - No response to request
13% - Refused to accept the written request |
| 12. The media relations/public information policy statement | 52% - Made information available
15% - No response to request
13% - Refused to accept the written request |
| 13. The fee charged for making copies of crime reports to victims | 52% - Made information available
14% - No response to request
13% - Refused to accept the written request |
| 14. Demanded disclosures by the requester as a condition for providing access to information | 51% - Required to provide name or picture ID
39% - Required a statement of purpose for info
27% - Required auditor's affiliation/employment
20% - Required a request form to be filled out |

NOTE: Ten departments (5.4%) imposed all four requirements.

The Oral Request to CHP Area Offices

14. **The information on citations for reckless driving**

during December 1-15

Was made available by only 5 of 32 offices (16%). Other offices stated various reasons for nondisclosure, including 3 that maintained the information was confidential. Of the 5 offices that disclosed, 3 failed to list the time and date of the citation.

15. **The information on arrests for DUI**

during December 1-15

Was made available by only 7 of 32 offices (22%). Other offices stated various reasons for nondisclosure, including 5 that maintained the information was confidential. Of the 7 offices that disclosed, all failed to list the driver's occupation, the location where the person arrested was being held, and the time and manner of release.

The Written Request to CHP Area Offices

NOTE: Six of the 32 offices (19 percent) refused to accept the auditor's written request.

Requests for information on the actual earnings of, worker's comp claims made by, and second jobs held by individual (unidentified) officers, as well as death in custody reports, were not made available at the time of this report (January 9, 2007). Of those 26 offices that did accept the request letter, the most that was said by the CHP general counsel to some auditors was that some unspecified information would be made available on or before January 10, 2007 — more than a month after the letters were left at the area offices.

Numerous agencies demanded disclosures by the requester as a condition for providing access to information. For CHP area offices, 49 percent required name or identification and purpose; more than 34 percent required affiliation/employment; 12 percent required a form, and three offices imposed all four requirements.

Awareness of the Audit

Some departments — we cannot be sure how many — learned of the existence of the audit either on December 4 or shortly thereafter. Participating journalists expressed concern that this awareness would undermine the reliability or fairness of the findings, in that the aware departments would strive to be much more responsive than they would otherwise have been, in order to avoid an unfavorable mention. All that we can say at this point is that the overall results — an average F plus — do not seem to suggest a wave of agencies striving to stay on their best behavior.

Notable Anecdotes

The dry summaries in the Findings give little sense of just how wrong — often absurdly wrong — the agencies could be to earn their average F plus grade. We encourage those interested to read the anecdotal narratives written by the journalists and filed at the end of many of the agency-by-agency reports in the online database. The following is but a brief sampling, and begins by saluting five agencies that provided rare relief from the depressing norm.

Police/Sheriffs

Dixon Police Department (A-)

This agency received the highest of all the scores (94) and was described by the auditor as pleasant and helpful. Only 6 points were deducted for timeliness, but for such a small department, the performance was very impressive.

Newark Police Department (B-)

The city attorney who responded to this request on behalf of the police department wrote an excellent and timely letter explaining what would be made available and what would not and why, and helpfully requesting clarification on a few of the items. His response was the perfect example of what is intended in the CPRA in Government Code Section 6253.1, which states:

- (a) When a member of the public requests to inspect a public record or obtain a copy of a public record, the public agency, in order to assist the member of the public make a focused and effective request that reasonably describes an identifiable record or records, shall do all of the following, to the extent reasonable under the circumstances:
 - “(1) Assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated.
 - “(2) Describe the information technology and physical location in which the records exist.
 - “(3) Provide suggestions for overcoming any practical basis for denying access to the records or information sought.

Shasta County Sheriff (B+)

This agency was generally very helpful and agreeable. It received the highest score of all sheriff s’ departments (the sheriff’s office in Pico Rivera earned a flat zero).

Walnut Creek Police Department (B)

This auditor noted how very helpful and professional the agency personnel were throughout her contact with them.

Seaside Police Department (B+)

This agency charges only ten cents per page for crime victims’ reports — the same amount it charges for all other copying. Many other departments charge relatively high fees for crime victims’ reports despite the “direct cost of duplication” limit in the CPRA).

Sacramento County Sheriff (F-)

This agency contact required our auditor's social security number as a condition for making his request, explaining that the officer needed to check the auditor for any outstanding warrants in case he should be arrested on the spot. This agency also refused to release any crime and arrest information for the requested period, stating that only information on events in the last 24 hours was public.

Woodland Police Department (F)

This agency contact indicated that the department shreds crime information after a certain period of time (the information we requested was for the immediate month prior).

El Cerrito Police Department (B)

Agency contact implied that she could locate the auditor, even though only his first name and phone number were provided.

Berkeley Police Department (F-)

The personnel that our auditor contacted on the day of the audit were not helpful at all. They seemed very confused and ultimately refused to accept any part of the auditor's request. The department then denied that any auditor had visited.

Oakland Police Department (F-)

The auditor was sent on a "wild goose chase" throughout the department and ultimately could not find anyone willing to take any part of his request.

San Jose Police Department (F-)

This agency has a records "window" that is only open during limited, and irregular, hours. Our auditor was turned away because she was not there at the right time (even though she was there during regular business hours for the department as a whole).

San Mateo Police Department (F-)

This agency contact probably gave out the most misinformation of all the agencies that we could detect in these narratives. She said that the department only releases information on a need-to-know basis. She also told the auditor that they are not allowed to keep arrest information for more than 7 days because they are not allowed to "track people." ID was required to view crime statistics (how many incidents in a given period of time, etc.), but the auditor would also have to pay \$50 to view these statistics. Ultimately, the agency contact refused to accept the written request.

Half Moon Bay Police Department (F)

This agency contact required that the auditor make separate written requests for each item she sought, with an explanation in each one about what she would be using the documents for.

Pleasanton Police Department (F-)

This agency required proof from our auditor that she was a reporter in order to view the requested documents.

[Banning Police Department \(F-\)](#)

This agency contact was said to be very rude and unhelpful with our auditor. She raised her voice at him a number of times when he asked clarifying questions.

[Beaumont Police Department \(C\)](#)

This agency contact told the auditor that they needed her identification because they track who makes requests.

[Colusa Police Department](#)

High copy fees: \$5 first page, \$1 each additional page.

[Napa County Sheriff \(F-\)](#)

Agency contact told auditor that he would need to seek approval from the Board of Supervisors in order to gain special permission to see crime and arrest information. She added, "We're not like the public library where one can check out records to pore over."

[Grover Beach Police Department \(C+\)](#)

Chief's secretary denied that the chief had to file Form 700. According to city policy, he does have to file.

[Pico Rivera Sheriff's Station \(F-\)](#)

This agency wouldn't proceed with processing the auditor's request without a written request that identified the auditor.

[Arcadia Police Department \(F-\)](#)

This agency contact didn't believe the auditor when she (finally) identified herself as a reporter. The agency contact demanded to know the name of the auditor's supervisor in order to call the paper to verify her employment.

[Pasadena Police Department \(F-\)](#)

This agency contact laughed at the auditor when she explained what a Form 700 was, as if scoffing at the idea that the information contained in this document might be public.

[Coronado Police Department \(D+\)](#)

There was a stamp on the crime information provided to our auditor that read, "Controlled copy. Restricted PC 11142-11143. Not for third party release."

[El Monte Police Department \(F-\)](#)

This agency denied the release of sexual assault information to our auditor, stating that all this information is confidential (not just the name). She also refused to accept the written request from the auditor, explaining that she didn't want to take responsibility for it because she wouldn't be the one ultimately responding to it.

Glendora Police Department (F-)

Auditor was told that release of the Form 700 was on a “need-to-know, right-to-know” basis.

Cotati Police Department (F-)

This agency tracked our auditor back to her newspaper with only a first name and cell phone number. It is unclear how (or why) it did this.

CHP

North Sacramento (F)

Written request accepted and passed along to the main office on behalf of the auditor.

Main (F)

Records, it said, are not kept at the main office. Requests must be made at local offices.

South Sacramento (F-)

Written requests must be made directly to main office in Sacramento. Request not accepted.

San Bernardino (F)

Citation information is not public information “until it is adjudicated”. Auditor was referred to the district attorney and courts.

Dublin (F)

DUI information was called confidential. Written request was rejected.

Conclusions

1. Many if not most California policing agencies fail the open government obligations that they share with other public agencies so radically that it is hard to view them as part of the same public universe.
2. Those obligations are to know the rudiments of the California Public Records Act and to treat unfamiliar citizens who request information with at least the same readiness to provide it as is granted to journalists, without demanding identity and other disclosures that are neither sanctioned by the law nor explained by innocent need. In this audit the most common experience was that the requester was required to provide his or her identification, purpose and/or affiliation, but then left the department or office empty-handed, and at best waited one or more weeks to learn whether any information would be forthcoming at all.
3. Most information was not forthcoming. Ironically, the only requests made in the audit of sheriff’s and police departments that led more than half of them (52 percent) to provide access was for copies of the department’s public information policy and of its fee policy for copies of crime reports for victims. CHP offices at this writing (January 9) have yet to provide any information.

4. Another common pattern was that the departmental clerk or spokesperson, instead of taking the responsibility for assembling records requested by the auditor — all of which dealt with the department's own operations or personnel — sent the auditor to other departments of the city, county or CHP bureaucracy in search of the information. In such cases it seems likely that the audited department already had copies of the information or could easily obtain it.

5. Until the results have been sifted more carefully it is impossible to say whether legislation is in order to correct these striking failings. Legislation cannot compel common sense, courtesy or a sense of professionalism and responsibility, whose presence in most of these departments would have made so much difference.

6. But training is clearly in order. Whatever departmental or CHP leaders may know, those who deal directly with the public far too often not only do not know the California Public Records Act and related laws, but what is worse, do not appreciate how misinformed they are. Such a confident fund of false facts, combined with a mindset that too often considers the questioning stranger a potential threat to be probed rather than a citizen to be helped, is seldom the fault of those it afflicts. Most literally do not know any better. But that will be of little comfort to the baffled if not intimidated person who is turned away knowing only that his or her name has been filed as someone asking questions.

7. Sheriffs, police chiefs and CHP officials whose officers earned embarrassing grades in this audit have two choices. They can reflexively deny, dispute or dismiss the findings, or they can accept that there must be room for improvement and schedule training accordingly. The California Commission on Peace Officer Standards and Training either has a program for such purposes or if not, it should. Californians Aware, which last October gave free remedial training to almost 200 state agency employees after two audits earlier in the year, is ready to do all it can to make its next police agency audit more successful for the departments that are checked.

8. Not every public counter person or full-time press information officer needs deep training in the public information law. But they — and those who influence them — do need to be disabused of a handful of legal myths and cleared of a few edgy attitudes that get in the way. Procedurally, they also need to know whom to turn to when they get an unfamiliar request, to make sure that a reasonable response process is set in motion and understood by the requester before he or she leaves the office.

9. CPRA stands not for the California Press Relations Act but the California Public Records Act. The fact that citizens may not cite the law as often as journalists do does not mean they have no rights under it. They have the same rights as any newspaper or broadcaster. Their questions deserve at least as much respect. They are not suspects and should never be treated as if not trusted. If they are distrusted, why should they trust in return?