

Memorandum 2018-40

**California Public Records Act Clean-Up: Cumulative Draft of
Material Previously Reviewed**

As requested by the Legislature,¹ the Commission has been preparing a proposed recodification of the California Public Records Act (hereafter “CPRA”).² Attached for convenient reference is a cumulative draft of the material that the Commission has preliminarily approved for inclusion in a tentative recommendation — i.e., Parts 1-4 and Chapter 1 of Part 5 of proposed new Division 10 of Title 1 of the Government Code.

A few points regarding the attached draft are discussed below. Unless otherwise indicated, all further statutory references in this memorandum are to the Government Code.

TIMING OF THE PROPOSED RECODIFICATION

As preliminarily approved by the Commission last year, proposed Section 7920.005 and the accompanying Comment read:

§ 7920.005. CPRA Recodification Act of 2019

7920.005. This division recodifies the provisions of former Chapter 3.5 (commencing with Section 6250) of Division 7 of this title. The act that added this division shall be known and may be cited as the “CPRA Recodification Act of 2019.”

Comment. Section 7920.005 provides a convenient means of referring to the recodification of former Sections 6250-6276.48. For background,

1. See 2016 Cal. Stat. res. ch. 150 (ACR 148 (Chau)); see also SCR 91 (Roth & Chau) (pending). For the current version of the Commission’s tentative outline for the recodification, see Memorandum 2018-23.

Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission’s website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission’s staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

2. Gov’t Code §§ 6250-6276.48.

see *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n Reports __ (2018).

This version of proposed Section 7920.005 was based on the assumption that the Commission would approve a final recommendation in this study in 2018 and seek introduction of implementing legislation in 2019.

That assumption appears to have been overly optimistic. In the attached cumulative draft, the staff revised the dates in proposed Section 7920.005 and the accompanying Comment as follows:

§ 7920.005. CPRA Recodification Act of 2019 2020

7920.005. This division recodifies the provisions of former Chapter 3.5 (commencing with Section 6250) of Division 7 of this title. The act that added this division shall be known and may be cited as the "CPRA Recodification Act of 2019 2020."

Comment. Section 7920.005 provides a convenient means of referring to the recodification of former Sections 6250-6276.48. For background, see *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm'n Reports __ (2018 2019).

We also made corresponding changes elsewhere in the attached draft. **We presume that these changes will be acceptable to the Commission and we do not plan to discuss them at the upcoming meeting.**

GENDER NEUTRALITY

Instead of using a traditional phrase such as "he or she" or "his or hers," the Legislature has been exploring ways to more clearly encompass transgender people and others who do not fit into a traditional male or female category. For example, a pending resolution suggests (1) reusing the noun in lieu of a pronoun, (2) "creating new words to serve as gender-neutral pronouns," and (3) "expanding the use of the word 'they' to include its use as a singular pronoun."³

For the most part, such efforts will not have much impact on the Commission's work. The Commission has traditionally avoided phrases like "he or she" or "his or hers" because they are awkward and cumbersome.

It is not always easy to find a graceful alternative, however, so occasionally the Commission has deviated from its usual practice and used such a phrase. That is particularly likely to occur when the Commission is recodifying a statute

3. See ACR 260 (Low).

that contains such a phrase and seeking to ensure that the recodification is nonsubstantive.

In preparing the attached cumulative draft, the staff noticed a few places where the phrase “his or her” appears in existing law and would have been perpetuated in the proposed recodification. On taking another look at these provisions, we thought of other alternatives, as shown in strikeout and underscore below:

7920.300. As used in Section 7921.505, “agency” includes a member, agent, officer, or employee of the agency acting within the scope of ~~his or her~~ that membership, agency, office, or employment.

7920.510. As used in this division, “member of the public” means any person other than a member, agent, officer, or employee of a federal, state, or local agency who is acting within the scope of ~~his or her~~ that membership, agency, office, or employment.

7920.530. As used in this division, “public safety official” means the following parties, whether active or retired:

....
(f) An employee of the Department of Corrections and Rehabilitation who supervises inmates or is required to have care or custody of a prisoner ~~in his or her care or custody~~.

The attached draft incorporates the above revisions. In addition, the staff revised Section 7920.530(a) to conform to traditional grammatical conventions without using a binary gender phrase:

7920.530. As used in this division, “public safety official” means the following parties, whether active or retired:

(a) A ... person who is not a peace officer, but may exercise the powers of arrest during the course and within the scope of ~~their~~ the person’s employment pursuant to Section 830.7 of the Penal Code.

....

The staff does not plan to discuss any of these revisions at the upcoming meeting. **If any of them are cause for concern, please raise the point at or before the meeting.**

As a general matter, it seems advisable to try to avoid the use of gendered pronouns in future work. **Is that drafting approach acceptable to the Commission?**

INTERNAL CROSS-REFERENCES

In many places, the attached draft includes an internal cross-reference — i.e., a cross-reference to another provision within the CPRA itself. As the Commission drafts its proposed recodification, each such cross-reference will need to be conformed to the new numbering scheme for the CPRA.

In some instances, the staff was able to update an internal cross-reference before presenting material to the Commission for review and preliminary approval. In other instances, the staff could not do so, because we had not yet drafted a proposed continuation of the cross-referenced provision. In those instances, we put the internal cross-reference in brackets in the draft we presented to the Commission.

Now that more of the preliminary draft is complete, the staff was able to replace some of those bracketed cross-references with updated cross-references. For example, the Comment to proposed Section 7921.700 used to say: “For a special rule governing a request by a district attorney for records of a complaint to, or an investigation conducted by, a state or local agency for licensing purposes, see [Section 6262].” In the attached cumulative draft, that Comment says instead: “For a special rule governing a request by a district attorney for records of a complaint to, or an investigation conducted by, a state or local agency for licensing purposes, see Section 7923.650.”

One provision is unusually complicated and deserves special mention. As tentatively approved by the Commission last year, proposed Section 7920.500 reads:

§ 7920.500. “Former Section 6254 provisions”

7920.500. (a) The following provisions are continuations of provisions that were included in former Section 6254 as that section read when it was repealed by the CPRA Recodification Act of 2019:

- (1) [Section 6254(a)]
- (2) [Section 6254(b)]
- (3) [Section 6254(c)]
- (4) [Section 6254(d)]
- (5) [Section 6254(e)]
- (6) [Section 6254(f)]
- (7) [Section 6254(g)]
- (8) [Section 6254(h)]
- (9) [Section 6254(i)]
- (10) [Section 6254(j)]
- (11) [Section 6254(k)]
- (12) [Section 6254(l)]

- (13) [Section 6254(m)]
- (14) [Section 6254(n)]
- (15) [Section 6254(o)]
- (16) [Section 6254(p)]
- (17) [Section 6254(q)]
- (18) [Section 6254(r)]
- (19) [Section 6254(s)]
- (20) [Section 6254(t)]
- (21) [Section 6254(u)(1)]
- (22) [Section 6254(u)(2)]
- (23) [Section 6254(u)(3)]
- (24) [Section 6254(v)]
- (25) [Section 6254(w)]
- (26) [Section 6254(x)]
- (27) [Section 6254(y)]
- (28) [Section 6254(z)]
- (29) [Section 6254(aa)]
- (30) [Section 6254(ab)]
- (31) [Section 6254(ac)]
- (32) [Section 6254(ad)]
- (33) [Section 6254 2d-to-last ¶]
- (34) [Section 6254 last ¶]

(b) The provisions listed in subdivision (a) may be referred to as “former Section 6254 provisions.”

As the accompanying Comment would explain, this provision would “provid[e] a convenient means of referring to the provisions that comprised former Section 6254.”

In the time since the Commission tentatively approved proposed Section 7920.500, the Commission has tentatively approved continuations of some, but not all, of the bracketed provisions listed in that section. Thus, the staff could conform some of the bracketed provisions to the new numbering scheme, but it is not yet possible to conform all of the bracketed provisions and put the new numbers in proper order.

To minimize the likelihood of making a mistake as the recodification progresses, we took a cautious approach to proposed Section 7920.500 in the attached cumulative draft. As shown below, **we left the bracketed provisions in their original order and added a parallel cite to the new numbering scheme where possible:**

§ 7920.500. “Former Section 6254 provisions”

7920.500. (a) The following provisions are continuations of provisions that were included in former Section 6254 as that section read when it was repealed by the CPRA Recodification Act of 2020:

- (1) [Section 6254(a)]
- (2) [Section 6254(b)]
- (3) [Section 6254(c)]
- (4) [Section 6254(d)]
- (5) [Section 6254(e)]
- (6) [Section 6254(f) = proposed Article 1 (commencing with Section 7923.600) of Chapter 1 of Part 5]
- (7) [Section 6254(g)]
- (8) [Section 6254(h)]
- (9) [Section 6254(i)]
- (10) [Section 6254(j)]
- (11) [Section 6254(k)]
- (12) [Section 6254(l)]
- (13) [Section 6254(m)]
- (14) [Section 6254(n)]
- (15) [Section 6254(o)]
- (16) [Section 6254(p)]
- (17) [Section 6254(q)]
- (18) [Section 6254(r)]
- (19) [Section 6254(s)]
- (20) [Section 6254(t)]
- (21) [Section 6254(u)(1) = proposed Section 7923.800]
- (22) [Section 6254(u)(2)-(3) = proposed Section 7923.805]
- (23) [Section 6254(v)]
- (24) [Section 6254(w)]
- (25) [Section 6254(x)]
- (26) [Section 6254(y)]
- (27) [Section 6254(z)]
- (28) [Section 6254(aa)]
- (29) [Section 6254(ab)]
- (30) [Section 6254(ac)]
- (31) [Section 6254(ad)]
- (32) [Section 6254 2d-to-last ¶ = proposed Section 7921.500]
- (33) [Section 6254 last ¶]

(b) The provisions listed in subdivision (a) may be referred to as “former Section 6254 provisions.”

(c) Subdivision (a) does not include any provision that was first codified in one of the specified numerical ranges after the effective date of the CPRA Recodification Act of 2020.

In addition, **we added a new subdivision (subdivision (c) shown above) to proposed Section 7920.500.** A Note previously presented with proposed Section 7920.500 explained that this would be necessary if the section ultimately referred to a range of code sections:

The provisions on which proposed Section 7920.500 is modeled refer in several places to a range of code sections. For example, Penal Code Section 16585 (“former Section 12078 provisions”) refers to “Sections 27400 to 27415, inclusive.”

There is a possibility that in the future the Legislature will place a completely new provision in that range of code sections. For example, the Legislature might add a Penal Code Section 27400.5, which does not derive from former Penal Code Section 12078.

To ensure that courts do not construe the defined term “former Section 12078 provisions” to include such new provisions, Penal Code Section 16585 is subject to an exception. See Penal Code Section 16585(a), (c). Similar language appears in the other Penal Code sections that served as models in drafting proposed Section 7920.500. See Penal Code Sections 16575(a), (c) & 16580(a), (c).

If proposed Section 7920.500 ultimately refers to a range of code sections, it should be made subject to a similar exception. It is not yet clear whether this will be necessary.⁴

Due to the proposed treatment of Section 6254(f), it now appears likely that proposed Section 7920.500(a)(6) will refer to a range of code sections. Accordingly, the staff added subdivision (c) to proposed Section 7920.500, which is closely modeled on the Penal Code provisions described in the above Note.

Unless someone raises a concern at or before the upcoming meeting, the staff will presume that the above-described revisions of proposed Section 7920.500 are acceptable to the Commission.

OTHER REVISIONS

In addition to the revisions described above, the staff made various other changes — purely technical in nature — in preparing the attached cumulative draft. To give just a few examples, we fixed the citation order in the Comments to proposed Sections 7922.710, 7922.715, and 7922.720, we corrected some errors in the disposition and derivation tables, and we deleted Notes that became unnecessary once we replaced a bracketed cross-reference with a cross-reference to the new numbering scheme.

If other changes should be made in the attached cumulative draft — whether minor or more significant — please notify the Commission. Comments from knowledgeable sources are invaluable in the Commission’s

4. See Memorandum 2018-24, Attachment p. 7 (emphasis added); see also Memorandum 2017-49, Attachment pp. 7-8; Memorandum 2018-10, Attachment p. 7.

study process. **The Commission would much appreciate constructive input on any aspect of its proposed recodification.**

Respectfully submitted,

Barbara Gaal
Chief Deputy Counsel

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DRAFT LEGISLATION

1 **Note.** This is a work in progress. The material shown below may be changed. For the current
2 tentative outline of proposed Division 10 of Title 1 of the Government Code, see CLRC Staff
3 Memorandum 2018-23.

4 A draft of an official Commission “Comment” follows each proposed code section in the
5 proposed recodification. Such Comments will be included in any final recommendation. The
6 Comments indicate the source of each recodified code section (or provision within the code section)
7 and describe how the recodified code section (or provision) compares with prior law. Courts have
8 routinely held that the Commission’s Comments are evidence of legislative intent with regard to
9 any legislation that implements a Commission recommendation.

10 There is a “disposition table” at the end of the proposed recodification. It summarizes, in tabular
11 form, the disposition of every provision of the existing code that has been included in this proposed
12 recodification.

13 There is also a “derivation table” at the end of the proposed recodification. It summarizes, in
14 tabular form, the statutory derivation of every new code provision in this proposed recodification.

15 Some provisions in this draft are followed by a “Note.” Most of the Notes are intended to be
16 temporary and will not be part of the Commission’s final recommendation. In general, the Notes
17 serve to flag issues requiring special attention or treatment.

18 Some provisions in this draft contain a bracketed reference to one or more existing code sections.
19 As new Division 10 is drafted, these references will be conformed to the new numbering scheme.

20 In some places, it is necessary to refer to a section that has not yet been drafted. That is done by
21 referring to “Section 79xx.xxx.” The Commission will fill in these references as it drafts the
22 proposed recodification.

23 All of the proposed provisions would be located in the Government Code. All references are to
24 the Government Code unless otherwise indicated.

25 The Commission welcomes public comment on any issue relating to the content of this draft or
26 any other aspect of its ongoing CPRA Clean-Up study. Comments should be directed to Barbara
27 Gaal (bgaal@clrc.ca.gov).

28 **Gov’t Code §§ 7920.000-79xx.xxx (added). California Public Records Act**

29 SEC. ____ . Division 10 (commencing with Section 7920.000) is added to Title 1
30 of the Government Code, to read:

31 **DIVISION 10. ACCESS TO PUBLIC RECORDS**

32 **PART 1. GENERAL PROVISIONS**

33 **CHAPTER 1. PRELIMINARY PROVISIONS**

34 **Article 1. Short Titles**

35 **§ 7920.000. California Public Records Act**

36 7920.000. This division shall be known and may be cited as the California Public
37 Records Act.

38 **Comment.** Section 7920.000 continues former Section 6251 without substantive change. The
39 California Public Records Act or “CPRA” was formerly codified as Chapter 3.5 (commencing with
40 Section 6250) of Division 7 of this title.

1 For a similar law pertaining to federal agencies, see 5 U.S.C. § 552 (“Freedom of Information
2 Act” or “FOIA”).

3 For a key constitutional provision on “access to information concerning the conduct of the
4 people’s business,” see Cal. Const. art. I, § 3(b).

5 For guidance on access to legislative records, see Gov’t Code §§ 9070-9080 (“Legislative Open
6 Records Act”). For discussion of provisions and doctrines governing access to judicial records, see,
7 e.g., NBC Subsidiary (KNBC-TV), Inc. v. Superior Court, 20 Cal. 4th 1178, 980 P.2d 330, 86 Cal.
8 Rptr. 2d 778 (1999). For a law on access to the records of certain quasi-public entities, see Educ.
9 Code §§ 72690-72701, 89913-89919, 92950-92961 (Richard McKee Transparency Act).

10 For guidance on record retention, see, e.g., Gov’t Code §§ 9080 (legislative records), 12220-
11 12237 (State Archives), 14740-14746 (State Records Storage Act), 26201-26202.6 (county
12 records), 34090-34090.8 (city records), 68150-68152 (trial court records). See also Gov’t Code §§
13 12270-12279 (State Records Management Act).

14 Many other statutes and sources of law govern public records. For instance, the following statutes
15 are located in Division 7 of this title, where the CPRA was formerly codified: Gov’t Code §§ 6200-
16 6203 (crimes relating to public records, documents and certificates), 6204-6204.4 (public records
17 protection and recovery), 6205-6210 (address confidentiality for victims of domestic violence,
18 sexual assault, and stalking), 6215-6216 (address confidentiality for reproductive health care
19 service providers, employees, volunteers, and patients), 6219 (governmental linguistics).

20 **§ 7920.005. CPRA Recodification Act of 2020**

21 7920.005. This division recodifies the provisions of former Chapter 3.5
22 (commencing with Section 6250) of Division 7 of this title. The act that added this
23 division shall be known and may be cited as the “CPRA Recodification Act of
24 2020.”

25 **Comment.** Section 7920.005 provides a convenient means of referring to the recodification of
26 former Sections 6250-6276.48. For background, see *California Public Records Act Clean-Up*, __
27 Cal. L. Revision Comm’n Reports __ (2019).

28 **Note.** In drafting proposed Section 7920.005, the Commission assumed that it will approve a
29 final recommendation in this study in 2019 and seek introduction of implementing legislation in
30 2020. The dates in Section 7920.005 and the accompanying Comment will require adjustment if
31 those assumptions prove incorrect.

32 **Article 2. Effect of Recodification**

33 **§ 7920.100. Nonsubstantive reform**

34 7920.100. Nothing in the CPRA Recodification Act of 2020 is intended to
35 substantively change the law relating to inspection of public records. The act is
36 intended to be entirely nonsubstantive in effect. Every provision of this division and
37 every other provision of this act, including, without limitation, every cross-reference
38 in every provision of the act, shall be interpreted consistent with the nonsubstantive
39 intent of the act.

40 **Comment.** Section 7920.100 is modeled on Penal Code Section 16005. It makes clear that the
41 CPRA Recodification Act of 2020 has no substantive impact. The act is intended solely to make
42 the California Public Records Act more user-friendly. For background, see *California Public
43 Records Act Clean-Up*, __ Cal. L. Revision Comm’n Reports __ (2019).

44 For specific guidance on the impact of a judicial decision interpreting a predecessor of a
45 provision in this division, see Section 7920.110. For specific guidance on the impact of an Attorney

1 General opinion interpreting a predecessor of a provision in this division, see Section 7920.115.
2 For specific guidance on the impact of a judicial decision or Attorney General opinion assessing
3 the constitutionality of a predecessor of a provision in this division, see Section 7920.120.

4 See Sections 7920.005 (“CPRA Recodification Act of 2020”), 7920.525 (“public records”).

5 **§ 7920.105. Continuation of existing law**

6 7920.105. (a) A provision of this division, or any other provision of the CPRA
7 Recodification Act of 2020, insofar as it is substantially the same as a previously
8 existing provision relating to the same subject matter, shall be considered as a
9 restatement and continuation thereof and not as a new enactment.

10 (b) A reference in a statute to a previously existing provision that is restated and
11 continued in this division, or in any other provision of the CPRA Recodification Act
12 of 2020, shall, unless a contrary intent appears, be deemed a reference to the
13 restatement and continuation.

14 (c) A reference in a statute to a provision of this division, or any other provision
15 of the CPRA Recodification Act of 2020, which is substantially the same as a
16 previously existing provision, shall, unless a contrary intent appears, be deemed to
17 include a reference to the previously existing provision.

18 **Comment.** Subdivision (a) of Section 7920.105 is similar to Section 2, which is a standard
19 provision found in many codes. See, e.g., Bus. & Prof. Code § 2; Corp. Code § 2; Fam. Code § 2;
20 Penal Code §§ 5, 16010(a); Prob. Code § 2(a); Veh. Code § 2.

21 Subdivision (b) is drawn from Section 9604 and Penal Code Section 16010(b).

22 Subdivision (c) is drawn from Family Code Section 2 and Penal Code Section 16010(c).

23 See Section 7920.005 (“CPRA Recodification Act of 2020”).

24 **§ 7920.110. Judicial decision interpreting former law**

25 7920.110. (a) A judicial decision interpreting a previously existing provision is
26 relevant in interpreting any provision of this division, or any other provision of the
27 CPRA Recodification Act of 2020, which restates and continues that previously
28 existing provision.

29 (b) However, in enacting the CPRA Recodification Act of 2020, the Legislature
30 has not evaluated the correctness of any judicial decision interpreting a provision
31 affected by the act.

32 (c) The CPRA Recodification Act of 2020 is not intended to, and does not, reflect
33 any assessment of any judicial decision interpreting any provision affected by the
34 act.

35 **Comment.** Section 7920.110 is modeled on Penal Code Section 16020.

36 Subdivision (a) makes clear that case law construing a predecessor provision is relevant in
37 construing its successor in the CPRA Recodification Act of 2020.

38 Subdivisions (b) and (c) make clear that in recodifying former Sections 6250-6276.48, the
39 Legislature has not taken any position on any case interpreting any of those provisions.

40 For specific guidance on the impact of an Attorney General opinion interpreting a predecessor
41 of a provision in this division, see Section 7920.115. For specific guidance on the impact of a
42 judicial decision or Attorney General opinion assessing the constitutionality of a predecessor of a
43 provision in this division, see Section 7920.120. For general guidance on the nonsubstantive impact
44 of the CPRA Recodification Act of 2020, see Section 7920.100.

45 See Section 7920.005 (“CPRA Recodification Act of 2020”).

1 **§ 7920.115. Attorney General opinion interpreting former law**

2 7920.115. (a) An opinion of the Attorney General interpreting a previously
3 existing provision is relevant in interpreting any provision of this division, or any
4 other provision of the CPRA Recodification Act of 2020, which restates and
5 continues that previously existing provision.

6 (b) However, in enacting the CPRA Recodification Act of 2020, the Legislature
7 has not evaluated the correctness of any Attorney General opinion interpreting a
8 provision affected by the act.

9 (c) The CPRA Recodification Act of 2020 is not intended to, and does not, reflect
10 any assessment of any Attorney General opinion interpreting any provision affected
11 by the act.

12 **Comment.** Section 7920.115 is comparable to Section 7920.110, but it pertains to Attorney
13 General opinions rather than judicial decisions.

14 Subdivision (a) makes clear that Attorney General opinions construing a predecessor provision
15 are relevant in construing its successor in the CPRA Recodification Act of 2020.

16 Subdivisions (b) and (c) make clear that in recodifying former Sections 6250-6276.48, the
17 Legislature has not taken any position on any Attorney General opinion interpreting any of those
18 provisions.

19 For specific guidance on the impact of a judicial decision interpreting a predecessor of a
20 provision in this division, see Section 7920.110. For specific guidance on the impact of a judicial
21 decision or Attorney General opinion assessing the constitutionality of a predecessor of a provision
22 in this division, see Section 7920.120. For general guidance on the nonsubstantive impact of the
23 CPRA Recodification Act of 2020, see Section 7920.100.

24 See Section 7920.005 (“CPRA Recodification Act of 2020”).

25 **§ 7920.120. Constitutionality**

26 7920.120. (a) A judicial decision or Attorney General opinion on the
27 constitutionality of a previously existing provision is relevant in determining the
28 constitutionality of any provision of this division, or any other provision of the
29 CPRA Recodification Act of 2020, which restates and continues that previously
30 existing provision.

31 (b) However, in enacting the CPRA Recodification Act of 2020, the Legislature
32 has not evaluated the constitutionality of any provision affected by the act, or the
33 correctness of any judicial decision or Attorney General opinion on the
34 constitutionality of any provision affected by the act.

35 (c) The CPRA Recodification Act of 2020 is not intended to, and does not, reflect
36 any determination of the constitutionality of any provision affected by the act.

37 **Comment.** Section 7920.120 is modeled on Penal Code Section 16025. Due to the prevalence
38 and significant impact of Attorney General opinions on CPRA issues, the section expressly refers
39 to Attorney General opinions as well as judicial decisions.

40 Subdivision (a) makes clear that case law and Attorney General opinions on the constitutionality
41 of a predecessor provision are relevant in determining the constitutionality of its successor in the
42 CPRA Recodification Act of 2020.

43 Subdivisions (b) and (c) make clear that in recodifying former Sections 6250-6276.48, the
44 Legislature has not taken any position on the constitutionality of any of those provisions.

45 For specific guidance on the impact of a judicial decision interpreting a predecessor of a
46 provision in this division, see Section 7920.110. For specific guidance on the impact of an Attorney

1 General opinion interpreting a predecessor of a provision in this division, see Section 7920.115.
2 For general guidance on the nonsubstantive impact of the CPRA Recodification Act of 2020, see
3 Section 7920.100.

4 See Section 7920.005 (“CPRA Recodification Act of 2020”).

5 Article 3. Effect of Division

6 § 7920.200. Effect of division

7 7920.200. The provisions of this division shall not be deemed in any manner to
8 affect the status of judicial records as it existed immediately prior to the effective
9 date of the provision that is continued in this section, nor to affect the rights of
10 litigants, including parties to administrative proceedings, under the laws of
11 discovery of this state, nor to limit or impair any rights of discovery in a criminal
12 case.

13 **Comment.** Section 7920.200 continues former Section 6260 without substantive change.

14 Former Section 6260 was enacted in 1968 (see 1968 Cal. Stat. ch. 1473, § 39) and amended in
15 1976 to insert the phrase “nor to limit or impair any rights of discovery in a criminal case” (see
16 1976 Cal. Stat. ch. 314, § 2). The effective date of the original enactment was January 1, 1969. See
17 Cal. Const. art. IV, § 8(c)(1); Gov’t Code § 9600(a).

18 CHAPTER 2. DEFINITIONS

19 § 7920.300. “Agency”

20 7920.300. As used in Section 7921.505, “agency” includes a member, agent,
21 officer, or employee of the agency acting within the scope of that membership,
22 agency, office, or employment.

23 **Comment.** Section 7920.300 continues the second sentence of former Section 6254.5 without
24 substantive change.

25 § 7920.500. “Former Section 6254 provisions”

26 7920.500. (a) The following provisions are continuations of provisions that were
27 included in former Section 6254 as that section read when it was repealed by the
28 CPRA Recodification Act of 2020:

29 (1) [Section 6254(a)]

30 (2) [Section 6254(b)]

31 (3) [Section 6254(c)]

32 (4) [Section 6254(d)]

33 (5) [Section 6254(e)]

34 (6) [Section 6254(f) = proposed Article 1 (commencing with Section 7923.600)
35 of Chapter 1 of Part 5]

36 (7) [Section 6254(g)]

37 (8) [Section 6254(h)]

38 (9) [Section 6254(i)]

39 (10) [Section 6254(j)]

- 1 (11) [Section 6254(k)]
- 2 (12) [Section 6254(l)]
- 3 (13) [Section 6254(m)]
- 4 (14) [Section 6254(n)]
- 5 (15) [Section 6254(o)]
- 6 (16) [Section 6254(p)]
- 7 (17) [Section 6254(q)]
- 8 (18) [Section 6254(r)]
- 9 (19) [Section 6254(s)]
- 10 (20) [Section 6254(t)]
- 11 (21) [Section 6254(u)(1) = proposed Section 7923.800]
- 12 (22) [Section 6254(u)(2)-(3) = proposed Section 7923.805]
- 13 (23) [Section 6254(v)]
- 14 (24) [Section 6254(w)]
- 15 (25) [Section 6254(x)]
- 16 (26) [Section 6254(y)]
- 17 (27) [Section 6254(z)]
- 18 (28) [Section 6254(aa)]
- 19 (29) [Section 6254(ab)]
- 20 (30) [Section 6254(ac)]
- 21 (31) [Section 6254(ad)]
- 22 (32) [Section 6254 2d-to-last ¶ = proposed Section 7921.500]
- 23 (33) [Section 6254 last ¶]

24 (b) The provisions listed in subdivision (a) may be referred to as “former Section
25 6254 provisions.”

26 (c) Subdivision (a) does not include any provision that was first codified in one of
27 the specified numerical ranges after the effective date of the CPRA Recodification
28 Act of 2020.

29 **Comment.** Section 7920.500 is new. It provides a convenient means of referring to the
30 provisions that comprised former Section 6254.

31 For a disposition table showing where each provision in former Section 6254 was recodified, as
32 well as a derivation table showing the source of each provision in the CPRA Recodification of
33 2020, see *California Public Records Act Clean-Up*, __ Cal. L. Revision Comm’n Reports __
34 (2019).

35 See Section 7920.005 (“CPRA Recodification Act of 2020”).

36 **Note.** Proposed Section 7920.500 is modeled on several provisions in the Deadly Weapons
37 Recodification Act of 2010. See Penal Code §§ 16575 (“Former Article 4 of Chapter 1 provisions”),
38 16580 (“Former Chapter 1 provisions”), 16585 (“Former Section 12078 provisions”). It is included
39 for drafting convenience.

40 The list of bracketed provisions is based on the Commission’s tentative outline, which shows how
41 the Commission plans to divide up the substance of existing Section 6254 (an overly long provision
42 that calls for reorganization). For purposes of preparing this list, the Commission has assumed that
43 the various definitions scattered throughout Section 6254 will remain in proximity to the associated
44 substantive material, instead of being placed in “Chapter 2. Definitions.” The Commission will
45 make adjustments as necessary if that assumption later proves incorrect.

1 § 7920.505. “Local agency”

2 7920.505. As used in this division, “local agency” includes any of the following:

3 (a) A county.

4 (b) A city, whether general law or chartered.

5 (c) A city and county.

6 (d) A school district.

7 (e) A municipal corporation.

8 (f) A district.

9 (g) A political subdivision.

10 (h) Any board, commission, or agency of the foregoing.

11 (i) Another local public agency.

12 (j) An entity that is a legislative body of a local agency pursuant to subdivision
13 (c) or (d) of Section 54952.

14 **Comment.** Section 7920.505 continues former Section 6252(a) without substantive change.

15 In subdivision (j), the erroneous reference to “subdivisions (c) *and* (d) of Section 54952 that
16 appeared in former Section 6252(a) has been replaced with a reference to “subdivision (c) *or* (d) of
17 Section 54952.” (Emphasis added.) This is a technical correction.

18 See Section 7920.520 (“public agency”).

19 **Note.** Existing Section 6252(a) includes as a local agency an entity that is a legislative body of
20 a local agency pursuant to “subdivisions (c) *and* (d) of Section 54952.” (Emphasis added).

21 Those subdivisions provide:

22 54952. As used in this chapter, “legislative body” means:

23

24 (c)(1) A board, commission, committee, or other multimember body that governs a
25 private corporation, limited liability company, or other entity that either:

26 (A) Is created by the elected legislative body in order to exercise authority that may
27 lawfully be delegated by the elected governing body to a private corporation, limited liability
28 company, or other entity.

29 (B) Receives funds from a local agency and the membership of whose governing body
30 includes a member of the legislative body of the local agency appointed to that governing
31 body as a full voting member by the legislative body of the local agency.

32 (2) Notwithstanding subparagraph (B) of paragraph (1), no board, commission,
33 committee, or other multimember body that governs a private corporation, limited liability
34 company, or other entity that receives funds from a local agency and, as of February 9, 1996,
35 has a member of the legislative body of the local agency as a full voting member of the
36 governing body of that private corporation, limited liability company, or other entity shall be
37 relieved from the public meeting requirements of this chapter by virtue of a change in status
38 of the full voting member to a nonvoting member.

39 (d) The lessee of any hospital the whole or part of which is first leased pursuant to
40 subdivision (p) of Section 32121 of the Health and Safety Code after January 1, 1994, where
41 the lessee exercises any material authority of a legislative body of a local agency delegated
42 to it by that legislative body whether the lessee is organized and operated by the local agency
43 or by a delegated authority.

44 Given the content of these provisions, it seems improbable that the Legislature intended to
45 require an entity to satisfy the requirements of *both* subdivisions to qualify as a “local agency”
46 under Section 6252(a). Proposed Section 7920.505(j) would continue this cross-reference as
47 “subdivisions (c) *or* (d) of Section 54952.” (Emphasis added.)

1 **The Commission welcomes input on any aspect of its proposed recodification, but would**
2 **especially appreciate public comment on this revision.**

3 **§ 7920.510. “Member of the public”**

4 7920.510. As used in this division, “member of the public” means any person
5 other than a member, agent, officer, or employee of a federal, state, or local agency
6 who is acting within the scope of that membership, agency, office, or employment.

7 **Comment.** Section 7920.510 continues former Section 6252(b) without substantive change.
8 See Sections 7920.505 (“local agency”), 7920.515 (“person”).

9 **§ 7920.515. “Person”**

10 7920.515. As used in this division, “person” includes any natural person,
11 corporation, partnership, limited liability company, firm, or association.

12 **Comment.** Section 7920.515 continues former Section 6252(c) without substantive change.

13 **§ 7920.520. “Public agency”**

14 7920.520. (a) As used in this division, “public agency” means any state or local
15 agency.

16 (b) As used in [Section 6254.18], “public agency” means an entity specified in
17 [Section 6254.18(b)(3)].

18 **Comment.** Subdivision (a) of Section 7920.520 continues former Section 6252(d) without
19 substantive change.

20 Subdivision (b) is new. It is intended to help persons locate the special definition of “public
21 agency” that applies to [Section 6254.18].

22 See Sections 7920.505 (“local agency”), 7020.535 (“state agency”).

23 **Note.** Existing Section 6252(d) defines “public agency” for purposes of the entire CPRA. In
24 addition, existing Section 6254.18 contains the following special definition of “public agency”:

25 6254.18....

26 (b) For purposes of this section, the following terms have the following meanings:

27

28 (3) “Public agency” means all of the following:

29 (A) The State Department of Health Care Services.

30 (B) The Department of Consumer Affairs.

31 (C) The Department of Managed Health Care.

32 (D) The State Department of Public Health.

33 Most likely, this special definition of “public agency” should remain in close proximity to the
34 substantive material to which it applies (i.e., the substance of existing Section 6254.18). The
35 Commission acted on that assumption in drafting proposed Section 7920.520(b), which is a
36 “signpost provision,” designed to alert readers to the special definition of “public agency” and help
37 them find it.

38 Later in this study, the Commission will prepare a draft of one or more provisions that would
39 continue the substance of existing Section 6254.18. At that time, it will revisit Section 6254.18’s
40 special definition of “public agency” and fully evaluate where to place that definition: In close
41 proximity to the substantive material to which it applies, or in the chapter entitled “Definitions.”

1 § 7920.525. “Public records”

2 7920.525. (a) As used in this division, “public records” includes any writing
3 containing information relating to the conduct of the public’s business prepared,
4 owned, used, or retained by any state or local agency regardless of physical form or
5 characteristics.

6 (b) “Public records” in the custody of, or maintained by, the Governor’s office
7 means any writing prepared on or after January 6, 1975.

8 **Comment.** Section 7920.525 continues former Section 6252(e) without substantive change.
9 See Sections 7920.505 (“local agency”), 7920.535 (“state agency”), 7920.540 (“writing”).

10 § 7920.530. “Public safety official”

11 7920.530. As used in this division, “public safety official” means the following
12 parties, whether active or retired:

13 (a) A peace officer as defined in Sections 830 to 830.65, inclusive, of the Penal
14 Code, or a person who is not a peace officer, but may exercise the powers of arrest
15 during the course and within the scope of the person’s employment pursuant to
16 Section 830.7 of the Penal Code.

17 (b) A public officer or other person listed in Section 1808.2 or 1808.6 of the
18 Vehicle Code.

19 (c) An “elected or appointed official” as defined in [subdivision (f) of Section
20 6254.21].

21 (d) An attorney employed by the Department of Justice, the State Public Defender,
22 or a county office of the district attorney or public defender, the United States
23 Attorney, or the Federal Public Defender.

24 (e) A city attorney and an attorney who represent cities in criminal matters.

25 (f) An employee of the Department of Corrections and Rehabilitation who
26 supervises inmates or is required to have care or custody of a prisoner.

27 (g) A sworn or nonsworn employee who supervises inmates in a city police
28 department, a county sheriff’s office, the Department of the California Highway
29 Patrol, federal, state, or a local detention facility, or a local juvenile hall, camp,
30 ranch, or home, and a probation officer as defined in Section 830.5 of the Penal
31 Code.

32 (h) A federal prosecutor, a federal criminal investigator, and a National Park
33 Service Ranger working in California.

34 (i) The surviving spouse or child of a peace officer defined in Section 830 of the
35 Penal Code, if the peace officer died in the line of duty.

36 (j) State and federal judges and court commissioners.

37 (k) An employee of the Attorney General, a district attorney, or a public defender
38 who submits verification from the Attorney General, district attorney, or public
39 defender that the employee represents the Attorney General, district attorney, or
40 public defender in matters that routinely place that employee in personal contact
41 with persons under investigation for, charged with, or convicted of, committing
42 criminal acts.

1 (l) A nonsworn employee of the Department of Justice or a police department or
2 sheriff's office that, in the course of employment, is responsible for collecting,
3 documenting, and preserving physical evidence at crime scenes, testifying in court
4 as an expert witness, and other technical duties, and a nonsworn employee that, in
5 the course of employment, performs a variety of standardized and advanced
6 laboratory procedures in the examination of physical crime evidence, determines
7 their results, and provides expert testimony in court.

8 **Comment.** Section 7920.530 continues former Section 6254.24 without substantive change.

9 In subdivision (b), the erroneous reference to "Sections 1808.2 and 1808.6 of the Vehicle Code"
10 that appeared in former Section 6254.24(b) has been replaced with a reference to "Section 1808.2
11 or 1808.6 of the Vehicle Code." (Emphasis added.) This is a technical correction.

12 In subdivision (g), the erroneous phrase "and a local juvenile hall, camp, ranch, or home" that
13 appeared in former Section 6254.24(g) has been replaced with the phrase "or a local juvenile hall,
14 camp, ranch, or home." (Emphasis added.) This is a technical correction.

15 See Section 7920.515 ("person").

16 **Notes.** (1) Existing Section 6254.24(b) includes as a public safety official a public officer or
17 other person listed in "Sections 1808.2 and 1808.6 of the Vehicle Code." (Emphasis added).

18 The cross-referenced Vehicle Code sections provide:

19 1808.2. In addition to those specified in Section 1808.4, the home address of any
20 inspector or investigator regularly employed and paid as such in the office of a district
21 attorney or any peace officer employee of the Board of Prison Terms appearing in any record
22 of the department is confidential.

23 1808.6. (a) In addition to those specified in Section 1808.4, the home address of any of
24 the following persons, that appears in any record of the department, is confidential, if the
25 person requests the confidentiality of that information:

26 (1) The chairperson, executive officer, commissioners, and deputy commissioners of the
27 Board of Prison Terms.

28 (2) The chairperson, members, executive director, and hearing representatives of the
29 Youthful Offender Parole Board.

30 (3) The spouse or children of persons listed in this section, regardless of the spouse's or
31 child's place of residence.

32 (b) The confidential home address of any of the persons listed in subdivision (a) shall not
33 be disclosed to any person, except a court, a law enforcement agency, the State Board of
34 Equalization, or any governmental agency to which, under any provision of law, information
35 is required to be furnished from records maintained by the department.

36 (c) Any record of the department containing a confidential home address shall be open
37 to public inspection, as provided in Section 1808, if the address is completely obliterated or
38 otherwise removed from the record. The home address shall be withheld from public
39 inspection for three years following termination of office or employment, except with respect
40 to retired peace officers, whose home addresses shall be withheld from public inspection
41 permanently upon request of confidentiality at the time the information would otherwise be
42 opened. The department shall inform any person who requests a confidential home address
43 of the name of the agency that employs the individual whose address was requested.

44 Given the content of these provisions, it seems improbable that the Legislature intended to
45 require a person to be listed in *both* of the Vehicle Code provisions to qualify as a "public safety
46 official" within the meaning of Section 6254.24. In all likelihood, the cross-reference to "Sections
47 1808.2 and 1808.6 of the Vehicle Code" should be replaced by a reference to "Section 1808.2 or
48 1808.6 of the Vehicle Code." Proposed Section 7920.530(b) would take that approach.

49 **The Commission welcomes input on any aspect of its proposed recodification, but would**

especially appreciate public comment on this revision.

(2) Existing Section 6254.24(g) includes as a public safety official an employee “who supervises inmates in a city police department, a county sheriff’s office, the Department of the California Highway Patrol, federal, state, or a local detention facility, *and* a local juvenile hall, camp, ranch, or home....” (Emphasis added).

It seems improbable that the Legislature intended this provision to include as a “public safety official” only an employee who supervises inmates in one of the enumerated facilities for adults *and* in one of the enumerated facilities for juveniles. Proposed Section 7920.530(g) would refer instead to an employee “who supervises inmates in a city police department, a county sheriff’s office, the Department of the California Highway Patrol, federal, state, or a local detention facility, *or* a local juvenile hall, camp, ranch, or home....” (Emphasis added).

The Commission welcomes input on any aspect of its proposed recodification, but would especially appreciate public comment on this revision.

(3) Existing Section 6254.24(g) also includes as a public safety official “a probation officer as defined in Section 830.5 of the Penal Code.” Although Penal Code Section 830.5 refers generically to a “probation officer,” the section does not define nor in any way clarify the meaning of the term. The term is also used in many other code sections without any definition. For further discussion of this point, see CLRC Staff Memorandum 2017-50, pp. 8-10.

The Commission welcomes input on any aspect of its proposed recodification, but would especially appreciate public comment on whether the phrase “as defined in Section 830.5 of the Penal Code” should be retained in proposed Section 7920.530(g).

§ 7920.535. “State agency”

7920.535. (a) As used in this division, “state agency” means every state office, officer, department, division, bureau, board, and commission or other state body or agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.

(b) Notwithstanding subdivision (a) or any other law, “state agency” also means the State Bar of California, as described in Section 6001 of the Business and Professions Code.

Comment. Section 7920.535 continues former Section 6252(f) without substantive change.

Note. Existing Section 6252(f) refers to “the State Bar of California, as described in Section 6001 of the Business and Professions Code.” Proposed Section 7920.535(b) would include the same phrase, but legislation to restructure the State Bar was recently enacted. See 2017 Cal. Stat. ch. 422 (SB 36 (Jackson)). Because this is a strictly nonsubstantive study on an unrelated topic, the Commission has not assessed whether the substance of Section 6252(f) requires revisions to reflect the restructuring of the State Bar. If legislation to make such revisions is introduced, it could be coordinated with the Commission’s proposal as needed to make sure that nothing is chaptered out. See Gov’t Code § 9605.

§ 7920.540. “Writing”

7920.540. As used in this division, “writing” means 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 combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.

1 **Comment.** Section 7920.540 continues former Section 6252(g) without substantive change.

2 PART 2. DISCLOSURE AND EXEMPTIONS
3 GENERALLY

4 CHAPTER 1. RIGHT OF ACCESS TO PUBLIC RECORDS

5 **§ 7921.000. Legislative findings and declarations**

6 7921.000. In enacting this division, the Legislature, mindful of the right of
7 individuals to privacy, finds and declares that access to information concerning the
8 conduct of the people’s business is a fundamental and necessary right of every
9 person in this state.

10 **Comment.** Section 7921.000 continues former Section 6250 without substantive change.
11 See Section 7920.515 (“person”).

12 **§ 7921.005. Control of disclosure of information by another party**

13 7921.005. A state or local agency may not allow another party to control the
14 disclosure of information that is otherwise subject to disclosure pursuant to this
15 division.

16 **Comment.** Section 7921.005 continues former Section 6253.3 without substantive change.
17 See Sections 7920.505 (“local agency”), 7920.535 (“state agency”).

18 **§ 7921.010. Providing public record to private entity**

19 7921.010. (a) Notwithstanding any other provision of law, no state or local agency
20 shall sell, exchange, furnish, or otherwise provide a public record subject to
21 disclosure pursuant to this division to a private entity in a manner that prevents a
22 state or local agency from providing the record directly pursuant to this division.

23 (b) Nothing in this section requires a state or local agency to use the State Printer
24 to print public records.

25 (c) Nothing in this section prevents the destruction of a public record pursuant to
26 law.

27 (d) This section shall not apply to contracts entered into prior to January 1, 1996,
28 between the County of Santa Clara and a private entity, for the provision of public
29 records subject to disclosure under this division.

30 **Comment.** Section 7921.010 continues former Section 6270 without substantive change.
31 See Sections 7920.505 (“local agency”), 7920.525 (“public records”), 7920.535 (“state agency”).

CHAPTER 2. GENERAL RULES GOVERNING DISCLOSURE

Article 1. Nondiscrimination

§ 7921.300. Prohibition on limitation of access based on purpose of request

7921.300. This division does not allow limitations on access to a public record based upon the purpose for which the record is being requested, if the record is otherwise subject to disclosure.

Comment. Section 7921.300 continues former Section 6257.5 without substantive change. See Section 7920.525 (“public records”).

§ 7921.305. Access by elected member or officer of agency

7921.305. (a) Notwithstanding the definition of “member of the public” in Section 7920.510, an elected member or officer of any state or local agency is entitled to access to public records of that agency on the same basis as any other person. Nothing in this section shall limit the ability of elected members or officers to access public records permitted by law in the administration of their duties.

(b) This section does not constitute a change in, but is declaratory of, existing law.

Comment. Section 7921.305 continues former Section 6252.5 without substantive change.

See Sections 7920.505 (“local agency”), 7920.515 (“person”), 7920.525 (“public records”), 7920.535 (“state agency”).

§ 7921.310. Nondiscrimination by local agency in disclosure to members of local legislative body

7921.310. Notwithstanding Section 7921.305 or any other provision of law, when the members of a legislative body of a local agency are authorized to access a writing of the body or of the agency as permitted by law in the administration of their duties, the local agency, as defined in Section 54951, shall not discriminate between or among any of those members as to which writing or portion thereof is made available or when it is made available.

Comment. Section 7921.310 continues former Section 6252.7 without substantive change.

See Section 7920.540 (“writing”). See also Section 7920.505 (“local agency”); but see Section 54951 (“local agency”).

Note. The Commission identified what appears to be a minor clean-up issue relating to existing Section 6252.7. See the attached list of “Minor Clean-Up Issues for Possible Future Legislative Attention.” Because this is a strictly nonsubstantive study, the Commission did not attempt to address that issue in drafting proposed Section 7921.310.

Article 2. Voluntary Disclosure

§ 7921.500. Voluntary disclosure by agency

7921.500. Unless disclosure is otherwise prohibited by law, the provisions listed in Section 7920.500 do not prevent any agency from opening its records concerning the administration of the agency to public inspection.

1 **Comment.** Section 7921.500 continues the next-to-last paragraph of former Section 6254
2 without substantive change.

3 See Section 7920.500 (“former Section 6254 provisions”).

4 **§ 7921.505. Waiver of exemption based on disclosure**

5 7921.505. (a) Notwithstanding any other law, if a state or local agency discloses
6 to a member of the public a public record that is otherwise exempt from this division,
7 this disclosure constitutes a waiver of the exemptions specified in:

8 (1) The provisions listed in Section 7920.500.

9 (2) [Section 6254.7].

10 (3) Other similar provisions of law.

11 (b) This section, however, does not apply to any of the following disclosures:

12 (1) A disclosure made pursuant to the Information Practices Act (Chapter 1
13 commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil
14 Code) or a discovery proceeding.

15 (2) A disclosure made through other legal proceedings or as otherwise required
16 by law.

17 (3) A disclosure within the scope of disclosure of a statute that limits disclosure
18 of specified writings to certain purposes.

19 (4) A disclosure not required by law, and prohibited by formal action of an elected
20 legislative body of the local agency that retains the writing.

21 (5) A disclosure made to a governmental agency that agrees to treat the disclosed
22 material as confidential. Only persons authorized in writing by the person in charge
23 of the agency shall be permitted to obtain the information. Any information obtained
24 by the agency shall only be used for purposes that are consistent with existing law.

25 (6) A disclosure of records relating to a financial institution or an affiliate thereof,
26 if the disclosure is made to the financial institution or affiliate by a state agency
27 responsible for regulation or supervision of the financial institution or affiliate.

28 (7) A disclosure of records relating to a person who is subject to the jurisdiction
29 of the Department of Business Oversight, if the disclosure is made to the person
30 who is the subject of the records for the purpose of corrective action by that person,
31 or, if a corporation, to an officer, director, or other key personnel of the corporation
32 for the purpose of corrective action, or to any other person to the extent necessary
33 to obtain information from that person for the purpose of an investigation by the
34 Department of Business Oversight.

35 (8) A disclosure made by the Commissioner of Business Oversight under Section
36 450, 452, 8009, or 18396 of the Financial Code.

37 (9) A disclosure of records relating to a person who is subject to the jurisdiction
38 of the Department of Managed Health Care, if the disclosure is made to the person
39 who is the subject of the records for the purpose of corrective action by that person,
40 or, if a corporation, to an officer, director, or other key personnel of the corporation
41 for the purpose of corrective action, or to any other person to the extent necessary

1 to obtain information from that person for the purpose of an investigation by the
2 Department of Managed Health Care.

3 **Comment.** Subdivision (a) of Section 7921.505 continues the first sentence of former Section
4 6254.5 without substantive change.

5 Subdivision (b) continues former Section 6254.5(a)-(i) without substantive change.

6 See Sections 7920.300 (“agency”), 7920.505 (“local agency”), 7920.510 (“member of the
7 public”), 7920.515 (“person”), 7920.525 (“public records”), 7920.535 (“state agency”), 7920.540
8 (“writing”).

9 **Note.** The Commission identified what appear to be some minor clean-up issues relating to
10 existing Section 6254.5. See the attached list of “Minor Clean-Up Issues for Possible Future
11 Legislative Attention.” Because this is a strictly nonsubstantive study, the Commission did not
12 attempt to address those issues in drafting proposed Section 7921.505.

13 Article 3. Disclosure to District Attorney and Related Matters

14 § 7921.700. Inspection or copying of public record by district attorney

15 7921.700. A state or local agency shall allow an inspection or copying of any
16 public record or class of public records not exempted by this division when
17 requested by a district attorney.

18 **Comment.** Section 7921.700 continues former Section 6263 without substantive change.

19 For guidance on enforcement of a district attorney’s right to inspect or copy public records, see
20 Section 7921.705. For a special rule governing a request by a district attorney for records of a
21 complaint to, or an investigation conducted by, a state or local agency for licensing purposes, see
22 Section 7923.650.

23 See Sections 7920.505 (“local agency”), 7920.525 (“public records”), 7920.535 (“state agency”).

24 **Note.** Subject to various limitations, Section 6254(f) creates a CPRA exemption for:

25 Records of complaints to, or investigations conducted by, or records of intelligence
26 information or security procedures of, the office of the Attorney General and the Department
27 of Justice, the Office of Emergency Services and any state or local police agency, or any
28 investigatory or security files compiled by any other state or local police agency, or any
29 investigatory or security files compiled by any other state or local agency for correctional,
30 law enforcement, or licensing purposes.

31 That exemption (commonly known as the “law enforcement exemption”) is subject to an
32 exception pertaining to a request by a district attorney. Section 6262 provides:

33 6262. The exemption of records of complaints to, or investigations conducted by, any
34 state or local agency for licensing purposes under subdivision (f) of Section 6254 shall not
35 apply when a request for inspection of such records is made by a district attorney.

36 The Commission considered the possibility of recodifying that exception in “Article 3.
37 Disclosure to District Attorney and Related Matters.” It seemed more helpful, however, to place
38 the exception in close proximity to the CPRA exemption to which it pertains — i.e., in close
39 proximity to the provision(s) that would continue the substance of Section 6254(f). That is the
40 approach taken in this draft and in the Commission’s tentative outline. See proposed Section
41 7923.650; Memorandum 2018-23, Attachment p. 6.

42 Because the exception specifically applies to a district attorney, however, the Comment to
43 proposed Section 7921.700 would refer to it. That should help alert readers to the existence of the
44 exception.

45 **Comments on this approach would be helpful.**

1 **§ 7921.705. Enforcement of district attorney’s right to inspect or copy**

2 7921.705. (a) If a district attorney makes a request to a state or local agency to
3 inspect or receive a copy of a public record or class of public records not exempted
4 by this division, and the state or local agency fails or refuses to allow inspection or
5 copying within 10 working days of that request, the district attorney may petition a
6 court of competent jurisdiction to require the state or local agency to allow the
7 requested inspection or copying.

8 (b) Unless the public interest or good cause in withholding the requested records
9 clearly outweighs the public interest in disclosure, the court may require the public
10 agency to allow the district attorney to inspect or copy those records.

11 **Comment.** Section 7921.705 continues former Section 6264 without substantive change.
12 See Sections 7920.505 (“local agency”), 7920.525 (“public records”), 7920.535 (“state agency”).

13 **§ 7921.710. Effect of disclosure to district attorney**

14 7921.710. Disclosure of records to a district attorney under the provisions of this
15 division shall effect no change in the status of the records under any other provision
16 of law.

17 **Comment.** Section 7921.710 continues former Section 6265 without substantive change.

18 CHAPTER 3. GENERAL RULES GOVERNING EXEMPTIONS FROM DISCLOSURE

19 Article 1. Justification for Withholding of Record

20 **§ 7922.000. Justification for withholding of record**

21 7922.000. An agency shall justify withholding any record by demonstrating that
22 the record in question is exempt under express provisions of this division, or that on
23 the facts of the particular case the public interest served by not disclosing the record
24 clearly outweighs the public interest served by disclosure of the record.

25 **Comment.** Section 7922.000 continues former Section 6255(a) without substantive change.

26 Article 2. Truncation of Social Security Numbers and Related Matters

27 **§ 7922.200. Redaction of SSN by local agency**

28 7922.200. (a) It is the intent of the Legislature that, in order to protect against the
29 risk of identity theft, a local agency shall redact social security numbers from a
30 record before disclosing the record to the public pursuant to this division.

31 (b) Nothing in this division shall be construed to require a local agency to disclose
32 a social security number.

33 (c) This section does not apply to a record maintained by a county recorder.

34 **Comment.** Section 7922.200 continues former Section 6254.29 without substantive change.
35 See Section 7920.505 (“local agency”).

1 § 7922.205. Truncation of SSN by county recorder

2 7922.205. Nothing in this division shall be construed to require the disclosure by
3 a county recorder of any “official record,” if a “public record” version of that record
4 is available pursuant to Article 3.5 (commencing with Section 27300) of Chapter 6
5 of Part 3 of Division 2 of Title 3.

6 **Comment.** Section 7922.205 continues former Section 6254.27 without substantive change.

7 § 7922.210. Truncation of SSN with regard to secured transaction

8 7922.210. Nothing in this division shall be construed to require the disclosure by
9 a filing office of any “official filing,” if a “public filing” version of that record is
10 available pursuant to Section 9526.5 of the Commercial Code.

11 **Comment.** Section 7922.210 continues former Section 6254.28 without substantive change.

12 The erroneous references to an “official record” and a “public record” in former Section 6254.28
13 have been replaced with references to an “official filing” and a “public filing,” respectively, to
14 conform to the terminology used in Commercial Code Section 9526.5. This is a technical
15 correction.

16 **Note.** The provision cross-referenced in Section 6254.28 does not refer to either an “official
17 record” or a “public record,” despite the inference to the contrary in Section 6254.28. Instead,
18 Commercial Code Section 9526.5 refers to and defines an “official filing” and a “public filing”:

19
20 9526.5. (a) For purposes of this section, the following terms have the following
21 meanings:

22 (1) “Official filing” means the permanent archival filing of all instruments, papers,
23 records, and attachments as accepted for filing by a filing office.

24 (2) “Public filing” means a filing that is an exact copy of an official filing except that any
25 social security number contained in the copied filing is truncated. The public filing shall have
26 the same legal force and effect as the official filing. ...

27 This slight disconnect in terminology probably stems from Section 6254.27 (proposed Section
28 7922.205), which concerns disclosure of a record in the possession of a county recorder. The article
29 cross-referenced in that adjacent, very similar section *does* refer to both an “official record” and a
30 “public record.”

31 Proposed Section 7922.210 would make nonsubstantive revisions to Section 6254.28 to conform
32 to the terminology used in the cross-referenced code section, by (1) replacing the term “official
33 record” with “official filing” and (2) replacing the term “public record” with “public filing.”

34 **The Commission welcomes input on any aspect of its proposed recodification, but would**
35 **especially appreciate public comment on this revision.**

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PART 3. PROCEDURES

CHAPTER 1. REQUEST FOR A PUBLIC RECORD

Article 1. General Principles

§ 7922.500. No delay or obstruction

7922.500. Nothing in this division shall be construed to permit an agency to delay or obstruct the inspection or copying of public records.

Comment. Section 7922.500 continues the first sentence of former Section 6253(d) without substantive change.

See Section 7920.525 (“public records”).

§ 7922.505. Option to adopt requirements that allow faster, more efficient, or greater access than minimum standards

7922.505. Except as otherwise prohibited by law, a state or local agency may adopt requirements for itself that allow for faster, more efficient, or greater access to records than prescribed by the minimum standards set forth in this division.

Comment. Section 7922.505 continues former Section 6253(e) without substantive change.

See Sections 7920.505 (“local agency”), 7920.535 (“state agency”).

Article 2. Procedural Requirements Generally

§ 7922.525. Inspection of public record

7922.525. (a) Public records are open to inspection at all times during the office hours of a state or local agency and every person has a right to inspect any public record, except as otherwise provided.

(b) Any reasonably segregable portion of a record shall be available for inspection by any person requesting the record after deletion of the portions that are exempted by law.

Comment. Subdivision (a) of Section 7922.525 continues the first sentence of former Section 6253(a) without substantive change.

Subdivision (b) continues the second sentence of former Section 6253(a) without change.

For an agency’s duty to assist a person in making a focused and effective record request, see Section 7922.600. For guidance on obtaining a copy of a public record, see Section 7922.530.

See also Sections 7921.000-7922.210 (disclosure and exemptions generally), 7922.535 (time to respond), 7922.540 (denial of request), 7922.545 (posting of public record on agency’s Internet Web site), 7922.570 (disclosure of information in electronic format), 7922.640 (limitations on guidelines & regulations).

See Sections 7920.505 (“local agency”), 7920.515 (“person”), 7920.525 (“public records”), 7920.535 (“state agency”).

§ 7922.530. Copy of public record

7922.530. Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of

1 records that reasonably describes an identifiable record or records, shall make the
2 records promptly available to any person upon payment of fees covering direct costs
3 of duplication, or a statutory fee if applicable. Upon request, an exact copy shall be
4 provided unless impracticable to do so.

5 **Comment.** Section 7922.530 continues former Section 6253(b) without change.

6 For an agency's duty to assist a person in making a focused and effective record request, see
7 Section 7922.600. For guidance on inspection of a public record, see Section 7922.525.

8 See also Sections 7921.000-7922.210 (disclosure and exemptions generally), 7922.535 (time to
9 respond), 7922.540 (denial of request), 7922.545 (posting of public record on agency's Internet
10 Web site), 7922.570 (disclosure of information in electronic format), 7922.640 (limitations on
11 guidelines & regulations).

12 See Sections 7920.505 ("local agency"), 7920.515 ("person"), 7920.525 ("public records"),
13 7920.535 ("state agency").

14 **§ 7922.535. Time to respond**

15 7922.535. (a) Each agency, upon a request for a copy of records, shall, within 10
16 days from receipt of the request, determine whether the request, in whole or in part,
17 seeks copies of disclosable public records in the possession of the agency and shall
18 promptly notify the person making the request of the determination and the reasons
19 therefor. If the agency determines that the request seeks disclosable public records,
20 the agency shall also state the estimated date and time when the records will be made
21 available.

22 (b) In unusual circumstances, the time limit prescribed in this article and Article
23 1 (commencing with Section 7922.500) may be extended by written notice from the
24 head of the agency or a designee to the person making the request, setting forth the
25 reasons for the extension and the date on which a determination is expected to be
26 dispatched. No notice shall specify a date that would result in an extension for more
27 than 14 days.

28 (c) As used in this section, "unusual circumstances" means the following, but only
29 to the extent reasonably necessary to the proper processing of the particular request:

30 (1) The need to search for and collect the requested records from field facilities or
31 other establishments that are separate from the office processing the request.

32 (2) The need to search for, collect, and appropriately examine a voluminous
33 amount of separate and distinct records that are demanded in a single request.

34 (3) The need for consultation, which shall be conducted with all practicable speed,
35 with another agency having substantial interest in the determination of the request
36 or among two or more components of the agency having substantial subject matter
37 interest therein.

38 (4) The need to compile data, to write programming language or a computer
39 program, or to construct a computer report to extract data.

40 **Comment.** Subdivision (a) of Section 7922.535 continues the first and fourth sentences of
41 former Section 6253(c) without substantive change.

42 Subdivision (b) continues the second and third sentences of former Section 6253(c) without
43 substantive change.

44 Subdivision (c) continues the fifth sentence of former Section 6253(c) without change.

1 For further guidance on the timing of an agency’s response to a record request, see Section
2 7922.500 (no delay or obstruction).

3 See Sections 7920.515 (“person”), 7920.525 (“public records”).

4 **§ 7922.540. Denial of request**

5 7922.540. (a) A response to a written request for inspection or copies of public
6 records that includes a determination that the request is denied, in whole or in part,
7 shall be in writing.

8 (b) The notification of denial shall set forth the names and titles or positions of
9 each person responsible for the denial.

10 (c) An agency shall justify withholding any record by complying with Section
11 7922.000.

12 **Comment.** Subdivision (a) of Section 7922.540 continues former Section 6255(b) without
13 change.

14 Subdivision (b) continues the second sentence of former Section 6253(d) without substantive
15 change.

16 Subdivision (c) is new. It is a nonsubstantive signpost provision, included simply to alert readers
17 to the requirements of Section 7922.000 (justification for withholding of record).

18 For further guidance on denial of a record request, see Sections 7921.000-7922.210 (disclosure
19 & exemptions generally), 79xx.xxx-79xx.xxx (specific types of public records), 79xx.xxx-
20 79xx.xxx (other exemptions from disclosure).

21 See Sections 7920.515 (“person”), 7920.540 (“writing”).

22 **§ 7922.545. Posting public record on agency’s Internet Web site**

23 7922.545. (a) In addition to maintaining public records for public inspection
24 during its office hours, a public agency may comply with Section 7922.525 by
25 posting any public record on its Internet Web site and, in response to a request for a
26 public record posted on the Internet Web site, directing a member of the public to
27 the location on the Internet Web site where the public record is posted.

28 (b) However, if after the public agency directs a member of the public to the
29 Internet Web site, the member of the public requesting the public record requests a
30 copy of the public record due to an inability to access or reproduce the public record
31 from the Internet Web site, the public agency shall promptly provide a copy of the
32 public record pursuant to Section 7922.530.

33 **Comment.** Subdivision (a) of Section 7922.545 continues the first sentence of former Section
34 6253(f) without substantive change.

35 Subdivision (b) continues the second sentence of former Section 6253(f) without substantive
36 change.

37 For further guidance on agency websites, see Sections 7922.680 (formatting of record that local
38 agency posts on Internet Resource), 7922.715 (posting catalog of enterprise systems on local
39 agency’s website). See also Section 7922.570 (disclosure of information in electronic format).

40 See Sections 7920.510 (“member of the public”), 7920.520 (“public agency”), 7920.525 (“public
41 records”).

Article 3. Information in Electronic Format

§ 7922.570. Disclosure of information in electronic format

7922.570. (a) Unless otherwise prohibited by law, any agency that has information that constitutes an identifiable public record not exempt from disclosure pursuant to this division that is in an electronic format shall make that information available in an electronic format when requested by any person.

(b) When applicable, the agency shall do the following:

(1) The agency shall make the information available in any electronic format in which it holds the information.

(2) The agency shall provide a copy of an electronic record in the format requested if the requested format is one that the agency has used to create copies for its own use or for provision to other agencies.

(c) If a request is for information in other than electronic format, and the information also is in electronic format, an agency may inform the requester that the information is available in electronic format.

Comment. Subdivision (a) of Section 7922.570 continues the first part of the introductory clause of former Section 6253.9 without substantive change.

Subdivision (b) continues paragraph (a)(1), the first sentence of paragraph (a)(2), and the second part of the introductory clause of former Section 6253.9 without substantive change.

Subdivision (c) continues former Section 6253.9(d) without substantive change.

For guidance on the cost of duplicating an electronic record, see Section 7922.575. For limitations on the application of this article, see Section 7922.580.

For guidance regarding agency websites, see Sections 7922.545 (posting public record on agency's Internet Web site), 7922.680 (formatting of record that local agency posts on Internet Resource).

See Sections 7920.515 ("person"), 7920.525 ("public records").

§ 7922.575. Cost of duplication

7922.575. (a) The cost of duplication of an electronic record pursuant to paragraph (2) of subdivision (b) of Section 7922.570 shall be limited to the direct cost of producing a copy of a record in an electronic format.

(b) Notwithstanding subdivision (a), the requester shall bear the cost of producing a copy of the record, including the cost to construct a record, and the cost of programming and computer services necessary to produce a copy of the record when either of the following applies:

(1) In order to comply with subdivisions (a) and (b) of Section 7922.520, the public agency would be required to produce a copy of an electronic record and the record is one that is produced only at otherwise regularly scheduled intervals.

(2) The request would require data compilation, extraction, or programming to produce the record.

Comment. Subdivision (a) of Section 7922.575 continues the second sentence of former Section 6253.9(a)(2) without substantive change.

Subdivision (b) continues former Section 6253.9(b) without substantive change.

See Section 7920.520 ("public agency").

1 **§ 7922.580. Limitations**

2 7922.580. (a) Nothing in this article shall be construed to require a public agency
3 to reconstruct a record in an electronic format if the agency no longer has the record
4 available in an electronic format.

5 (b) Nothing in this article shall be construed to permit an agency to make
6 information available only in an electronic format.

7 (c) Nothing in this article shall be construed to require a public agency to release
8 an electronic record in the electronic form in which it is held by the agency if its
9 release would jeopardize or compromise the security or integrity of the original
10 record or of any proprietary software in which it is maintained.

11 (d) Nothing in this article shall be construed to permit public access to records
12 held by any agency to which access is otherwise restricted by statute.

13 **Comment.** Subdivision (a) of Section 7922.580 continues former Section 6253.9(c) without
14 substantive change.

15 Subdivision (b) continues former Section 6253.9(e) without substantive change.

16 Subdivision (c) continues former Section 6253.9(f) without substantive change.

17 Subdivision (d) continues former Section 6253.9(g) without substantive change.

18 See Section 7920.520 (“public agency”).

19 **Article 4. Duty to Assist in Formulating Request**

20 **§ 7922.600. Duty to provide assistance**

21 7922.600. (a) When a member of the public requests to inspect a public record or
22 obtain a copy of a public record, the public agency, in order to assist the member of
23 the public make a focused and effective request that reasonably describes an
24 identifiable record or records, shall do all of the following, to the extent reasonable
25 under the circumstances:

26 (1) Assist the member of the public to identify records and information that are
27 responsive to the request or to the purpose of the request, if stated.

28 (2) Describe the information technology and physical location in which the
29 records exist.

30 (3) Provide suggestions for overcoming any practical basis for denying access to
31 the records or information sought.

32 (b) The requirements of paragraph (1) of subdivision (a) shall be deemed to have
33 been satisfied if the public agency is unable to identify the requested information
34 after making a reasonable effort to elicit additional clarifying information from the
35 requester that will help identify the record or records.

36 (c) The requirements of subdivision (a) are in addition to any action required of a
37 public agency by Article 1 (commencing with Section 7922.500) or Article 2
38 (commencing with Section 7922.525).

39 **Comment.** Section 7922.600 continues former Section 6253.1(a)-(c) without substantive
40 change.

1 For further guidance regarding assistance to the public, see Sections 7922.500 (no delay or
2 obstruction), 7922.505 (option to adopt requirements that allow faster, more efficient, or greater
3 access than minimum standards).

4 See Sections 7920.510 (“member of the public”), 7920.520 (“public agency”), 7920.525 (“public
5 records”).

6 **§ 7922.605. Inapplicability of article**

7 7922.605. This article shall not apply to a request for public records if any of the
8 following applies:

9 (a) The public agency makes the requested records available pursuant to Article 1
10 (commencing with Section 7922.500) and Article 2 (commencing with Section
11 7922.525).

12 (b) The public agency makes an index of its records available.

13 (c) The public agency determines that the request should be denied and bases that
14 determination solely on an exemption listed in Section 7920.500.

15 **Comment.** Section 7922.605 continues former Section 6253.1(d) without substantive change.
16 See Sections 7920.520 (“public agency”), 7920.525 (“public records”).

17 CHAPTER 2. AGENCY REGULATIONS, GUIDELINES, SYSTEMS, AND
18 SIMILAR MATTERS

19 Article 1. Agency Regulations and Guidelines

20 **§ 7922.630. Authority to adopt regulations**

21 7922.630. Every agency may adopt regulations in accordance with this article
22 stating the procedures to be followed when making its records available.

23 **Comment.** Section 7922.630 continues the first paragraph of former Section 6253.4(a) without
24 substantive change.

25 For further guidance on adoption of regulations, see Sections 7922.500 (no delay or obstruction),
26 7922.505 (option to adopt requirements that allow faster, more efficient, or greater access than
27 minimum standards), 7922.635 (agencies required to establish & make available written guidelines
28 for accessibility of records), 7922.640 (limitations on guidelines & regulations).

29 **§ 7922.635. Agencies required to establish and make available written guidelines for
30 accessibility of records**

31 7922.635. (a) The following state and local bodies shall establish written
32 guidelines for accessibility of records:

33 (1) All regional water quality control boards.

34 (2) Bay Area Air Pollution Control District.

35 (3) Bureau of Real Estate.

36 (4) California Coastal Commission.

37 (5) Department of Business Oversight.

38 (6) Department of Consumer Affairs.

39 (7) Department of Corrections and Rehabilitation.

40 (8) Department of General Services.

- 1 (9) Department of Industrial Relations.
- 2 (10) Department of Insurance.
- 3 (11) Department of Justice.
- 4 (12) Department of Managed Health Care.
- 5 (13) Department of Motor Vehicles.
- 6 (14) Department of Parks and Recreation.
- 7 (15) Department of Toxic Substances Control.
- 8 (16) Department of Veterans Affairs.
- 9 (17) Department of Water Resources.
- 10 (18) Division of Juvenile Justice.
- 11 (19) Employment Development Department.
- 12 (20) Golden Gate Bridge, Highway and Transportation District.
- 13 (21) Los Angeles County Air Pollution Control District.
- 14 (22) Office of Environmental Health Hazard Assessment.
- 15 (23) Public Employees' Retirement System.
- 16 (24) Public Utilities Commission.
- 17 (25) San Francisco Bay Area Rapid Transit District.
- 18 (26) San Francisco Bay Conservation and Development Commission.
- 19 (27) Secretary of State.
- 20 (28) State Air Resources Board.
- 21 (29) State Board of Equalization.
- 22 (30) State Department of Developmental Services.
- 23 (31) State Department of Health Care Services.
- 24 (32) State Department of Public Health.
- 25 (33) State Department of Social Services.
- 26 (34) State Department of State Hospitals.
- 27 (35) State Water Resources Control Board.
- 28 (36) Teachers' Retirement Board.
- 29 (37) Transportation Agency.

30 (b) A copy of these guidelines shall be posted in a conspicuous public place at
31 the offices of these bodies, and a copy of the guidelines shall be available upon
32 request, free of charge, to any person requesting that body's records.

33 **Comment.** Section 7922.635 continues the second paragraph of former Section 6253.4(a)
34 without substantive change.

35 See Section 7920.515 ("person").

36 **§ 7922.640. Limitations on guidelines and regulations**

37 7922.640. (a) Guidelines and regulations adopted pursuant to this article shall be
38 consistent with all other sections of this division and shall reflect the intention of
39 the Legislature to make the records accessible to the public.

40 (b) Guidelines and regulations adopted pursuant to this article shall not operate to
41 limit the hours public records are open for inspection as prescribed in Article 1

1 (commencing with Section 7922.500) and Article 2 (commencing with Section
2 7922.525).

3 **Comment.** Section 7922.640 continues former Section 6253.4(b) without substantive change.
4 See Section 7920.525 (“public records”).

5 For further guidance on adoption of guidelines and regulations, see Sections 7922.500 (no delay
6 or obstruction), 7922.505 (option to adopt requirements that allow faster, more efficient, or greater
7 access than minimum standards).

8 Article 2. Internet Resources

9 § 7922.680. Formatting of record that local agency posts on Internet Resource

10 7922.680. If a local agency, except a school district, maintains an Internet
11 Resource, including, but not limited to, an Internet Web site, Internet Web page, or
12 Internet Web portal, which the local agency describes or titles as “open data,” and
13 the local agency voluntarily posts a public record on that Internet Resource, the local
14 agency shall post the public record in an open format that meets all of the following
15 requirements:

16 (a) Retrievable, downloadable, indexable, and electronically searchable by
17 commonly used Internet search applications.

18 (b) Platform independent and machine readable.

19 (c) Available to the public free of charge and without any restriction that would
20 impede the reuse or redistribution of the public record.

21 (d) Retains the data definitions and structure present when the data was compiled,
22 if applicable.

23 **Comment.** Section 7922.680 continues former Section 6253.10 without change.
24 See Section 7920.505 (“local agency”), 7920.525 (“public records”).

25 Article 3. Catalog of Enterprise Systems

26 § 7922.700. “Enterprise system”

27 7922.700. For purposes of this article:

28 (a) “Enterprise system” means a software application or computer system that
29 satisfies all of the following conditions:

30 (1) It collects, stores, exchanges, and analyzes information that the agency uses.

31 (2) It is a multidepartmental system or a system that contains information
32 collected about the public.

33 (3) It is a system of record.

34 (b) An “enterprise system” does not include any of the following:

35 (1) Information technology security systems, including firewalls and other
36 cybersecurity systems.

37 (2) Physical access control systems, employee identification management
38 systems, video monitoring, and other physical control systems.

39 (3) Infrastructure and mechanical control systems, including those that control or
40 manage street lights, electrical, natural gas, or water or sewer functions.

- 1 (4) Systems related to 911 dispatch and operation or emergency services.
- 2 (5) Systems that would be restricted from disclosure pursuant to [Section
- 3 6254.19].
- 4 (6) The specific records that the information technology system collects, stores,
- 5 exchanges, or analyzes.
- 6 **Comment.** Subdivision (a) of Section 7922.700 continues former Section 6270.5(c)(1) without
- 7 substantive change.
- 8 Subdivision (b) continues former Section 6270.5(c)(3) without substantive change.
- 9 See Section 7922.575 (“system of record”).

10 **§ 7922.705. “System of record”**

- 11 7922.705. For purposes of this article, “system of record” means a system that
- 12 serves as an original source of data within an agency.
- 13 **Comment.** Section 7922.705 continues former Section 6270.5(c)(2) without substantive change.

14 **§ 7922.710. Creation of catalog**

- 15 7922.710. (a) In implementing this division, each local agency, except a local
- 16 educational agency, shall create a catalog of enterprise systems.
- 17 (b) The local agency shall complete and post the catalog as required by this article
- 18 by July 1, 2016, and thereafter shall update the catalog annually.
- 19 **Comment.** Subdivision (a) of Section 7922.710 continues the first sentence of former Section
- 20 6270.5(a) without substantive change.
- 21 Subdivision (b) continues former Section 6270.5(f) without substantive change.
- 22 See Sections 7920.505 (“local agency”), 7922.700 (“enterprise system”).

23 **§ 7922.715. Availability of catalog**

- 24 7922.715. (a) The catalog of enterprise systems required by Section 7922.710
- 25 shall be made publicly available upon request in the office of the person or officer
- 26 designated by the agency’s legislative body.
- 27 (b) If the agency has an Internet Web site, the catalog shall be posted in a
- 28 prominent location on the agency’s Internet Web site.
- 29 **Comment.** Subdivision (a) of Section 7922.715 continues the second sentence of former Section
- 30 6270.5(a) without substantive change.
- 31 Subdivision (b) continues the third sentence of former Section 6270.5(a) without substantive
- 32 change.
- 33 See Sections 7920.505 (“local agency”), 7920.515 (“person”), 7922.700 (“enterprise system”).

34 **§ 7922.720. Content of catalog**

- 35 7922.720. (a) The catalog of enterprise systems required by Section 7922.710
- 36 shall disclose a list of the enterprise systems utilized by the agency.
- 37 (b) For each system, the catalog shall also disclose all of the following:
- 38 (1) Current system vendor.
- 39 (2) Current system product.
- 40 (3) A brief statement of the system’s purpose.
- 41 (4) A general description of categories or types of data.

1 (5) The department that serves as the system’s primary custodian.

2 (6) How frequently system data is collected.

3 (7) How frequently system data is updated.

4 (c) If, on the facts of the particular case, the public interest served by not
5 disclosing the information described in paragraph (1) or (2) of subdivision (b)
6 clearly outweighs the public interest served by disclosure of the record, the local
7 agency may instead provide a system name, brief title, or identifier of the system.

8 **Comment.** Subdivisions (a) and (b) of Section 7922.720 continue the fourth sentence of former
9 Section 6270.5(a) without substantive change.

10 Subdivision (c) continues former Section 6270.5(e) without substantive change.

11 See Sections 7920.505 (“local agency”), 7922.700 (“enterprise system”).

12 **§ 7922.725. Construction of article**

13 7922.725. (a) This article shall not be interpreted to limit a person’s right to
14 inspect public records pursuant to this division.

15 (b) Nothing in this article shall be construed to permit public access to records
16 held by an agency to which access is otherwise restricted by statute or to alter the
17 process for requesting a public record, as set forth in this division.

18 **Comment.** Subdivision (a) of Section 7922.725 continues former Section 6270.5(b) without
19 substantive change.

20 Subdivision (b) continues former Section 6270.5(d) without substantive change.

21 See Sections 7920.515 (“person”), 7920.525 (“public records”).

22 **PART 4. ENFORCEMENT**

23 **CHAPTER 1. GENERAL PRINCIPLES**

24 **§ 7923.000. Right to seek enforcement of request**

25 7923.000. Any person may institute a proceeding for injunctive or declarative
26 relief, or for a writ of mandate, in any court of competent jurisdiction, to enforce
27 that person’s right under this division to inspect or receive a copy of any public
28 record or class of public records.

29 **Comment.** Section 7923.000 continues the first sentence of former Section 6258 without
30 substantive change.

31 See Sections 7920.515 (“person”), 7920.525 (“public records”).

32 **§ 7923.005. Court to set schedule that promotes prompt decision**

33 7923.005. In a proceeding under Section 7923.000, the court shall set the times
34 for hearings and responsive pleadings with the object of securing a decision as to
35 the matters at issue at the earliest possible time.

36 **Comment.** Section 7923.005 continues the second sentence of former Section 6258 without
37 substantive change.

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CHAPTER 2. PROCEDURE

Article 1. Petition to Superior Court

§ 7923.100. Verified petition and order to show cause

7923.100. Whenever it is made to appear, by verified petition to the superior court of the county where the records or some part thereof are situated, that certain public records are being improperly withheld from a member of the public, the court shall order the officer or other person charged with withholding the records to disclose those records or show cause why that person should not do so.

Comment. Section 7923.100 continues the first sentence of former Section 6259(a) without substantive change.

See Sections 7920.510 (“member of the public”), 7920.525 (“public records”).

§ 7923.105. Material to be considered by court

7923.105. The court shall decide the case after the court does all of the following:

(a) Examine the record in camera, if permitted by subdivision (b) of Section 915 of the Evidence Code.

(b) Examine any papers filed by the parties.

(c) Consider any oral argument and additional evidence as the court may allow.

Comment. Section 7923.105 continues the second sentence of former Section 6259(a) without substantive change.

§ 7923.110. Decision and order

7923.110. (a) If the court finds that the public official’s decision to refuse disclosure is not justified under Section 7922.000 or any provision listed in Section 7920.500, the court shall order the public official to make the record public.

(b) If the court finds that the public official was justified in refusing to make the record public, the court shall return the record to the public official without disclosing its content, together with an order supporting the decision refusing disclosure.

Comment. Section 7923.110 continues former Section 6259(b) without substantive change.

§ 7923.115. Costs and attorney fees

7923.115. (a) If the plaintiff prevails in litigation filed pursuant to this chapter, the court shall award court costs and reasonable attorney fees to the plaintiff. The costs and fees shall be paid by the public agency and shall not become a personal liability of the public official involved.

(b) If the court finds that a plaintiff’s case pursuant to this chapter is clearly frivolous, the court shall award court costs and reasonable attorney fees to the public agency.

Comment. Section 7923.115 continues former Section 6259(d) without substantive change.

See Section 7920.520 (“public agency”).

PART 5. SPECIFIC TYPES OF PUBLIC
RECORDS

CHAPTER 1. CRIMES, WEAPONS, AND LAW ENFORCEMENT

Article 1. Law Enforcement Records Generally

§ 7923.600. Law enforcement exemption

7923.600. (a) Except as provided in Sections [6254.7] and [6254.13], this division does not require the disclosure of records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, the Office of Emergency Services and any state or local police agency, or any investigatory or security files compiled by any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes.

(b) A customer list that an alarm or security company provides to a state or local police agency at the agency's request is a record subject to this article.

Comment. Subdivision (a) of Section 7923.600 continues the first sentence of former Section 6254(f) without substantive change. Subdivision (a) also continues the introductory clause of former Section 6254 (as applied to former Section 6254(f)) without substantive change.

Subdivision (b) continues the second unnumbered paragraph of former Section 6254(f) without substantive change.

See Sections 7920.505 ("local agency"), 7920.535 ("state agency").

§ 7923.605. Disclosure of incident information

7923.605. (a) Notwithstanding Section 7923.600, a state or local law enforcement agency shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism, vehicle theft, or a crime as defined by subdivision (b) of Section 13951, unless the disclosure would endanger either of the following:

(1) The safety of a witness or other person involved in the investigation.

(2) The successful completion of the investigation or a related investigation.

(b) However, this article does not require the disclosure of that portion of those investigative files that reflects the analysis or conclusions of the investigating officer.

1 **Comment.** Subdivision (a) of Section 7923.605 continues the second sentence of former Section
2 6254(f) without substantive change.

3 Subdivision (b) continues the third sentence of former Section 6254(f) without substantive
4 change.

5 See Section 7920.515 (“person”).

6 **§ 7923.610. Disclosure of arrest information**

7 7923.610. Notwithstanding any other provision of this article, a state or local law
8 enforcement agency shall make public all of the following information, except to
9 the extent that disclosure of a particular item of information would endanger the
10 safety of a person involved in an investigation or would endanger the successful
11 completion of the investigation or a related investigation:

12 (a) The full name and occupation of every individual arrested by the agency.

13 (b) The individual’s physical description including date of birth, color of eyes and
14 hair, sex, height and weight.

15 (c) The time and date of arrest.

16 (d) The time and date of booking.

17 (e) The location of the arrest.

18 (f) The factual circumstances surrounding the arrest.

19 (g) The amount of bail set.

20 (h) The time and manner of release or the location where the individual is
21 currently being held.

22 (i) All charges the individual is being held upon, including any outstanding
23 warrants from other jurisdictions, parole holds, and probation holds.

24 **Comment.** Section 7923.610 continues former Section 6254(f)(1) without substantive change.
25 In combination with Sections 7923.615(a) and 7923.620(a), Section 7923.610 also continues the
26 third unnumbered paragraph of former Section 6254 without substantive change.

27 See Section 7920.515 (“person”).

28 **§ 7923.615. Disclosure of information relating to complaints or requests for assistance**

29 7923.615. (a) Notwithstanding any other provision of this article, a state or local
30 law enforcement agency shall make public, subject to the restrictions imposed by
31 Section 841.5 of the Penal Code, the time, substance, and location of all complaints
32 or requests for assistance received by the agency, and the time and nature of the
33 response thereto, except to the extent that disclosure of a particular item of
34 information would endanger the safety of a person involved in an investigation or
35 the successful completion of the investigation or a related investigation. To the
36 extent the information regarding crimes alleged or committed or any other incident
37 investigated is recorded, this includes all of the following:

38 (1) The time, date, and location of occurrence.

39 (2) The time and date of the report.

40 (3) The name and age of the victim.

41 (4) The factual circumstances surrounding the crime or incident.

42 (5) A general description of any injuries, property, or weapons involved.

1 (b)(1) The name of a victim of any crime defined by Section 220, 261, 261.5, 262,
2 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d,
3 273.5, 285, 286, 288, 288a, 288.2, 288.3, 288.4, 288.5, 288.7, 289, 422.6, 422.7,
4 422.75, 646.9, or 647.6 of the Penal Code may be withheld at the victim’s request,
5 or at the request of the victim’s parent or guardian if the victim is a minor.

6 (2) When a person is the victim of more than one crime, information disclosing
7 that the person is a victim of a crime defined in any of the sections of the Penal Code
8 set forth in this article may be deleted at the request of the victim, or the victim’s
9 parent or guardian if the victim is a minor, in making the report of the crime, or of
10 any crime or incident accompanying the crime, available to the public in compliance
11 with the requirements of this section.

12 (c)(1) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the
13 names and images of a victim of human trafficking, as defined in Section 236.1 of
14 the Penal Code, and of that victim’s immediate family, other than a family member
15 who is charged with a criminal offense arising from the same incident, may be
16 withheld at the victim’s request until the investigation or any subsequent
17 prosecution is complete.

18 (2) For purposes of this article, “immediate family” shall have the same meaning
19 as that provided in paragraph (3) of subdivision (b) of Section 422.4 of the Penal
20 Code.

21 **Comment.** Subdivision (a) of Section 7923.615 continues the first sentence of former Section
22 6254(f)(2)(A) without substantive change. In combination with Sections 7923.610 and
23 7923.620(a), subdivision (a) also continues the third unnumbered paragraph of former Section
24 6254(f) without substantive change.

25 Subdivision (b) continues the second and third sentences of former Section 6254(f)(2)(A)
26 without substantive change.

27 Subdivision (c) continues former Section 6254(f)(2)(B) without substantive change.

28 See Section 7920.515 (“person”).

29 **§ 7923.620. Disclosure of arrestee’s address or victim’s address for specified purposes**

30 7923.620. (a) Notwithstanding any other provision of this article, if the requester
31 declares under penalty of perjury that the request is made for a scholarly,
32 journalistic, political, or governmental purpose, or that the request is made for
33 investigation purposes by a licensed private investigator as described in Chapter
34 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions
35 Code, a state or local law enforcement agency shall make public the following
36 information, except to the extent that disclosure of a particular item of information
37 would endanger the safety of a person involved in an investigation or would
38 endanger the successful completion of the investigation or a related investigation:

39 (1) Subject to the restrictions of Section 841.5 of the Penal Code and this article,
40 the current address of every individual arrested by the agency.

41 (2) Subject to the restrictions of Section 841.5 of the Penal Code and this article,
42 the current address of the victim of a crime. However, the address of the victim of
43 any crime defined by Section 220, 236.1, 261, 261.5, 262, 264, 264.1, 265, 266,

1 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288,
2 288a, 288.2, 288.3, 288.4, 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6
3 of the Penal Code shall remain confidential.

4 (b) Address information obtained pursuant to this section shall not be used directly
5 or indirectly, or furnished to another, to sell a product or service to any individual
6 or group of individuals, and the requester shall execute a declaration to that effect
7 under penalty of perjury.

8 (c) This section shall not be construed to prohibit or limit a scholarly, journalistic,
9 political, or government use of address information obtained pursuant to this
10 section.

11 **Comment.** Subdivision (a) of Section 7923.620 continues the first and second sentences of
12 former Section 6254(f)(3) without substantive change. In combination with Sections 7923.610 and
13 Section 7923.615(a), subdivision (a) also continues the third unnumbered paragraph of former
14 Section 6254(f) without substantive change.

15 Subdivision (b) continues the third sentence of former Section 6254(f)(3) without substantive
16 change.

17 Subdivision (c) continues the fourth sentence of former Section 6254(f)(3) without substantive
18 change.

19 See Section 7920.515 (“person”).

20 Article 2. Obtaining Access to Law Enforcement Records

21 § 7923.650. District attorney’s request to inspect licensing records

22 7923.650. The exemption of records of complaints to, or investigations conducted
23 by, any state or local agency for licensing purposes under Article 1 (commencing
24 with Section 7923.600) shall not apply when a district attorney requests inspection
25 of those records.

26 **Comment.** Section 7923.650 continues former Section 6262 without substantive change.

27 See Sections 7920.505 (“local agency”), 7920.535 (“state agency”).

28 § 7923.655. Required documentation as prerequisite to receipt of information

29 7923.655. (a) A state or local law enforcement agency shall not require a victim
30 of an incident, or an authorized representative of a victim, to show proof of the
31 victim’s legal presence in the United States in order to obtain the information
32 required to be disclosed by that law enforcement agency pursuant to Article 1
33 (commencing with Section 7923.600).

34 (b) If, for identification purposes, a state or local law enforcement agency
35 requires a victim of an incident, or an authorized representative of a victim, to
36 provide identification in order to obtain information required to be disclosed by that
37 law enforcement agency pursuant to Article 1 (commencing with Section
38 7923.600), the agency shall at a minimum accept any of the following:

39 (1) A current driver’s license or identification card issued by any state in the
40 United States.

41 (2) A current passport issued by the United States or a foreign government with

1 which the United States has a diplomatic relationship.

2 (3) A current Matricula Consular card.

3 **Comment.** Subdivision (a) of Section 7923.655 continues the first sentence of former Section
4 6254.30 without substantive change.

5 Subdivision (b) continues the second sentence of former Section 6254.30 without substantive
6 change.

7 Article 3. Records of Emergency Communications to Public Safety
8 Authorities

9 **§ 7923.700. Emergency information**

10 7923.700. Except as provided in Sections [6254.7] and [6254.13], this division
11 does not require the disclosure of a record obtained pursuant to paragraph (2) of
12 subdivision (f) of Section 2891.1 of the Public Utilities Code.

13 **Comment.** Section 7923.700 continues former Section 6254(z) without substantive change.
14 Section 7923.700 also continues the introductory clause of former Section 6254 (as applied to
15 former Section 6254(z)) without substantive change.

16 Article 4. Records Specifically Relating to Crime Victims

17 **§ 7923.750. Video and audio recordings**

18 7923.750. (a) This division does not require disclosure of a video or audio
19 recording that was created during the commission or investigation of the crime of
20 rape, incest, sexual assault, domestic violence, or child abuse that depicts the face,
21 intimate body part, or voice of a victim of the incident depicted in the recording. An
22 agency shall justify withholding such a video or audio recording by demonstrating,
23 pursuant to Section 7922.000 and subdivision (a) of Section 7922.540, that on the
24 facts of the particular case, the public interest served by not disclosing the recording
25 clearly outweighs the public interest served by disclosure of the recording.

26 (b) When balancing the public interests as required by this section, an agency shall
27 consider both of the following:

28 (1) The constitutional right to privacy of the person or persons depicted in the
29 recording.

30 (2) Whether the potential harm to the victim caused by disclosing the recording
31 may be mitigated by redacting the recording to obscure images showing intimate
32 body parts and personally identifying characteristics of the victim or by distorting
33 portions of the recording containing the victim's voice, provided that the redaction
34 does not prevent a viewer from being able to fully and accurately perceive the events
35 captured on the recording. The recording shall not otherwise be edited or altered.

36 (c) A victim of a crime described in subdivision (a) who is a subject of a recording,
37 the parent or legal guardian of a minor subject, a deceased subject's next of kin, or
38 a subject's legally authorized designee, shall be permitted to inspect the recording
39 and to obtain a copy of the recording. Disclosure under this subdivision does not
40 require that the record be made available to the public pursuant to Section 7921.505.

1 (d) Nothing in this section shall be construed to affect any other exemption
2 provided by this division.

3 **Comment.** Section 7923.750 continues former Section 6254.4.5 without substantive change.
4 See Section 7920.515 (“person”).

5 **§ 7923.755. Records of the California Victim Compensation Board**

6 7923.755. (a) This division does not require disclosure of a record of the
7 California Victim Compensation Board that relates to a request for assistance under
8 Article 1 (commencing with Section 13950) of Chapter 5 of Part 4 of Division 3 of
9 Title 2.

10 (b) This section shall not apply to a disclosure of the following information, if no
11 information is disclosed that connects the information to a specific victim,
12 derivative victim, or applicant under Article 1 (commencing with Section 13950) of
13 Chapter 5 of Part 4 of Division 3 of Title 2:

14 (1) The amount of money paid to a specific provider of services.

15 (2) Summary data concerning the types of crimes for which assistance is provided.

16 **Comment.** Section 7923.755 continues former Section 6254.17 without substantive change.

17 **Article 5. Firearm Licenses and Related Records**

18 **§ 7923.800. Personal information**

19 7923.800. Except as provided in Sections [6254.7] and [6254.13], this division
20 does not require the disclosure of any of the following information contained in an
21 application for a license to carry a firearm, issued by the sheriff of a county or the
22 chief or other head of a municipal police department pursuant to Section 26150,
23 26155, 26170, or 26215 of the Penal Code:

24 (a) Information that indicates when or where the applicant is vulnerable to attack.

25 (b) Information that concerns the applicant’s medical or psychological history, or
26 that of members of the applicant’s family.

27 **Comment.** Section 7923.800 continues former Section 6254(u)(1) without substantive change.
28 Section 7923.800 also continues the introductory clause of former Section 6254 (as applied to
29 former Section 6254(u)(1)) without substantive change.

30 **§ 7923.805. Address and telephone number of person in criminal justice field**

31 7923.805. Except as provided in Sections [6254.7] and [6254.13], this division
32 does not require the disclosure of the home address or telephone number of any of
33 the following individuals, as set forth in an application for a license to carry a
34 firearm, or in a license to carry a firearm, issued by the sheriff of a county or the
35 chief or other head of a municipal police department, pursuant to Section 26150,
36 26155, 26170, or 26215 of the Penal Code:

37 (a) A prosecutor.

38 (b) A public defender.

39 (c) A peace officer.

1 (d) A judge.

2 (e) A court commissioner.

3 (f) A magistrate.

4 **Comment.** Section 7923.805 continues former Section 6254(u)(2)-(3) without substantive
5 change. Section 7923.805 also continues the introductory clause of former Section 6254 (as applied
6 to former Section 6254(u)(2)-(3)) without substantive change.

DISPOSITION OF FORMER LAW

Note. This table shows the proposed disposition of the following provisions of the California Public Records Act (Gov’t Code §§ 6250-6276.48), as that law existed on January 1, 2018. Unless otherwise indicated, all statutory references are to the Government Code.

Existing Provision	Proposed Provision(s)	Existing Provision	Proposed Provision(s)
6250	7921.000	6254(f) 3d ¶	7923.610, 7923.615(a),
6251	7920.000		7923.620(a)
6252(a)	7920.505	6254(f)(1)	7923.610
6252(b)	7920.510	6254(f)(2)(A) 1st sent	7923.615(a)
6252(c)	7920.515	6254(f)(2)(A) 2d, 3d sent	7923.615(b)
6252(d)	7920.520(a)	6254(f)(2)(B)	7923.615(c)
6252(e)	7920.525	6254(f)(3) 1st, 2d sent	7923.620(a)
6252(f)	7920.535	6254(f)(3) 3d sent	7923.620(b)
6252(g)	7920.540	6254(f)(3) 4th sent	7923.620(c)
6252.5	7921.305	6254(u)(1)	7923.800
6252.7	7921.310	6254(u)(2)-(3)	7923.805
6253(a) 1st sent	7922.525(a)	6254(z)	7923.700
6253(a) 2d sent	7922.525(b)	6254 next-to-last ¶	7921.500
6253(b)	7922.530	6254.4.5	7923.750
6253(c) 1st, 4th sent	7922.535(a)	6254.5 1st sent	7921.505(a)
6253(c) 2d, 3d sent	7922.535(b)	6254.5 2d sent	7920.300
6253(c) 5th sent	7922.535(c)	6254.5(a)-(i)	7921.505(b)
6253(d) 1st sent	7922.500	6254.17	7923.755
6253(d) 2d sent	7922.540(b)	6254.24	7920.530
6253(e)	7922.505	6254.27	7922.205
6253(f) 1st sent	7922.545(a)	6254.28	7922.210
6253(f) 2d sent	7922.545(b)	6254.29	7922.200
6253.1(a)-(c)	7922.600	6254.30 1st sent	7923.655(a)
6253.1(d)	7922.605	6254.30 2d sent	7923.655(b)
6253.3	7921.005	6255(a)	7922.000
6253.4(a) 1st ¶	7922.630	6255(b)	7922.540(a)
6253.4(a) 2d ¶	7922.635	6257.5	7921.300
6253.4(b)	7922.640	6258 1st sent	7923.000
6253.9 intro cl 1st part	7922.570(a)	6258 2d sent	7923.005
6253.9 intro cl 2d part	7922.570(b)	6259(a) 1st sent	7923.100
6253.9(a)(1)	7922.570(b)	6259(a) 2d sent	7923.105
6253.9(a)(2) 1st sent	7922.570(b)	6259(b)	7923.110
6253.9(a)(2) 2d sent	7922.575(a)	6259(c) 1st sent intro cl	not cont’d
6253.9(b)	7922.575(b)	6259(c) 1st sent remainder	7923.500
6253.9(c)	7922.580(a)	6259(c) 2d sent	7923.505(a)
6253.9(d)	7922.570(c)	6259(c) 3d sent	7923.505(b)
6253.9(e)	7922.580(b)	6259(c) 4th sent	7923.510
6253.9(f)	7922.580(c)	6259(c) 5th sent	7923.120
6253.9(g)	7922.580(d)	6259(d)	7923.115
6253.10	7922.680	6260	7920.200
6254 intro cl	7923.600(a), 7923.700	6262	7923.650
	7923.800, 7923.805	6263	7921.700
6254(f) 1st sent	7923.600(a)	6264	7921.705
6254(f) 2d sent	7923.605(a)	6265	7921.710
6254(f) 3d sent	7923.605(b)	6270	7921.010
6254(f) 2d ¶	7923.600(b)	6270.5(a) 1st sent	7922.710(a)

Existing Provision	Proposed Provision(s)	Existing Provision	Proposed Provision
6270.5(a) 2d sent	7922.715(a)	6270.5(c)(2)	7922.705
6270.5(a) 3d sent	7922.715(b)	6270.5(c)(3)	7922.700(b)
6270.5(a) 4th sent	7922.720(a), (b)	6270.5(d)	7922.725(b)
6270.5(b).....	7922.725(a)	6270.5(e)	7922.720(c)
6270.5(c)(1).....	7922.700(a)	6270.5(f).....	7922.710(b)

DERIVATION OF NEW LAW

Note. This table shows the derivation of each proposed provision in this draft. Unless otherwise indicated, all statutory references are to the Government Code.

Proposed Provision	Existing Provision(s)	Proposed Provision	Existing Provision(s)
7920.000	6251	7922.545(b)	6253(f) 2d sent
7920.005	new	7922.570(a)	6253.9 intro cl 1st part
7920.100	new	7922.570(b)	6253.9 intro cl 2d part,
7920.105	new	(a)(1), (a)(2) 1st sent
7920.110	new	7922.570(c)	6253.9(d)
7920.115	new	7922.575(a)	6253.9(a)(2) 2d sent
7920.120	new	7922.575(b)	6253.9(b)
7920.200	6260	7922.580(a)	6253.9(c)
7920.300	6254.5, 2d sent	7922.580(b)	6253.9(e)
7920.500	new	7922.580(c)	6253.9(f)
7920.505	6252(a)	7922.580(d)	6253.9(g)
7920.510	6252(b)	7922.600	6253.1(a)-(c)
7920.515	6252(c)	7922.605	6253.1(d)
7920.520(a)	6252(d)	7922.630	6253.4(a) 1st ¶
7920.520(b)	new	7922.635	6253.4(a) 2d ¶
7920.525	6252(e)	7922.640	6253.4(b)
7920.530	6254.24	7922.680	6253.10
7920.535	6252(f)	7922.700(a)	6270.5(c)(1)
7920.540	6252(g)	7922.700(b)	6270.5(c)(3)
7921.000	6250	7922.705	6270.5(c)(2)
7921.005	6253.3	7922.710(a)	6270.5(a) 1st sent
7921.010	6270	7922.710(b)	6270.5(f)
7921.300	6257.5	7922.715(a)	6270.5(a) 2d sent
7921.305	6252.5	7922.715(b)	6270.5(a) 3d sent
7921.310	6252.7	7922.720(a), (b)	6270.5(a) 4th sent
7921.500	6254 next-to-last ¶	7922.720(c)	6270.5(e)
7921.505(a)	6254.5 1st sent	7922.725(a)	6270.5(b)
7921.505(b)	6254.5(a)-(i)	7922.725(b)	6270.5(d)
7921.700	6263	7923.000	6258 1st sent
7921.705	6264	7923.005	6258 2d sent
7921.710	6265	7923.100	6259(a) 1st sent
7922.000	6255(a)	7923.105	6259(a) 2d sent
7922.200	6254.29	7923.110	6259(b)
7922.205	6254.27	7923.115	6259(d)
7922.210	6254.28	7923.120	6259(c) 5th sent
7922.500	6253(d) 1st sent	7923.500	6259(c) 1st sent
7922.505	6253(e)	7923.505(a)	6259(c) 2d sent
7922.525(a)	6253(a) 1st sent	7923.505(b)	6259(c) 3d sent
7922.525(b)	6253(a) 2d sent	7923.510	6259(c) 4th sent
7922.530	6253(b)	7923.600(a)	6254 intro cl (re 6254(f)),
7922.535(a)	6253(c) 1st, 4th sent	6254(f) 1st sent
7922.535(b)	6253(c) 2d, 3d sent	7923.600(b)	6254(f) 2d ¶
7922.535(c)	6253(c) 5th sent	7923.605(a)	6254(f) 2d sent
7922.540(a)	6255(b)	7923.605(b)	6254(f) 3d sent
7922.540(b)	6253(d) 2d sent	7923.610	6254(f) 3d ¶ (re 6254(f)(1)),
7922.540(c)	new	6254(f)(1)
7922.545(a)	6253(f) 1st sent		

Proposed Provision	Existing Provision(s)	Existing Provision..... Proposed Provision(s)
7923.615(a)	6254(f) 3d ¶ (re 6254(f)(2)(A)),	7923.655(a)..... 6254.30 1st sent
.....	6254(f)(2)(A) 1st sent	7923.655(b) 6254.30 2d sent
7923.615(b)	6254(f)(2)(A) 2d, 3d sent	7923.700 6254 intro cl (re 6254(z)), 6254(z)
7923.615(c)	6254(f)(2)(B)	7923.750 6254.4.5
7923.620(a)	6254(f) 3d ¶ (re 6254(f)(3)),	7923.755 6254.17
.....	6254(f)(3) 1st, 2d sent	7923.800 6254 intro cl (re 6254(u)(1)),
7923.620(b)	6254(f)(3) 3d sent 6254(u)(1)
7923.620(c)	6254(f)(3) 4th sent	7923.805 6254 intro cl (re 6254(u)(2)-(3)),
7923.650.....	6262 6254(u)(2)-(3)

CORRECTED CROSS-REFERENCES

In tentatively reorganizing the CPRA, the Commission identified some provisions that appear to contain one or more incomplete or incorrect cross-references. Where the proper cross-reference is obvious, the Commission corrected the cross-reference in its proposed legislation. That approach seems more sensible than tentatively proposing to perpetuate a plainly incorrect cross-reference.

Those instances are described in detail below.

- Section 6252(a), defining “local agency,” cross-refers to “subdivisions (c) *and* (d) of Section 54952.”¹ It seems improbable, however, that the Legislature intended to require an entity to satisfy the requirements of *both* subdivisions to qualify as a “local agency” under Section 6252(a) for purposes of the CPRA. Proposed Section 7920.505 (continuing the substance of Section 6252(a)) would correct this problem by referring instead to “subdivision (c) *or* (d) of Section 54952.”²
- In defining “public safety official,” Section 6254.24(b) refers to a “public officer or other person listed in Sections 1808.2 *and* 1808.6 of the Vehicle Code.”³ Given the content of Sections 1808.2 and 1808.6, however, it seems improbable that the Legislature intended to require a person to be listed in *both* of those provisions to qualify as a “public safety official” within the meaning of Section 6254.24. Proposed Section 7920.530(b) (continuing the substance of Section 6254.24(b)) would correct that problem by referring to “Section 1808.2 *or* 1808.6 of the Vehicle Code.”⁴
- Section 6254.24(g) includes as a “public safety official” an employee “who supervises inmates in a city police department, a county sheriff’s office, the Department of California Highway Patrol, federal, state, or a local detention facility, *and* a local juvenile hall, camp, ranch, or home”⁵ It seems improbable that the Legislature intended this provision to include as a “public safety official” only an employee who supervises inmates in one of the enumerated facilities for adults *and* in one of the enumerated facilities for juveniles. Thus, proposed Section 7920.530(g) (continuing the substance of Section 6254.24(g)) would refer instead to an employee “who supervises inmates in a city police department, a county sheriff’s office, the Department of California Highway Patrol, federal, state, or a local detention facility, *or* a local juvenile hall, camp, ranch, or home”⁶

1. Emphasis added.

2. For further discussion of this point, see CLRC Staff Memorandum 2017-49, pp. 6-8.

3. Emphasis added.

4. For further discussion of this point, see CLRC Staff Memorandum 2017-49, pp. 8-9.

5. Emphasis added.

6. Emphasis added.

MINOR CLEAN-UP ISSUES FOR POSSIBLE FUTURE LEGISLATIVE ATTENTION

In conducting this strictly nonsubstantive study, the Commission tentatively identified some minor problems in the CPRA, which it probably could not address without potentially raising concerns about the possibility of a substantive change. Those issues are listed here.

As far as the Commission is aware, this list consists of relatively noncontroversial clean-up issues, not issues involving substantial controversy. If any of the issues listed below appears likely to involve substantial controversy, please notify the Commission.

- Consider whether to clarify the usage of the term “local agency” in Section 6252.7 and its continuation (proposed Section 7921.310).⁷
- Consider whether to simplify the description in the first sentence of Section 6254.5 (proposed Section 7921.505(a)) of which exemptions are waived.⁸
- Consider whether to revise the descriptions in subdivisions (g) and (i) of Section 6254.5 (proposed Section 7921.505(b)(7) & (9)) to make them more readily understandable.⁹

7. For further discussion of this issue, see CLRC Staff Memorandum 2017-60, pp. 1-3.

8. For further discussion of this issue, see CLRC Staff Memorandum 2017-60, pp. 4-5.

9. For further discussion of this issue, see CLRC Staff Memorandum 2017-60, pp. 5-6.

