



DEPARTMENT NOTICE

24-198

Published: 01/06/25

Expires: 01/06/28

Public Records on Personal Electronic Devices

(Update to DN 21-168)

The California Public Records Act (“CPRA”), Government Code section 7920.000 *et. seq.*, generally requires that state and local agencies produce qualifying public records in their possession. In *City of San Jose v. Superior Court (“San Jose”)*, 2 Cal.5th 608 (2017), the California Supreme Court held that public records on personal electronic devices (“PEDs”) of City employees and officials may be subject to disclosure under CPRA. In other words, a record may be disclosable public record even if it is contained on a personal cellular phone or e-mail account.

Here are some guiding principles that members should keep in mind:

1. Communications on PEDs or personal accounts involving the conduct of the public’s business may be public records and subject to disclosure. Such writings include, but are not limited to, emails on personal computers and text messages and voice messages on personal cell phones. They include not only messages written by members on PEDs, but also messages received. Not all communications on PEDs are public records. Only a “writing containing information relating to the conduct of the public’s business”—that is, a writing that itself serves, or is intended to serve, a City purpose and that involves a matter over which the member has work responsibility—is a public record.

2. Members should be aware that if the department were to receive a public records request for work related communications that a department member may have on their PEDs, members would be obligated to comply and produce those records. Although these requests do not routinely occur, if and when there is a request under the CPRA, the Department and its members must comply and would be responsible for searching and retrieving responsive records on their PEDs.

3. The CPRA exempts from the disclosure of certain types of records. For example, personnel or similar records, the disclosure of which would constitute an invasion of privacy and records of ongoing police investigations are exempt. Many other exemptions are found in DGO 3.16.


4. Members may contact the Legal Division at (415) 837-7394 for assistance regarding obligations in producing public records.

All members shall use department issued electronic devices for official business except in emergency situations.

Reference:

DGO 10.08 Use of Computers and Peripheral Equipment

[City Attorney’s Good Government Guide](#)


WILLIAM SCOTT
Chief of Police

Per DN 23-152, all sworn & non-sworn members shall electronically acknowledge this Department document in PowerDMS within (30) thirty calendar days of issuance. Members whose duties are relevant to this document shall be held responsible for compliance. Any questions regarding this policy should be sent to sfpd.writtendirectives@sfgov.org, who will provide additional information.

Safety with Respect