

S194951

SUPREME COURT
FILED

SEP 23 2011

Fredrick K. Ohlrich Clerk

Deputy

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

RICHARD SANDER, JOE HICKS,
CALIFORNIA FIRST AMENDMENT COALITION

Plaintiffs and Appellants

v.

THE STATE BAR OF CALIFORNIA and the BOARD OF GOVERNORS
OF THE STATE BAR OF CALIFORNIA,

Defendants and Respondents.

After a Published Decision by the Court of Appeal First Appellate District,
Division Three Case No. A128647, Reversing a Judgment Entered by the
Superior Court for the County of San Francisco, Case No. CPF-08-508880,
The Honorable Curtis E.A. Karnow presiding

**DEFENDANTS AND RESPONDENTS' REQUEST FOR JUDICIAL
NOTICE**

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Attorneys for Defendants and Respondents
**THE STATE BAR OF CALIFORNIA and the BOARD OF GOVERNORS
OF THE STATE BAR OF CALIFORNIA**

Pursuant to Rules of Court, rules 8.252(a) and 8.520(g), and Evidence Code sections 452 and 459, the State Bar of California and the Board of Governors of the State Bar of California respectfully request that this Court take judicial notice of the following:

1. A November 23, 1964 letter from the State of California Office of Legislative Counsel to the Honorable Milton Marks regarding “a brief summary of California laws relating to the inspection of public records by members of the public...” A true and correct copy of this document, which was obtained from the Legislative Intent Service (“LIS”), is attached hereto as Exhibit A. The authenticating declaration from LIS is attached as Exhibit C (this document is referenced as Exhibit A(8)(b) to that declaration, general correspondence from the legislative bill file of Assembly member William T. Bagley on Assembly Bill 1381 (the California Public Records Act).

2. Material published following the hearing held by the Assembly Committee on Government Organization regarding California’s Public Records Law and Proposed Revision, January 6 and 7, 1966. A true and correct copy of this document, which was obtained from LIS, is attached hereto as Exhibit B. The authenticating declaration from LIS is attached as Exhibit C (this document is referenced as Exhibit B(6) to that declaration).

These materials are relevant to the matter under review by this Court because they relate to the Legislature's intent and understanding of the common law in enacting the California Public Records Act and excluding the judicial branch, including the State Bar of California, from the scope of that Act. These materials were not presented to the trial court, and do not relate to proceedings occurring after the judgment that is the subject of this Court's review.

Documents supplied by LIS have consistently been utilized by this Court, either when proffered by the litigants or on the courts' own motion, and LIS has often been mentioned in appellate opinions as the source of the documents. (See, e.g., *People v. Sanchez* (2001) 24 Cal.4th 983, 992, fn.4; *People v. Brown* (1993) 6 Cal.4th 322, 334.) The declaration of a Legislative Intent Service attorney to the effect that the copies provided are true and correct copies of the originals is sufficient to authenticate the materials. (*People v. Connor* (2004) 115 Cal.App.4th 669, 681; *Whaley v. Sony Computer America, Inc.* (2004) 121 Cal.App.4th 479, 487.)

Accordingly, Defendants and Respondents respectfully request the Court to take judicial notice of these materials.

DATED: September 22, 2011

Respectfully submitted,

KERR & WAGSTAFFE LLP

By



Michael von Loewenfeldt

Attorneys for Petitioners

THE STATE BAR OF

CALIFORNIA and THE BOARD

OF GOVERNORS OF THE

STATE BAR OF CALIFORNIA

76556

EXHIBIT A

381.04

STATE OF CALIFORNIA
OFFICE OF LEGISLATIVE COUNSEL

COPY

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Sacramento, California
November 23, 1964

Honorable Milton Marks
Russ Building
San Francisco 4, California

Inspection of Public Records - #7755

Dear Mr. Marks:

You have requested a brief summary of the California laws relating to the inspection of public records by members of the public, and a short digest of cases that interpret the law on this subject.

The general provisions are found in various sections of the Code of Civil Procedure and the Government Code, and read as follows:

"1333. Public writings are:

"1. The written acts or records of the acts of the sovereign authority, of official bodies and tribunals, and of public officers, legislative, judicial, and executive, whether of this State, of the United States, of a sister State, or of a foreign country;

"2. Public records, kept in this State, of private writings." (Sec. 1333, C.C.P.).

"1394. Public writings are divided into four classes:

"1. Laws;

"2. Judicial records;

A1

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Honorable Milton Marks - p. 2 - #7755

"3. Other official documents;

"4. Public records, kept in this State, of private writings." (Sec. 1394, C.C.P.)

"1892. Every citizen has a right to inspect and take a copy of any public writing of this State, except as otherwise expressly provided by statute." (Sec. 1892, C.C.P.)

"1227. The public records and other matters in the office of any officer, except as otherwise provided, are at all times during office hours open to inspection of any citizen of the State." (Sec. 1227, Gov.C.)

Consolidating the language of Sections 1388 and 1394 of the Code of Civil Procedure (see above), the court in Mushet v. Department of Public Service (1917), 35 Cal. App. 630, 634, held that before questioned documents can be denominated as public writings they must not only be "official documents" but must also be the "written acts or records of the acts" of public officials or bodies. In other words, it is not enough that they be written acts or records of acts or official documents--they must be both. (See 44 Cal. Law Rev. 305, 316 and 50 Cal. Law Rev. 79.)

This interpretation has led to a number of opinions of the Attorney General holding that the records of various governmental agencies need not be made public. Thus, in 31 Ops. Atty. Gen. 103, 104, where the question was whether the Real Estate Commissioner need make public the applications for licenses filed by persons seeking to engage in business as real estate brokers or salesmen, the Attorney General, after stating that he found no provision of law making such applications either confidential or subject to inspection, went on to hold that since the applications were filled out by private individuals they are not the "written acts or records of the acts of the sovereign authority" nor "other official documents" and therefore there was no requirement that such applications be open for public inspection (see also 11 Ops. Atty. Gen. 41, 44 and 13 Ops. Atty. Gen. 231, 233).



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Honorable Milton Marks - p. 3 - #7755

Government Code Section 1227 (see above), however, provides that not only public records but "other matters" must be held open to inspection. This language has been used by the court to permit the inspection of certain papers even though they are not public records. In Coldwell v. Board of Public Works (1921), 187 Cal. 510, the court held that a private person had the right to inspect the preliminary estimates and plans prepared in the office of the City Engineer of San Francisco in connection with the Hetch-Hetchy Project, even though the documents were memoranda prepared for use in the office and had not been formally adopted as the official acts of the engineer. Inspection was granted on the basis they were "other matters" in which the "whole public" had an interest (see also Mushet v. Department of Public Service, supra; City Council of the City of Santa Monica v. The Superior Court, (1962), 204 Cal. App. 2d 63, 75; and 44 Cal. Law Rev. 305 and 50 Cal. Law Rev. 79).

Another statutory provision to be considered is Section 1881, subdivision 5, of the Code of Civil Procedure, which reads as follows:

"A public officer can not be examined as to communications made to him in official confidence, when the public interest would suffer by the disclosure."

In interpreting this section, together with the others previously set out, the courts have held that the right of inspection may be curtailed in relation to communications or portions thereof where public policy demands that disclosure be prohibited. Thus, where private employment data required for the purpose of fixing compensation of municipal employees could not be obtained except upon the express pledge that the source of the material would be treated as confidential and where the disclosure of information thus acquired would have an adverse effect on the public interest a municipal corporation was held to be entitled to keep this matter confidential (City and County of San Francisco v. Superior Court, 33 Cal. 2d 156). The same holding was made with regard to a report of an investigation made by a city in connection with the drowning of a child in a municipal swimming pool, in preparation for a possible action against the city (Jessup v. Superior Court, 151 Cal. App. 2d 102). Similar holdings have been made

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Honorable Milton Marks - p. 4 - #7755

with reference to documents and records filed in the offices of law enforcement agencies relating to the apprehension, prosecution, and punishment of criminals (People v. Wilkins, 135 Cal. App. 2d 371).

The statutes discussed above are general ones which are applicable to both the State and local governmental units such as cities and counties. They are qualified by a number of provisions relating to certain kinds of records. In respect to state governmental agencies, there are many statutes requiring all records of a particular state board or commission to be open to the public (for example, see P.R.C. Sec. 506.2, re records of State Park Commission; Ed.C. Sec. 113, re records of State Board of Education).

Other provisions require specific departmental records to be open. Illustrative are provisions concerning the records of the Department of Motor Vehicles relating to the registration of vehicles (Veh.C. Sec. 1803), wine price schedules or changes therein of the Department of Alcoholic Beverage Control (B. & P.C. Sec. 24874), records of animal brands (Ag.C. Sec. 336.2), and grain warehouse inspection records in the Department of Agriculture (Ag.C. Sec. 1260.25). Also, all records, papers, documents and reports filed with the Commissioner of Corporations under the provisions of the Corporate Securities Law, except those he elects to withhold, are open to public inspection (Corp.C. Sec. 25314).

On the other hand, certain departments are specifically prohibited from releasing certain information. For example, all information and records of the Inheritance Tax Department are confidential as to the Inheritance Tax Law and the Gift Tax Law, except those necessary for enforcement of the provisions of the laws or as permitted by such laws (R. & T.C. Secs. 14813, 16563). Except as otherwise provided, all records of the Department of Social Welfare relating to individuals in connection with the administration of the provisions of the Welfare and Institutions Code involving grants-in-aid from the United States Government except disbursement records are confidential (W. & I.C. Sec. 113). For at least six months all required accident reports are for the confidential use of the Department of Motor Vehicles and the Department of the California Highway Patrol (Veh.C. Secs. 20012-20015).



EXHIBIT B

CALIFORNIA'S PUBLIC RECORDS LAW
AND PROPOSED REVISION

January 6 and 7, 1966

Hearing being held by:

Assembly Committee on Government Organization

Room 30, Board of Education Building,
170 Fell Street
San Francisco, California

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STAFF REPORT PREPARED BY:

Judson Clark, Committee Consultant
Richard Hirsch, Committee Intern

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The purpose of this committee hearing is to review the present statutes defining public records and granting a right of inspection to determine whether the proposed revision of the law is preferable.

This is the first meeting of the committee on the subject of public records and the second on the general topic -- Practices and Procedures of Administrative Agencies.

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of Public Records
- Assembly Bill 3015 - Honorable William T. Bagley
and Honorable Milton Marks
- HR 5012 - Honorable John Moss
- S 1160 - Senator John V. Long
- Summary of State Statutes Granting a Privilege
of Nondisclosure



EXISTING LAW AND JUDICIAL INTERPRETATION

BACKGROUND

California's present statutes defining public records and granting inspection were enacted in 1872. Essentially, they are derived from the primary rule advanced by the English courts that there is no common law right in all persons to inspect public records. The courts generally recognized, however, that there was a right of inspection where a record was sought for use as evidence or information in pending litigation.

As a result of this origin, the development of a definition of "public records" was for use in litigation, rather than as an instrument for making public records available to the public. California's statutory law reflects this development. The specific statutes are embodied in the Code of Civil Procedure in that section of the code relating to the admissibility of evidence in judicial proceedings.

What is a Public Record?

There are various statutes which bear on this question. Section 1894 C.C.P. provides as follows:

"Four kinds of public writings. Public writings are divided into four classes:

1. Laws;
2. Judicial records;
3. Other official documents;
4. Public records, kept in this state, of private writings."



Section 1886 of the same code defines public writings as follows:

"1. The written acts or records of the acts of the sovereign authority, of official bodies and tribunals, and of public officers, legislative, judicial, and executive, whether of this state, of the United States, of a sister state, or of a foreign country;

2. Public records, kept in this state, of private writings."

"...the above sections have been construed in the leading case of Musket v. Department of Pub. Service (1917), 35 Cal. App. 630, as exclusionary, and unless a document falls within one of the subdivisions in these two sections it would not constitute a public writing. Going through a process of elimination, it would seem obvious that [a] report in question [must] qualify [either] as a 'law' or a 'judicial record'... [or] a 'public record' . . . of private writings', [and] this has been construed to apply only to documents filed or recorded in public offices by virtue of recording and similar laws (see 11 Ops. Cal. Atty. Gen. 41). By eliminating these statutory subdivisions from our consideration, this leaves remaining the applicability of subdivision 3 of section 1894 and subdivision 1 of section 1888. The Musket case also held that these two remaining subdivisions were to be construed together (see also 44 C.L.R. 305), and as so construed, the report must not only be an 'official document' but also the 'written acts or records of acts of official bodies or tribunals or public officers!! In applying this test it must also be kept in mind that in order for this report to qualify as an official document it is not necessary that it be required to be kept by express statute (Coldwell v. Board of Public Works (1921), 187 Cal. 510, 517-518)."¹

¹ The commentary has been taken from an analysis provided by the Attorney General dated Dec. 18, 1958.



Privileged Communication

There is another consideration. Even though a record is public in nature it may be withheld because the public policy of the state requires that it be maintained in official confidence. In this connection, Section 1881 (5) C.C.P. provides as follows:

"5. (Public officers.) A public officer cannot be examined as to communications made to him in official confidence, when the public interest would suffer by disclosure."²

"This statutory recognition of public policy has been observed in several cases. In Runyon v. Board etc. of Cal. (1938), 26 C.A.2d 183, the Appellate Court was concerned with whether letters and other communications transmitted to the State Parole Board along with applications for parole were privileged from public dissemination. The Appellate Court held that such documents were privileged as a matter of public policy. In this regard the court stated at page 184: '...the courts have consistently declared that in another class of cases public policy demands that certain communications and documents shall be treated as confidential and therefore are not open to indiscriminate inspection, notwithstanding that they are in the custody of a public officer or board and are of a public nature.' There exists also other ample authority to support this rule (see City and County of S.F. v. Superior Court (1951), 38 C.2d 156, 161-163; Samish v. The Superior Court of Sacramento County (1938), 28 C.A.2d 685; Miller v. Murphy (1926), 78 Cal. App. 751; Jessup v. Superior Court (1957), 151 C.A.2d 102; 27 Ops. Cal. Atty. Gen. 194; 18 Ops. Cal. Atty. Gen. 231)."³

- 2 This section has been retained essentially in the same form as section 1040 of the Evidence Code which will become operative on January 1, 1967.
- 3 Analysis by Attorney General dated December 18, 1958.



PROPOSED LEGISLATION

AB 3015 was introduced by Assemblymen William T. Bagley and Milton Marks during the 1965 Regular Session following a brief review by the Government Organization Committee of the accessibility of public records to the public.

AB 3015 adds Chapter 3.5 to the Government Code and bases a citizen's right of access on the premise set forth in Section 6251 of the bill as follows:

"6251. All papers, maps, magnetic or paper tapes, photographic films and prints, punched cards, and other documents produced, received, owned or used by any state or local public agency, regardless of physical form or characteristics are hereby declared to be public records."

It is further provided that every citizen has a right to inspect any public record unless it is excepted from inspection under Section 6253 of the bill as follows:

"6253. Nothing in this chapter shall be construed to authorize withholding information from the public except matters that are (1) related solely to internal personnel rules and practices of an agency; (2) inter-agency or intra-agency memorandum or letters dealing solely with matters of law or policy; (3) personnel and medical files and similar matters the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; (4) investigatory files compiled for law enforcement purposes until such investigation is concluded and final disposition is made; or (5) records specifically exempted from disclosure by statute."

AB 3015 would shift the emphasis of the public records law by providing that any document retained by a public agency



is available to the public unless there is a specific reason public policy requires nondisclosure (and such policy is either recognized in the provisions of AB 3015 or is embodied in other statute law).

This contrasts with the existing law which provides a definition of public records to be used as a test in each given instance. As can be seen from judicial construction this approach has tended to result in restrictive interpretations.

Regulating Inspection

To insure that the business of public agencies is not brought to a standstill by some unexpected flood of requests for inspection of records, Section 6252 provides:

"....Every agency shall in accordance with published rules stating the time, place and procedure to be followed make all its records promptly available to any citizen."

To insure that the mandate of the bill is enforceable by any citizen who is denied access to records, Section 6257 specifies a method of judicial relief:

"6257. Upon complaint, a court of the county in which the complainant resides, or has his principal place of business, or in which the agency records that the complainant seeks are situated, shall have jurisdiction to enjoin the agency from the withholding of agency records or information improperly withheld from the complainant. In such cases the court shall determine the matter de novo and the burden shall be upon the agency to sustain its action. In the event of noncompliance with the court's order, the court may punish the responsible officers for contempt.



Except as to those causes which the court deems of greater importance, proceedings before the court as authorized by this section shall take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

SUMMARY

1. What is the difference between AB 3015 and the existing law?

The existing law attempts to define a public record. This definition is broad and provides little guidance in determining whether or not a specific document is a public record. Generally, the courts have taken a restrictive view in applying these sections.

In contrast, AB 3015 begins by making every document a public record. The only exceptions are those which are specifically recognized by the Legislature (either in the exemptions outlined in the bill or by specific statute). The significance of this change is twofold: (1) the burden for determining what is a public record is shifted; (2) it limits the authority of administrators to withhold records unless there is an expressed statutory right to do so.

2. Is there a demand for the legislation?

It is likely that one of the issues to be raised is whether or not there is a demand for the legislation by outraged citizens who are being denied access to public records.

It is suggested that this should not be central issue for two reasons. First, government agencies in California have

not been arbitrary in withholding records indiscriminately from the public. While there are instances where the withholding of records results in a dispute, and some examples have been brought to the attention of the committee, these instances are limited. In many cases disputes arise simply because there is confusion as to whether a record should be made available to the public under existing law. The controversy over assessment records is a case in point.

Second, when a citizen is denied access to a record he is not in a position to effectively challenge the decision to withhold it from him. The average citizen when told a specific document is not a public record is willing to accept the judgment of the person having charge of the records.

3. Is a review of the public records law timely?

There are several reasons why a review at this time is particularly timely. First, the enactment by the 1965 Legislature of a new Evidence Code (which will become effective on January 1, 1967) removes any justification for retaining the public records law as part of the rules of evidence in Part IV of the Code of Civil Procedure. The revision of the rules of evidence by the Legislature removes all of the sections pertaining to evidence from the Code of Civil Procedure and places them in a separate code. Both the Law Revision Commission and the Legislature recognized that the public records statutes were not an integral



part of the rules of evidence and they were not incorporated in the new code. They remain in the Code of Civil Procedure labeled as miscellaneous provisions. This is not a logical arrangement and there is a need to reorganize and recodify these public records statutes. Placing them in the Government Code as a public records act as proposed by AB 3015 would more clearly indicate their relationship to the government agencies having custody of public records.

Second, there is legislation pending before Congress (HR 5012 and S-1160 see attached) introduced by Congressman Moss and Senator Long which provides a similar approach to that proposed in AB 3015. In other words, all documents are public records and the public has the right of access unless there are specific reasons recognized by statute law for withholding records. S-1160 has passed the Senate and is before the House Committee on Government Operations. Congressman Moss indicates he expects passage by April, 1966.



STATE OF CALIFORNIA
OFFICE OF LEGISLATIVE COUNSEL

COPY

Sacramento, California
November 23, 1964

Honorable Milton Marks
Russ Building
San Francisco 4, California

Inspection of Public Records - #7755

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"1394. Public writings are divided into four classes:

"1. Laws;

"2. Judicial records;

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"3. Other official documents;

"4. Public records, kept in this State, of private writings." (Sec. 1894, C.C.P.)

"1892. Every citizen has a right to inspect and take a copy of any public writing of this State, except as otherwise expressly provided by statute." (Sec. 1892, C.C.P.)

"1227. The public records and other matters in the office of any officer, except as otherwise provided, are at all times during office hours open to inspection of any citizen of the State." (Sec. 1227, Gov.C.)

Consolidating the language of Sections 1338 and 1894 of the Code of Civil Procedure (see above), the court in Mushet v. Department of Public Service (1917), 35 Cal. App. 630, 634, held that before questioned documents can be denominated as public writings they must not only be "official documents" but must also be the "written acts or records of the acts" of public officials or bodies. In other words, it is not enough that they be written acts or records of acts or official documents--they must be both. (See 44 Cal. Law Rev. 305, 316 and 50 Cal. Law Rev. 79.)

This interpretation has led to a number of opinions of the Attorney General holding that the records of various governmental agencies need not be made public. Thus, in 31 Ops. Atty. Gen. 103, 104, where the question was whether the Real Estate Commissioner need make public the applications for licenses filed by persons seeking to engage in business as real estate brokers or salesmen, the Attorney General, after stating that he found no provision of law making such applications either confidential or subject to inspection, went on to hold that since the applications were filled out by private individuals they are not the "written acts or records of the acts of the sovereign authority" nor "other official documents" and therefore there was no requirement that such applications be open for public inspection (see also 11 Ops. Atty. Gen. 41, 44 and 13 Ops. Atty. Gen. 231, 233).



Government Code Section 1227 (see above), however, provides that not only public records but "other matters" must be held open to inspection. This language has been used by the court to permit the inspection of certain papers even though they are not public records. In Coldwell v. Board of Public Works (1921), 187 Cal. 510, the court held that a private person had the right to inspect the preliminary estimates and plans prepared in the office of the City Engineer of San Francisco in connection with the Hetch-Hetchy Project, even though the documents were memoranda prepared for use in the office and had not been formally adopted as the official acts of the engineer. Inspection was granted on the basis they were "other matters" in which the "whole public" had an interest (see also Musket v. Department of Public Service, supra; City Council of the City of Santa Monica v. The Superior Court, (1962), 204 Cal. App. 2d 68, 75; and 44 Cal. Law Rev. 305 and 50 Cal. Law Rev. 79).

Another statutory provision to be considered is Section 1881, subdivision 5, of the Code of Civil Procedure, which reads as follows:

"A public officer can not be examined as to communications made to him in official confidence, when the public interest would suffer by the disclosure."

In interpreting this section, together with the others previously set out, the courts have held that the right of inspection may be curtailed in relation to communications or portions thereof where public policy demands that disclosure be prohibited. Thus, where private employment data required for the purpose of fixing compensation of municipal employees could not be obtained except upon the express pledge that the source of the material would be treated as confidential and where the disclosure of information thus acquired would have an adverse effect on the public interest a municipal corporation was held to be entitled to keep this matter confidential (City and County of San Francisco v. Superior Court, 33 Cal. 2d 156). The same holding was made with regard to a report of an investigation made by a city in connection with the drowning of a child in a municipal swimming pool, in preparation for a possible action against the city (Jessup v. Superior Court, 151 Cal. App. 2d 102). Similar holdings have been made



with reference to documents and records filed in the offices of law enforcement agencies relating to the apprehension, prosecution, and punishment of criminals (People v. Wilkins, 135 Cal. App. 2d 371).

The statutes discussed above are general ones which are applicable to both the State and local governmental units such as cities and counties. They are qualified by a number of provisions relating to certain kinds of records. In respect to state governmental agencies, there are many statutes requiring all records of a particular state board or commission to be open to the public (for example, see P.R.C. Sec. 506.2, re records of State Park Commission; Ed.C. Sec. 113, re records of State Board of Education).

Other provisions require specific departmental records to be open. Illustrative are provisions concerning the records of the Department of Motor Vehicles relating to the registration of vehicles (Veh.C. Sec. 1803), wine price schedules or changes therein of the Department of Alcoholic Beverage Control (B.& P.C. Sec. 24874), records of animal brands (Ag.C. Sec. 336.2), and grain warehouse inspection records in the Department of Agriculture (Ag.C. Sec. 1260.25). Also, all records, papers, documents and reports filed with the Commissioner of Corporations under the provisions of the Corporate Securities Law, except those he elects to withhold, are open to public inspection (Corp.C. Sec. 25314).

On the other hand, certain departments are specifically prohibited from releasing certain information. For example, all information and records of the Inheritance Tax Department are confidential as to the Inheritance Tax Law and the Gift Tax Law, except those necessary for enforcement of the provisions of the laws or as permitted by such laws (R.& T.C. Secs. 14813, 16563). Except as otherwise provided, all records of the Department of Social Welfare relating to individuals in connection with the administration of the provisions of the Welfare and Institutions Code involving grants-in-aid from the United States Government except disbursement records are confidential (W.& I.C. Sec. 113). For at least six months all required accident reports are for the confidential use of the Department of Motor Vehicles and the Department of the California Highway Patrol (Veh.C. Secs. 20012-20015).



Honorable Milton Marks - p. 5 - #7755

As for local governmental entities, the books, records, and accounts of a county board of supervisors are required to be kept at the office of the clerk of the board and open at all times for public inspection (Gov.C. Sec. 25104). Many district laws also contain a specific section requiring a district's records to be open to public inspection, for example, recreation and park districts (P.R.C. Sec. 5732.14), resort districts (P.R.C. Sec. 10472), irrigation districts (Wat.C. Sec. 21402), and fire protection districts (H. & S.C. Sec. 14105).

We have not attempted to compile a list of all the special laws relating to inspection of public records, but merely to show examples. Unless qualified by a special law, the general statutes discussed above will determine whether a particular record is required to be open to public inspection, regardless of whether it is a state, or a city or county record.

There are no constitutional provisions concerning the inspection of public records, but some records are required by federal law to be kept confidential as a condition of receiving federal aid (see W. & I.C. Sec. 118 as to public assistance for the aged, needy children, and blind).

Very truly yours,

George H. Murphy
Chief Deputy Legislative Counsel

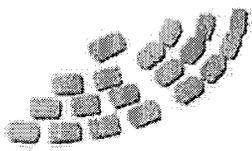
By
Barbara Cochran Calais
Deputy Legislative Counsel

BCC:mg

Kennedy



EXHIBIT C



LEGISLATIVE INTENT SERVICE, INC.

712 Main Street, Suite 200, Woodland, CA 95695
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DECLARATION OF MARIA A. SANDERS

I, Maria A. Sanders, declare:

I am an attorney licensed to practice in California, State Bar No. 092900, and am employed by Legislative Intent Service, Inc., a company specializing in researching the history and intent of legislation.

Under my direction and the direction of other attorneys on staff, the research staff of Legislative Intent Service, Inc. undertook to locate and obtain all documents relevant to the enactment of Assembly Bill 1381 of 1968. Assembly Bill 1381 was approved by the Legislature and was enacted as Chapter 1473 of the Statutes of 1968.

The following list identifies all documents obtained by the staff of Legislative Intent Service, Inc. on Assembly Bill 1381 of 1968. All listed documents have been forwarded with this Declaration except as otherwise noted in this Declaration. In compiling this collection, the staff of Legislative Intent Service, Inc. operated under directions to locate and obtain all available material on the bill.

EXHIBIT A - ASSEMBLY BILL 1381 OF 1968:

1. All versions of Assembly Bill 1381 (Bagley-1968);
2. Procedural history of Assembly Bill 1381 from the 1968 Assembly Final History;
3. Analysis of Assembly Bill 1381 prepared for the Assembly Committee on Judiciary;
4. Material from the legislative bill file of the Assembly Committee on Judiciary on Assembly Bill 1381;
5. Analysis of Assembly Bill 1381 prepared for the Senate Committee on Judiciary;
6. Analysis of Assembly Bill 1381 prepared by the Legislative Analyst;
7. Legislative Counsel's Opinion regarding Assembly Bill 1381, excerpted from the Journal of the Assembly,

- August 2, 1968;
8. Material from the legislative bill file of Assembly member William T. Bagley on Assembly Bill 1381 as follows:
 - a. General correspondence;
 - b. "California Statutes Pertaining to Disclosure of Public Records," compiled by the Attorney General, 1968;
 - c. Background material;
 9. Post-enrollment documents regarding Assembly Bill 1381;
 - a. Previously obtained material,
 - b. Up-to-date collection of material;
 - + 10. Excerpt regarding Assembly Bill 1381 from Review of Selected 1968 Code Legislation, prepared by California Continuing Education of the Bar;
 11. Excerpt regarding Assembly Bill 1381 from the League of California Cities' "Digest of 1968 Legislation Affecting Cities," October 1968.

EXHIBIT B - PREDECESSOR AND BACKGROUND MATERIALS:

1. All versions of Assembly Bill 3015 (Bagley-1965);
2. Procedural history of Assembly Bill 3015 from the 1965 Assembly Final History;
3. All versions of Assembly Bill 2432 (Bagley-1967);
4. Procedural history of Assembly Bill 2432 from the 1967 Assembly Final History;
5. Report of the Assembly Interim Committee on Government Organization, entitled The Right to Know, Volume 12, No. 10, January 1965;
6. Material published following the hearing held by the Assembly Committee on Government Organization regarding California's Public Records Law and Proposed Revision, January 6 and 7, 1966;
7. Material from the legislative bill file of the Assembly Committee on Government Organization regarding California's Public Records Law;
8. Excerpts regarding House Resolution No. 358 from the Journal of the Assembly, June 14 and August 3, 1967;
9. Procedural history of House Resolution No. 358 from the 1967 Assembly Final History.

+ We have re-gathered these file materials and have noted this more recently accessed collection of documents as "up-to-date collection of material" in this declaration, which may duplicate documents previously gathered. It is not unusual for more materials to become publicly available after our initial research of legislation so our research protocols compel us to

date collection of material" in this declaration, which may duplicate documents previously gathered. It is not unusual for more materials to become publicly available after our initial research of legislation so our research protocols compel us to re-access a file to determine if additional documents are available.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 9th day of September, 2011, at Woodland, California.

A handwritten signature in cursive script that reads "Maria A. Sanders". The signature is written in black ink and has a long, sweeping horizontal line extending to the right.

MARIA A. SANDERS

CERTIFICATE OF SERVICE

I, Sara Smoot, declare that I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is Kerr & Wagstaffe LLP, 100 Spear Street, Suite 1800, San Francisco, California 94105.

On September 23, I served the following document(s):

DEFENDANTS AND RESPONDENTS' REQUEST FOR JUDICIAL NOTICE

on the parties listed below as follows:

<p>James M. Chadwick, Esq. Guylen R. Cummins, Esq. Evgenia N. Fkiaras, Esq. SHEPPARD MULLIN RICHTER & HAMPTON LLP Four Embarcadero Center, 17th Floor San Francisco, CA 94111-4109</p> <p>Attorneys for Appellant California First Amendment Coalition</p>	<p>Gary L Bostwick, Esq. Jean-Paul Jassy, Esq. BOSTWICK & JASSY LLP 12400 Wilshire Blvd., Suite 400 Los Angeles, CA 90025</p> <p>Attorneys for Appellants Richard Sander and Joe Hicks</p>
<p>Judy Alexander, Esq. LAW OFFICE OF JUDY ALEXANDER 2302 Bobcat Trail Soquel, CA 95073</p> <p>Attorney for Amici Curiae Vikram Amar, Jane Yakowitz, and Mark Grady</p>	<p>Duffy Carolan, Esq. John Eastburg, Esq. DAVIS WRIGHT TREMAINE LLP 505 Montgomery Street Suite 800 San Francisco, CA 94111</p> <p>Attorneys for Amici Curiae News Media Organizations</p>
<p>Sharon L. Brown, Esq. Joshua P. Thompson, Esq. PACIFIC LEGAL FOUNDATION 3900 Lennane Drive, Ste. 200 Sacramento, CA 95834</p> <p>Attorney for Amicus Curiae Pacific Legal Foundation</p>	<p>The Honorable Curtis Karnow SAN FRANCISCO SUPERIOR COURT 400 McAllister Street San Francisco, CA 94102</p>

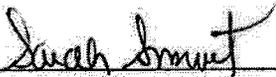
<p>John Eastman, Esq. Anthony T. Caso, Esq. Karen Lugo, Esq. David Llewellyn, Esq. CENTER FOR CONSTITUTIONAL JURISPRUDENCE c/o Chapam Univ. Sch. Of Law One University Drive Orange, CA 92886 Attorneys for Amici Curiae Gerald Reynolds, Todd Gaziano, Gail Heriot, Peter Kirsanow, and Ashley Taylor, Jr.</p>	<p>Clerk of the Court, Division Three CALIFORNIA COURT OF APPEALS 350 McAllister Street San Francisco, CA 94102</p>
<p>Eva Paterson Fabian Renteria EQUAL JUSTICE SOCIETY 260 California Street, Suite 700 San Francisco, CA 94111 Attorneys for Amici Curiae Equal Justice Society</p>	<p>Carmina Ocampo 1145 Wilshire Blv 2nd Floor Los Angeles, CA 90017 Attorneys for Amici Curiae Asian Pacific American Bar Association of Los Angeles County</p>
<p>Corinne Orquiola 1875 Century Part East 23 Floor Los Angeles, CA 90067 Attorneys for Amici Curiae Philippine American Bar Association</p>	<p>William Abrams Bingham 1900 University Ave East Palo Alto, CA 94303 Attorneys for Amici Curiae Alumni of California Law Schools</p>
<p>Gilda Clift Breland P.O. Box 811985 Los Angeles, CA 90081 Attorneys for Amici Curiae John M. Langston Bar Association of Los Angeles, Inc</p>	<p>Vernon Goins Duane Morris LLP 865 So. Figueroa St Suite 3100 Los Angeles, CA 90017 Attorneys for Amici Curiae Association of Black Lawyers</p>

Dennis Peter Maio Reed Smith 101 Second St Suite 1800 San Francisco, CA 94105 Attorneys for Amici Curiae Bar Association of San Francisco	Jeffrey Bollinger Angela Oh 3055 Wilshire Boulevard Suite 630 Los Angeles, CA 90010 Attorneys for Amici Curiae Multicultural Bar Alliance of Southern California
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By first class mail by placing a true copy thereof in a sealed envelope with postage thereon fully prepaid and placing the envelope in the firm's daily mail processing center for mailing in the United States mail at San Francisco, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on September 23, 2011, at San Francisco, California.



Sarah Smoot