PUBLIC RECORDS ACT QUIZ

Name: _____ Last 4 SSN: _____

Classification: _____ Date: _____

References: DOM 13040 (revised January 2007) and Guidelines for access to California Department of Corrections and Rehabilitation Public Records

1. The Public Records Act requires all records to be made available upon request.

   ☐ True ☐ False

2. The California Department of Corrections and Rehabilitation must normally make a determination if the requested records will be disclosed and notify the requester within 10 days of receipt of the request.

   ☐ True ☐ False

3. A record can be exempt from disclosure if its disclosure would compromise the security of the institution or the safety of any staff or inmate.

   ☐ True ☐ False

4. Inmates can not submit Public Records Act requests.

   ☐ True ☐ False

5. The California Department of Corrections and Rehabilitation can charge the requester 12 cents per page for copies.

   ☐ True ☐ False

6. Employees who are not assigned as Public Records Officers are not required to be familiar with the Public Records Act procedures.

   ☐ True ☐ False

7. The Request to Inspect Public Records form (CDCR 1432) is provided upon request, free of charge, to any member of the public or inmate/parolee in order to submit a request to inspect public records.

   ☐ True ☐ False

8. When a request for records is submitted on a CDCR Form 1432, or other method, the recipient of the request shall give the request to his or her PRA coordinator for processing.

   ☐ True ☐ False

9. Inmates can appeal a denial to a Public Records Act request by filing an Inmate/Parolee Appeal (CDC-602).

   ☐ True ☐ False

10. Requests to inspect public records must be submitted in writing.

    ☐ True ☐ False

One (1) hour of OJT credit will be given for completing the quiz with a minimum score of 80%.

CHAPTER 1

ARTICLE 16 — PUBLIC RECORDS

Revised January 2007

13040.1 POLICY

All records of the Department of Corrections and Rehabilitation (CDCR) shall be safeguarded, maintained, and disclosed in compliance with the Government Code (GC) Sections 6250, 6275, 6276, et seq., Public Records Act (PRA).

13040.2 PURPOSE

This article specifies staff responsibilities for the collection, maintenance, and disclosure of records identified as public records.

13040.3 GENERAL REVIEW

When a written request is received to provide access to or copies of a CDCR record, staff shall look first to the provisions of the PRA in this article to determine if the record may be disclosed. If it is a public record, and the record contains personal information, the employee shall look to the provisions of Department Operations Manual (DOM), Chapter 1, Article 15, Information Practices to determine if the personal information is exempt from disclosure under the Information Practices Act (IPA).

13040.4 DEFINITIONS

Public Record - Includes any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.

Writing - 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.

13040.5 SECURITY OF RECORDS

When the public is inspecting any record, an employee who shall ensure the security and integrity of the record shall directly supervise the inspection. The removal of any document or the altering of any record during a public inspection is prohibited. Note taking shall be limited in accordance with the provisions of DOM Chapter 1, Article 15, Information Practices.

13040.6 DESIGNATION OF PUBLIC RECORDS ACT COORDINATOR

Each CDCR Division, Branch, Office, Institution, Parole Region and the Prison Industry Authority (PIA) shall have a designated Public Records Act Coordinator.

13040.7 PUBLIC RECORDS REQUEST

When a request for records is submitted on CDCR Form 1432, Request to Inspect Public Records, or other method, the recipient of the request shall give the request to his or her PRA Coordinator for processing. If the requested records are maintained by the recipient location, then the PRA Coordinator for the recipient location shall process and respond to the record

request. If the requested records are maintained at a different location, the recipient PRA Coordinator shall immediately forward the request to the appropriate PRA Coordinator for response.

13040.7.1 RESPONSIBILITY OF ALL EMPLOYEES

All employees who are public liaisons shall be made aware of the procedures established for public inspection of CDCR records through this article. Employees shall be sensitive to any request from the public for the review of any records.

13040.7.2 RESPONSIBILITY OF PUBLIC RECORDS ACT COORDINATOR

The PRA Coordinator shall:

- Determine whether requested records are publicly disclosable in whole or part. Any questions concerning whether a requested record may be publicly disclosed shall be directed to the Office of Legal Affairs.
- Log and track the request in the Public Records Act Tracking System (PRATS).
- Respond to the request within 10 days.
- Gather and perform any necessary redaction of exempt information contained in the requested records.
- Provide or coordinate the supervision of records inspection by the public.
    - Assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated.
    - Describe the information technology and physical location in which the records exist.
    - Provide suggestions for overcoming any practical basis for denying access to the records or information sought.

13040.8 GUIDELINES FOR INSPECTING PUBLIC RECORDS

The CDCR's headquarters and each institution, facility, parole region, and field or PIA office shall maintain a supply of CDCR Form 1431, Guidelines for the Inspection of Public Records and CDCR Form 1432, Request to Inspect Public Records. Upon written/verbal request from any member of the public or any inmate/parolee, a copy of either form shall be provided, free of charge, for their use in making a request to inspect public records.

13040.9 NOTICE TO THE PUBLIC

The CDCR's headquarters and each institution, facility, parole region, and field or PIA office shall display a conspicuous notice to the public at each main point of entrance used by the public. The notice shall contain the guidelines for inspection of public records, as provided in CDCR Form 1431.

13040.10 HOURS OF INSPECTING PUBLIC RECORDS

When public records are disclosed, they shall be made available by appointment for inspection during regular business hours.

13040.11 WHERE TO MAKE A REQUEST FOR PUBLIC RECORDS

A request to inspect a public record may be mailed, emailed, faxed, or personally delivered to any unit or office of CDCR, in writing or by completing CDCR Form 1432. Requests to inspect public records may also be submitted verbally in person or via telephone. To avoid a misunderstanding of the information requested, the receiver of the request should encourage the requester of a verbal request to submit the request in writing.

13040.11.1 RETENTION OF PUBLIC RECORDS ACT REQUESTS

Public Records Act requests shall be maintained for at least 3 years or until the requested record is destroyed, whichever is shorter.

13040.12 SPECIFICALLY INCLUDED PUBLIC RECORDS

The following CDCR records are included in the general category of public records:

- California Code of Regulations (CCR), Title 15, Crime Prevention and Corrections.
- Non-confidential DOM and CDCR procedures.
- Director's bulletins and directives.
- Non-confidential local operational plans and procedures.

13040.13 DISCLOSURE OF INFORMATION

The CDCR shall disclose information about an incident, arrest, or complaint as outlined below, unless the disclosure would endanger the safety of a witness or other person involved in the investigation or the successful completion of an investigation or a related investigation per GC 6254, et seq., or disclosure is prohibited by law (see Chapter 1, Article 15, Information Practices).

Disclosure of Information Concerning an Incident

The following information concerning an incident shall be disclosed to those persons listed in the next section: Who Can Receive Information Concerning an Incident.

- The name and address (use the business address for CDCR employees) of persons involved in or witnesses (other than confidential informants) to an incident.
- The description of any property involved.
- The date, time, and location of the incident and all diagrams.
- The statements of all parties involved in the incident and the statements of witnesses (other than confidential informants).

Who Can Receive Information Concerning an Incident

Only the following shall receive information concerning an incident:

- A judicial, law enforcement, or regulatory agency when required for the performance of their lawful duties.
- The victim of the incident.
- An authorized representative of the victim.
- An insurance carrier against which a claim has been or might be made.
- Any person suffering bodily injury or property damage or loss as a result of the incident caused by:
    - Arson.
    - Burglary.
    - Fire.
    - Explosion.
    - Larceny.
    - Robbery.
    - Vandalism.
    - Vehicle theft.
    - Use of a motor vehicle, aircraft, or water vehicle in a manner which intentionally inflicted death or injury.
    - Violation of Vehicle Code 23152 or 23153.
    - The immediate act of fleeing the scene of a crime in which the person knowingly and willingly participated.

Disclosure of Information Concerning an Arrest

The following information concerning an arrest shall be disclosed:

- Full name and occupation of every individual arrested.
- A description of every individual arrested which includes the following:
  - Date of birth.
  - Color of eyes and hair.
  - Sex.
  - Height.
  - Weight.
- Time and date of the arrest.
- Time and date of the booking.
- The location of the arrest.
- The factual circumstances surrounding the arrest.
- The amount of bail set (if any).
- The time and manner of release or the location where the individual is currently being held.
- All charges upon which the individual is being held, including any outstanding warrants from other jurisdictions and parole or probation holds.
- The current address of every individual arrested by CDCR and the current address of the victim of a crime, where the requester declares under penalty of perjury that the request is made for a scholarly, journalistic, political, or governmental purpose, or that the request is made for investigation purposes by a licensed private investigator, EXCEPT that the address of the victim of any crime defined by Sections 220, 261, 261.5, 262, 264, 264.1, 273(a), 273(d), 273.5, 286, 288, 288(a), 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code shall remain confidential.

Disclosure of Information Concerning a Complaint

The following information concerning a criminal complaint received by the CDCR shall be disclosed:

- The time, substance, and location of all complaints received by the CDCR.
- The time and nature of the response.
- To the extent the information is recorded, the following may be disclosed:
  - The time, date, and location of the occurrence.
  - The time and date of the report.
  - The name and age of the victim-EXCEPT at the victim's request, the name of the victim of any crime defined by Penal Code Sections 220, 261, 261.5, 262, 264, 264.1, 273(a), 273(d), 273.5, 286, 288, 288(a), 289, 422.6, 422.7, 422.75, or 646.9 shall not be disclosed.
  - The factual circumstances surrounding the complaint.
  - A general description of any injuries, property, or weapons involved.

13040.14 EXEMPTIONS FROM DISCLOSURE

Records exempt from public disclosure include, but are not limited to, the following:

Working Documents

Preliminary drafts, notes, memorandums, etc., which are not retained in the ordinary course of business, are exempt from disclosure provided that the public interest in withholding the record clearly outweighs the public interest in disclosure.

Litigation Records

Records pertaining to pending litigation in which CDCR is a party or to claims made under the California Tort Claims Act are exempt from disclosure until the pending litigation or claim has been finally adjudicated or otherwise settled. Records specifically created by the lawyer or agency (attorney work-product) for the litigation are exempt from disclosure.

Unwarranted Invasions of Privacy

Personnel, medical, or similar files are exempt from disclosure if disclosure would constitute an unwarranted invasion of personal privacy or would cause disclosure of exempt personal information under DOM, Chapter 1, Article 15, Information Practices.

Examination Data

Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided in the Education Code 99150(4), are exempt from disclosure.

Prohibitions in Other Laws

Records are exempt from disclosure when provisions of federal or state law, including, but not limited to, provisions of the Evidence Code 1040, et seq., relating to privilege, and of the Information Practices Act, Civil Code 1798, et seq., prohibit disclosure or establish an exemption from disclosure. See also DOM, Chapter 1, Article 15, Information Practices.

Financial Data

Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with the licensing agency to establish his or her personal qualification for a license, certificate or permit applied for are exempt from disclosure.

Complaints, Investigations, and Intelligence Records

Records of complaints to, investigations by, or intelligence information or security files of CDCR, or such information in the possession of CDCR, but compiled by another state or local agency for correctional, law enforcement, or licensing purposes are exempt from disclosure. This exemption shall include plans and operating procedures that protect the internal security of CDCR and its operational units.

Adult Probation Reports

Disclosure of adult probation reports to the public is prohibited.

Analysis and Conclusions of Investigating Officers

The portion of investigative files that reflect the analysis and conclusions of the investigating officer are exempt from disclosure.

Extradition and Clemency Records

All records compiled in the process of extradition or the exercise of executive clemency are exempt from disclosure.

Correspondence of and to the Governor's Office

Correspondence of and to the Governor or employees of the Governor's office are exempt from public disclosure.

Balancing of Public Interests

A record is exempt from public disclosure if CDCR demonstrates that based on the facts of a particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record. (Note: prior approval by the Governor's office

is required whenever CDCR plans to invoke the balancing of public interests exemption. CDCR's Office of Legal Affairs shall facilitate the notification to the Governor's office upon notification from a PRA Coordinator of CDCR's intention to invoke this exemption).

13040.15 LOCATIONS FOR INSPECTING PUBLIC RECORDS

The location of records that may be inspected under the PRA is left to the discretion of the Agency Secretary; Undersecretary; Assistant Secretary; Director; Chief; Deputy Director; Warden; General Manager, PIA; PRA Coordinator; and/or Field Office Supervisor.

13040.15.1 INMATE INSPECTION OF SPECIFICALLY INCLUDED PUBLIC RECORDS

Copies of the specifically included public records shall be located in the inmate law library and/or at other centralized locations at which they shall be available to all inmates.

13040.16 DUPLICATE RECORDS FOR PUBLIC INSPECTION

The CDCR shall not maintain any record at a specific location solely for the purpose of inspection by the public. There may be instances where it is necessary, desirable, or advantageous to CDCR to maintain a duplicate record at centralized or more accessible locations for public inspection purposes. Any such duplicate record shall be as up-to-date and complete as the original or working record used by staff.

13040.16.1 DISCLAIMER CONCERNING THE VALIDITY OF DUPLICATE RECORDS

When separate copies of a record are maintained exclusively for public and/or inmate inspection, a disclaimer notice shall be affixed to the record's cover or folder. This notice shall read:

"THE CONTENTS OF THIS MANUAL/FILE/RECORD REPRESENTS THE LATEST INFORMATION RECEIVED IN WRITTEN FORM. CONTENTS MAY BE OUTDATED AS THE RESULT OF NEW OR REVISED INFORMATION WHICH HAS NOT BEEN RECEIVED OR FILED."

This disclaimer shall be given verbally when a record, which is maintained exclusively for public and/or inmate inspection and which does not have a written disclaimer attached, is disclosed.

13040.17 COPY SERVICES

Upon receipt of payment of the cost of the reproduction, a copy of the disclosable public record, or any portion thereof, shall be provided to the requester. The copy cost for public records is 12 cents per page plus postage. Note: The employee receiving the funds for providing copies of public records shall explain on the receipt the number of pages at 12 cents per page plus postage for the reproduction of public records.

13040.18 TIME LIMITS FOR RESPONDING TO RECORD REQUESTS

When a request for a copy of or to inspect CDCR records is received, CDCR shall notify the requester within 10 days of receiving the request whether CDCR will comply with the request. If a determination is made to release copies of public records to a requester, CDCR shall advise the requester of the copy cost and the copies of the requested records shall be provided to the requester upon receipt of payment of the copy costs. If a determination is made not to release copies to a requester, CDCR shall notify the requester the specific reasons for denying the request.

13040.18.1 EXTENSION OF TIME LIMITS

In unusual circumstances, the 10-day time limit for determining and notifying the requester whether the request seeks copies of disclosable public records may be extended by written notice.

When CDCR determines unusual circumstances exist (see below), the requester shall immediately be notified (and no later than 10 days from the date of receipt of the request) in writing of the extension, the reasons for the extension, and the date upon which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension of more than 14 days. For the purpose of this section, "unusual circumstances" means, but only to the extent reasonably necessary for the proper processing of the particular request, the need to:

• Search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

• Search for, collect, and appropriately examine a voluminous amount of separate and distinct records which relate to a single request.

• Consult with another agency having a substantial subject matter interest therein. This consultation shall be conducted with all practicable speed.

13040.18.2 JUSTIFICATION FOR DENYING ACCESS TO RECORDS

Any time a request under the PRA is denied, CDCR shall justify withholding the record. The CDCR is required to demonstrate one of the following:

• The requested record is exempt under expressed provisions of the PRA.

• The requested record is exempt under expressed provisions of the IPA.

• On the facts of the particular case, the public interest served by not making the record public clearly outweighs the public interest served by the disclosure of the record. Any notification of a denial of any request under the PRA shall set forth the names and titles or positions of each person responsible for the denial.

13040.18.3 APPEALS OF DECISIONS DENYING ACCESS TO RECORDS

When a decision is made not to disclose a record, and the Inmate/Parolee requester disagrees, the requester may appeal the decision through the appeals process described in DOM, Chapter 5, Article 53, Inmate/Parolee Appeals.

13040.19 REVISIONS

The Assistant Secretary, Office of Public and Employee Communications, or designee shall be responsible for ensuring that the contents of this article are kept current and accurate.

13040.20 REFERENCES

EC § 1040, et seq.
EdC § 99150(4).
CC § 1798, et seq.
GC §§ 6250, 6275, 6276, et seq.
California Tort Claim Act.
Executive Order S-03-06.