



California has long been a leader in criminal justice data transparency. For more than 60 years, the state has promoted the collection and dissemination of criminal justice data through a series of laws and regulations that have mandated detailed data collection as well as broad access. This fact sheet provides an overview of key laws and regulations governing criminal justice data in California.

Defining Criminal Justice Data

The State of California first began regulating the collection of criminal justice data in 1955, when the Legislature passed legislation mandating the state Department of Justice (DOJ) to collect criminal justice data from a wide variety of criminal justice agencies, including police departments, probation departments, district attorneys' offices and more.ⁱ As part of this legislation, the DOJ was given responsibility for overseeing California's Criminal Index and Identification System and establishing an advisory committee "to assist in the ongoing management of the system with respect to operating policies, criminal records content, and records retention."ⁱⁱ

In 1973, recognizing the need for "greatly improved," "accurate," and "reasonably complete" data from criminal justice agencies, the California Legislature built upon these laws, establishing a more thorough statutory scheme governing Criminal Offender Record Information, or CORI. The Legislature defined CORI as records and data compiled by any criminal justice agency "for purposes of identifying criminal offenders and of maintaining as to each such offender a summary of arrests, pretrial proceedings, the nature and disposition of criminal charges, sentencing, incarceration, rehabilitation, and release."ⁱⁱⁱ Those agencies whose data is included in this scheme include "those agencies at all levels of government which perform as their principal functions" "activities . . . [r]elate[d] to the apprehension, prosecution, adjudication, incarceration, or correction of criminal offenders" or "[r]elate[d] to the collection, storage, dissemination or usage of criminal offender record information,"^{iv} including courts, law enforcement, prosecutors, corrections agencies, and others.

Guaranteeing Access to Criminal Justice Data

CORI Laws

California's 1973 CORI statutes also began the critical work of guaranteeing access to criminal justice data, noting the importance of "speedy" access to data both for criminal justice agencies and for policy-researching bodies.^v These laws explicitly noted that CORI may be accessed by "every public agency or bona fide research body immediately concerned with . . . the quality of criminal justice . . ." so long as those organizations do not release personally identifying information and pay the cost of the data processing.^{vi}

In 2016, California reinforced the need to make comprehensive criminal justice data available to the public when the Legislature passed the Open Justice Data Act of 2016. This legislation added important new provisions to the CORI statutory scheme and required the DOJ to make certain criminal statistics available to the public through an online web portal, which the DOJ has described as a "first-of-its-kind criminal justice transparency initiative."^{vii} At the time, then-Attorney General (now U.S. Senator) Kamala Harris explained:

Data is key to being smart on crime and crafting public policy that reflects the reality of policing in our communities and improves public safety. We must continue the national dialogue about criminal justice reform and promote the American ideal that we are all equal under the law.^{viii}

Assemblywoman Jacqui Irwin, who authored the Open Justice bill, stated “by making mountains of valuable [criminal justice] data available to the public in a comprehensive way, we can build stronger bridges of understanding and trust between the [criminal justice system] and the citizens it serves” and that “in addition to providing greater transparency, this information enables policymakers to craft informed, data-driven public policy.”^{xix}

California Public Records Act

In addition to CORI laws, access to criminal justice data is also governed by the California Public Records Act (CPRA), which states that “every person has a right to inspect any public record . . . [¶] [e]xcept with respect to public records exempt from disclosure by express provisions of law”^x As part of CPRA, the Legislature mandated public access to arrest records from both state and local law enforcement agencies, including arrestees’ names, arrest and booking dates, bail set, criminal charges, release date, and more.^{xi} (The CPRA does not apply to California courts.)^{xii}

Access to Court Records

Much of the information described in CORI statutes are maintained primarily by the courts and, as such, are subject to California Rules of Court, which declare all court records to be presumptively open to the public.^{xiii} The California Rules of Court also contain a series of rules that govern electronic access to court records, including criminal justice records.^{xiv} These rules explicitly recognize a “general right of access” to court records and require that “[a]ll electronic records must be made reasonably available to the public in some form, whether in electronic or in paper form, except those that are sealed by court order or made confidential by law.”^{xv} In addition, the Rules of Court expressly allow for the bulk dissemination of certain information electronically (calendars, registers of action, and indexes).^{xvi} Similar to the various statutes governing CORI, the Rules of Court include provisions intended to balance the ease of electronic access to open court records, the burden on courts in providing the information, and the privacy interests of those whose information is available.

Key Provisions Regarding Criminal Justice Data Access

- **Cal. Penal Code § 13202:** Notwithstanding subdivision (g) of Section 11105 and subdivision (a) of Section 13305, every public agency or bona fide research body immediately concerned with . . . the quality of criminal justice . . . may be provided with such criminal offender record information as is required for the performance of its duties, provided that any material identifying individuals is not transferred, revealed, or used for other than research or statistical activities and reports or publications derived therefrom do not identify specific individuals, and provided that such agency or body pays the cost of the processing of such data as determined by the Attorney General.
- **California Public Records Act (Cal. Gov’t Code § 6254(f)):** State and local law enforcement agencies shall make public the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation: (1) The full name and occupation of every individual arrested by the agency, the individual’s physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.
- **CA Rules of Court 2.550(c):** Unless confidentiality is required by law, court records are presumed to be open.
- **CA Rules of Court 2.503(g):** The court may provide bulk distribution of only its electronic records of a calendar, register of actions, and index. “Bulk distribution” means distribution of all, or a significant subset, of the court’s electronic records.

- ⁱ Cal. Penal Code § 13010(a)-(e). Section 13020 lists the persons and agencies that must maintain and report statistical data to the DOJ. Id. § 13020(a)-(b). This includes: “[E]very city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, county board of parole commissioners, work furlough administrator, the Department of Justice, Health and Welfare Agency, Department of Corrections, Department of Youth Authority, Youthful Offender Parole Board, Board of Prison Terms, State Department of Health, Department of Benefit Payments, State Fire Marshal, Liquor Control Administrator, constituent agencies of the State Department of Investment, and every other person or agency dealing with crimes or criminals or with delinquency or delinquents” Cal. Penal Code § 13020.
- ⁱⁱ Id. § 13100.1(a).
- ⁱⁱⁱ CORI includes, where appropriate, “[p]ersonal identification,” “[t]he fact, date, and arrest charge [and] whether the individual was subsequently released,” “[t]he fact, date, and results of any pretrial proceedings,” “[t]he fact, date, and results of any trial or proceeding, including any sentence or penalty,” “[t]he fact, date, and results of any release proceedings,” “[t]he fact, date, and results of any proceeding revoking probation or parole,” and so on. Id. § 13102(a)-(i); see also id. § 13125 (listing standard CORI data elements for recording).
- ^{iv} Cal. Penal Code § 13101
- ^v The Legislature found and declared, for example, “[t]hat the criminal justice agencies in [California] require, for the performance of their official duties, accurate and reasonably complete criminal offender record information”; “[t]hat the Legislature and other governmental policymaking or policy-researching bodies, and criminal justice agency management units require greatly improved aggregate information for the performance of their duties”; and “[t]hat, in order to achieve the[se] improvements, the recording, reporting, storage, analysis, and dissemination of criminal offender record information in [California] must be made more uniform and efficient, and better controlled and coordinated.” Id. § 13100 (emphasis added).
- ^{vi} “Notwithstanding subdivision (g) of Section 11105 and subdivision (a) of Section 13305, every public agency or bona fide research body immediately concerned with . . . the quality of criminal justice . . . may be provided with such criminal offender record information as is required for the performance of its duties, provided that any material identifying individuals is not transferred, revealed, or used for other than research or statistical activities and reports or publications derived therefrom do not identify specific individuals, and provided that such agency or body pays the cost of the processing of such data as determined by the Attorney General.” Cal. Penal Code § 13202 (emphasis added). Significantly, because section 13202 expressly acknowledges the restrictions on dissemination of CORI under sections 11105 and 13300, there can be no question that section 13202 offers a blanket exception to the restrictions under those other provisions.
- ^{vii} See 11/4/2016 press release titled “Attorney General Kamala D. Harris Releases New OpenJustice Data Showing Racial Disparities in Adult Arrest Rates,” available at <https://oag.ca.gov/new-press-categories/open-justice>. Cal. Penal Code § 13010(g); see also id. §§ 13012-13014 (describing some required contents of public statistics, including “the personal and social characteristics of criminals and delinquents.”).
- ^{viii} Id.
- ^{ix} Bill Analysis, Assem. B. 2524, Assem. Committee on Public Safety Hearing, Author’s Statement (Mar. 29, 2016), available at http://www.leginfo.ca.gov/pub/15-16/bill/asm/ab_2501-2550/ab_2524_cfa_20160328_101057_asm_comm.html.
- ^x Cal. Gov’t Code § 6253(a)-(b). See also *Williams v. Superior Court*, 5 Cal. 4th 337, 346 (1993) (“At the heart of the CPRA is the declaration that ‘every person has a right to inspect any public record, except as hereafter provided.’...In other words, all public records are subject to disclosure unless the Legislature has expressly provided to the contrary.”).
- ^{xi} “[t]he full name and occupation of every individual arrested by the agency, the individual’s physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds[.]” “[E]xcept to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation[.]” Id. § 6254(f).
- ^{xii} See Cal. Gov’t Code § 6252(f)(1); *Copley Press, Inc. v. Superior Court*, 6 Cal. App. 4th 106, 111 (1992). Nevertheless, “[t]he fact that there is no specific statutory requirement for access to court documents does not, of course, permit exclusion of the public from same.” *Copley Press*, 6 Cal. App. 4th at 111. “[N]otwithstanding the statutory exception in the California Public Records Act . . . court records are public records open to inspection.” Id. at 111-12 (citing *Estate of Hearst*, 67 Cal. App. 3d 777, 782 (1977)).
- ^{xiii} Cal. R. of Court 2.550(c); see also *Sander v. State Bar of Cal.*, 58 Cal. 4th 300, 318-19, 322-23 (2013); *Copley Press*, 6 Cal. App. 4th at 111-12 (citing *Estate of Hearst*, 67 Cal. App. 3d 777, 782 (1977)).
- ^{xiv} Cal. R. of Court 2.500-2.507
- ^{xv} Cal. R. of Court 2.503(a); see also Cal. R. of Court 2.550(c) (“Unless confidentiality is required by law, court records are presumed to be open.”) Rule 2.503(a) merely reaffirms the point that the electronic records are available except those that are confidential under the law or under seal.
- ^{xvi} Cal. R. of Court 2.503(g) (“The court may provide bulk distribution of only its electronic records of a calendar, register of actions, and index.”).