

**State of California
Office of Administrative Law**

In re:
Department of Justice

Regulatory Action:

Title 14, California Code of Regulations

Adopt sections:

Amend sections: 753.6, 754, 754.2, 773,
773.4, 773.6

Repeal sections:

NOTICE OF APPROVAL OF CHANGES
WITHOUT REGULATORY EFFECT

California Code of Regulations, Title 1,
Section 100

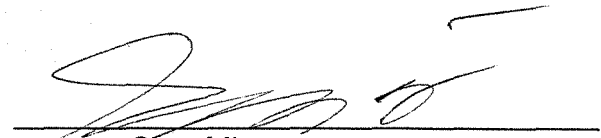
OAL Matter Number: 2023-0110-03

OAL Matter Type: Nonsubstantive (N)

In this submission the Department of Justice ("DOJ") updates its references to the Public Records Act to conform with the California Public Records Act Recodification Act of 2021.

OAL approves this change without regulatory effect as meeting the requirements of California Code of Regulations, title 1, section 100.

Date: February 22, 2023



Sam Micon
Attorney

For: Kenneth J. Pogue
Director

Original: Rob Bonta, Attorney General

Copy: Marlon Martinez

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 10/2019)

NONSUBSTANTIVE

For use by Secretary of State only

ENDORSED - FILED
In the office of the Secretary of State
of the State of California

FEB 22 2023

1:48 PM

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2023-0110-03N	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY Department of Justice			AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Fair & Accurate Governance of the CalGang & Shared Gang Databases	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND 753.6, 754, 754.2, 773, 773.4, 773.6
TITLE(S) 11	REPEAL
3. TYPE OF FILING	
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)	
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> File & Print <input type="checkbox"/> Print Only	
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) <input type="checkbox"/> Other (Specify) _____	
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)	
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)	
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) <input type="checkbox"/> Effective on filing with Secretary of State <input checked="" type="checkbox"/> \$100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____	
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY	
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify) _____	
7. CONTACT PERSON Marlon Martinez	TELEPHONE NUMBER (213) 269-6437
FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) marlon.martinez@doj.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE Venus D. Johnson <small>Digitally signed by Venus D. Johnson Date: 2023.01.10 12:05:11 -08'00'</small>	DATE
TYPED NAME AND TITLE OF SIGNATORY Venus D. Johnson, Chief Deputy Attorney General	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

FEB 22 2023

Office of Administrative Law

CALIFORNIA DEPARTMENT OF JUSTICE

TITLE 11. LAW

DIVISION 1. ATTORNEY GENERAL

**CHAPTER 7.5. DEPARTMENT OF JUSTICE REGULATIONS FOR THE
FAIR AND ACCURATE GOVERNANCE OF THE CALGANG DATABASE**

**CHAPTER 7.6. DEPARTMENT OF JUSTICE REGULATIONS FOR THE FAIR AND
ACCURATE GOVERNANCE OF SHARED GANG DATABASES**

TEXT OF PROPOSED REGULATIONS

The original text published in the California Code of Regulations has no underline. Changes are illustrated by single blue underline for proposed additions and ~~single red strikethrough~~ for proposed deletions.

**Chapter 7.5. Department of Justice Regulations for the Fair and Accurate Governance of
the CalGang Database**

Article 7. Notice of Inclusion in the CalGang Database

§ 753.6. Notifying a Person of Inclusion in the CalGang Database.

(i) If sending a notice of inclusion to a juvenile, or a parent or guardian of the juvenile, would compromise an active criminal investigation or the health or safety of the juvenile, the Node Agency or User Agency is not required to attempt to deliver a notice under this section or subdivision (c) of Penal Code section 186.34.

(1) If a Node Agency or User Agency does not provide notice pursuant to subdivision (i), the Node Agency or User Agency shall nonetheless prepare the form of notice as described in this section and it shall indicate in the CalGang database that no notice was sent, provide the date the Node Agency or User Agency determined to not send the notice, and provide a summary of the reason(s) for that determination. This documentation shall remain in the CalGang database until the record pertaining to that person is purged from the CalGang database. Nothing in this subdivision restricts the release of a notice under court order or for an in-camera review by a court. Nothing in this section requires a Node Agency or User Agency to disclose any information protected under section 1040 or 1041 of the Evidence Code or ~~section 6254~~ Title 1, Division 10, Parts 2, 5, and 6 of the Government Code.

Note: Authority cited: Section 186.36, Penal Code. Reference: Sections 186.34 and 186.36, Penal Code.

Article 8. Information Requests, an Agency's Response to Information Requests, and an Agency's Response to a Request for Removal

§ 754. An Agency's Response to an Information Request.

(d) Notwithstanding the foregoing, if responding to an information request from a juvenile, or a parent or guardian of the juvenile, would compromise an active criminal investigation or the health or safety of the juvenile, the Agency that received the request is not required to provide a response.

(1) If an Agency does not respond to an information request pursuant to subdivision (d), it shall nonetheless prepare the form of response as described in subdivision (b) of this section, and document a summary of reasons why a response was not sent and the date when this determination was made, and it shall maintain this documentation until the record pertaining to that person is purged from the CalGang database. Nothing in this subdivision restricts the release of a response under court order or for an in-camera review by a court. Nothing in this section requires a local law enforcement agency to disclose any information protected under section 1040 or 1041 of the Evidence Code or ~~section 6254~~ Title 1, Division 10, Parts 2, 5, and 6 of the Government Code.

Note: Authority cited: Section 186.36, Penal Code. Reference: Sections 186.34, 186.35 and 186.36, Penal Code.

§ 754.2. An Agency's Response to a Request for Removal.

(b) Notwithstanding the foregoing, if responding to a request for removal from a juvenile, or a parent or guardian of the juvenile, would compromise an active criminal investigation or the health or safety of the juvenile, the Agency that received the request is not required to provide a response.

(1) If an Agency does not respond to a request for removal pursuant to subdivision (b), it shall nonetheless prepare the response as described in subdivision (a), and document a summary of reasons why a response was not sent and the date when this determination

was made, and it shall maintain this documentation until the record pertaining to that person is purged from the CalGang database. This documentation shall be captured in the CalGang database. Nothing in this subdivision restricts the release of a response under court order or for an in-camera review by a court. Nothing in this section requires a local law enforcement agency to disclose any information protected under section 1040 or 1041 of the Evidence Code or ~~section 6254~~ Title 1, Division 10, Parts 2, 5, and 6 of the Government Code.

Note: Authority cited: Section 186.36, Penal Code. Reference: Sections 186.34, 186.35 and 186.36, Penal Code.

Chapter 7.6. Department of Justice Regulations for the Fair and Accurate Governance of Shared Gang Databases

Article 7. Notice of Inclusion in a Shared Gang Database

§ 773. Notifying a Person of Inclusion in a Shared Gang Database.

(i) If sending a notice of inclusion to a juvenile, or a parent or guardian of the juvenile, would compromise an active criminal investigation or the health or safety of the juvenile, the User Agency is not required to attempt to deliver a notice under this section or subdivision (c) of Penal Code section 186.34.

(1) If a User Agency does not provide notice pursuant to subdivision (i), the User Agency shall nonetheless prepare the form of notice as described in this section and it shall indicate in the shared gang database or maintain documentation that no notice was sent, provide the date the User Agency determined to not send the notice, and provide a summary of the reason(s) for that determination. This documentation shall be retained until the record pertaining to that person is purged from the shared gang database. Nothing in this subdivision restricts the release of a notice under court order or for in-camera review by a court. Nothing in this section requires a User Agency to disclose any information protected under section 1040 or 1041 of the Evidence Code or ~~section 6254~~ Title 1, Division 10, Parts 2, 5, and 6 of the Government Code.

Note: Authority cited: Section 186.36, Penal Code. Reference: Sections 186.34 and 186.36, Penal Code.

Article 8. Information Requests and Responses Pertaining to a Shared Gang Database

§ 773.4. An Agency's Response to an Information Request.

(d) Notwithstanding the foregoing, if responding to an information request from a juvenile, or a parent or guardian of the juvenile, would compromise an active criminal investigation or the health or safety of the juvenile, the Agency that received the request is not required to provide a response.

(1) If an Agency does not respond to an information request pursuant to subdivision (d), it shall nonetheless prepare the form of response as described in subdivision (b) of this section, and document a summary of reasons why a response was not sent and the date when this determination was made, and it shall maintain this documentation until the record pertaining to that person is purged from the shared gang database. Nothing in this subdivision restricts the release of a response under court order or for in-camera review by a court. Nothing in this section requires a local law enforcement agency to disclose any information protected under section 1040 or 1041 of the Evidence Code or section 6254 Title 1, Division 10, Parts 2, 5, and 6 of the Government Code.

Note: Authority cited: Section 186.36, Penal Code. Reference: Sections 186.34, 186.35 and 186.36, Penal Code.

§ 773.6. An Agency's Response to a Request for Removal.

(b) Notwithstanding the foregoing, if responding to a request for removal from a juvenile, or a parent or guardian of the juvenile, would compromise an active criminal investigation or the health or safety of the juvenile, the Agency that received the request is not required to provide a response.

(1) If an Agency does not respond to a request for removal pursuant to subdivision (b), it shall nonetheless prepare the response as described in subdivision (a), and document a summary of reasons why a response was not sent and the date when this determination was made, and it shall maintain this documentation until the record pertaining to that

person is purged from the shared gang database. This documentation shall be captured in the shared gang database. Nothing in this subdivision restricts the release of a response under court order or for an in-camera review by a court. Nothing in this section requires a local law enforcement agency to disclose any information protected under section 1040 or 1041 of the Evidence Code or ~~section 6254~~ Title 1, Division 10, Parts 2, 5, and 6 of the Government Code.

Note: Authority cited: Section 186.36, Penal Code. Reference: Sections 186.34, 186.35 and 186.36, Penal Code.