

California Department of Corrections and Rehabilitation

On-the-Job Training (OJT) Module



Information Practices Act

Version 1.0

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I. INTRODUCTION

The Information Practices Act (IPA) of 1977 (Civil Code Section 1798, et seq.) is the comprehensive privacy law for state government to provide measures and to assure fair treatment of individuals who are the subjects of State agency records.

The IPA places specific requirements on State agencies in the collection, use, maintenance and dissemination of information relating to individuals.

With exceptions, individuals may review; obtain copies, request amendments and corrections, and dispute information pertaining to them in State records.

A. Overview of Lesson

You will learn the definition of the IPA and the responsibility of California Department of Corrections (CDCR) employees for the collection, maintenance, amendment, and disclosure of information in keeping with the right to privacy of inmates, parolees, employees, or other persons.

B. Importance

It is important for CDCR employees to understand what information is maintained by the department and how to access the information. It is also important that each employee understands the confidentiality of the Department's records and the negative impact if the IPA laws and processes of records are not followed.

II. INFORMATION PRACTICES ACT VS. PUBLIC RECORDS ACT

Learning Objective 1: You will learn the purpose of the Information Practices Act (IPA) vs. the Public Records Act.

A. California's Information Practices Act

The California Civil Code §1798 et. seq. IPA is the comprehensive privacy law for state government. It sets out the basic requirements for all state departments and employees on handling and protecting personal information.

The IPA defines personal information as “any information that is maintained by a department that identifies or describes an individual.” The broad definition includes information such as the following:

- Name
- Social Security number
- Physical description
- Home address
- Home telephone number
- Education
- Financial matters
- Medical or employment history

The IPA allows agencies to collect only the personal information they are legally authorized to collect. It gives individuals the right to see their own records and to request that any errors be corrected. It requires agencies to use reasonable safeguards to protect personal information against risks such as unauthorized access, use, or loss.

B. California's Public Records Act

California Government Code (GC), Sections 6250-6270, the Public Records Act is designed to give the public access to public information that is collected and maintained by state and local agencies.

Per GC, Section 6252 (e), "Public records" 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."

However, specific exceptions to disclosure are listed. Those record types that are exempt from this law are confidential. A list of those confidential record types can be located in the GC, Section 6254. All other record types are non-exempt, and access to them must be provided upon request.

Per GC, Section 6253 (a), "Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided. Any reasonably segregable portion of a record shall be available for inspection by any person requesting the record after deletion of the portions that are exempted by law."

III. DISCLOSURE OF PERSONAL INFORMATION

Learning Objective 2: You will identify when it is appropriate to disclose an individual's personal information.

Per California Civil Code (CC) §§1798.24 -1798.24b:

An agency shall not disclose any personal information in a manner that would link the information disclosed to the individual to whom it pertains unless the information is disclosed, as follows:

- (a) To the individual to whom the information pertains.
- (b) With the prior written voluntary consent of the individual to whom the record pertains, but only if that consent has been obtained not more than 30 days before the disclosure, or in the time limit agreed to by the individual in the written consent.
- (c) To the duly appointed guardian or conservator of the individual or a person representing the individual if it can be proven with reasonable certainty through the possession of agency forms, documents or correspondence that this person is the authorized representative of the individual to whom the information pertains.
- (d) To those officers, employees, attorneys, agents, or volunteers of the agency that has custody of the information if the disclosure is relevant and necessary in the ordinary course of the performance of their official duties and is related to the purpose for which the information was acquired.
- (e) To a person, or to another agency where the transfer is necessary for the transferee agency to perform its constitutional or statutory duties, and the use is compatible with a purpose for

which the information was collected and the use or transfer is accounted for in accordance with Section 1798.25. With respect to information transferred from a law enforcement or regulatory agency, or information transferred to another law enforcement or use of the information requested is needed in an investigation of unlawful activity under the jurisdiction of the requesting agency or for licensing, certification, or regulatory purposes by that agency.

- (f) To a governmental entity when required by state or federal law.
- (g) Pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).
- (h) To a person who has provided the agency with advance, adequate written assurance that the information will be used solely for statistical research or reporting purposes, but only if the information to be disclosed is in a form that will not identify any individual.
- (i) Pursuant to a determination by the agency that maintains information that compelling circumstances exist that affect the health or safety of an individual, if upon the disclosure notification is transmitted to the individual to whom the information pertains at his or her last known address. Disclosure shall not be made if it is in conflict with other state or federal laws.
- (j) To the State Archives as a record that has sufficient historical or other value to warrant its continued preservation by the California state government, or for evaluation by the Director of General Services or his or her designee to

determine whether the record has further administrative, legal, or fiscal value.

- (k) To any person pursuant to a subpoena, court order, or other compulsory legal process if, before the disclosure, the agency reasonably attempts to notify the individual to whom the record pertains, and if the notification is not prohibited by law.
- (l) To any person pursuant to a search warrant.
- (m) Pursuant to Article 3 (commencing with Section 1800) of Chapter 1 of Division 2 of the Vehicle Code.
- (n) For the sole purpose of verifying and paying government health care service claims made pursuant to Division 9 (commencing with Section 10000) of the Welfare and Institutions Code.
- (o) To a law enforcement or regulatory agency when required for an investigation of unlawful activity or for licensing, certification, or regulatory purposes, unless the disclosure is otherwise prohibited by law.
- (p) To another person or governmental organization to the extent necessary to obtain information from the person or governmental organization as necessary for an investigation by the agency of a failure to comply with a specific state law that the agency is responsible for enforcing.
- (q) To an adopted person and is limited to general background information pertaining to the adopted person's natural parents, provided that the information does not include or reveal the identity of the natural parents.
- (r) To a child or a grandchild of an adopted person and disclosure is limited to medically

necessary information pertaining to the adopted person's natural parents. However, the information, or the process for obtaining the information, shall not include or reveal the identity of the natural parents. The State Department of Social Services shall adopt regulations governing the release of information pursuant to this subdivision by July 1, 1985. The regulations shall require licensed adoption agencies to provide the same services provided by the department as established by this subdivision.

- (s) To a committee of the Legislature or to a Member of the Legislature, or his or her staff when authorized in writing by the member, where the member has permission to obtain the information from the individual to whom it pertains or where the member provides reasonable assurance that he or she is acting on behalf of the individual.
- (t) (1) To the University of California, a nonprofit educational institution, or, in the case of education-related data, another nonprofit entity, conducting scientific research, provided the request for information is approved by the Committee for the Protection of Human Subjects (CPHS) for the California Health and Human Services Agency (CHHSA) or an institutional review board, as authorized in paragraphs (4) and (5). The approval required under this subdivision shall include a review and determination that all the following criteria have been satisfied:
 - (A) The researcher has provided a plan sufficient to protect personal information from improper use and disclosures, including sufficient administrative, physical, and technical safeguards to

protect personal information from reasonable anticipated threats to the security or confidentiality of the information.

- (B) The researcher has provided a sufficient plan to destroy or return all personal information as soon as it is no longer needed for the research project, unless the researcher has demonstrated an ongoing need for the personal information for the research project and has provided a long-term plan sufficient to protect the confidentiality of that information.
 - (C) The researcher has provided sufficient written assurances that the personal information will not be reused or disclosed to any other person or entity, or used in any manner, not approved in the research protocol, except as required by law or for authorized oversight of the research project.
- (2) The CPHS or institutional review board shall, at a minimum, accomplish all of the following as part of its review and approval for the purpose of protecting personal information held in agency databases:
- (A) Determine whether the requested personal information is needed to conduct the research.
 - (B) Permit access to personal information only if it is needed for the research project.
 - (C) Permit access only to the minimum necessary personal information needed for the research project.

- (D) Require the assignment of unique subject codes that are not derived from personal information in lieu of social security numbers if the research can still be conducted without social security numbers.
 - (E) If feasible, and if cost, time, and technical expertise permit, require the agency to conduct a portion of the data processing for the researcher to minimize the release of personal information.
- (3) Reasonable costs to the agency associated with the agency's process of protecting personal information under the conditions of CPHS approval may be billed to the researcher, including, but not limited to, the agency's costs for conducting a portion of the data processing for the researcher, removing personal information, encrypting or otherwise securing personal information, or assigning subject codes.
 - (4) The CPHS may enter into written agreements to enable other institutional review boards to provide the data security approvals required by this subdivision, provided the data security requirements set forth in this subdivision are satisfied.
 - (5) Pursuant to paragraph (4), the CPHS shall enter into a written agreement with the institutional review board established pursuant to Section 49079.5 of the Education Code. The agreement shall authorize, commencing July 1, 2010, or the date upon which the written agreement is executed, whichever is later, that board to provide the data security approvals required by this subdivision, provided the data security requirements set

forth in this subdivision and the act specified in paragraph (1) of subdivision (a) of Section 49079.5 are satisfied.

- (u) To an insurer if authorized by Chapter 5 (commencing with Section 10900) of Division 4 of the Vehicle Code.
- (v) Pursuant to Section 450, 452, 8009, or 18396 of the Financial Code. This article shall not be construed to require the disclosure of personal information to the individual to whom the information pertains when that information may otherwise be withheld as set forth in Section 1798.40.

CC Section 1798.24a. Notwithstanding Section 1798.24, information may be disclosed to any city, county, city and county, or district, or any officer or official thereof, if a written request is made to a local law enforcement agency and the information is needed to assist in the screening of a prospective concessionaire, and any affiliate or associate thereof, as these terms are defined in subdivision (k) of Section 432.7 of the Labor Code for purposes of consenting to, or approving of, the prospective concessionaire's application for, or acquisition of, any beneficial interest in a concession, lease, or other property interest. However, any summary criminal history information that may be disclosed pursuant to this section shall be limited to information pertaining to criminal convictions.

CC Section 1798.24b. (a) Notwithstanding Section 1798.24, except subdivision (v) thereof, information shall be disclosed to the protection and advocacy agency designated by the Governor in this state pursuant to federal law to protect and advocate for the rights of people with disabilities, as described in

Division 4.7 (commencing with Section 4900) of the Welfare and Institutions Code.

- (b) Information that shall be disclosed pursuant to this section includes all of the following information:
 - (1) Name
 - (2) Address
 - (3) Telephone number
 - (4) Any other information necessary to identify that person whose consent is necessary for either of the following purposes:
 - (A) To enable the protection and advocacy agency to exercise its authority and investigate incidents of abuse or neglect of people with disabilities.
 - (B) To obtain access to records pursuant to Section 4903 of the Welfare and Institutions Code.

IV. CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION INFORMATION PRACTICES ACT

Per the California Civil Code, Chapter 1, Article 8, 1798.30, each agency shall either adopt regulations or publish guideline specifying procedures to be followed in order fully to implement each of the rights of individuals set forth in this article.

A. Policy

Learning Objective 3: You will identify CDCR's Information Practices Act Policy and Responsibilities per Department Operations Manual (DOM) in accordance with the Civil Code Information Practices Act of 1977.

DOM Section 13030.1, Information in all records and files of the Department which pertains to inmates, parolees, employees, or other persons shall be collected, maintained, amended, and disclosed in conformance with the IPA of 1977 and subsequent amendments.

B. General Review

Per DOM Section 13030.3, "When a request to disclose information from a departmental record, or to receive copies of information, is received, employees shall look first to the provisions of the DOM Section 13040 to determine if the information is in a public record. If the information is disclosable as a public record, and the record contains personal information, employees shall look to the provisions of this section to determine if the information is exempt from disclosure."

C. Training

Per DOM Section 13031.3.1, "All employees shall be provided general training regarding the policies, procedures, and regulations governing the collection, maintenance, use, disclosure, and destruction of personal information. Only those employees with a "need to know" shall be permitted to have access to departmental records containing personal information."

D. Responsibilities: DOM Sections 13030.5-13030.9

Office of Information Practices

The Office of Information Practices (OIP) operates under the direction of the Executive Officer of the California Human Resources (CalHR). Its functions include, but are not limited to, the following:

- Assist an individual in identifying and accessing records which may contain information about the individual.
- Develop administrative guidelines and assist state agencies in implementing the IPA's provisions.
- Investigate alleged violations of the IPA.
- Mediate disputes arising under the IPA.
- Report uncorrected violations of the IPA to the Governor, the Legislature, and the appropriate law enforcement agency.

Departmental IPA Coordinators

CDCR's IPA Coordinator shall:

- Ensure that CDCR complies with the provisions of the IPA.
- Act as liaison with the OIP.

- Provide training to those persons designated as local IPA liaison personnel.
- Collect information on records systems from all CDCR units that keep personal information for submission of necessary reports to the OIP as required by law.
- Coordinate individual requests for personal information to the appropriate CDCR division, facility, or office.
- Monitor record keeping practices of offices where personal information is collected, maintained, and disclosed.

California Prison Industry Authority (CALPIA)

The CALPIA's IPA coordinator, located in the Personnel and Training Unit, shall:

- Ensure that CALPIA complies with the provisions of the IPA.
- Act as liaison with the OIP.
- Collect information on record systems from all CALPIA headquarters units and CALPIA facility factories that keep personal information for submission of necessary reports to the OIP as required by law.
- Coordinate individual requests for personal information to the appropriate staff.
- Monitor record keeping practices of office where personal information is collected, maintained, and disclosed.

Local IPA Liaison Personnel

Local IPA liaison personnel shall be the personnel manager from each facility, a unit/section chief from each headquarters division, or a staff services analyst or above from each regional parole office.

Their duties shall include:

- Ensure that their division, parole region, or facility complies with all provisions of the IPA.
- Act as liaison with the departmental IPA coordinator.
- Coordinate individual requests for personal information to the appropriate office within their division, parole region, or facility for response.
- Monitor record keeping practices of offices where personal information is collected, maintained, and disclosed to ensure compliance with CDCR practices.

Correctional Case Records Manager (CCRM)

CCRM shall review the fingerprint card responses from State Department of Justice (DOJ) for persons appointed to positions which allow access to inmate records or Electronic Data Processing (EDP) terminals usable to access electronically stored inmate records.

All Employees

Employees responsible for the creation, use, maintenance, amendment, dissemination, and/or destruction of records containing any personal information shall take all necessary precautions to ensure that proper administrative, technical, and physical safeguards are established and followed in order to protect the confidentiality of those records and to preclude disclosure of personal information to unauthorized persons.

Shall

All CDCR employees who collect, use, maintain, amend, disseminate, and/or destroy personal information shall:

- Make every reasonable effort to respond promptly to inquiries and requests by persons

desiring to receive or review personal information.

- Assist persons who are seeking personal information to make their inquiry specific and descriptive enough to facilitate locating the records requested.
- Respond, in a courteous and business-like manner, to inquiries from persons seeking to review, obtain copies of, amend, correct, or dispute personal information kept by CDCR.

Shall Not

CDCR employees who collect, use, maintain, amend, disseminate, and/or destroy personal information shall not:

- Require individuals to disclose personal information which is not necessary and relevant to the lawful state function for which the employee is responsible.
- Improperly disclose personal information relating to any individual to any unauthorized person. The improper disclosure of personal information is cause for an adverse action, and it may subject the employee and CDCR to legal action (See DOM Section 13030.33 for further information).
- Seek or use personal information relating to others for any purpose other than the lawful purpose for which it is collected. The intentional violation of this requirement is cause for an adverse action, and it may subject the employee and CDCR to legal action (See DOM Section 13030.33 for further information).

V. CONCLUSION

A. Consequences for Violating the Information Practices Act

Learning Objective 4: You will identify consequences for not following the Information Practices Act law and policy.

There are penalties for violating IPA, both for the department, which may be sued, and for an employee, who may be disciplined.

- An individual may bring a civil action against a department that violates the IPA if the violation results in an adverse impact on the individual.
- An employee who intentionally violates the IPA may be subject to disciplinary action, including termination.
- An employee who willfully obtains a record containing personal information under false pretenses may be guilty of a misdemeanor, with a penalty of up to a \$5,000 fine and/or one year in jail.

B. Notice of Security Breach Law

Included in the IPA is the requirement that departments must notify people promptly if certain personal information is "acquired by an unauthorized person." Such a breach might be the loss or theft of a laptop containing personal information, an intrusion into a state computer system by a hacker, or the mailing of a disk containing information to the wrong person.

Warning of possible identity theft:

The law was passed to alert people when their personal information may have fallen into the wrong hands, putting them at risk of identity theft.

Someone who receives a notice of a breach can take steps to defend against the possibility of identity theft.

C. Public Trust

If we fail to protect personal information or to use it properly, we can undermine our citizens' faith in government. Protecting personal information means protecting people. It's a matter of public trust.

GLOSSARY

Word	Definition
ACCESS	An individual's right to see their own records, or an individual's right to permit an agent, on their behalf, to review the individual's records.
AGENCY	Every state office, officer, department, division, bureau, board, commission, or other state entity exclusive of the following: • The California Legislature. • Any agency established under Article VI of the California Constitution. • State Compensation Insurance Fund (SCIF), except for any records which contain personal information about employees of SCIF. Agency includes any local agency as defined in GC 6252(b).
DEPARTMENT EMPLOYEES	Full-time and part-time civil service and exempt employees, student assistants, aides, contractual persons/entities, consultants, or anyone whose duties with CDCR require or permit the use of records or information about other individuals.
DISCLOSE	To divulge, release, transfer, disseminate, or otherwise communicate all or any part of any record orally, in writing, or by electronic or any other means to any person other than the one about whom the information is kept.
EXEMPT	Personal information that may, by law, be withheld from the individual to whom it pertains. This was formally referred to as confidential information.
FILE	See Record.
GOVERNMENT ENTITY	Any branch of the federal government or of state or local government as defined in GC 6254(b).
INDIVIDUAL	Any natural person about whom CDCR maintains any personal information.
INSPECT A RECORD	The act of physically reviewing a record by the person about whom the record is kept or their authorized representative.

Word	Definition
PERSON	Any natural person, corporation, partnership, firm, association, or government entity.
PERSONAL INFORMATION	Any information that is maintained by an agency which identifies or describes an individual, including, but not limited to, an individual's name, social security number, physical description, home address, home telephone number, education, financial situation, and medical or employment history, including statements made by, or attributed to, the individual.
PERSONAL RECORD	Any information that is maintained by an agency which identifies or describes an individual, including, but not limited to, an individual's name, social security number, physical description, home address, home telephone number, education, financial situation, and medical or employment history, including statements made by, or attributed to, the individual.
RECORD	Any records system or grouping of information about an individual that is maintained by CDCR by reference to an identifying particular, such as an individual's name, photograph, finger or voice print, or a number or symbol assigned to the individual. This includes all records systems maintained by CDCR.
RECORD SYSTEM	Any grouping of records which pertains to one or more individuals maintained by CDCR from which information is retrieved by an individual's name, photograph, finger or voice print, or a number or symbol assigned to an individual.

RESOURCES

- 1) California Civil Code §§1798 et seq, Title 1.8.

Website:

<http://leginfo.legislature.ca.gov/faces/codes.xhtml>

- 2) The Information Practices Act of 1977 with Guidelines and Commentary

Website:

<http://appsandroidterbaru.com/pdf/california-information-practice-act/>

- 3) California Department of Corrections and Rehabilitation Department Operations Manual 2015

Website:

<http://intranet/ADM/DSS/RPMB/dom/Documents/DOM%202015/DOM%202015.pdf>

- 4) Protecting Privacy in State Government Self-Training Manual for California State Employees

Website:

http://www.cio.ca.gov/ois/government/privacy/documents/doc/privacy_training_manual_3_17_11.doc

REFERENCES

- 1) California Civil Code §§1798 et seq
- 2) The Information Practices Act of 1977 with Guidelines and Commentary Booklet
- 3) California Department of Corrections and Rehabilitation Department Operations Manual 2015

**Information Practices Act
Lesson Acknowledgement and Signature**

By my signature, I acknowledge that I have read, understand, and agree to the policies and procedures as defined in the Information Practices Act OJT Module that I received.

Please contact your immediate supervisor if you have additional questions.

PERNR # _____

Signature: _____

Print Name: _____

Date: _____