

California Supreme Court Clarifies When Courts Can Review Public Agency Conduct Under the Public Records Act

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On January 15, 2026, in *City of Gilroy v. Superior Court* (2026) 19 Cal.5th 38, the California Supreme Court clarified that enforcement orders under the California Public Records Act (CPRA) are not limited to compelling the production of improperly withheld records. Rather, courts may under certain circumstances also review and adjudicate the adequacy of public agencies' record searches and document review, even when the requested records no longer exist. At the same time, the Court confirmed that the CPRA does not require agencies to preserve records solely because a request has been made.

Background

This case arose from a series of CPRA requests the Law Foundation of Silicon Valley (Law Foundation) submitted to the City of Gilroy (City) between 2018 and 2019 seeking police body camera footage related to homeless encampment cleanups. After the City initially denied the requests, the Law Foundation threatened legal action.

The City ultimately released some footage but withheld other recordings pursuant to various CPRA exemptions. The City also advised the Law Foundation that certain recordings had already been destroyed. The Law Foundation challenged not only the City's exemption claims but also alleged that the City had conducted inadequate searches for responsive records, destroyed responsive records while requests were pending, and had improperly applied blanket exemptions without reviewing individual recordings. As to the latter categories of alleged conduct beyond the withholding of records, the Law Foundation sought declaratory relief (i.e., a declaration from the court that the City's conduct violated the CPRA).

The trial court agreed with the Law Foundation. The Court of Appeal reversed, concluding that because there were no additional records the trial court could order disclosed, relief was unavailable to the Law Foundation. The Law Foundation then sought and was granted review by California Supreme Court.

What the Supreme Court Decided

The Supreme Court addressed two key questions:

1. Can courts grant declaratory relief when no records remain to be disclosed?

The City argued that relief was not available under the CPRA because the trial court had determined that no additional responsive records existed and therefore the only relief authorized by the CPRA—an order compelling disclosure—was not available.

The Law Foundation countered that courts can and should review not just whether specific documents must be disclosed, but also whether an agency's process for handling the request complied with the CPRA—including whether the agency conducted an adequate search and properly reviewed records before asserting exemptions.

The Supreme Court ultimately rejected the City's argument, and the Court of Appeal's conclusion, that no relief was available simply because no additional records could be disclosed by the City. The Court instead held that declaratory relief was available for CPRA violations even after all existing responsive records have been disclosed or destroyed, explaining that the CPRA allows courts to clarify agencies' legal obligations and address patterns of conduct that may frustrate the public's right to access records.

Applying this reasoning to the matter at hand, the Court concluded that two of the trial court's declarations were proper: (1) one stating that the City conducted an inadequate search for records, and (2) another declaring that the City failed to properly review body camera footage before asserting a blanket exemption. Both declarations addressed contested issues about the City's responsibilities that were, importantly, likely to recur in future requests.

2. Does the CPRA require agencies to preserve records for a period of 3 years after receiving a public records request?

The Law Foundation contended that the CPRA implicitly requires agencies to preserve records for three years after receiving a request to ensure the public's right to access is not frustrated by premature destruction.

The Supreme Court rejected this argument, holding that the CPRA does not impose record retention requirements on public agencies. The Court noted that the CPRA contains no language requiring record preservation, and the statute's legislative history confirms that it was not intended to affect existing laws governing record retention and destruction.

The Court did acknowledge that agencies may still be required to preserve records under particular record retention laws and other legal doctrines—such as when litigation is reasonably foreseeable—but such duties do not stem from the CPRA. In this case, for example, the City voluntarily placed a litigation hold on records to exceed its standard one-year retention policy after the Law Foundation threatened legal action, and the Court appeared to agree that this was the proper approach when the agency was put on notice that the requester would seek injunctive relief.

What This Means for Public Agencies

This decision has several practical implications:

- **Process matters.** Public agencies can face liability not just for wrongfully withholding documents, but also for inadequate procedures when handling records requests. For example, courts may review whether agencies conducted adequate searches, responded within statutory timeframes, and provided sufficiently specific explanations when withholding records.
- **No new preservation duties.** While the CPRA does not create record retention requirements, agencies must still comply with applicable retention schedules and should implement litigation holds to prevent destruction of records when litigation is reasonably foreseeable.
- **Attorneys' fees remain a risk.** Prevailing requesters are entitled to recover reasonable attorneys' fees under the CPRA. Although the Court noted that trial courts can limit fee awards if requesters engage in unreasonable litigation tactics, the Court's holding confirming an expanded scope of declaratory relief under the CPRA allowed increases the potential for attorneys' fee liability for public agencies.

In light of the Court's opinion, public agencies must now account for a broader scope of potential litigation risks when disputes arise with a requester under the CPRA, and where disclosure of the sought-after records may no longer block or foreclose CPRA lawsuits.

If you have any questions about this case, or for any questions related to the CPRA, please contact the authors of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcast](#), follow us on [Facebook](#) and [LinkedIn](#), or download our [mobile app](#).

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