


# National Lawyers Guild v. City of Hayward: No Cost for Redaction of Bodycam Footage in Response to CPRA Request

The California Supreme Court in *National Lawyers Guild v. City of Hayward* (S252445) held public agencies cannot recover redaction and compilation costs incurred in response to a California Public Records Act request. While the outcome of this case is disappointing to many public agencies who struggle with the costs of redacting video footage or other electronic documents, the Court does provide some examples of other areas of the Public Records Act that could provide relief.

The National Lawyers Guild's submitted a California Public Records Act request to the City of Hayward seeking several categories of records related to the City of Hayward Police Department's actions in 2014 relating to demonstrations that took place in the City of Berkeley after a grand jury decided not to indict policemen involved in the deaths of Eric Garner and Michael Brown. Before producing the records, the City of Hayward provided National Lawyers Guild with an invoice for $2,938.58, the cost of 40.2 hours of staff time used to compile and redact police body camera video.

The Supreme Court acknowledged the California Public Records Act allows public agencies to recover the costs associated with producing copies of electronic records, "including the cost to construct a record, and the cost of programming and computer services necessary to produce a copy of the record" (California Government Code § 6253.9, subd. (b)) when "[t]he request would require data compilation, extraction, or programming to produce the record." (California Government Code § 6253.9(b)(2))

However, the Court's decision turned on the statutory interpretation of the term "data extraction." While the City of Hayward argued the staff time utilized redacting material exempt from disclosure qualifies as data extraction, the Court went with a more technical version of the term stating data extraction is "…[the] process of retrieving required or necessary data for a particular use, rather than omitting or deleting unwanted data." After analyzing the legislative history of Government Code section 6253.9(b)(2), the Court determined that the history makes clear that the term "extraction" was intended to cover such things as "pulling demographic data for all state agency employees from a human resources database and producing the relevant data in

RELATED PRACTICES

Public Law

RELATED PEOPLE

Denise S. Bazzano
Stephanie Gutierrez
Chad W. Herrington
Thomas D. Jex

© 2025 Burke, Williams & Sorensen, LLP. All rights reserved.

a spreadsheet" but not time spent searching for "responsive records in an e-mail inbox or a computer's documents folder."

The Court concluded that public agencies may recover costs for the retrieval of responsive electronic data in order to produce a record that can be released to the public, but not the costs incurred when redacting exempt information. The Court further explained that although collection, review and redaction of police body-worn camera footage presents a unique challenge, often requiring time-intensive and costly redaction, California Government Code section 6253.9(b)(2), "…as presently written, does not provide a basis for charging requesters for the costs of redacting government records kept in an electronic format, including digital video footage." The Court offered three provisions of the Public Records Act that provide solutions to ease the burden of responding to overly burdensome requests without adequate funding: 1) Government Code section 625(a)[requires agencies to disclose nonexempt portions of records only if they are "reasonably segregable" from portions exempted by law]; 2) Government Code section 6255(a) [allows agencies to withhold records if "the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record" which could encompass requests that are unduly burdensome on agencies], and 3) Government Code section 6253.1(a)(3) [allows agencies to suggest ways requesters can reduce practical barriers to agency compliance with any request].

© 2025 Burke, Williams & Sorensen, LLP. All rights reserved.