

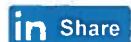


CHP FORMS PREPARED USING DMV INFORMATION WERE EXEMPT FROM DISCLOSURE

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In July 2014, Cynthia Anderson-Barker sent a Public Records Act (PRA) request to the County of Los Angeles for all electronically stored CHP 180 forms dating from January 1, 2012 to the present. The County Sheriff's Department uses CHP 180 forms to document when a vehicle is towed so that it can be stored or impounded. The deputy sheriff who completes the form gives a carbon copy to the garage/tow truck operator and also images the completed form into the Sheriff's Electronic Criminal Documents Archive (SECDA) System.

The County refused to produce the forms. It informed Anderson-Barker that several fields in the CHP 180 forms contain private information that is exempt from disclosure, that the forms in SECDA cannot be electronically redacted, and that the County estimated it would take 71,666 hours to manually redact the 215,000 responsive CHP 180 forms. After the County refused to produce the forms, Anderson-Barker filed a petition for writ of mandate seeking to compel disclosure. The trial court granted the petition and ordered the County to comply with the PRA request. The County then filed a petition for writ of mandate with the Court of Appeal. The Court of Appeal granted the petition.

The PRA grants every person the right to inspect any public record maintained by a state or local agency unless an express exemption applies. Government Code section 6254, subdivision (k) exempts from disclosure "[r]ecords, the disclosure of which is exempted or prohibited pursuant to federal or state law." The PRA provides a list of over 500 statutes that provide disclosure exemptions through section 6254, subdivision (k). This list includes Government Code section 6254.1 and Vehicle Code section 1808.21. Government Code section 6254.1 provides that "[n]othing in this chapter requires the disclosure of the residence or mailing address of any person in any record of the [DMV] except in accordance with Section 1808.21 of the Vehicle Code." Vehicle Code section 1808.21 states that "[a]ny residence address in any record of the [DMV] is confidential and shall not be disclosed to any person, except a court, law enforcement agency, or other government agency...."

The Court of Appeal held that the CHP 180 forms fall under the section 6254, subdivision (k) exemption because both Government Code section 6254.1 and Vehicle Code section 1808.21 prohibit the disclosure of a vehicle owner's address retrieved from DMV records. In order to complete a CHP 180 form, the deputy sheriff retrieves the names and addresses of the vehicle's registered and legal owners from the registration paperwork or by checking the DMV database. Once the form includes this confidential information, it cannot be disclosed under the PRA.

Anderson-Barker argued that the County waived its right to withhold the forms because it routinely discloses the vehicle owners' addresses as recorded on the CHP 180 forms to two classes of people not authorized to receive the information: tow companies and vehicle drivers who are not the vehicle owner.

While an agency can waive an exemption by disclosing an otherwise confidential document to any member of the public, the Court of Appeal held that waiver did not occur in this case. Waiver will not be found when the disclosure of the document is required by law. Here, towing companies obtain a lien on impounded vehicles. Before a vehicle may be sold to satisfy a lien, the towing company is required by law to provide notice to the vehicle's registered and legal owners. In order to perform their statutory duty of providing notice, towing companies are entitled to DMV addresses. Therefore, the County does not waive its exemption when a deputy sheriff provides a copy of a CHP 180 form to a towing company. The Court of Appeal also found no evidence that the County provided CHP 180 forms to vehicle drivers who were not also the registered or legal owners.

On that basis, the Court of Appeal ordered the trial court to enter a new order denying Anderson-Barker's writ petition.

Note:

It is unclear from the Court of Appeal's decision whether the trial court has the discretion to order the County to turn over the forms once the vehicle owners' addresses have been redacted out. In our [October 2015 Briefing Room](#), we reported the case of Pasadena Police Officers Association v. Superior Court (2015) 192 Cal.Rptr.3d 486, in which the Court of Appeal held that a 70-page investigation report had to be disclosed, but only after any confidential peace officer personnel information was redacted out. While it is not uncommon for an agency to redact confidential information out of an otherwise public document, the County may be able to withhold the CHP 180 forms in light of the substantial burden of manually redacting 215,000 documents.

County of Los Angeles v. Superior Court (Anderson-Barker) (2015) 242 Cal.App.4th 475.

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