



**LAW SEMINARS
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The Ninth Annual Seminar on
Public Records Act Litigation

*Leading Public Records Act specialists will bring you up to date on
the latest developments in requests, responses, and litigation*

November 10, 2021

Live Online | Pacific Time Zone

Agenda

9:00 Introduction & Overview

HongDao Nguyen, Esq., *Program Co-Chair*
Best Best & Krieger ~ Irvine, CA
Karl Olson, Esq., *Program Co-Chair*
Cannata O'Toole Fickes & Olson
San Francisco, CA

9:15 Judicial and Legislative Updates

Recent court decisions and pending cases including the Voice of San Diego and cases involving the the use and possible abuse of the "catchall exemption"

Annie Loo, Esq., *Deputy County Counsel*
Orange County ~ Santa Ana, CA

Recent legislative initiatives including new bills that have been passed and proposed

Brittney Marie Barsotti, Esq., *General Counsel*
California News Publishers Association
Sacramento, CA

10:00 Break

10:15 The Ongoing Tension between Privacy and the Public's Right to Know

Issues arising from government employee use of private devices for a combination of personal and work-related communications; best practices for ensuring that records of communications on personal devices are retained and accessible by custodians

Victoria Baranetsky, Esq., *General Counsel*
Center for Investigative Reporting ~ Zoom
Jolie Houston, Esq.
Berliner Cohen ~ San Jose, CA

11:00 Social Media and the Public Records Act

The First Amendment and public records issues that arise when public officials make work-related posts, or comments critical of government personnel and policies, on personal social media accounts

Aaron Field, Esq.
Cannata O'Toole Fickes & Olson

San Francisco, CA
HongDao Nguyen, Esq., *Program Co-Chair*
Best Best & Krieger ~ Irvine, CA

12:00 Lunch Break

1:15 The Dance of Negotiation for Voluminous Requests: Timing, Rolling Production, Enforcement, and Attorney Fee Issues

Striking the right balance between government staffing constraints and desire for more time vs requestor desire for a speedy and complete response; how requestors pick cases to bring, and governments pick requests to resist; deciding when to go to court

Karl Olson, Esq., *Program Co-Chair*
Nikki Moore, Esq.
Best Best & Krieger ~ Sacramento, CA
Michael Finch, II, *Data Journalist*
The Sacramento Bee ~ Sacramento, CA

2:45 Break

3:00 The Continuing Battle Over Police Records and the Public Records Act

Update on cases filed under Senate Bill 1421 creating a greater public right to access police records; heightened public interest after the killing of George Floyd and resulting possibilities for further legislative action

Jason Pohl, *Investigative Reporter*
The Sacramento Bee ~ Sacramento, CA
David E. Mastagni, Esq.
Mastagni Holstedt ~ Sacramento, CA

4:00 Legal Ethics

Public Records Act and Attorney-Client Privilege; Clawback and Quick-Peek Agreements; duties of public agency lawyers if they discover fraud or other wrongdoing

Eric W. Danly, Esq., *City Attorney*
City of Petaluma ~ Petaluma, CA
Kelly A. Aviles, Esq.
Law Offices of Kelly Aviles ~ La Verne, CA

5:00 Evaluations and Adjourn

Who Should Attend

Attorneys, journalists, government officials, and other professionals who deal with public records requests under the California Public Records Act and Freedom of Information Act

About the Conference

In this year's live online interactive Public Records Act program, we again explore the most significant current issues facing public records requestors and custodians today. As more public officials find themselves working from home, their use of personal devices has been increasing. We'll have a panel on the tension between privacy for personal communications and the public right to know about official ones. A closely related issue involves use of personal social media by public officials and we'll have a panel on the First Amendment issues that arise when public officials make work-related posts on their personal accounts.

The conflict over police records continues as the profession continues to be under scrutiny. Dealing with voluminous requests continues to be a challenge for agencies and we'll have a panel on striking the right balance between government staffing constraints and desire for more time vs requestor desire for a speedy and complete response.

You will also have an opportunity to hear comprehensive legislative and case law updates and hear about the ethical rules unique to this area of practice.

The program is an opportunity to explore the most pressing current issues in a conversational forum. It's always a lively discussion. Register soon. We hope to "see" you there.

~ HongDao Nguyen, Esq. of Best Best & Krieger and
Karl Olson, Esq. of Cannata O'Toole Fickes & Olson, Program Co-Chairs

Registration & Other Conference Information

Tuition: Regular tuition for this program is \$695 with a group rate of \$625 each for two or more registrants from the same firm. For government employees, we offer a special rate of \$520. For public interest NGO's, students, and people in their job for less than a year, our rate is \$347.50. All rates include admission to all program sessions and course materials.

Make checks payable to Law Seminars International.

As an added value bonus, you'll receive access to audio and video recordings of the program at no extra charge.

Financial aid is available to those who qualify. Contact our office for more information.

Substitution & Cancellation: You may substitute another person at any time. We will refund tuition, less a \$50 cancellation fee, if we receive your cancellation by 5:00 p.m. on Thursday, November 4, 2021. After that time, we will credit your tuition toward attendance at another program or the purchase of an audio or video replay.

Continuing Education Credit: Live credits: Law Seminars International is a State Bar of California approved MCLE provider. This program qualifies for 6.25 (inc. 1 ethics) California MCLE and 6.0 (inc. 1 ethics) AICP planner credits. Upon request, we will help you apply for CLE credits in other states and other types of credits.

Time Shift Your Content: Audio and video replay files, with course materials, are available for download or on a flash drive at the same price as live attendance. Files are available for downloading five business days after the program or from the date we receive payment. Flashdrive orders are sent via First Class mail within seven business days after the program or from the date we receive payment. The course materials alone are available for \$75.

Faculty

HongDao Nguyen, *Program Co-Chair*, is a partner at Best Best & Krieger and formerly worked as a news reporter. She now serves as Assistant City Attorney for the cities of Stanton, Aliso Viejo, and Lake Forest, and as deputy city attorney for the City of San Clemente.

Karl Olson, *Program Co-Chair*, is a named partner at Cannata O'Toole Fickes & Olson. He specializes in Public Records Act litigation and in defending news media clients and individuals against defamation and SLAPP suits (Strategic Lawsuits Against Public Participation).

Kelly A. Aviles, Law Offices of Kelly Aviles, focuses on legal issues related to media and government transparency. She has served as Vice President for Open Government Compliance with Californians Aware.

Victoria Baranetsky is General Counsel for the Center for Investigative Reporting (CIR), where she counsels reporters on newsgathering, libel, privacy, subpoenas, and other newsroom matters. Prior to CIR, she served as a First Amendment Fellow at The New York Times, a fellow at the Reporters Committee for Freedom of the Press, and a legal counsel at the Wikimedia Foundation.

Brittney Marie Barsotti is General Counsel for the California News Publishers Association. She had been serving as staff attorney and legislative advocate for CNPA since joining the association in 2019.

Eric W. Danly is the City Attorney for the City of Petaluma. Prior to joining Petaluma in-house, he was a partner in the Meyers Nave law firm and managing partner of its Santa Rosa office. He also served as Cloverdale City Attorney, General Counsel to the Monterey County Housing Authority Development Corporation, Clearlake City Attorney and Assistant City Attorney for Pinole.

Aaron Field focuses his practice at Cannata O'Toole Fickes & Olson on media and First Amendment law. He has extensive experience representing clients in efforts to access public records and proceedings, defending defamation cases, and using California's anti-SLAPP statute to quickly defeat meritless claims.

Michael Finch, II is a Data Journalist at The Sacramento Bee. As a data journalist, he writes stories either informed or driven by data and believes data journalism, at its best, breaks new ground on a subject and shows readers how it was done.

Jolie Houston is a partner at Berliner Cohen focusing on Land Use & Municipal Law. She represents private land use clients in a wide variety of land use and regulatory approvals and serves, or has served, as City Attorney for several cities.

Annie Loo is Deputy County Counsel for Orange County. She is a former reporter for the Orange County Register and advises the County on Public Records Act issues. She also is adjunct faculty at Biola University where she teaches Public Affairs Reporting.

David E. Mastagni is a partner at Mastagni Holstedt. He specializes in labor and employment representation of public safety employees and devotes much of his practice to representing peace officers and their unions in a variety of areas, including disciplinary proceedings, enforcement of the POBR and privacy rights, critical incident investigations, and collective bargaining.

Nikki Moore is a staff attorney for the Advanced Records Center at Best Best & Krieger. Previously, she was counsel for the Assembly Committee on Public Safety. She also worked for the California News Publishers Association and lobbied to help pass legislation related to the disclosure of police records.

Jason Pohl is an Investigative Reporter for The Sacramento Bee covering criminal justice and government accountability. Prior to joining The Bee, he worked at The Arizona Republic focusing on the same areas. As part of the USA TODAY NETWORK, he also reported on hurricanes from Texas, wildfires in California, and assorted mayhem across the West.