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# *Release of Information in California:* **Law Enforcement**

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*E-book Series, 11 of 12*

*The Release of Information (ROI) in California is a series of 12 E-books that will help you navigate and understand the complex state and federal laws, as well as best practices related to managing and releasing protected health information. The ROI E-book series contains content that falls under HIPAA, federal regulations, and is specific to California state laws.*

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California Health Information Association  
1915 North Fine Avenue, Suite 104  
Fresno, California 93727-1565  
T: (559) 251-5038  
F: (559) 251-5836  
E-mail: [Info@CaliforniaHIA.org](mailto:Info@CaliforniaHIA.org)

**For more information, visit [www.CaliforniaHIA.org](http://www.CaliforniaHIA.org)**

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**Lenore Gilbert, MM, RHIA, CHP**, is the Director of Health Information Management for Prison Health Services, Inc., at Alameda County Jails in California. She holds RHIA and CHP certifications from the American Health Information Management Association (AHIMA). Lenore finds providing professional health information management services within the context of law enforcement to be unique and challenging. She is an adjunct instructor for Chabot College. Lenore volunteers for CHIA by participating on committees and as a mentor of the CHIA Mentorship Program.

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## Release of Information in California E-book Series

The Release of Information (ROI) in California is a series of 12 E-books that will help you navigate and understand the complex state and federal laws, as well as best practices related to managing and releasing protected health information. The ROI E-book series contains content that falls under HIPAA, federal regulations, and is specific to California state laws.



Each ROI E-book includes an overview of the topic and extensive references. **Self Assessment Quizzes** are designed in multiple-choice and true/false format, and assess your understanding of the subject matter. A link to the Quiz is provided with each purchased E-book, and corrected answers will be displayed so you can receive automatic feedback.



Upon completion of the Self Assessment Quiz, a **Certificate of Completion (CEU)** will be made available to download and print. You will not be able to access the Certificate after exiting the Quiz, so be sure to download it immediately and retain as evidence of the earned continuing education.

Product Code	Release of Information in California:	CEU's Offered
E-book 001	Introduction **	Two
E-book 002	General Releases	Two
E-book 003	Medical Records and the Court System	Three
E-book 004	Workers Compensation	Three
E-book 005	Elder, Dependent Adult and Child Abuse	Two
E-book 006	Coroner's Office	Two
E-book 007	Public Health Agencies	Two
E-book 008	Business Associates	Two
E-book 009	Government Agencies	Two
E-book 010	Inmates	Two
E-book 011	Law Enforcement	Two
E-book 012	Special Health Records	Two

\*\* CHIA recommends you read the *Release of Information in California: Introduction* E-book first. This E-book is offered at no charge and includes the "Glossary of Terms" that is used in all subsequent ROI E-books.

### Additional CHIA Resources

To view sample pages or purchase these E-books, or to view more details about CHIA's publications and Webinar Replays, visit [www.CaliforniaHIA.org/Resources](http://www.CaliforniaHIA.org/Resources)

## Forward

*The purpose of this E-book is to provide accurate and authoritative information on proper and adequate disclosure of health information. The California Health Information Association (CHIA) is not engaged in rendering legal services, and providing legal advice is beyond the scope and intent of the E-books.*

## Release of Information in California: Law Enforcement

This E-book will assist the student in understanding federal privacy laws (HIPAA) and California state laws in regard to release of protected health information (PHI) to law enforcement officials, what PHI may be released upon request, whether a signed authorization for release of information is necessary, and what regulations apply in this context.

### Student Learning Outcomes and Objectives

Upon completion of the *Release of Information in California: Law Enforcement* E-book, students will be able to understand what roles medical records play within the legal system and what legal processes should be followed. These are important issues and the health information staff and custodians of records must understand the legal requirements in order to comply with the various types of requests for medical records that may be received by a health care provider:

- Understand the importance of maintaining the confidentiality of patient records and protected health information (PHI) and what PHI when requested to disclose information to law enforcement.
- Understand what types of PHI may be released and under what circumstances.
- Describe federal and state legislation regarding disclosing PHI to law enforcement.
- Understand and appreciate the complexities and responsibilities inherent in releasing protected health information to internal and external requestors.
- Articulate the importance of releasing-patient specific health information according to current laws and regulations.
- Differentiate between the different state of California and federal laws regulating release of patient specific information and apply them appropriately in all situations.
- Utilize resources to maintain current competencies and keep abreast of changing requirements.

# Release of Information in California: Law Enforcement

## Introduction

Federal and state regulations govern access to protected health information provided to law enforcement officials. Regulations on the federal level include, but are not limited to, the Health Insurance Portability and Accountability Act (HIPAA), Homeland Security Act, and the Patriot Act. The Confidentiality of Medical Information Act (CMIA), California Evidence Code, Lanterman-Petris-Short Act, and California Penal Code are some of the state regulations that determine to what extent law enforcement has access to protected health information. This e-book is intended to provide the health information professional with knowledge of how to respond to requests from law enforcement officials in a manner that maintains the confidentiality and privacy of the patient.

In HIPAA (45 CFR), a law enforcement official is defined as “an officer or employee of any agency or authority of the U.S., a state, a territory, a political subdivision of a state or territory, or an Indian tribe, who is empowered to: investigate or conduct an official inquiry into a potential violation of the law; or prosecute or otherwise conduct a criminal, civil, or administrative proceeding arising from an alleged violation of the law (§164.501).” Law enforcement officials, thus, come in many varieties and from different jurisdictions (federal, state, and local). They may appear forceful and intimidating just by the fact that they have a badge, may wear a uniform, and may act in an overzealous manner. However, when they come to the release of information desk, having a working knowledge of the applicable laws and having a well-defined plan in place are helpful tools for the health information management professional.

HIPAA lays groundwork from which to build a plan or matrix for responding to requests from law enforcement officials. The Privacy Rule permits disclosures to law enforcement under certain circumstances, but other federal or state regulations may require disclosure. Federal regulations, such as the Homeland Security Act and the Patriot Act, are crafted to be compatible with HIPAA. Health information management (HIM) professional judgment is required unless disclosure is required by another regulation. A preemption analysis (explained below) between federal and state regulations may be needed. Preparing, in advance, a plan for release of information reflecting the facility’s own policies, procedures, ethical considerations, and required regulations, is useful for HIM guidance.

Covered entities (CE) are required to follow HIPAA unless state law is more stringent. For further information, see the Frequently Asked Questions (FAQs) for HIPAA on the Web sites of the Office for Civil Rights (OCR) [www.hhs.gov/ocr/](http://www.hhs.gov/ocr/), the Department of Health and Human Services (DHHS) [www.hhs.gov](http://www.hhs.gov/), or the Centers for Medicare & Medicaid (CMS) <https://www.cms.gov/>. For preemption analysis of federal and state laws, please refer to the *California Health Information Patient Privacy Manual* (California Healthcare Association), the California Office of HIPAA Implementation (CalOHI at <http://www.ohi.ca.gov>) and consult your facility legal counsel for guidance. These references, in addition to regulation texts, have been used in preparing this e-book.