

Rule No. 23

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NONPUBLISHED SERVICE

A. Definition of nonpublished service:

1. Upon a customer's request, customer name, address, and telephone number are not listed in any telephone directory, street address directory, or in the directory assistance records available to the general public. This information, as well as call-forwarding information from such unlisted telephone numbers, shall be released by telephone utilities in response to legal process or to certain authorized governmental agencies provided the requesting agency complies with the rules herein established for the release of non-published information.

B. Agencies authorized to receive nonpublished information:

1. Any California public agency which employs persons who are peace officers pursuant to California Penal Code Section 830 and all subsections thereof.
2. An agency of the federal government which is lawfully authorized to:
 - a. Conduct investigations or make arrests for violations of the criminal laws of the United States; or,
 - b. prosecute violations of the criminal laws of the United States; or,
 - c. enforce civil sanctions which are ancillary to criminal statutes; or,
 - d. conduct investigations into matters involving the national security of the United States; or,
 - e. protect federal or foreign officials; or,
 - f. protect public health and safety; or,
 - g. conduct emergency rescue operations.
3. Any public health agency of the State of California or of a city, county, or other local government.
4. County or city 911 projects.
5. State Fire Marshall and Local Fire Departments or Fire Protection Agencies.

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C. Procedure for release of nonpublished information to authorized agencies.

1. A telephone utility shall only provide nonpublished information to persons within authorized agencies who are either (a) peace officers pursuant to California Penal Code Section 830 and all subsections thereof and who are lawfully engaged in a criminal investigation in their official capacity, or (b) health officers who are acting in their official capacity and are lawfully investigating a matter involving a serious communicable disease or life-threatening situation, or (c) employees of an authorized federal agency acting in an official capacity pursuant to a responsibility enumerated in B. 2. above, or (d) employees of a county or city 911 project when acting in an official capacity, or (e) employees of an agency listed in B. 5. above when engaged in an investigation involving arson or when engaged in firefighting duties in which there is immediate peril to life or property.

2. Nonpublished information shall be released by a telephone utility to an authorized agency upon the agency's written request provided that the agency has previously furnished the utility with a statement, signed by the head of the agency, requesting that nonpublished information be provided to the agency upon its written request, and listing designated persons, by name, and title, who are authorized to request, in writing, nonpublished information. The written request for the nonpublished information must be signed by the head of the agency or by a previously designated person and the request must state that the nonpublished information is necessary for a lawful investigation being conducted by the agency pursuant to its responsibilities.

3. Nonpublished information shall also be released by a telephone utility to an authorized agency upon the agency's telephonic request, provided the agency has previously furnished the utility with a statement. It must be signed by the head of the agency, requesting that nonpublished information be provided to the agency upon telephonic request and listing designated persons, by name, title, and telephone number, who are authorized to request, by telephone, nonpublished information. The telephonic request for nonpublished information must be made by the head of the agency or by one of the previously designated persons.

The nonpublished information requested by telephone shall be provided by the utility only on a call-back verification basis.

The requesting agency shall, within five working days after making the telephonic request, mail the utility a letter confirming the request.

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D. Notification to Customer

1. The telephone utility shall not notify a customer regarding the release of customer's nonpublished information unless the customer contacts the utility and specifically requests to know whether his nonpublished information has been released.
2. When a customer inquires of the utility whether his nonpublished information has been released, the customer shall be informed that if information has been released he or she will be notified by mail about what information was released and which agency requested the information. If there was no release of nonpublished information, the customer will receive no communication from the utility.
3. If the requesting agency certifies that disclosure to a customer about the release of his or her nonpublished information to that agency could impede an ongoing criminal investigation, the telephone utility shall withhold notice to the customer for a period of one year from the date of release of the information to the agency.
4. The one-year period of nondisclosure shall be extended for successive one-year periods upon new written certification by the agency in each instance.
5. If no request has been made for nondisclosure to the customer, the customer who inquires shall be notified in writing as to the identity of the agency which requested the nonpublished information and the information released.

If there has been a request for nondisclosure within 25 working days after the expiration of any outstanding certification for nondisclosure, or any renewal of such certification, a customer who has previously inquired, at any time during the period of nondisclosure, whether his or her nonpublished information was released, shall automatically be notified in writing by the utility that such information was released and which agency received this information.

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E. Exception for Health Officers

1. No notification shall ever be made to a customer that nonpublished information was released to an authorized public health agency provided the chief health officer or designated health officer from the agency certifies that disclosure to the customer could violate a client's or contact's right of privacy and confidentiality.

F. Retention of Records

1. All written documents pertaining to nonpublished service shall be retained by telephone utilities for at least one year. When an agency requests that notice to the customer be withheld, the telephone utility shall retain the records involved for a period of not less than one year from the date on which the period of nondisclosure expires.

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