



San Jose E-mail Case

Introduction

- ▶ **City of San Jose v. Superior Court, 2 Cal.5th 608**

Background of San Jose case

- A. Facts of San Jose
- B. Trial Court – are public records
- C. The Sixth Appellate District – not public records.
- D. The Supreme Court – are public records.

What Issues Does San Jose Case Raise

- A. Policies going forward with respect to the use of personal accounts.
- B. Addressing PRA requests.
- C. Retention.

Policy Going Forward

- A. What policies can a city establish with respect to the use of private accounts and devices.
- B. One option is to require employees/officials to forward all “public records” (texts and e-mails) to their city e-mail address.

Policy Going Forward (continued)

- C. Another option with respect to existing e-mails and texts is to await future CPRA requests and then ask employees and officials to forward responsive public records.
- D. What about ex-employees?
- E. What about Board and Commission members?

Dealing with PRA requests

- E-mails and texts on private accounts.
- Affidavits.

Retention

- Retention statutes: Gov. Code 34090 through 34095.
 - 34090.6
 - State Records Management Act