

Editor's Note: The Aftermath of *City of San Jose*

When WikiLeaks published more than 20,000 leaked Democratic National Committee emails in the heat of the 2016 presidential election, political journalist Olivia Nuzzi famously tweeted that one should “Dance like no one is watching; email like it may one day be read aloud in a deposition.”

Nuzzi’s adage has long been true for public agency officials and employees, whose work communications are generally a matter of public record. But the California Supreme Court’s recent decision in *City of San Jose v. Superior Court* (2017) 2 Cal.5th 608 confirmed the application of the California Public Records Act to include communications made from or stored on personal devices and in personal accounts, foisting an untested set of responsibilities onto public agencies and the people who serve them.

Now, there is no doubt that individual public agency employees are responsible for retaining agency-related emails and texts sent to or from their personal devices and accounts. They are also responsible for searching or consenting to a search of their devices and accounts for responsive records requested under the Public Records Act. With the law’s affirmation of these responsibilities, it is now more important than ever that public agencies recognize the obligations they have to educate their officials and employees on their policies and procedures in order to better meet their evolving legal obligations.

In this issue of the TIP Jar, we explain *City of San Jose’s* big takeaways, guide public agencies through California’s aging records retention laws, and talk tech tools for retaining communications between folks like teachers and students. We also provide real-world, expert guidance on spotting metadata—data about your data—and discuss a related records retention topic, litigation holds.

If you'd like more information on the *City of San Jose* decision or any other technology-related legal issue you're facing, feel free to get in touch with an attorney in our [Technology & Innovation Practice Group](#) at one of our [eight offices](#) located statewide. And if you've got questions or suggestions for the TIP Jar, feel free to get in touch.

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