

**From:** [Eric Seib](#)  
**To:** [PRA Response](#)  
**Subject:** FW: California Public Records Act Request  
**Date:** Monday, August 16, 2021 4:47:47 PM  
**Attachments:** [2021-07-23 - PRA Letter Request Santa Cruz.pdf](#)

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**\*\*\* EXTERNAL MESSAGE \*\*\***

Ms. Leonida,

Pursuant to my email below, dated August 2, 2021, the County exercised its right under Government Code section 6253(c) to a fourteen (14) day extension to respond to your Requests because the County may possess records responsive to the Requests. We are responding within that 14-day deadline.

The County now responds as follows: To the extent you seek materials created by attorneys in this office that contain their “impressions, conclusions, opinions, or legal research or theories,” those documents are protected by the attorney work product privilege. (See Code Civ. Pro., § 2018.030, subd. (a); Pen. Code, § 1054.6; see also Evid. Code, § 1040.) Accordingly, these materials are not subject to compelled disclosure under the Public Records Act. (See Gov. Code, § 6254, subd. (k); see also *Labor & Workforce Dev. Agency v. Superior Court* (2018) 19 Cal. App. 5th 12; *Ardon v. City of Los Angeles* (2016) 62 Cal.4th 1176.) “The protection afforded by the privilege is not limited to writings created by a lawyer in anticipation of a lawsuit. It applies as well to writings prepared by an attorney while acting in a nonlitigation capacity.” (*County of Los Angeles v. Superior Court* (2000) 82 Cal.App.4th 819, 833.)

To the extent that your request is also directed at the contents of personnel records, those records are not subject to compelled disclosure under the Public Records Act. (Gov. Code, § 6254, subd. (c).)

We do note that we directed our attorneys to CDAA’s December 18, 2020, training on AB 2542 and CDAA’s February 3, 2021, training on AB 3070. We do not believe we are in a position to waive any claims of privilege CDAA or the presenting attorneys may have as to the materials created for those trainings and provided to attendees. Please contact CDAA directly. There must be a voluntary and knowing disclosure – there is no “‘gotcha’ theory of waiver” for attorney work product. (*Ardon v. City of Los Angeles*, *supra*, 62 Cal.4th at p. 1187.)

The criteria for our Neighborhood Courts diversion program is available on our [website](#).

Per our research in Lexis, *People v. Hayes* (1999) 21 Cal. 4th 1211, *People v. Suarez* (Oct. 5, 2016, H0411110) [nonpub. opn.], *People v. Marquez* (April 10, 2012, H033995) [nonpub. opn.] are appellate opinions originating out of Santa Cruz County that reflect *Batson/Wheeler* motions that were raised and properly denied. We are also aware of *People v. Ortega-Camacho* (17CR04370), a case in which a *Batson/Wheeler* motion was raised and denied by the trial court.

Eric Seib

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**From:** Eric Seib  
**Sent:** Monday, August 2, 2021 11:41 AM  
**To:** [praresponse@braunhagey.com](mailto:praresponse@braunhagey.com)  
**Cc:** [vare@braunhagey.com](mailto:vare@braunhagey.com)  
**Subject:** FW: California Public Records Act Request

Ms. Leonida,

The County of Santa Cruz District Attorney's Office ("County") is in receipt of your e-mailed letter dated July 23, 2021, respectively, requesting public records under the California Public Records Act (the "Requests"). A copy is attached for reference. We are responding within the 10-day deadline set out by Govt. Code sec. 6253. We note that the Requests are limited only to records maintained in the normal course of business by the County and records that are in the County's custody and control.

Please note that we will not produce records that are privileged or otherwise exempt from disclosure pursuant to California Government Code section 6254(k). This includes documents protected by the attorney-client privilege, attorney work product, and official information privileges.

No preliminary drafts or memorandum not normally kept in the ordinary course of business will be produced pursuant to California Government Code section 6254(a). Records concerning real estate appraisals for pending acquisitions are also exempt from disclosure under California Government Code section 6254(h).

We will not produce documents that are subject to copyright protections, contain trade secrets, and/or proprietary and/or confidential information. See California Government Code sections 6253.9, 6254(k), 6254.9; California Evidence Code section 1060.

Moreover, we will not produce documents exempt from disclosure under the deliberative process privilege. See *Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325. No documents will be produced where “the public interest served by not disclosing the record clearly outweighs the public interest by the disclosure of the record” under California Government Code section 6255.

Additionally, no documents will be produced if they contain personnel, medical, private, confidential, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy under California Government Code section 6254(c) and/or the Health Insurance Portability and Accountability Act of 1996. And, to the extent any of the records you are requesting are the subject of ongoing litigation and/or pending investigations, and/or are law enforcement investigatory records, such records are exempt from production. See Government Code sections 6254 (b), (f).

In addition, no documents or records will be produced to the extent such a production would violate California Penal Code §§ 832.7, 832.8, 11076, California Civil Code § 129, California Welfare and Institutions Code §§ 827, 828, 831, California Business and Professions Code § 805, or California Evidence Code § 1043.

Furthermore, as we review your Requests, we may discover other applicable privileges and/or exemptions under Government Code sections 6254, 6255, 6256 or other applicable state or federal laws, and we reserve all rights to assert those at any time.

**At this time, the County responds as follows: Pursuant to Government Code section 6253(c), the County is exercising its right to a fourteen (14) day extension to respond to the Requests because the County may possess records responsive to the Requests, requiring the need to search for and appropriately examine a potentially voluminous amount of records that are demanded in the Requests. Our deadline to respond is now August 16, 2021.**

Eric Seib  
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**From:** Abby Vare <[vare@braunhagey.com](mailto:vare@braunhagey.com)>  
**Sent:** Friday, July 23, 2021 8:19 PM  
**To:** DAO <[DAO@santacruzcounty.us](mailto:DAO@santacruzcounty.us)>  
**Cc:** Ellen Leonida <[Leonida@braunhagey.com](mailto:Leonida@braunhagey.com)>  
**Subject:** Re: California Public Records Act Request

**\*\*\*\*CAUTION:** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. \*\*\*\*

Hon. Jeff Rosell,

Please see the attached request for records pursuant to California's Public Records Act (Gov't Code §§ 6250 *et seq.*).

Best,

Abby Vare  
Litigation Legal Assistant  
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