



August 30, 2021

Via Email: leonida@braunhagey.com

Ellen Leonida, Esq.
BraunHagey & Borden LLP
351 California Street, 10th Floor
San Francisco, CA 94014

Re: Public Records Act Request – Racial Justice Act

Dear Ms. Leonida:

The County of Madera (the “County”) hereby supplements its response dated August 16, 2021, to your Public Records Act request seeking records related to the implementation of the Racial Justice Act and training materials concerning jury selection and Batson-Wheeler motions. Please find enclosed all records responsive to your request.

The County will not produce records that are exempt from disclosure by federal or state law. (Gov Code, § 6254, subd. (k).) To the extent your request seeks records that have been created by the County’s District Attorney’s Office that have been prepared by our attorneys for legal guidance on issues facing prosecutors and/or to prepare prosecutors for trial, these are protected from disclosure by the attorney work product doctrine. (*Ibid.*; Code Civ.Proc., § 2018.030, subd. (c) [“A writing that reflects an attorney’s impressions, conclusions, opinions, or legal research or theories is not discoverable under any circumstances.”].) Such records reflect an attorney’s impressions, conclusions, opinions, or legal research or theories and are considered core work product and as such they are protected and privileged writings whether created by County’s District Attorney’s Office in anticipation of litigation or for legal advice when no litigation is threatened. (See *League of California Cities v. Superior Court* (2015) 41 Cal.App.4th 976; 71 Ops.Cal.Atty.Gen. 5, 7.)

To the extent that your request seeks records published by the California District Attorneys Association (“CDAA”) as possessed by the County, the CDAA does not distribute its materials to non-law enforcement related agencies as noted by their distribution policy and as such, these records are not provided here. (See *CDAA Distribution Policy*,



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<https://www.cdaa.org/publications/distribution-policy> ["The publications produced by the California District Attorneys Association are intended primarily to inform and educate members of California's prosecutorial and law enforcement agencies. Some of our publications are funded by state and deferral grants, which govern their distribution."] In addition, the PRA also specifically exempts these materials from disclosure, pursuant to Government Code section 6254, subdivision (k). (Gov. Code, § 6254 ["records, the disclosure of which is exempted or prohibited pursuant to federal or state law."]) Further, the federal Copyright Act prohibits a local agency from distributing a copy of a document in which a third party holds a protectable copyright interest. Moreover, the California Attorney General has opined that a public entity could properly "refuse to honor a request pursuant to the California Public Records Act" where doing so would constitute copyright infringement or where it "would place an unreasonable burden on the school authorities to provide such a copy in compliance with copyright restrictions." (64 Ops.Cal.Atty.Gen. 186 (1981).)

Additionally, the release of any records which contain sensitive and private information would constitute an unwarranted invasion of privacy and, therefore, the public interest served by not disclosing the records clearly outweighs the public interest served by disclosure. (Gov. Code, § 6255.) Accordingly, such information will not be produced.

County Counsel Regina A. Garza is the party responsible for asserting the exemptions. As always, the County will respond appropriately and will provide disclosable records in accordance with its obligations under the PRA. This disclosure completes the County's response to your request. Please contact me if you have any questions regarding this matter.

Sincerely,



Crystal M. Pizano
Deputy County Counsel

CMP:sra

Enclosures