

Ellen Leonida, Esq.

Partner

leonida@braunhagey.com

November 10, 2021

VIA EMAIL AND MAIL

Anastasia M. Sullivan
Deputy County Counsel
Office of the Yuba County Counsel
915 8th Street, Suite 111
Marysville, California 95901
Email: asullivan@co.yuba.ca.us

Re: California Public Records Act Request

Dear Anastasia M. Sullivan:

I write in response to your September 10, 2021 letter regarding our CPRA Request. Thank you for your letter and the documents you have produced so far. In your letter, you have asserted several exemptions to the production of documents. I would like to respond to those assertions now.

Request No. 1

You responded to Request No. 1 subsections a, b, c(i), c(ii), c(iii), d, e, f, g, h, and i as follows:

“To the extent this request seeks records regarding individual cases, these records are exempt from disclosure under the Deliberative Process Exception, Cal. Gov’t Code, §6255(a); the Official Information Privilege, Cal. Evid. Code §1040; and the request is overly burdensome, Cal. Gov’t Code §6255(a). Juvenile records are also exempt under Welfare & Institutions Code §827. The County will provide non-exempt records.”

Your response letter lacks some legally required information. To the extent you intend to deny access to a requested record, you must justify that denial by demonstrating either (1) that the “record in question” – that is, the particular record we have requested – falls under a specific legal exemption, which you must cite, or (2) that the public interest served by your denial for that particular record “clearly outweighs” the public interest that would be served by its disclosure.¹ You must also provide the names and titles or positions of each person responsible for the denial.²

¹ Gov’t Code § 6255(a).

² Gov’t Code § 6253(d)(3).

San Francisco

351 California Street, 10th Floor
San Francisco, CA 94104
Tel. & Fax: (415) 599-0210

New York

7 Times Square, 27th Floor
New York, NY 10036-6524
Tel. & Fax: (646) 829-9403

In your response letter, you provided conditional objections, asserting not that an exemption applies to a particular record we requested – as required under the law – but rather that, as a general matter, you will not produce records that fall under particular exemptions *if* our request seeks such records. Because we are not able to effectively respond to these objections without the more specific information described above and required by law, we ask that you provide it now.

You have also failed to explain why producing the requested records for each subsection would be overly burdensome. We request specific information about the burden you claim would be placed on your office. We would also like to note that many District Attorney's offices around the state have produced such documents.

Request No. 3

You responded to Request No. 3, subsections a and b as follows:

“To the extent these records exist, they are exempt from disclosure under the Deliberative Process Exception, Cal. Gov’t Code, §6255(a); and the Official Information Privilege Cal. Evid. Code §1040”

Again, you provided conditional objections, asserting not that an exemption applies to a particular record we requested – as required under the law – but rather that, as a general matter, you will not produce records that fall under particular exemptions *if* our request seeks such records. Because we are not able to effectively respond to these objections without the more specific information described above and required by law, we ask that you provide it now.

Regarding the requested records (or portions of records) you have identified and asserted clear grounds for withholding, we would like to know if you would consider waiving any, or all, of the asserted exemptions. Exemptions, as you know, are permissive, not mandatory, and it is our goal – and yours, we imagine – to avoid unnecessary litigation, which can be costly and time consuming. If you are open to this possibility, please let us know. We would be happy to discuss this matter over the phone if you believe we may be able to find a solution that satisfies everyone. We would also be willing to provide further legal support and explanation for why we do not believe that the exemptions you have asserted are legally sound in this instance.

However, if you do not believe further discussions would be helpful and intend to deny some of our requests, please advise us of this position and tell us whether your office has adopted a formal process for an administrative appeal. Should we determine that we are entitled to documents you have refused to produce – whether before an administrative appeal or after – we may litigate to obtain them. In that event, we will seek all attorney's fees and costs for the litigation

To the extent you have not yet produced any records for which you do not claim an exemption, please let us know the status of these records and produce them promptly and on a rolling basis.

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Thank you again for your response to our earlier letter and, generally, for your assistance with our requests. We look forward to any further discussion and your production of records.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'E. Leonida', with a long horizontal flourish extending to the right.

Ellen V. Leonida