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January 18, 2022

VIA EMAIL AND MAIL

Crystal M. Pizano
County Counsel of Madera County
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Madera, CA 93637
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Re: California Public Records Act Request

Dear Ms. Pizano:

I write in response to your October 11 and 18, 2021 correspondence regarding our CPRA Request. Thank you for your response and the documents you have produced thus far.

I am writing today regarding the exemptions you asserted in your letters. Specifically, in your October 18, 2021 letter, you write:

Please note that the County will not produce any records that are exempt from disclosure pursuant to Penal Code section 13300 or are otherwise exempt by federal or state law. (Pen. Code, § 13300, subd. (b); Gov. Code, § 6254, subd. (k).) 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 is redacted from the records produced.

Please confirm whether you are indeed withholding any documents from production on the bases of these objections. Based on the language in your letter, you purport to have “attached all located documents” that are responsive to our requests concurrently with each of your letters. You also stated that the County has completed its response to our request, and that it will “consider this matter closed.” It is not clear to us, however, whether the County identified additional documents that you did *not* produce to us and whether you are withholding those documents on the bases of your exemptions. If you are not withholding any documents, please let us know so we do not litigate for documents that do not exist.

If you are withholding documents, the exemptions you have asserted lack 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

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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

In your letters, 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 “any records that are exempt from disclosure.” 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.

Regarding the data you claim is exempt under Penal Code §§ 13300-13305, we note that § 13302 states: “Nothing in this section shall prohibit a public prosecutor from accessing and obtaining information from the public prosecutor’s case management database to respond to a request for publicly disclosable information pursuant to the California Public Records Act.” Therefore, if you are withholding documents on this basis, we ask that you turn them over promptly.

Relatedly, please also let us know at your earliest convenience if you intend to stand on your exemptions as grounds for withholding certain records, or whether 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. However, if you do not believe further discussions would be helpful, 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.

As a separate matter, we write to request that you reproduce, in native format, the data that you have provided to us so far. The PDF format used by your office for the production of data does not allow its use for any reasonable purpose. Please resend the data in native format at your earliest convenience.

Thank you again for your response to our earlier letter and, generally, for your assistance with our requests. We would be happy to discuss this matter over the phone if you believe we may be able to find an amenable solution to any of the issues surrounding your exemptions and/or production of data. We look forward to any further discussion and production of records.

Very truly yours,



Ellen V. Leonida

¹ Gov’t Code § 6255(a).

² Gov’t Code § 6253(d)(3).