

RE: California Public Records Act Request- September 7, 2021

Breann Moebius <BMoebius@cosb.us>

Mon 2/14/2022 3:06 PM

To: PRA Response <praresponse@braunhagey.com>; Caitlin Shaw <shaw@braunhagey.com>

Cc: Kory DeClark <declark@braunhagey.com>

***** EXTERNAL MESSAGE *****

Hi Joshua,

Can you please help me understand how you consider records with data from before the Racial Justice Act was enacted and before it took effect relevant to enforcing the Racial Justice Act? (See Penal Code, § 745, subd. J [“This section applies only prospectively in cases in which judgment has not been entered prior to January 1, 2021.”].)

As Joel’s prior message indicated, the County currently believes under Government Code section 6255(a) that “the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.” Before making a final determination, the County has sought input from you to ensure there is not a component of the public interest that should be included in the analysis.

This weighing is the first inquiry but, as Joel’s message also indicated, not the sole inquiry or relevant exception the County is considering.

Best,
Bre

Breann M. Moebius
Part-Time Deputy County Counsel
County of San Benito
481 Fourth St. 2nd Fl
Hollister, CA 95023
(831) 636-4040 (Main Office)
(916) 639-8277 (Cell)

CONFIDENTIAL – ATTORNEY-CLIENT COMMUNICATION

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From: PRA Response <praresponse@braunhagey.com>**Sent:** Monday, February 14, 2022 2:16 PM**To:** Breann Moebius <BMoebius@cosb.us>; PRA Response <praresponse@braunhagey.com>; Caitlin Shaw <shaw@braunhagey.com>**Cc:** Kory DeClark <declark@braunhagey.com>**Subject:** Re: California Public Records Act Request- September 7, 2021

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Excellent. Thank you, Bre. We will call your cell phone.

We believe all the data requested is necessary to enforce the Racial Justice Act. We ask that you let us know which specific sub-categories of the requested data you plan to withhold and provide your legal justification for each nondisclosure.

We look forward to speaking with you.

From: Breann Moebius <BMoebius@cosb.us>
Sent: Monday, February 14, 2022 1:25 PM
To: PRA Response <praresponse@braunhagey.com>; Caitlin Shaw <shaw@braunhagey.com>
Cc: Kory DeClark <declark@braunhagey.com>
Subject: RE: California Public Records Act Request- September 7, 2021

***** EXTERNAL MESSAGE *****

Hi Joshua,

Friday (2/18) at noon works for me. Do you want to call my cell phone (below) or distribute a conference call line?

To help make the most of the meeting, I pasted the response from Joel Ellinwood, Assistant County Counsel, from January 4, 2022, which is also on NextRequest. If there is anything in response to Joel's email that you'd like me to consider in advance of our meeting, please let me know.

I am hopeful we can work together to tailor your request to obtain the primary records you are seeking while also balancing the demand on limited District Attorney staff. Here is the prior message from Joel:

In accordance with the County of San Benito's obligation pursuant to the Public Records Act, Government Code section 6253.1, to assist members of the public to make a focused and effective request that reasonably describes identifiable records, please find the following:

1. Your request explicitly seeks records related to the implementation of the Racial Justice Act, AB 2542 (Kalra), Stats. 2020, Ch. 317, which applies only prospectively to cases in which judgment has not been entered prior to January 1, 2021, however it requests records related to cases during the time period from 2015 to the present.
2. Voluminous records exist for the period from 2015 to January 1, 2021, but would not reasonably pertain to implementation of the Racial Justice Act. The public interest in devoting the limited resources of the office of the District Attorney on its primary law enforcement and prosecutorial duties would appear to outweigh the negligible public interest in obtaining data that has little or no relevance to implementation of the Racial Justice Act, and unless the requester can further explain the public interest in obtaining this information, the County of San Benito proposes with withhold disclosure of the information, pursuant to Government Code section 6255 (a), but first seeks clarification from the requester in an attempt to narrow and focus the request to effectively satisfy requester's stated objective without overly burdening the limited resources of the District Attorney's office.
3. Cases "considered for prosecution" but for which charges were declined under request 5. involve investigatory records not subject to disclosure pursuant to Government Code section 6254 (f).

Best,

Bre



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From: praresponse@braunhagey.com <praresponse@braunhagey.com>
Sent: Monday, February 14, 2022 1:12 PM
To: Breann Moebius <BMoebius@cosb.us>; PRA Response <praresponse@braunhagey.com>; Caitlin Shaw <shaw@braunhagey.com>
Cc: Kory DeClark <declark@braunhagey.com>
Subject: Re: California Public Records Act Request- September 7, 2021

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Hi Bre,

Thank you for following up. Would a phone meeting this Friday (2/18) at 12pm work for you? If not, please let us know three times you are available and we will pick one.

Regards,

Joshua Wilner
BRAUNHAGEY & BORDEN LLP

San Francisco

351 California Street, 10th Floor
San Francisco, CA 94104

Tel: (415) 599-0210

New York

7 Times Square

27th Floor

New York, NY 10036-6524

Tel: (646) 829-9403

From: Breann Moebius <BMoebius@cosb.us>
Sent: Thursday, February 10, 2022 11:50 AM
To: PRA Response <praresponse@braunhagey.com>; Caitlin Shaw <shaw@braunhagey.com>
Subject: FW: California Public Records Act Request- September 7, 2021

***** EXTERNAL MESSAGE *****

Hi Josh and Caitlin,

I tried to reach you at the number below, but the receptionist line went to voicemail. Can you please call me regarding your email so that we can work together in addressing this PRA? You can reach me on my cell phone.

The County uses NextRequest to communicate regarding PRAs so that all communications are tracked with the PRA. We had requested additional information on January 4, 2022 on NextRequest. Were you able to access that? You should be able to access it here:

<https://sanbenitocounty-ca.nextrequest.com/requests/21-268>

I look forward to talking with you.

Best,
Bre



Breann M. Moebius
Part-Time Deputy County Counsel
County of San Benito
481 Fourth St. 2nd Fl
Hollister, CA 95023
(831) 636-4040 (Main Office)
(916) 639-8277 (Cell)

From: Josh Wilner <Wilner@braunhagey.com>
Sent: Tuesday, February 8, 2022 9:00 AM
To: Vanessa Delgado <VDelgado@cosb.us>
Cc: PRA Response <praresponse@braunhagey.com>
Subject: Re: California Public Records Act Request- September 7, 2021

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Ms. Delgado,

Thank you, again, for your assistance with our request.

We would like to speak with someone at the San Benito County District Attorney's Office about when production will be completed. Under the CPRA, they only have an additional 14 days to comply with our request. Any further extensions must be agreed to by the requestor. We are

willing to agree to an extension of time but cannot allow endless extensions of time without our consent.

Please put us in touch with the appropriate party.

Regards,

Joshua Wilner
BRAUNHAGEY & BORDEN LLP

San Francisco

351 California Street, 10th Floor
San Francisco, CA 94104

Tel: (415) 599-0210

New York

7 Times Square

27th Floor

New York, NY 10036-6524

Tel: (646) 829-9403

From: Vanessa Delgado <VDelgado@cosb.us>
Sent: Monday, December 13, 2021 3:32 PM
To: Josh Wilner <Wilner@braunhagey.com>
Cc: PRA Response <praresponse@braunhagey.com>
Subject: RE: California Public Records Act Request- September 7, 2021

***** EXTERNAL MESSAGE *****

Good Afternoon,

I have forwarded your request to our online portal NextRequest for request #21-268.

Thank you.

Vanessa Delgado
Assistant Clerk of the Board



County of San Benito

481 Fourth Street
Hollister, CA 95023
☎: (831) 636-4000 x33
☎: (831) 636-4010
✉ vdelgado@cosb.us

From: Josh Wilner <Wilner@braunhagey.com>
Sent: Monday, December 13, 2021 10:29 AM
To: Vanessa Delgado <VDelgado@cosb.us>
Cc: PRA Response <praresponse@braunhagey.com>
Subject: Re: California Public Records Act Request- September 7, 2021

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Dear Vanessa Delgado,

Please respond to the below email regarding PRA documents not received.

Thank you for your assistance with this matter.

Best,

Joshua Wilner
BRAUNHAGEY & BORDEN LLP

San Francisco

351 California Street, 10th Floor
San Francisco, CA 94104

Tel: (415) 599-0210

New York

7 Times Square

27th Floor

New York, NY 10036-6524

Tel: (646) 829-9403

From: Josh Wilner
Sent: Monday, November 29, 2021 2:52 PM
To: vdelgado@cosb.us <vdelgado@cosb.us>
Cc: PRA Response <praresponse@braunhagey.com>
Subject: California Public Records Act Request- September 7, 2021

Dear Vanessa Delgado,

Our office submitted a PRA request with the San Benito County District attorney's office on September 7, 2021. Your response on October 1st. was in a file numbered 21-268. However, it appears the information contained in that correspondence was a duplicate of file number 21-224. This was a mistake. 21-224 is responsive to a separate request, dated July 23, 2021. which requested different documents. Please re-send the file with the documents responsive to the second request.

We apologize for any confusion. Please contact me if you need any additional information.

Best,

Joshua Wilner

BRAUNHAGEY & BORDEN LLP

San Francisco

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San Francisco, CA 94104

Tel: (415) 599-0210

New York

7 Times Square

27th Floor

New York, NY 10036-6524

Tel: (646) 829-9403