

**From:** [Christopher Schmidt](#)  
**To:** [PRA Response](#); [Josh Wilner](#)  
**Cc:** [Patrick Spink](#); [Cassandra Jenecke](#)  
**Subject:** 2nd Response - Tuolumne County - CPRA July 23, 2021  
**Date:** Tuesday, March 8, 2022 3:51:56 PM  
**Attachments:** [168399.pdf](#)  
[168400.pdf](#)  
[168401.pdf](#)  
[168402.pdf](#)  
[168403.pdf](#)  
[FW Read Now New Laws for Prosecutors 2021.msg](#)

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

Good afternoon,

Thank you for discussing this response this morning. Our first response below indicated our search for training materials was ongoing, and you indicated a couple points of deficiency (1) communications in Category 2, and the policy in Category 1. As a further response:

1. Category 1 - Department Policy – my client reports the policy referenced below is not anticipated to be completed at any specific date, and that completion may take years. In that regard, the records that exist will remain in preliminary draft form and exempt.
2. Category 2, 3 – Training Materials –
  - a. Electronic Records: please find attached the remaining electronic training materials produced by our remaining DA office attorneys which are not duplicative of what was produced already.
  - b. Paper Copies: Additionally, the district attorney's office has five (5) attorneys and each has on average a rough estimate of 1,000 pages of printed training material that they accumulated over the years. This category is broad, so they are including all training material. It is unlikely to include training specific to the Racial Justice Act because all paper records predate the Act. The paper records have not been reviewed. However they are likely publicly accessible and our county charges \$0.10 per page to process paper copies, and therefore would require a deposit of \$50.00 payable to the County of Tuolumne and sent to my office at 2 South Green Street, Sonora, CA, 95370. The County would process those copies upon receipt of the deposit and when the department has available resources to perform the copying.
3. Category 3 Other records and communications – the district attorney's office searched their email and other correspondence prior to our initial response and found no communications responsive to this request. After our conversation this morning, to ensure we weren't missing anything, I had our IT department run a search of emails in that office under search terms of "Racial Justice Act" "RJA" "racial bias" and "Batson" and "Wheeler" in case it pulled up any motions in the fourth category. The attached email was the only one found that may be responsive as it references "Racial Justice

Act” in one or more of the presentation slides. It should be noted the County’s retention for email is only 90 days, so the search today goes back to early December, and the client’s search would have reached back at least a month further back, November 2021.

There were no responsive records for Category 4 as stated in the first response. If there are any questions or concerns about this second response, please contact me. If you find remaining deficiencies, please let me know. Another email will follow shortly concerning the Karpel search for the subsequent PRA request.

Best regards,  
Christopher J. Schmidt  
Deputy County Counsel  
County of Tuolumne  
(209) 533-5517

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**From:** Christopher Schmidt  
**Sent:** Monday, January 31, 2022 5:12 PM  
**To:** praresponse@braunhagey.com; Wilner@braunhagey.com  
**Cc:** Patrick Spink <pspink@co.tuolumne.ca.us>; Cassandra Jenecke <CJenecke@co.tuolumne.ca.us>  
**Subject:** California Public Records Act Request- July 23, 2021

Dear Mr. Wilner,

It came to my attention that after my office responded to your records request last year, you began conversations with the District Attorney’s Office regarding our response, but separately from my office. I would appreciate it if you would address or copy all correspondence concerning this request to my office. Because my office assists departments in records requests beyond those that are routine, directing requests to County Counsel will likely result in a more timely response, and more complete response if multiple departments may have responsive records. As I understand, my client’s latest communication included a deadline expiring today and this email is a response to your further request.

Category 1: As an update to the last response, the District Attorney’s Office is currently developing policies which is a preliminary draft and in the deliberative process, it is not retained in the ordinary course of business and the public interest in withholding it outweighs the public interest in disclosing it because disclosure would inhibit candid discussion of the policy development. (Cal. Gov’t Code §6254(a); *Citizens for a Better Environment v. Department of Food and Agriculture* (1985) 171 Cal.App.3d 704, 711–712.) Although my client does not have a completion date, once that process is done the County would be happy

to produce the final policy.

Categories 2-3: After reconsidering the copyright issue and fair use, please find the enclosed responsive records. This is the first rolling response. My client is still searching for records retained by her attorneys, and as they are accumulated, they will be produced. Because this category is broad, if there are printed materials, our office will notify you of copy charges that would need to be deposited before they are produced.

Category 4: After a diligent search, there are no responsive records related to Batson-Wheeler motion investigations.

If you have any questions or concerns about the above response, please contact me.

Best regards,  
Christopher J. Schmidt  
Deputy County Counsel  
County of Tuolumne  
(209) 533-5517

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**From:** Josh Wilner <[Wilner@braunhagey.com](mailto:Wilner@braunhagey.com)>  
**Sent:** Thursday, January 6, 2022 9:50 AM  
**To:** Patrick Spink <[pspink@co.tuolumne.ca.us](mailto:pspink@co.tuolumne.ca.us)>  
**Cc:** PRA Response <[praresponse@braunhagey.com](mailto:praresponse@braunhagey.com)>  
**Subject:** Re: California Public Records Act Request- July 23, 2021

Patrick,

Thank you, again, for your assistance and prompt response. Our office agrees to an extension to January 31, 2022. Please be advised this is the last extension we will agree to.

To ensure we receive all responsive records by the extended deadline, we also ask that you inform us as soon as possible if you will be withholding any responsive documents and, if so, your legal justification for refusing to produce them.

Regards,

Joshua Wilner  
BRAUNHAGEY & BORDEN LLP

**San Francisco**

351 California Street, 10<sup>th</sup> Floor  
San Francisco, CA 94104

Tel: (415) 599-0210

**New York**

7 Times Square

27<sup>th</sup> Floor

New York, NY 10036-6524

Tel: (646) 829-9403

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**From:** Patrick Spink <[pspink@co.tuolumne.ca.us](mailto:pspink@co.tuolumne.ca.us)>  
**Sent:** Wednesday, January 5, 2022 1:41 PM  
**To:** Josh Wilner <[Wilner@braunhagey.com](mailto:Wilner@braunhagey.com)>  
**Subject:** RE: California Public Records Act Request- July 23, 2021

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

Josh,

My apologies for the delay. I spoke with our DA about this and she is still working on the response. She has asked me to inquire about your office's ability to grant us another extension to the end of January. I understand we have asked for extensions already and we are hoping you may grant us one more. With the extra time we will be able to provide the information you have asked for. Please let me know and I will communicate your response to our DA. Thank you very much.

**Patrick Spink**  
**Business Manager**  
**Tuolumne County District Attorney's Office**  
**423 N. Washington St.**  
**Sonora, CA 95370**  
**(209) 588-5458 / (209) 588-5445 Fax**  
[pspink@co.tuolumne.ca.us](mailto:pspink@co.tuolumne.ca.us)

**From:** Josh Wilner <[Wilner@braunhagey.com](mailto:Wilner@braunhagey.com)>  
**Sent:** Tuesday, January 4, 2022 12:06 PM  
**To:** Patrick Spink <[pspink@co.tuolumne.ca.us](mailto:pspink@co.tuolumne.ca.us)>



**Cc:** PRA Response <[praresponse@braunhagey.com](mailto:praresponse@braunhagey.com)>

**Subject:** Re: California Public Records Act Request- July 23, 2021

Patrick,

Thank you again for your assistance with our request. The agreed upon deadline of December 31, 2021 has now passed. We kindly ask that you now produce the requested documents.

Best,

Joshua Wilner

**BRAUNHAGEY & BORDEN LLP**

**San Francisco**

351 California Street, 10<sup>th</sup> Floor  
San Francisco, CA 94104

Tel: (415) 599-0210

**New York**

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Tel: (646) 829-9403

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**From:** Patrick Spink <[pspink@co.tuolumne.ca.us](mailto:pspink@co.tuolumne.ca.us)>

**Sent:** Friday, November 12, 2021 1:00 PM

**To:** Josh Wilner <[Wilner@braunhagey.com](mailto:Wilner@braunhagey.com)>

**Cc:** PRA Response <[praresponse@braunhagey.com](mailto:praresponse@braunhagey.com)>

**Subject:** RE: California Public Records Act Request- July 23, 2021

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

Josh,

Thank you very much. I will let my DA know and am more than happy to send you documentation on a rolling basis. Thank you again and have a great weekend!

**Patrick Spink**  
**Business Manager**  
**Tuolumne County District Attorney's Office**  
**423 N. Washington St.**  
**Sonora, CA 95370**  
**(209) 588-5458 / (209) 588-5445 Fax**  
[pspink@co.tuolumne.ca.us](mailto:pspink@co.tuolumne.ca.us)

**From:** Josh Wilner <[Wilner@braunhagey.com](mailto:Wilner@braunhagey.com)>  
**Sent:** Friday, November 12, 2021 12:59 PM  
**To:** Patrick Spink <[pspink@co.tuolumne.ca.us](mailto:pspink@co.tuolumne.ca.us)>  
**Cc:** PRA Response <[praresponse@braunhagey.com](mailto:praresponse@braunhagey.com)>  
**Subject:** Re: California Public Records Act Request- July 23, 2021

Patrick,

Not a problem. Thank you for your help. Our office agrees to an extension to December 31, 2021.

We kindly ask that you provide responsive documents on a rolling basis.

Best,  
Joshua Wilner

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**From:** Patrick Spink <[pspink@co.tuolumne.ca.us](mailto:pspink@co.tuolumne.ca.us)>  
**Sent:** Friday, November 12, 2021 12:37 PM  
**To:** Josh Wilner <[Wilner@braunhagey.com](mailto:Wilner@braunhagey.com)>  
**Subject:** RE: California Public Records Act Request- July 23, 2021

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

Josh,

My apologies for the confusion earlier. We have been absolutely inundated with PRA's lately, so when I asked my DA about the status of a response, I accidentally referred to a different PRA. As far as your request is concerned, my DA explained that it is a big ask so we will need time to be able to identify the records that will match your request. May we please have time to provide a response by December 31<sup>st</sup>, 2021? This will allow us to provide an accurate response to your agency's request.

**Patrick Spink**  
**Business Manager**  
**Tuolumne County District Attorney's Office**  
**423 N. Washington St.**  
**Sonora, CA 95370**

**(209) 588-5458 / (209) 588-5445 Fax**  
[pspink@co.tuolumne.ca.us](mailto:pspink@co.tuolumne.ca.us)

**From:** Josh Wilner <[Wilner@braunhagey.com](mailto:Wilner@braunhagey.com)>  
**Sent:** Friday, November 12, 2021 10:53 AM  
**To:** Patrick Spink <[pspink@co.tuolumne.ca.us](mailto:pspink@co.tuolumne.ca.us)>  
**Cc:** PRA Response <[praresponse@braunhagey.com](mailto:praresponse@braunhagey.com)>  
**Subject:** Re: California Public Records Act Request- July 23, 2021

Thank you so much, Patrick.

As far as I know, we have not received any documents. If you have the documents in an electronic format, you can send them to me, and I will file them with the office.

Best,  
Joshua Wilner

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**From:** Patrick Spink <[pspink@co.tuolumne.ca.us](mailto:pspink@co.tuolumne.ca.us)>  
**Sent:** Friday, November 12, 2021 10:48 AM  
**To:** Josh Wilner <[Wilner@braunhagey.com](mailto:Wilner@braunhagey.com)>  
**Cc:** PRA Response <[praresponse@braunhagey.com](mailto:praresponse@braunhagey.com)>  
**Subject:** RE: California Public Records Act Request- July 23, 2021

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

Josh,

I just spoke with our DA this morning about this and she informed me that she had responded already. However, your email makes me worry that maybe it didn't end up getting addressed to the right place. I have sent her an email to confirm when it was sent and to what address. Sounds like we have a response, I just need to figure out where it went and when. If it didn't make its way to the right inbox, I will get the issue addressed. Thanks for bringing this to my attention!

**Patrick Spink**  
**Business Manager**  
**Tuolumne County District Attorney's Office**  
**423 N. Washington St.**  
**Sonora, CA 95370**  
**(209) 588-5458 / (209) 588-5445 Fax**  
[pspink@co.tuolumne.ca.us](mailto:pspink@co.tuolumne.ca.us)

**From:** Josh Wilner <[Wilner@braunhagey.com](mailto:Wilner@braunhagey.com)>

**Sent:** Friday, November 12, 2021 10:20 AM  
**To:** Patrick Spink <[pspink@co.tuolumne.ca.us](mailto:pspink@co.tuolumne.ca.us)>  
**Cc:** PRA Response <[praresponse@braunhagey.com](mailto:praresponse@braunhagey.com)>  
**Subject:** Re: California Public Records Act Request- July 23, 2021

Patrick,

Please provide an update regarding when we can expect the requested documents.

Thank you for your help with this matter.

Best Regards,  
Joshua Wilner

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**From:** Josh Wilner <[Wilner@braunhagey.com](mailto:Wilner@braunhagey.com)>  
**Sent:** Friday, October 29, 2021 11:55 AM  
**To:** Patrick Spink <[pspink@co.tuolumne.ca.us](mailto:pspink@co.tuolumne.ca.us)>  
**Cc:** PRA Response <[PRAResponse@braunhagey.com](mailto:PRAResponse@braunhagey.com)>  
**Subject:** Re: California Public Records Act Request- July 23, 2021

Patrick,

Thank you for your prompt response and we apologize for any miscommunication. The original request is attached to this email. Please respond to the request by November 10, 2021.

Have a nice weekend.

Josh Wilner  
**BRAUNHAGEY & BORDEN LLP**

**San Francisco**

351 California Street, 10<sup>th</sup> Floor  
San Francisco, CA 94104

Tel: (415) 599-0210

**New York**

7 Times Square

27<sup>th</sup> Floor

New York, NY 10036-6524

Tel: (646) 829-9403

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**From:** Patrick Spink <[pspink@co.tuolumne.ca.us](mailto:pspink@co.tuolumne.ca.us)>  
**Sent:** Tuesday, October 26, 2021 9:17 AM  
**To:** PRA Response <[PRAResponse@braunhagey.com](mailto:PRAResponse@braunhagey.com)>  
**Subject:** RE: California Public Records Act Request- July 23, 2021

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

Josh,

My apologies for the perception of a delayed response. I am unsure what caused it, but this is the first time I am seeing an email from yourself or your organization with regards to this PRA. Additionally, we have no record of a voicemail or a letter from yourself or your organization. Due to this being the first time we are seeing this request, the likelihood of having it by November first is low. However, with your patience, we would be more than happy to do our best to answer your request.

Your email below does not outline the parameters of your request. If you would like to outline those in an email or send me an electronic photo copy of the original letter, that would be helpful. Once I have the details of the request, I can start working on it.

For future communication, please feel free to reach out directly to myself. I am the Business Manager of our office and I am responsible for the facilitation of these requests.

Thank you very much and have a great day.

**Patrick Spink**  
**Business Manager**  
**Tuolumne County District Attorney's Office**  
**423 N. Washington St.**  
**Sonora, CA 95370**  
**(209) 588-5458 / (209) 588-5445 Fax**  
[pspink@co.tuolumne.ca.us](mailto:pspink@co.tuolumne.ca.us)

**From:** Josh Wilner <[Wilner@braunhagey.com](mailto:Wilner@braunhagey.com)>  
**Sent:** Monday, October 25, 2021 4:46 PM  
**To:** District Attorney <[DA@tuolumnecounty.ca.gov](mailto:DA@tuolumnecounty.ca.gov)>  
**Cc:** PRA Response <[praresponse@braunhagey.com](mailto:praresponse@braunhagey.com)>  
**Subject:** California Public Records Act Request- July 23, 2021

Dear Tuolumne County District Attorney's Office,

Our office is reaching out today regarding the PRA Request letter sent to your office on July 23, 2021. We have not received any correspondence from your office after our letter was sent. We also left a voicemail with your office on September 2, which was never returned. We now hope to receive email correspondence regarding your office's intent to produce documents in a timely and efficient manner. Please respond immediately to let us know you received this message and please produce the requested documents no later than November 1, 2021.

Kindly send all correspondence via email/mail to [PRAResponse@braunhagey.com](mailto:PRAResponse@braunhagey.com) and Ellen Leonida, Esq., BraunHagey & Borden LLP, 351 California Street, 10<sup>th</sup> Floor, San Francisco, CA 94104.

Best Regards,  
Joshua Wilner