

From: [Reed Gallogly](#)
To: [PRA Response](#)
Cc: [Joel Ellinwood](#)
Subject: RE: California Public Records Act Request- September 7, 2021
Date: Tuesday, May 10, 2022 11:10:07 AM
Attachments: [image001.png](#)

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

Hello Mr. Wilner:

Thank you for your email! I'm back from paternity leave and getting caught up on a number of matters, so thank you for your patience.

Reviewing the file, the March 2, 2022 correspondence sent by Ms. Moebius, and the subsequent messages, I do not believe amending the request as you have suggested would obviate the County's concern with disclosing local summary criminal history information in violation of Penal Code section 13302. As Ms. Moebius correctly noted in her letter, nondisclosure of criminal offender record information is the general rule, and the County cannot release data that includes – or could easily lead to – the “identity of the subject of the record.” Given these concerns, the County stands by its response and asserted exemptions.

Best,
Reed

[Reed Gallogly](#)
Deputy County Counsel
(831) 537-8361 (mobile)

From: PRA Response <praresponse@braunhagey.com>
Sent: Tuesday, May 03, 2022 12:28 PM
To: PRA Response <praresponse@braunhagey.com>
Cc: Reed Gallogly <RGallogly@cosb.us>; Joel Ellinwood <JEllinwood@cosb.us>
Subject: Re: California Public Records Act Request- September 7, 2021

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Mr. Gallogly,

It is my understanding from the below email that you are now handling our request. Thank you for the data you have produced so far. After reviewing your asserted exemptions, we are willing to amend our request to exclude the name of the defendant. We believe this will eliminate exemptions for the other categories of data you withheld pursuant to Penal Code sec. 13300-13305. Please let us know your position on this matter and if you have any

additional questions.

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: Wednesday, March 23, 2022 12:58 PM

To: PRA Response <praresponse@braunhagey.com>

Cc: Reed Gallogly <RGallogly@cosb.us>; Joel Ellinwood <JEllinwood@cosb.us>

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

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

Hi Joshua,

Thank you for the update. As I mentioned when we met, I am serving for a limited duration with San Benito County while Reed Gallogly was on leave, and Reed returns full time this Monday, March 28. I copied Reed on this email so you have his email as well.

As I believe the County's response reflects, I put a significant amount of time researching the exemptions and ensuring that we only asserted exemptions that were required (i.e., the release is prohibited) or clearly appropriate. I understand you need to independently review my analysis and believe that review will support the exemptions asserted. To avoid administrative confusion as I

transition assignments back to Reed, I am going to close the request on Next Request. If for some reason your review leads you to believe the County has not complied with your request, please reach out to Reed or I and the request can always be opened again. The request number associated with this request on Next Request is 21-268.

Thank you again for working with me on this request.

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)

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From: PRA Response <praresponse@braunhagey.com>
Sent: Wednesday, March 23, 2022 9:48 AM
To: Breann Moebius <BMoebius@cosb.us>
Cc: PRA Response <praresponse@braunhagey.com>
Subject: Re: California Public Records Act Request- September 7, 2021

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Hi Bre,

Thank you for your thorough response to our request. We do not have any additional questions at this time, but are still considering the exemptions you assert. I will provide an update when that process is complete.

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, March 17, 2022 9:05 AM

To: PRA Response <praresponse@braunhagey.com>

Cc: Kory DeClark <declark@braunhagey.com>

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

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

Good morning Joshua,

I hope you are doing well. I am following up about the response and Karpel report the County provided on March 2. Do you have any questions or items you wanted to discuss? After having the time to review the data we were able to provide, my hope is that we can close the request as fulfilled. Please confirm.

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: Breann Moebius
Sent: Wednesday, March 2, 2022 10:41 AM
To: PRA Response <praresponse@braunhagey.com>
Cc: Kory DeClark <declark@braunhagey.com>
Subject: RE: California Public Records Act Request- September 7, 2021

Hi Joshua,

Attached please find the information I agreed to provide by March 4, 2022. It is also uploaded to NextRequest. If you have trouble accessing the Karpel report excel file, please let me know as it is a large file. Thank you for the suggestion on how to respond to each subset of data. I look forward to hearing from 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)

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From: Breann Moebius
Sent: Monday, February 28, 2022 12:20 PM
To: PRA Response <praresponse@braunhagey.com>
Cc: Kory DeClark <declark@braunhagey.com>

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

Hi Joshua,

As requested, I am confirming that all of the documents related to the policy PRA request that District Attorney Candice Hooper identified in her August 26, 2021 letter have been produced. The County does not believe it has any additional responsive documents to that request.

I do not anticipate an issue providing the additional information and data we agreed to by March 4.

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)

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From: Breann Moebius
Sent: Tuesday, February 22, 2022 12:23 PM
To: PRA Response <praresponse@braunhagey.com>
Cc: Kory DeClark <declark@braunhagey.com>
Subject: RE: California Public Records Act Request- September 7, 2021

Hi Joshua,

Thank you as well for your time on Friday. That is consistent with my understanding, except that I anticipate finding what data is maintained from the District Attorney, not Karpel. I don't think that difference is material to you, but if it is, let me know.

I still do not have the flash drive and will be checking on the status with the District Attorney when

she is back in the office.

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)

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From: PRA Response <praresponse@braunhagey.com>
Sent: Tuesday, February 22, 2022 12:18 PM
To: Breann Moebius <BMoebius@cosb.us>; PRA Response <praresponse@braunhagey.com>
Cc: Kory DeClark <declark@braunhagey.com>
Subject: Re: California Public Records Act Request- September 7, 2021

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Hi Bre,

Thanks for a productive call Friday afternoon. I am writing to memorialize what we discussed and respond to the questions you raised.

Regarding our July 23, 2021 request, you believe the District Attorney's Office has produced all responsive documents, but you will confirm that they do not have any policies or communications we request.

Regarding our September 7, 2021 request, you will produce the data extracted by the county

IT department as soon as you get the flashdrive. By **March 4**, you will speak to Karpel and let us know whether each category of data we request is tracked by the District Attorney's Office and, if so, what the process is to search for and produce that data. You will also let us know if you plan to assert exemptions to any categories of data at that time, if possible.

Regarding your questions, we were unable to find any correspondence from other counties indicating which case management system they use. Unfortunately, this means we do not know any counties with experience pulling reports in Karpel. After reviewing our correspondence with other counties, we learned that the counties who have produced data so far have used their internal IT teams to do so. Counties that we know to be using outside consultants are still in the process of getting quotes, so we do not know anything about who they have contacted.

Thanks, again, for speaking with us and we look forward to speaking again soon.

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: Monday, February 14, 2022 3:06 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,

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)

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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



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)

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From: preresponse@braunhagey.com <preresponse@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

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