

From: [Josh Wilner](#)
To: [Glenn Spitzer](#)
Cc: [PRA Response](#); [Jaime Cone](#); [Todd Riebe](#); [Kory DeClark](#)
Subject: Re: California Public Records Act Request
Date: Monday, January 30, 2023 8:00:13 AM

Hi Glenn,

Please provide your response regarding the plea offers. I've cc'd Kory DeClark, who will be taking over your request. Please direct future correspondence to him.

Thanks, again, for your help.

From: Glenn Spitzer <gspitzer@amadorgov.org>
Sent: Monday, December 5, 2022 3:28 PM
To: Josh Wilner <Wilner@braunhagey.com>
Cc: PRA Response <praresponse@braunhagey.com>; Jaime Cone <jccone@amadorgov.org>; Todd Riebe <triebe@amadorgov.org>
Subject: Re: California Public Records Act Request

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

Hi Josh,
We're still discussing internally regarding the plea offers, and I'll get you a response on that point this week.

Regarding your request for confirmation related to your prior PRA requests (below), I can provide confirmation related to the September 7, 2021 request, but not for the July 23, 2021 request. I only assisted with the September 7 request. It looks like you have everything with the exception of two email extension requests on September 15 and 30, 2021. You also did not reference the May 16, 2022 cover letter for the disc production. All three are attached.
~Glenn

Glenn Spitzer
Deputy County Counsel
County of Amador
810 Court Street
Jackson, CA 95642-2132
Phone: 209-223-6366
Fax: 209-223-4286
gspitzer@amadorgov.org

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original communication, and destroy all copies.

On Fri, Dec 2, 2022 at 10:44 AM Josh Wilner <Wilner@braunhagey.com> wrote:

Hi Glenn,

Thank you for your production of data. I am writing regarding your withholding of plea offers as attorney work product (asserted in your April 22, 2022 letter).

The protection offered by the work product privilege can be waived by the attorney's "disclosure to a person, other than the client, who has no interest in maintaining the confidentiality of a significant part of the work product." *OXY Res. California LLC v. Superior Ct.*, 115 Cal. App. 4th 874, 891, 9 Cal. Rptr. 3d 621, 636 (2004) (quoting 2 Jefferson, Cal. Evidence Benchbook (3d ed. 2003) § 41.6) (alteration omitted). This is because disclosure to a third party is inconsistent with the purpose of the work product protection, "which is to safeguard the attorney's work product and trial preparation." *Raytheon Co. v. Superior Ct.*, 208 Cal. App. 3d 683, 689 (1989). Disclosure to a party that has "an interest in maintaining confidentiality exists when the parties are aligned on the same side in the litigation and have a similar stake in the outcome." *McKesson HBOC, Inc. v. Superior Ct.*, 115 Cal. App. 4th 1229, 1240 (2004). A prosecutor and the target of the prosecution are not aligned in litigation, "and they do not share the same stake or have the same goal." *Id.* (providing document to U.S. Attorney's Office and Securities and Exchange Commission waived work-product protection). Because the plea offers are shared with defendants, that material is not protected by the work-product privilege. We ask that you produce this data immediately.

Please also respond to the question about correspondence in the previous email.

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: Josh Wilner <Wilner@braunhagey.com>

Sent: Friday, October 21, 2022 2:34 PM

To: Glenn Spitzer <gspitzer@amadorgov.org>

Cc: PRA Response <praresponse@braunhagey.com>; Jaime Cone <jcone@amadorgov.org>; Todd Riebe <triebe@amadorgov.org>

Subject: Re: California Public Records Act Request

Hi Glenn,

Earlier this year, our office implemented a new email filtering system. In an abundance of caution, we would like to confirm that we have received all communications and documents your office sent in response to our Public Records Act request. We have listed those below. Please let us know immediately if any communications or documents are missing or if this list is accurate. If some are, we ask that you resend them now.

Thank you for your continued cooperation with our PRA requests.

July 23, 2021 Request:

- January 14, 2022: Letter from Todd Riebe
- January 21, 2022: BHB intermediate letter contesting claims of work product , DPP, and
- March 25, 2022: Email from Todd Riebe re: documents were sent on March 15
- March 30, 2022: 10 documents received by BHB (only production in our records)

September 7, 2021 Request

- October 15, 2021: Letter from Todd Riebe
- April 22, 2022: Letter from Glenn Spitzer discussing which categories of data will be produced or withheld
- May 12, 2022: Email from Glenn Spitzer re: report compiled
- May 19, 2022: Data produced in PDF format
- September 26, 2022: Data produced in Excel Format

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: Glenn Spitzer <gspitzer@amadorgov.org>

Sent: Monday, September 26, 2022 5:06 PM

To: Josh Wilner <Wilner@braunhagey.com>

Cc: PRA Response <praresponse@braunhagey.com>; Winni Yan <yan@braunhagey.com>; Jaime Cone <jcone@amadorgov.org>; Todd Riebe <triebe@amadorgov.org>

Subject: Re: California Public Records Act Request

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

Hi Josh, attached is the Excel file. ~Glenn

Glenn Spitzer
Deputy County Counsel
County of Amador
810 Court Street
Jackson, CA 95642-2132
Phone: 209-223-6366
Fax: 209-223-4286
gspitzer@amadorgov.org

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On Fri, Sep 23, 2022 at 11:59 AM Josh Wilner <Wilner@braunhagey.com> wrote:

Excellent. Thanks so much, Glenn.

From: Glenn Spitzer <gspitzer@amadorgov.org>

Sent: Friday, September 23, 2022 10:51 AM

To: Josh Wilner <Wilner@braunhagey.com>

Cc: PRA Response <praresponse@braunhagey.com>; Winni Yan <yan@braunhagey.com>; Jaime Cone <jcone@amadorgov.org>; Todd Riebe <triebe@amadorgov.org>

Subject: Re: California Public Records Act Request

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

Hi Josh, we are preparing a disc with the data in an Excel format. I'll get that out to you when it's prepared. ~Glenn

Glenn Spitzer
Deputy County Counsel
County of Amador
810 Court Street
Jackson, CA 95642-2132
Phone: 209-223-6366
Fax: 209-223-4286
gspitzer@amadorgov.org

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On Thu, Sep 22, 2022 at 7:30 AM Josh Wilner <Wilner@braunhagey.com> wrote:

Hi Glenn,

I'm writing to follow up on the email below. Thanks, again.

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: Glenn Spitzer <gspitzer@amadorgov.org>
Sent: Wednesday, August 31, 2022 5:13 PM
To: Josh Wilner <Wilner@braunhagey.com>
Cc: PRA Response <praresponse@braunhagey.com>; Winni Yan <yan@braunhagey.com>;
Jaime Cone <jcone@amadorgov.org>; Todd Riebe <triebe@amadorgov.org>
Subject: Re: California Public Records Act Request

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

I'll see if I can get this on Excel for you. ~Glenn

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Deputy County Counsel
County of Amador
810 Court Street
Jackson, CA 95642-2132
Phone: 209-223-6366
Fax: 209-223-4286
gspitzer@amadorgov.org

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On Wed, Aug 31, 2022 at 5:06 PM Josh Wilner <Wilner@braunhagey.com> wrote:

Thanks, Glenn and sorry for any confusion. I will confer with our client regarding the cost estimate.

For the data already produced, can you provide it in a native format (Excel or similar)?
A disk is fine, but we can also receive it via Dropbox or another fileshearing website.

From: Glenn Spitzer <gspitzer@amadorgov.org>
Sent: Wednesday, August 31, 2022 4:51 PM
To: PRA Response <praresponse@braunhagey.com>
Cc: Winni Yan <yan@braunhagey.com>; Jaime Cone <jcone@amadorgov.org>; Todd Riebe <triebe@amadorgov.org>
Subject: Re: California Public Records Act Request

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

Hi Joshua,

I discussed your July 22 letter with the District Attorney. As you may recall, the County provided a substantive response on April 22, and then provided the responsive documents with a May 16 cover letter. All three letters are attached for your reference. The County provided the responsive documents on a disc with a single PDF. The PDF was a 5080 page document showing information extracted from the District Attorney's case management system.

The District Attorney stated that he may be able to provide additional responsive information, but that the manager of the case management system (Karpel) would have to create a program to extract that data. Karpel quoted a cost of \$10,000 for the data extraction program. If the ACLU is interested in paying for this programming, please let me know. Otherwise, the District Attorney has no additional non-exempt information to provide.

~Glenn

Glenn Spitzer
Deputy County Counsel
County of Amador
810 Court Street
Jackson, CA 95642-2132
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Fax: 209-223-4286
gspitzer@amadorgov.org

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On Fri, Aug 26, 2022 at 12:07 PM <praresponse@braunhagey.com> wrote:

Hi Glenn,

Please provide an update regarding our July 22, 2022 letter. I am happy to speak on the phone or answer any questions you may have.

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: Glenn Spitzer <gspitzer@amadorgov.org>

Sent: Monday, July 25, 2022 10:32 AM

To: Winni Yan <yan@braunhagey.com>

Cc: Ellen Leonida <Leonida@braunhagey.com>; Kory DeClark
<declark@braunhagey.com>; PRA Response <praresponse@braunhagey.com>

Subject: Re: California Public Records Act Request

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

Hi Winni,

We're going back over this to refresh our memory. I'll get back to you after doing so.
Thanks for your patience. ~Glenn

Glenn Spitzer
Deputy County Counsel
County of Amador
810 Court Street
Jackson, CA 95642-2132
Phone: 209-223-6366
Fax: 209-223-4286
gspitzer@amadorgov.org

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On Fri, Jul 22, 2022 at 4:35 PM Winni Yan <yan@braunhagey.com> wrote:
Counsel,

Please see attached correspondence on behalf of Mr. DeClark regarding our September 7, 2021 CPRA request.

Regards,

Winni Yan

Litigation Paralegal

BRAUNHAGHEY & BORDEN LLP

Direct: (415) 256-7731

San Francisco (Main Office)

351 California Street, 10th Floor

San Francisco, CA 94104

Tel. & Fax: (415) 599-0210

New York

118 W 22nd Street, 12th Floor

New York, NY 10011

Tel. & Fax: (646) 829-9403

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