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June 24, 2013

VIA U.S. MAIL
Omar Figueroa
Law Offices of Omar Figueroa
7770 Healdsburg Avenue, Suite A
Sebastopol, CA 95472-3352

RE: Your request for records received June 17, 2013

Dear Mr. Figueroa:

This letter is a response to your correspondence of June 17, 2013, in which you requested certain documents pursuant to the California Public Records Act (Gov. Code Section 6250 et seq.) (the "Act"). The Butte County Sheriff's Office (the "Department") received this correspondence on June 17, 2013. Pursuant to the Act, the Department responds to your request for records as follows:

Request: "The information that I ask to inspect is as follows: Any and all documents or information concerning medical marijuana, Proposition 215 (codified as Health and Safety Code § 11362.5) and/or Senate Bill 420 (codified as Health and Safety Code §§ 11362.7-11362.83), including, but not limited to, any and all guidelines, bulletins, orders, directives, policies, and/or protocols. Please provide any and all documents or information concerning medical marijuana doctors, patients, caregivers, dispensaries, collectives, cooperatives and/or associations."

Response: With respect to that portion of your request that seeks "guidelines, bulletins, orders, directives, policies, and/or protocols," the Department has made a diligent search and has documents responsive to your request, which we have determined are public records and are therefore available for your review.

We are unable to determine which records you are seeking with respect to that portion of your request which seeks: "[a]ny and all documents or information concerning medical marijuana, Proposition 215 (codified as Health and Safety Code § 11362.5) and/or Senate Bill 420 (codified as Health and Safety Code §§ 11362.7-11362.83)...Please provide any and all documents or information concerning medical marijuana doctors, patients, caregivers, dispensaries, collectives, cooperatives and/or associations." This portion of your request is overbroad, vague and burdensome and we are unable to determine what documents you are actually requesting. California Government Code Section 6253(b) requires that a state or local agency make public records available "upon a request for a copy of records that *reasonably describes an identifiable record or records...*" (emphasis added). Other than the portion of your request that seeks "guidelines, bulletins, orders, directives, policies, and/or protocols" your request does not

DECLASSIFICATION AUTHORITY

1. This document is classified "Secret" pursuant to Executive Order 11652, February 2, 1957, and is to be controlled in accordance with the provisions of that Order.

2. The information contained herein is the property of the United States Government and is loaned to you for your information and use only. It is not to be distributed outside your agency without the express written approval of the originating agency.

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"reasonably describe an identifiable record or records" and we are unable to determine what you are seeking without further direction from you.

To the extent that your request extends to criminal investigation files held by the Department, such records are exempt from disclosure under the Act pursuant to California Government Code section 6254(f) as they are "records of...investigations conducted by...[a] local police agency...or investigatory or security files compiled by any...local agency for...law enforcement...purposes." Further, the courts have held that the Act does not compel disclosure of criminal investigation files, even in closed cases. See *Haynie v. Superior Court*, 26 Cal.4th 1061, 1069-1070 (2001), *Rivero v. Superior Court*, 54 Cal.App.4th 1048, 1050 (1997), *Williams v. Superior Court*, 5 Cal.4th 337, 357 (1993). As your request pertains to investigative records held by the County for open investigations, we turn your attention to California Penal Code section 1054.1 which sets out the "[i]nformation to be disclosed by the prosecution."¹ Additionally, the California Attorney General has opined that Proposition 115, which added section 1054.1 to the California Penal Code, is "an almost exclusive procedure for discovery in criminal cases." See 85 Cal.Ops.Atty.Genl. 123, 124 (citing *People v. Superior Court (Barrett)* (2000) 80 Cal.App.4th 1305, 1311-1313). Further, section 1054 states that a purpose of this law is "to provide that no discovery shall occur in criminal cases except as provided by this chapter..."

The County is entitled to charge for the costs of copying responsive records, which has been determined to be \$0.25 for the first page and \$0.06 for each page thereafter. As the responsive documents consist of 58 pages, please remit a check to the County of Butte for the amount of \$3.67. Please do not hesitate to contact me if you have any questions or if you would like additional information.

Very truly yours,

BRUCE S. ALPERT
County Counsel

By 
Kathleen Kehoe Greeson
Chief Deputy County Counsel

cc: Kory Honea, Undersheriff

¹ Section 1054.1 states as follows: "The prosecuting attorney shall disclose to the *defendant or his or her attorney* all of the following materials and information, if it is in the possession of the prosecuting attorney or if the prosecuting attorney knows it to be in the possession of the investigating agencies:

- (a) The names and addresses of persons the prosecutor intends to call as witnesses at trial.
- (b) Statements of all defendants.
- (c) All relevant real evidence seized or obtained as a part of the investigation of the offenses charged.
- (d) The existence of a felony conviction of any material witness whose credibility is likely to be critical to the outcome of the trial.
- (e) Any exculpatory evidence.
- (f) Relevant written or recorded statements of witnesses or reports of the statements of witnesses whom the prosecutor intends to call at the trial, including any reports or statements of experts made in conjunction with the case, including the results of physical or mental examinations, scientific tests, experiments or comparisons which the prosecutor intends to offer in evidence at the trial."