



CONTRA COSTA COUNTY OFFICE OF THE SHERIFF
DAVID O. LIVINGSTON
SHERIFF - CORONER

June 27, 2013

Omar Figueroa, Esq.
7770 Healdsburg Avenue, Suite A
Sebastopol, CA 95472-3352

Re: Your California Public Records Act Request

Dear Mr. Figueroa:

I am writing in response to your *undated* California Public Records Act, received by the Office of the Sheriff on June 17, 2013.

In your letter you request copies of ***any and all documents or information concerning:***

- "medical marijuana"
- "Proposition 215 (codified as Health and Safety Code § 11362.5)"
- "Senate Bill 420 (codified as Health and Safety Code §§ 11362.7-11362.83)"
- "medical marijuana doctors"
- "medical marijuana patients"
- "medical marijuana caregivers"
- "medical marijuana dispensaries"
- "medical marijuana dispensaries"
- "medical marijuana collectives"
- "medical marijuana cooperatives," and
- "medical marijuana associations"

including, but not limited to, any and all

- "guidelines"
- "bulletins"
- "orders"
- "directives"
- "policies," and
- "protocols."

The Office of the Sheriff raises the following objections and exemptions to your request:

1. The Sheriff will not produce records (or parts of records) exempt from disclosure as law enforcement records of intelligence information, security procedures, investigatory files, and security files. (Govt. Code, § 6254(f));
2. The Sheriff will not produce records (or parts of records) that would jeopardize the safety of the public. The public interest served by not disclosing such records (or parts of records) clearly outweighs any public interest served by the disclosure of such records. (Govt. Code, § 6255(a));
3. The Sheriff will not produce records that are preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by this agency in the ordinary course of business or not normally kept on file (Govt. Code, § 6254(a));
4. The Sheriff will not produce records that are, in effect, medical or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy (Govt. Code, § 6254(c));
5. The Sheriff will not disclose records the disclosure of which are exempted or prohibited by state or federal law (Govt. Code, § 6254(k));
6. The Sheriff will not disclose information gathered by a governmental agency under assurances of confidentiality if non-disclosure is in the public interest (Evid. Code §1040, incorporated into the PRA under § 6254(k)).
7. The Sheriff will not release Criminal Offender Record Information (CORI) (Penal Code § 13200 *et seq.*, and Penal Code § 13300 *et seq.*); and
8. The Sheriff will not release information that would be viewed as an unlawful violation of the privacy of the involved party or parties (California Constitution, Article I, Section 1).
9. The Sheriff will not release information to which the Attorney-Client privilege applies.
10. The Office of the Sheriff also objects to your request on the ground that the request is uncertain, not limited, not focused, and not specific. (*Rogers v. Superior Court* (1993) 19 Cal.App.4th 469 at 480-481.)

Your Public Records Act request quite literally requires that every document held in any file by any Sheriff's Office employee pertaining to the issue of medical marijuana, including every letter and every email, every Police Report, every training bulletin, guideline, protocol, directive, copies of statutes and court cases, be reviewed to determine whether they relate to medical

marijuana in any of the manifestations described in your listing. Untold thousands of records would need to be retrieved and reviewed to be able to locate the information you seek. Every employee of this Office would be required to search his or her files and records. No mechanism currently exists to fulfill your request except to devote a substantial portion of the Sheriff's Office's work effort to satisfying your vastly overreaching request.

As it may be theoretically possible, but entirely unreasonable, to search for the requested information by manually reviewing the thousands of individual records to search for your requested topics, we must also object to your request on the ground of undue burden. In the case of *Rosenthal v. Hansen*, 34 Cal. App. 3d 754, 757, 761, 110 Cal. Rptr. 257 (1973), the court imposed a judicially created "reasonableness" standard to restrict access to public records where the request was found to be voluminous. In a similar vein, the Court in *American Civil Liberties Union Foundation v. Deukmejian*, 32 Cal. 3d 440, 452-53, 651 P.2d 822, 186 Cal. Rptr. 235 (1982), held that where a public agency can substantiate that a voluminous request, involving extensive segregation of exempt from non-exempt materials, would impose an unwarranted burden on the agency's resources, the public interest in nondisclosure outweighs the public interest in disclosure. *See also Cal. First Amendment Coalition v. Superior Court*, 67 Cal. App. 4th 159, 166, 78 Cal. Rptr. 847 (1998) ("A clearly framed request which requires an agency to search an enormous volume of data for a 'needle in the haystack' or, conversely, a request which compels the production of a huge volume of material may be objectionable as unduly burdensome [citations omitted]").)

Additionally, we object to your request on the ground of substantial financial burden. In the case of *County of Los Angeles v. Superior Court (Kusar)* (1993) 18 Cal.App.4th 588, the court stated, "The record before us reflects that to generate, copy and disclose the requested information would impose a substantial financial burden on the sheriff which he does not have the budget authority to incur. Yet the Legislature (§ 6257) has provided only for recovery of duplication costs by the law enforcement agency involved. This is a restriction which is both reasonable and appropriate where the mandatory disclosure is limited to current records of contemporaneous activity, but totally unreasonable and inappropriate where both generation and compilation of information from historical archives is required" (at 601).

Subject to the objections, exemptions, and observations set forth above, we can produce, without undue burden, a copy of our Medical Marijuana policy, Policy No. 1.06.50. A copy of this policy is enclosed.

Sincerely,

DAVID O. LIVINGSTON, SHERIFF



Austin Weaver
Sheriff's Specialist