



# County of Santa Cruz

## District Attorney's Office

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BOB LEE  
DISTRICT ATTORNEY

June 18, 2013

Law Offices of Omar Figueroa  
7770 Healdsburg Ave., Suite A  
Sebastopol, CA 95472-3352

Dear Mr. Figueroa:

This is in response to your undated California Public Records Act request received by this office on June 13, 2013. You have requested inspection and copying of any and all documents or information in the possession of the Santa Cruz County District Attorney's Office "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", as well as "medical marijuana doctors, patients, caregivers, dispensaries, collectives, cooperatives, and/or associations."

In response to your request, we have conducted an inquiry to determine whether our office has any public records which are responsive to your request. We have concluded that the Santa Cruz County District Attorney's Office does not have any public records which are responsive to your request.

The District Attorney's Office case files consist of investigative records which are exempt from disclosure under Government Code section 6254(f), an exemption which applies while an investigation is pending and which continues to apply even after an investigation is closed. (See Williams v. Superior Court (1993) 5 Cal.4th 337; Rivero v. Superior Court (1997) 54 Cal.App.4th 1048; Black Panther Party et al v. Kehoe (1974) 42 Cal.App.3d 645.) Letters and correspondence which are part of a district attorney's investigative file are likewise exempt. (County of Los Angeles v. Superior Court (2005) 130 Cal.App.4th 1099, 1107-1108.) The statute also exempts materials that, while not on their face exempt from disclosure, nevertheless become exempt through inclusion in an investigatory file. (See Williams v. Superior Court, *supra* at p. 354, and citations.) Thus, any documents or information concerning medical marijuana which are part of such an investigative file are exempt from disclosure.

In addition, to the extent that our files contain documents which are attorney work product, such documents are exempt from disclosure pursuant to Government Code section 6254(k), Code of Civil Procedure section 2018.030, Evidence Code section 915, and Penal Code section 1054.6. Moreover, documents showing the "deliberative process" of any attorney in our office who

discussed and made decisions on a particular case are privileged under Government Code section 6255 and the case law interpreting that section. (See, e.g., Times Mirror Company v. Superior Court (1991) 53 Cal.3d 1325.)

To the extent that our files contain state and local criminal history information, that information is confidential by statute. (See, e.g., Pen. Code, §§ 11075-11081, 11120-11149.4 and 13300-13305) Furthermore, public disclosure of individuals' criminal histories or other personal information may also violate those individuals' right of privacy under the California Constitution. (See Cal. Const., art. I, § 1.)

Finally, we contend that the public interest served by not disclosing the records in our investigative files outweighs the public interest served by the disclosures requested by your letter. (Gov. Code, § 6255.)

To the extent that our office law library may contain "documents" concerning medical marijuana, including the legal authorities your letter cites, those materials are contained in legal publications published by non-County sources. Such "documents" are usually copyrighted and are not District Attorney's Office records for purposes of production under the Public Records Act.

Furthermore, compliance with your overbroad request for "[a]ny and all documents concerning medical marijuana . . ." appears to require us to search our entire office and library for materials which mention medical marijuana and/or the specified statutes. This kind of search would be overly burdensome and the public interest in nondisclosure outweighs the public interest served by disclosure. (California First Amendment Coalition v. Superior Court (1998) 67 Cal.App.4th 159, 166; Gov. Code, § 6255.)

For all of the foregoing reasons, your request for inspection and copying of records is denied. While we have attempted to give a full explanation for the denial, the short period allowed by statute for our response does not permit adequate time to prepare a more comprehensive reply. We reserve the right to present additional theories and authority for non-disclosure in the future.

Sincerely,

BOB LEE  
DISTRICT ATTORNEY

  
JOYCE E. ANGELL  
ASSISTANT DISTRICT ATTORNEY