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18 AMERICAN CIVIL LIBERTIES UNION
19 FOUNDATION OF NORTHERN
20 CALIFORNIA, INC.
21 39 Drumm Street
22 San Francisco, CA 94111
23 Tel.: (415) 621-2493
24 Fax: (415) 255-1478

Attorneys for Petitioner/Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SISKIYOU

AMERICAN CIVIL LIBERTIES UNION OF
NORTHERN CALIFORNIA, INC. a non-profit
corporation,

Petitioner/Plaintiff,

v.

J. KIRK ANDRUS, in his official capacity as
the District Attorney of Siskiyou County, and
THE COUNTY OF SISKIYOU,

Respondents/Defendants.

Case No. **CVPT 22-475**

**VERIFIED PETITION FOR
PEREMPTORY WRIT OF MANDATE
AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

[Gov't Code § 6250 *et seq.*; Code Civ. Proc.
§ 1085 *et seq.*; Cal. Const., Art. I, § 3]

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SISKIYOU
YREKA BRANCH
MAY 13 2022
BY: **ENDORSED - M. INGLE**
DEPUTY CLERK

INTRODUCTION

1. This lawsuit seeks to enforce the California Public Records Act (“PRA”) set forth at Government Code sections 6250 *et seq.* This case concerns the public’s right to access information essential to the public oversight of the Siskiyou County District Attorney, charged with the prosecution of public offenses on behalf of the people. This case also concerns the public’s right to access information integral to the implementation of California’s Racial Justice Act, which the California Legislature enacted “to eliminate racial bias from California’s criminal justice system” and “to ensure that race plays no role at all in seeking or obtaining convictions or in sentencing.” (See AB-2542 Criminal Procedure: Discrimination, Stats. 2020, Ch. 317, § 2(i); *see also* Penal Code §§ 745, 1473, 1473.7.) In response to requests for information concerning the policies and practices of the Siskiyou County District Attorney’s Office, Respondent/Defendant J. Kirk Andrus, in his official capacity as the Siskiyou County District Attorney (“District Attorney”), has been nonresponsive. The District Attorney has disregarded his obligations under the PRA and thereby thwarted the objectives of both the PRA and the Racial Justice Act, as well as limited public oversight of the District Attorney’s actions.

2. In September 2021, Petitioner/Plaintiff the American Civil Liberties Union of Northern California (“ACLU”) submitted a PRA request to the Siskiyou County District Attorney’s Office. It has been more than eight months since Petitioner’s first request. Yet the District Attorney has failed to respond to, or even acknowledge receiving, that request. The District Attorney has ignored the ACLU’s request despite repeated follow-up efforts by the ACLU via phone, email, and certified mail seeking the District Attorney’s compliance with the PRA.

3. The District Attorney’s failure to respond to the ACLU’s request and unwillingness to produce a single responsive record constitutes a flagrant violation of the PRA and the California Constitution. Because of the District Attorney’s failure to comply with his legal obligations, the ACLU and the general public have been harmed. The ACLU thus respectfully requests that the Court issue a writ of mandate compelling the District Attorney to comply with the PRA and the Constitution, and immediately produce records responsive to the ACLU’s request, as well as to order declaratory and injunctive relief to the same effect. Absent the issuance of a writ of mandate

1 and the other relief requested, the ACLU has no plain, speedy, or adequate remedy at law to
2 enforce its rights under the PRA.

3 **THE PARTIES**

4 4. Petitioner/Plaintiff THE AMERICAN CIVIL LIBERTIES UNION OF
5 NORTHERN CALIFORNIA is a non-profit organization under the laws of the state of California
6 and is an affiliate of the national American Civil Liberties Union, a non-profit, non-partisan civil
7 liberties organization with more than 1.7 million members dedicated to the principles of liberty and
8 equality embodied in our civil rights laws and both the United States and California Constitutions.

9 5. The ACLU is also dedicated to advancing government transparency and
10 accountability. As part of its advocacy, the ACLU relies on public records to gather information
11 and ensure that the public is informed about the conduct and practices of local, state, and federal
12 officials. The ACLU routinely uses information from public records to support civil rights
13 litigation, publish reports, and work with the press and the public at large to promote participation
14 in civil affairs. The ACLU is also actively involved in seeking to ensure effective implementation
15 of the Racial Justice Act statewide, including through collecting and disclosing information
16 concerning the policies and practices of District Attorneys throughout the State. The ACLU is a
17 member of the public with the right under the PRA to inspect public records and to seek relief in a
18 court of competent jurisdiction to enforce that right. (Gov't Code §§ 6252(b)–(c), 6253, 6258,
19 6259.)

20 6. Respondent/Defendant the COUNTY OF SISKIYOU is a local public agency within
21 the meaning of Government Code sections 6252(a) & (d).

22 7. Respondent/Defendant J. Kirk Andrus, in his official capacity as the SISKIYOU
23 COUNTY DISTRICT ATTORNEY, is a county official responsible for the prosecution of criminal
24 offenses. Pursuant to state law, the District Attorney has discretionary authority to “initiate and
25 conduct on behalf of the people all prosecutions for public offenses,” or to decline to prosecute
26 offenses. (Gov't Code § 26500.) For Fiscal Year 2021-2022, the approved budget for the District
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1 Attorney's Office was \$ 5,400,042.¹ The District Attorney is a California local agency within the
2 meaning of the PRA. (Gov't Code §§ 6252(a), (d).) The records that the ACLU requested are, or
3 should be, maintained by the District Attorney.

4 **JURISDICTION AND VENUE**

5 8. This Court has jurisdiction over this lawsuit under Government Code §§ 6258 and
6 6259; Code of Civil Procedure §§ 1060 and 1085; and Article VI, section 10 of the California
7 Constitution.

8 9. Venue is proper in this Court because Respondents and the records in question, or
9 some portion of them, are situated in this County, and the acts and omissions forming the basis of
10 this lawsuit occurred in this County as well. (*See* Code Civ. Proc. §§ 394(a), 395(a), 401(1); Gov't
11 Code § 6259(a).)

12 **THE RIGHT TO PUBLIC RECORDS**

13 10. The California Constitution and the PRA create a presumptive right of access to
14 public records and identify that right as fundamental.

15 11. The California Constitution provides that "[t]he people have the right of access to
16 information concerning the conduct of the people's business, and, therefore, the meetings of public
17 bodies and the writings of public officials and agencies shall be open to public scrutiny." (Cal.
18 Const., art. 1, § 3(b)(1).) The Constitution requires that any "statute, court rule, or other authority,"
19 such as the PRA, "be broadly construed if it furthers the people's right of access, and narrowly
20 construed if it limits the right of access." (*Id.* § 3(b)(2).)

21 12. Under the PRA, "access to information concerning the conduct of the people's
22 business"—business conducted by public agencies on behalf of the people—is a "fundamental and
23 necessary right of every person in this state." (Gov't Code § 6250.)

24 13. The PRA requires that, in response to records requests from members of the public,
25 public agencies "make the records promptly available," so long as the records are not expressly
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27 ¹ County of Siskiyou, Adopted Budget FY 2021-22, 49, *at*
28 https://www.co.siskiyou.ca.us/sites/default/files/fileattachments/auditor-controller/page/1541/aud_20220208_budgetbookfy21-22.pdf.

1 exempt. (Gov't Code § 6253.) The PRA defines a record to include "any writing containing
2 information relating to the conduct of the public's business prepared, owned, used, or retained by
3 any state or local agency regardless of physical form or characteristics." (*Id.* § 6252(e).) A
4 "writing," under the PRA, encompasses any "means of recording upon any tangible thing any form
5 of communication or representation" (*Id.* § 6252(g).)

6 14. The PRA facilitates this transfer of information by codifying specific requirements
7 and deadlines that agencies must observe upon receipt of a public records request. (Gov't Code
8 § 6250 *et seq.*) Specifically, once an agency receives a PRA request, it has ten days to respond.
9 Within those ten days, the agency must determine whether the request seeks disclosable public
10 records in its possession, custody, or control, and "promptly" notify the requestor of its
11 determination and reasoning. (Gov't Code § 6253(c).)

12 15. Only in "unusual circumstances" may an agency extend the time to respond by up to
13 fourteen days. (Gov't Code § 6253(c).) Such "unusual circumstances" are limited to certain
14 enumerated reasons for delay.² An agency must nonetheless explicitly notify the requestor of this
15 extension in writing, set forth the reasons for the extension, and provide an estimate as to when the
16 records will be available. (*Id.*) The PRA permits delay "only to the extent reasonably necessary to
17 the proper processing of the particular request." (*Id.*) The same section of the PRA forbids delay for
18 any other reasons: "Nothing in this chapter shall be construed to permit an agency to delay or
19 obstruct the inspection or copying of public records." (*Id.* § 6253(d).)

20 16. It is an agency's obligation to conduct record searches based on the criteria
21 identified in a specific request. (*Id.* §§ 6253–6253.1.) Officials responding to a PRA request must
22 also (1) offer assistance in identifying responsive records and information; (2) describe "the

23 _____
24 ² Under the PRA, unusual circumstances "means" only: "(1) The need to search for and collect the
25 requested records from field facilities or other establishments that are separate from the office
26 processing the request. (2) The need to search for, collect, and appropriately examine a voluminous
27 amount of separate and distinct records that are demanded in a single request. (3) The need for
28 consultation, which shall be conducted with all practicable speed, with another agency having
substantial interest in the determination of the request or among two or more components of the
agency having substantial subject matter interest therein. (4) The need to compile data, to write
programming language or a computer program, or to construct a computer report to extract data."
(Gov't Code § 6253(c)(1)–(4).)

1 information technology and physical location in which the records exist”; and (3) provide
2 “suggestions for overcoming any practical basis” that might be asserted as a reason to delay or
3 deny access to the records or information sought. (*Id.* § 6253.1(a).) Information produced as an
4 electronic record should be produced “in the format requested if the requested format is one that
5 has been used by the agency to create copies for its own use or for provision to other agencies.” (*Id.*
6 § 6253.9(a)(2).)

7 17. If an agency denies a request for records in whole or in part, it must issue a denial in
8 writing. (Gov’t Code § 6255(b).) In that correspondence, the agency must “demonstrat[e] that the
9 record in question is exempt under [the PRA’s] express provisions . . . or that on the facts of the
10 particular case the public interest served by not disclosing the record clearly outweighs the public
11 interest served by disclosure of the record.” (*Id.* § 6255(a).) The agency must also identify both the
12 name and title of the person(s) responsible for the determination not to disclose requested records.
13 (*Id.* §§ 6253(d)(3), 6255.)

14 18. “Any person” may institute proceedings for injunctive or declaratory relief or writ of
15 mandate to enforce the right to inspect or receive a copy of any nonexempt public record. (Gov’t
16 Code §§ 6258, 6259; *see also* Code Civ. Proc. § 1085 *et seq.*) The PRA further provides that a
17 “court shall order the officer or person charged with withholding the records to disclose the public
18 record or show cause why the officer or person should not do so” where “it is made to appear by
19 verified petition to the superior court of the county where the records or some part thereof are
20 situated that certain public records are being improperly withheld from a member of the public.”
21 (Gov’t Code § 6259(a).)

22 19. To ensure that the public’s access to information is not delayed or obstructed, the
23 PRA requires that “[t]he times for responsive pleadings and for hearings in these proceedings shall
24 be set by the judge of the court with the object of securing a decision as to these matters at the
25 earliest possible time.” (Gov’t Code § 6258.)

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1 District Attorney to respond to PRA requests. A true and correct copy of this request is attached as
2 **Exhibit 1.**

3 24. Because the District Attorney did not respond within the 10-day response period—
4 or nearly two additional months after that—the ACLU followed up via email on October 25, 2021,
5 requesting a response, and again on November 10, 2021, and December 27, 2021. A true and
6 correct copy of each email correspondence is attached respectively as **Exhibits 2, 3, and 4.**

7 25. The ACLU also sent a letter via certified mail on January 18, 2022, again reminding
8 the District Attorney of its statutory obligations, requesting a response, and stating that a failure to
9 respond would require the ACLU to initiate litigation at the District Attorney’s expense to compel
10 compliance with the PRA. A true and correct copy of this letter and the signature confirmation
11 confirming receipt are attached as **Exhibits 5 and 6.** The ACLU also left a voicemail message with
12 the District Attorney on December 8, 2021. (**Exhibit 5.**)

13 26. Despite numerous attempts to communicate with the District Attorney through
14 multiple means over the course of many months, the ACLU has heard nothing from the District
15 Attorney in response to its PRA request.

16 27. The ACLU has not received any of the requested records, any indication as to when
17 the District Attorney will make a final determination about whether it has and will produce
18 responsive records, or any acknowledgement that the District Attorney received its PRA request.

19 28. On information and belief, the District Attorney holds records responsive to these
20 requests that are nonexempt and should be searched for, identified, and disclosed.

21 **FIRST CAUSE OF ACTION**

22 **For Writ of Mandate for Violation of the California Public Records Act & 23 Article I, § 3 of the California Constitution**

24 29. The ACLU incorporates by reference the foregoing paragraphs as though fully set
25 forth herein.

26 30. Public entities are obligated to respond to requests for public records, and search for
27 and disclose all nonexempt records, pursuant to the PRA, Gov’t Code § 6250 *et seq.*, and the
28 California Constitution, Article I, § 3.

1 31. The District Attorney has failed to fulfill his obligations under the PRA and the
2 California Constitution to acknowledge receipt of the ACLU's request and to timely search for and
3 promptly produce public records responsive to ACLU's record request.

4 32. Issuance of a writ of mandate compelling the District Attorney to perform his duties
5 under the PRA and the California Constitution is required because there exists no plain, speedy,
6 and adequate remedy in the ordinary course of law that would protect the ACLU's rights and
7 interests to the information sought here.

8 **SECOND CAUSE OF ACTION**

9 **For Declaratory and Injunctive Relief for Violation of the California Public Records Act &
Article I, § 3 of the California Constitution**

10 33. The ACLU incorporates by reference the foregoing paragraphs as though fully set
11 forth herein.

12 34. Public entities are obligated to respond to requests for public records, and search for
13 and disclose all nonexempt records, pursuant to the PRA, Gov't Code § 6250 *et seq.*, and the
14 California Constitution, Article I, § 3.

15 35. The District Attorney has failed to fulfill his obligations under the PRA and the
16 California Constitution to acknowledge receipt of the ACLU's request and to timely search for and
17 promptly produce public records responsive to ACLU's record request.

18 36. A declaration that the District Attorney has violated the PRA and the California
19 Constitution by failing to acknowledge receipt and promptly produce disclosable records is
20 therefore appropriate and an injunction should issue compelling the District Attorney to produce all
21 responsive records forthwith.

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Petitioner/Plaintiff ACLU prays for judgment as follows:

24 1. For issuance of a peremptory writ of mandate compelling the District Attorney to
25 immediately disclose and produce all non-exempt, requested public records in his possession;

26 2. For a declaration that the District Attorney's conduct violates the PRA and the
27 California Constitution in failing to respond to the ACLU's PRA request and to timely disclose all
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1 non-exempt, requested public records in his possession and failing to timely respond to public
2 records requests;

3 3. For an injunction requiring the District Attorney to produce all disclosable
4 documents forthwith;

5 4. For reasonable attorneys' fees and costs pursuant to Code Civil Procedure § 1021.5
6 and Government Code § 6259;

7 5. For costs of suit; and

8 6. For such other and further relief as the Court may deem just and proper.
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10
11 Dated: May 13, 2022

Respectfully submitted,

12 BRAUNHAGEY & BORDEN LLP

13 AMERICAN CIVIL LIBERTIES UNION
14 FOUNDATION OF NORTHERN
CALIFORNIA, INC

15 By: /s/ Ellen Leonida

16 Ellen Leonida
17 BRAUNHAGEY & BORDEN LLP

18 Emi MacLean
19 Chessie Thacher
20 AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF NORTHERN
CALIFORNIA, INC

21 *Attorneys for Petitioner/Plaintiff*
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VERIFICATION

I, Ellen Leonida, am a partner at BraunHagey & Borden LLP, counsel for the American Civil Liberties Union of Northern California (“ACLU”), Petitioner/Plaintiff in this action.

I have read the foregoing VERIFIED PETITION FOR PEREMPTORY WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF and know the contents thereof. The facts as alleged therein are true to the best of my knowledge, except as to those matters alleged on information and belief, and as to those matters, I believe them to be true. I make this verification for and on behalf of the Petitioner/Plaintiff because the facts alleged herein are within my knowledge.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on May 13, 2022 in San Francisco, California.

By: 
Ellen Leonida
BRAUNHAGEY & BORDEN LLP

EXHIBIT 1

Ellen Leonida, Esq.
Partner
leonida@braunhagey.com

September 7, 2021

SENT VIA U.S. MAIL AND EMAIL

Kirk Andrus
Office of the District Attorney of Siskiyou County
311 Fourth Street, Room 204
Yreka, CA 96097
(530) 842-8125
da@siskiyouda.org

Re: California Public Records Act Request

To the Office of the District Attorney for Siskiyou County:

Pursuant to the California Public Records Act (“CPRA”)¹ and the California Constitution,² I am writing on behalf of the American Civil Liberties Union of Northern California (“ACLU”) to request records relevant to the implementation of California’s Racial Justice Act (“RJA”).³ The RJA was enacted “to eliminate racial bias from California’s criminal justice system” and “to ensure that race plays no role at all in seeking or obtaining convictions or in sentencing.”⁴ The ACLU submits this CPRA request in the public’s interest and as a member of a coalition of community groups, non-profit organizations, academic institutions, and other entities. The records that you produce will help us to implement and realize the objectives of the RJA.

On July 23, 2021, we submitted a CPRA request to your office also seeking records relevant to the implementation of the RJA. This CPRA letter is a further request for the following records regarding relevant case, individual, and/or charge-level data in the possession or control of Siskiyou District Attorney’s Office for all cases considered for prosecution and/or prosecuted during the time-period 2015 to Present:

Records Requested:

- 1. Unique identifier(s) associated with each defendant, each case, and each arrest**
 - a. Name of defendant
 - b. Court case number(s)
 - c. Arresting agency number(s)

¹ Gov’t Code §§ 6250 *et seq.*

² Cal. Const., art. I, § 3(b)(2).

³ Pen. Code § 745.

⁴ See AB-2542 *Criminal Procedure: Discrimination*, Stats. 2020, Ch. 317, § 2(i); see also Pen. Code §§ 745, 1473, 1473.7.

- d. Any other unique identifier(s)
- 2. Demographic and other information concerning each defendant**
 - a. Race
 - b. Ethnicity
 - c. Country of origin or nationality
 - d. Gender/sex
 - e. Age or date of birth
 - f. Prior criminal convictions of a defendant
- 3. Information regarding each arrest**
 - a. Zip code of arrest
 - b. Date of arrest
 - c. Charge identified by law enforcement referring individual (including top charge by law enforcement referring)
- 4. ADA assigned to the case**
- 5. Decisions to decline to prosecute**
 - a. Date of decision to decline to prosecute
 - b. Identity of person who made final decision to decline prosecution
 - c. Charges declined to prosecute (charge-level declinations as opposed to individual- or case-level where available)
 - d. Reasons for the declinations to prosecute, including but not limited to:
 - i. police misconduct involved in case;
 - ii. injuries to persons involved;
 - iii. injuries to suspect;
 - iv. financial loss to persons involved;
 - v. prior criminal record of suspect; and
 - vi. victim's level of cooperation in prosecuting case.
- 6. Diversion offers and decisions (formal and informal, and including collaborative court and deferred prosecution)**
 - a. Date of diversion offer
 - b. Type of diversion offered
 - c. Whether diversion accepted
 - d. Whether diversion completed
- 7. Charges filed**
 - a. Statutes (applicable code section)
 - b. Severity (i.e., infraction, misdemeanor, wobbler, felony)
 - c. Any enhancements⁵
 - d. Maximum sentence
- 8. Factors considered in deciding charges to file, and level of charges, including**
 - a. Injuries to persons
 - b. Financial loss to persons

⁵ Conduct enhancements, including but not limited to PC Section 12022.53 (gun), PC Section 186.22 (gang); Status enhancements including but not limited to PC Section 667.5 (prison prior), PC Section 667(a) (serious felony prior), PC Section 1170.12 and 667(b)-(i) (strike prior), PC Section 11370.2 (drug prior), PC Section 12022.1 (committed while on bail/OR); Special circumstances (PC Section 190.2); Any other modifications or enhancements

- c. Status of victim (i.e., law enforcement, child, spouse, etc.)
- d. Prior criminal history of defendant
- e. Victim's cooperation

9. Bail/custody information

- a. Bail amount requested
- b. Detention orders sought
- c. Whether bail was set or denied
- d. Whether individuals were released on bail or not
- e. Pre-plea/pre-trial custody status

10. Plea offers

- a. Charge(s) offered, including severity (i.e., infraction, misdemeanor, felony), including enhancements
- b. Dates of plea offers
- c. Sentence(s)/disposition(s) offered
- d. Records of whether any plea offer was accepted, including date of acceptance

11. Case outcomes

- a. Charges of conviction
- b. Dismissed charges
- c. Sentences

12. Counsel for defendant, whether public defender or private counsel

13. Demographic and other information concerning victims

- a. Race
- b. Ethnicity
- c. Gender/sex

14. Recommendations regarding parole

15. Recommendations regarding pardon or commutation

In responding to this request, please note that the CPRA broadly defines the term “record.” Specifically, the term includes “any writing containing information relating to the conduct of the people’s business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.”⁶ The CPRA defines, in turn, a “writing” as any “means of recording upon any tangible thing any form of communication or representation.”⁷ The present request therefore applies to *all* paper documents, as well as to *all* emails, videos, audio recordings, text messages, social media, or other electronic records within the Siskiyou District Attorney’s Office’s possession or control. Even if a record was created by a member of another government agency, a member of the public, or a private entity, it still must be produced so long as it is (or was) “used” or “retained” by the Siskiyou District Attorney’s Office.⁸

⁶ Gov’t Code § 6252(e).

⁷ *Id.* § 6252(g).

⁸ *Id.* § 6252(e); see *California State Univ. v. Superior Ct.*, 90 Cal. App. 4th 810, 824–25 (2001) (concluding that documents which were “unquestionably ‘used’ and/or ‘retained’ by [an agency]” were public records); see also *Cty. of Santa Clara v. Superior Ct.*, 170 Cal. App. 4th 1301, 1334 (2009) (“[W]hile section 6254.9 recognizes the availability of copyright protection for software in a proper case, it provides no statutory authority for asserting any other copyright interest.”).

As permitted by the CPRA, this request sets forth the specific categories of information that we are seeking, rather than asking for documents by name.⁹ It is your obligation to conduct record searches based on the criteria identified herein.¹⁰ But if you believe the present request is overly broad, you are required to: (1) offer assistance in identifying responsive records and information; (2) describe “the information technology and physical location in which the records exist;” and (3) provide “suggestions for overcoming any practical basis” that you assert as a reason to delay or deny access to the records or information sought.¹¹

The CPRA requires that you respond to this request in ten (10) days.¹² If you contend that an express provision of law exempts a responsive record from disclosure, either in whole or in part, you must make that determination in writing. Such a determination must specify the legal authority on which you rely, as well as identify both the name and title of the person(s) responsible for the determination not to disclose.¹³ Additionally, even if you contend that a portion of a record requested is exempt from disclosure, you still must release the non-exempt portion of that record.¹⁴ Please note that the CPRA “endows” your agency with “discretionary authority to override” any of the Act’s statutory exemptions “when a dominating public interest favors disclosure.”¹⁵

Because the ACLU is a non-profit organization and because these requests pertain to matters of public concern, we kindly request a fee waiver. None of the information obtained will be sold or distributed for profit. We also request that, to the extent possible, documents be provided in electronic format. Doing so will eliminate the need to copy the materials and provides another basis for the requested fee-waiver.

If, however, you are unwilling to waive costs and anticipate that costs will exceed \$100, and/or that the time needed to copy the records will delay their release, please contact us so that we can arrange to inspect the documents or decide which documents we wish to have copied and produced. Otherwise, please copy and send all responsive records as soon as possible and, if necessary on a rolling basis, to: praresponse@braunhagey.com or to Ellen Leonida – PRA Responses, BraunHagey & Borden LLP, 351 California Street, 10th Floor, San Francisco, CA 94104.

Thank you in advance for your assistance with this request. We look forward to receiving your response within 10 days. And once again, if you require any clarification on this request, please let us know.

⁹ Gov’t Code § 6253(b).

¹⁰ *See id.* §§ 6253–6253.1.

¹¹ *Id.* § 6253.1(a).

¹² *Id.* § 6253(c).

¹³ *Id.* § 6255; *see also id.* § 6253(d)(3).

¹⁴ *Id.* § 6253(a), (c).

¹⁵ *CBS, Inc. v. Block*, 42 Cal. 3d 646, 652 (1986); *see also Nat’l Conference of Black Mayors v. Chico Cmty. Publ’g, Inc.*, 25 Cal. App. 5th 570, 579 (2018) (construing the CPRA’s exemptions as “permissive, not mandatory—they allow nondisclosure but do not prohibit disclosure”).

September 7, 2021
Page 5

Sincerely,

A handwritten signature in blue ink, appearing to read 'Ellen Leonida', with a long, sweeping horizontal stroke extending to the right.

Ellen Leonida

EXHIBIT 2

From: [Josh Wilner](#)
To: maker@siskiyouda.org
Subject: California Public Records Act Request- September 7, 2021
Date: Monday, October 25, 2021 4:35:47 PM

Dear Siskiyou County District Attorney's Office,

Our office is reaching out today regarding the PRA Request letter sent to your office on September 7, 2021. We have not received any correspondence from your office after our letter was sent. We now hope to receive email correspondence regarding your office's intent to produce documents in a timely and efficient manner. Please respond immediately to let us know you received this message and please produce the requested documents no later than November 1, 2021.

Kindly send all correspondence via email/mail to PRAResponse@braunhagey.com and Ellen Leonida, Esq., BraunHagey & Borden LLP, 351 California Street, 10th Floor, San Francisco, CA 94104.

Best Regards,
Joshua Wilner

Josh 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

EXHIBIT 3

From: [Josh Wilner](#)
To: [Martha Aker](#)
Cc: [PRA Response](#)
Subject: California Public Records Act Request- September 7, 2021
Date: Wednesday, November 10, 2021 3:02:02 PM

Dear Martha Aker:

Our office is reaching out today regarding the PRA Request letter sent to your office on September 7, 2021. We have not received any correspondence from your office after our letter was sent. We now hope to receive email correspondence regarding your office's intent to produce documents in a timely and efficient manner. Please respond immediately to let us know you received this message and please produce the requested documents no later than November 18, 2021.

Kindly send all correspondence via email/mail to PRAResponse@braunhagey.com and Ellen Leonida, Esq., BraunHagey & Borden LLP, 351 California Street, 10th Floor, San Francisco, CA 94104.

Best Regards,
Joshua Wilner

EXHIBIT 4

From: [Caitlin Shaw](#)
To: maker@siskiyouda.org; da@siskiyouda.org
Subject: California Public Records Act Request
Date: Monday, December 27, 2021 10:58:00 AM

To the Office of the District Attorney for Siskiyou County,

Our office is reaching out regarding our Public Records Request sent to your office September 7, 2021. Your deadline to respond has passed. Please provide a status update of the request and kindly send all documents requested on a rolling basis.

Best regards,

Caitlin Shaw

Litigation Legal Assistant

BRAUNHAGEY & BORDEN LLP

Direct: (415) 651-5763

San Francisco (Main Office)

351 California Street, 10th Floor

San Francisco, CA 94104

Tel. & Fax: (415) 599-0210

New York

7 Times Square

27th Floor

New York, NY 10036-6524

Tel. & Fax: (646) 829-9403

This message is intended only for the confidential use of the intended recipient(s) and may contain protected information that is subject to attorney-client, work product, joint defense and/or other legal privileges. If you are not the intended recipient, please contact me immediately at the phone number listed above and permanently delete the original message and any copies thereof from your email system. Thank you.

EXHIBIT 5

Ellen Leonida, Esq.
Partner
leonida@braunhagey.com

January 18, 2022

SENT VIA CERTIFIED MAIL

Kirk Andrus
Office of the District Attorney of Siskiyou County
311 Fourth Street, Room 204
Yreka, CA 96097
Email: da@siskiyouda.org

Re: California Public Records Act Request

To the Office of the District Attorney of Siskiyou County:

I am writing today regarding your refusal to respond to our CPRA request dated September 7, 2021. As you no doubt are aware, the CPRA imposes timelines for responding to requests and mandates that all state and local agencies, upon receipt of a request for public records, (1) determine whether the requested records are “disclosable”—in whole or in part—and (2) “promptly notify” the requestor of that determination “within 10 days from receipt of the request.”¹ You have not done so and have not contacted our office regarding any type of extension.

Our office attempted to contact your office by email on October 25, November 8, November 15, and December 27, 2021. We left a voicemail with your office on December 8, 2021.

If you do not respond immediately and signal your intention to produce the requested documents in a timely manner, we will have no choice but to initiate litigation at your expense to obtain the documents we have requested.²

Thank you for your immediate attention to this matter.

Sincerely,



Ellen Leonida

¹ Gov’t Code § 6253(c).

² Gov’t Code § 6259(d).

EXHIBIT 6

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Kirk Andrus
Office of District Attorney of
Siskiyou County
311 Fourth Street, Room 204
Yreka, CA 96097



9590 9402 5903 0049 4794 86

2. Article Number (Transfer from service label)

7018 0680 0000 7163 5062

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

☒ Agent
☐ Addressee

[Signature]

B. Received by (Printed Name)

Vonder Brunn

C. Date of Delivery

1/24/22

D. Is delivery address different from item 1?

If YES, enter delivery address below:

☐ Yes☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt