



August 5, 2022

Via Email to:

Michael A. Schwartz
San Diego County Gun Owners PAC
michael@sandiegocountygunowners.com

RE: Public Records Act Request; DOJ No. 2022-01591

Dear Michael A. Schwartz:

This letter is in response to your correspondence received by the California Department of Justice, Office of the Attorney General (Department) on July 25, 2022, requesting records under the California Public Records Act. (Gov. Code, § 6250 et seq.) Specifically, you requested the following:

Any and all emails sent by CA DOJ staff, the Governor's Office and the Attorney General's Office regarding the launch of the Firearm Dashboard Portal in the 30 days prior to launch.

Any and all emails sent by CA DOJ staff, the Governor's Office and the Attorney General's Office since the launch of the Firearm Dashboard Portal regarding the Firearm Dashboard Portal Data Breach.

Any and all outgoing and incoming text messages, iMessages, SMS messages to Attorney General Rob Bonta's State provided cellular device(s) regarding the Firearm Dashboard Portal.

All emails and text messages from any and all office staffers for Attorney General Rob Bonta, including wireless devices regarding the Firearm Dashboard Portal.

As you know, on June 27, 2022, the California Department of Justice learned that personal information was disclosed in connection with the June 27 release of the Department's Firearms Dashboard Portal. The Department has retained outside counsel and an outside forensic cyber expert to conduct an investigation and determine how this occurred. Outside counsel and the forensic cyber expert are reviewing documents, analyzing data, and conducting interviews of relevant personnel. When the investigation is complete, the Department will report the investigative findings to the public. We anticipate these findings will cover how the incident occurred and the steps the Department is taking to ensure that something like this does not happen again. We expect the investigation to be complete in the coming months. In response to a PRA request, the Department may withhold certain records when the public interest served by not disclosing the

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records clearly outweighs the public interest served by disclosure of the record. (Gov. Code, § 6255.) At this time, as the investigation is ongoing, the public interest in disclosure of the records you requested is clearly outweighed by the public interest in facilitating an accurate and thorough investigation. (*Id.*)

Based on the ongoing investigation, the incident exposed some personal information of individuals who were granted or denied a permit to carry a concealed weapon between 2012-2021. Additionally, the investigation is reviewing the extent to which any additional personally identifiable information could have been exposed from the following dashboards: Assault Weapon Registry, Dealer Record of Sale, Firearm Certification System, and Gun Violence Restraining Order dashboards.

We are also withholding records responsive to your request because they are exempt from disclosure for one or both of the following reasons.

1. The attorney client privilege, as contained in Evidence Code section 954, protects confidential communications between an attorney and their client. This privilege is incorporated into the PRA through Government Code section 6254, subdivision (k). This subdivision exempts from disclosure “[r]ecords, the disclosure of which is exempted or prohibited pursuant to federal or state law,” including “provisions of the Evidence Code relating to privilege.” Communications between the Department’s attorneys and those they counsel are confidential communications subject to the attorney client privilege, and are exempt from disclosure under the PRA. Similarly, communications between the Department and its outside counsel are subject to attorney client privilege and are exempt from disclosure under the PRA.
2. The deliberative process privilege exempts from disclosure materials that would expose the decision-making process of an agency or a constitutional officer in such a way as to discourage candid discussion and thereby undermine the government’s ability to perform its function. Even if the content of a document is purely factual, it is nonetheless exempt from public scrutiny if it is actually related to the process by which policies are formulated or if it is inextricably intertwined with policymaking processes. (*Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325.) Records that reveal deliberative processes are protected through application of Government Code section 6255. In this case, records such as communications concerning policymaking are covered by the deliberative process privilege and, therefore, absent special circumstances, are exempt from disclosure under Government Code section 6255.

Sincerely,

/s/ Public Records Coordinator

Public Records Coordinator

For ROB BONTA
Attorney General