

# State of California HEALTH AND HUMAN SERVICES AGENCY

GAVIN NEWSOM  
GOVERNOR



June 12, 2020

SENT VIA EMAIL ONLY

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MARK A. GHALY MD, MPH  
SECRETARY

**RE: June 9, 2020 Correspondence re PRA Request**

Aging  
Child Support  
Services  
Community Services  
and Development  
Developmental  
Services  
Emergency Medical  
Services Authority  
Health Care Services  
Managed Health Care  
Office of Health Information  
Integrity  
Office of Innovation  
Office of Law Enforcement  
Support  
Office of Patient Advocate  
Office of Surgeon General  
Office of Systems Integration  
Public Health  
Rehabilitation  
Social Services  
State Hospitals  
Statewide Health  
Planning and  
Development

Dear Mr. Alexander:

Thank you for your letter in response to my communication of June 9, 2020.

CHHS has worked to be transparent regarding the public health decisions addressing COVID-19. For your reference, I point you to examples of information (equally available to you) that CHHS, its agencies, and the Administration have shared publicly: state- and county-wide data that are updated on a daily basis, available at <https://update.covid19.ca.gov/#top>, data specific to Skilled Nursing Facilities, [https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/SNFsCOVID\\_19.aspx](https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/SNFsCOVID_19.aspx), race and ethnicity data, <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Race-Ethnicity.aspx>, among many other data sets. Additionally, the Governor, Secretary Mark Ghaly, and the State Public Health Officer Sonia Angell have held dozens of public press conferences since the state of emergency was proclaimed.

As the California Supreme Court and other courts have repeatedly recognized, the public interest in permitting governmental decision makers to candidly study, discuss, and debate the appropriate course of action outweighs the public interest in having access to such communications. *Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325; *Labor & Workforce Development Agency v. Superior Court* (2018) 19 Cal.App.5th 12. This balance is particularly pertinent to CHHS's work leading the State's response to this global pandemic. Notably, as courts have repeatedly recognized, and as I indicated in my prior communication, the deliberative process privilege extends to factual information relied upon by the decisionmaker. See, e.g., *California First Amendment Coalition v. Superior Court*, 67 Cal.App.4th 159, 171 (1998) ("The disclosure of records containing only factual matters can impair the deliberative process by revealing the thought processes of the government decision maker").

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Your request seeks the information upon which the State relied for its major public health decisions regarding this crisis. That request, on its face, seeks to probe the decisionmaking process of CHHS and its leadership. As framed, the requested information is exempt from disclosure because disclosing it would significantly chill, and thus hamper, the decisionmaking process. California law does not require or support further disclosure than the extensive information CHHS has already chosen to make transparent.

Sincerely,



Michael Palmisano  
Attorney  
Office of the Agency General Counsel  
California Health and Human Services Agency