

State of California HEALTH AND HUMAN SERVICES AGENCY

GAVIN NEWSOM
GOVERNOR



November 19, 2020

SENT VIA EMAIL ONLY

Craig Alexander, Esq.
Law Offices of Craig P. Alexander
Email: Craig@CraigAlexanderLaw.com

RE: Public Records Act Request

MARK A. GHALY MD, MPH
SECRETARY

Dear Mr. Alexander:

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

The California Health and Human Services Agency (CHHS) received your request for documents, submitted on behalf of your client, the Center for American Liberty, on November 17, 2020. You requested copies of "Documents upon which the State of California and/or the California Health and Human Services agency based its 'Shelter in Place', 'Face Covering', 'Cancel Mass Gathering' and 'Cancel Church (and/or Worship) Gatherings' and similar orders during the corona virus (COVID-19) pandemic." You further indicated that your request encompassed a request for:

- "Each set of data and/or correspondence, including electronic communications (including but not limited to scientific studies, peer reviews, medical studies, analysis, hospital data, public health studies, health care statistics, memorandum, letters, correspondence, directives, etc.) upon which the State of California and/or the CHHS based its decision to issue, renew, re-issue or modify any and all 'Shelter in Place', 'Face Covering', 'Cancel Mass Gathering' and 'Cancel Church (and/or Worship) Gatherings and similar orders from July 16, 2020 to the present date regarding the COVID-19 pandemic";
- "Each set of data and/or correspondence, including electronic communication and in paper format, regarding each re-issuance, renewal or modification of any Order including, but not limited to, the implementation of the colored coded tier categories for the COVID-19 pandemic response and orders by the State of California";
- "Each set of data and/or correspondence, including electronic communication and in paper format (including but not limited to scientific studies, peer reviews, medical studies, analysis, hospital data, public health studies, health care statistics, memorandum, letters, correspondence, directives, etc.) upon which the State of California and/or the CHHS based its decision regarding any issuance, renewal, re-issuance or modification of any Order regarding the COVID-19 pandemic, including but not limited to, any public or private protests¹ of any type or kind from July 16, 2020 to the present date regarding the COVID-19 pandemic"; and
- "A copy of any and all requests for similar records under the California Public Records Act received by the CHHS and all responses thereto."

Enclosed please find all nonprivileged records that are responsive to your request.

Additionally, please be aware that, consistent with CHHS's commitment to transparency, a [COVID-19](#) website has been established that provides the public with extensive information regarding the State's effort to combat this unprecedented pandemic, including extensive [data sets](#) that may include some of the information that you seek, including county level data. Additionally, a [website](#) with extensive information on COVID-19 modeling has been established. CDPH has also established a [public website](#) with extensive data sets. Public websites with COVID-19 related information specific to [skilled nursing facilities](#), and with data sorted by [demographics](#), are also available. Finally, other state agencies may possess additional documentation responsive to your request.

All remaining records are exempt from production based on one or more of the following privileges:

- Government Code, § 6254, subdivision (k), and Evidence Code, § 954 (attorney-client privilege): Some of the records are exempt or prohibited from disclosure pursuant to federal or state law. Some of the records are confidential communications made within the scope of the attorney-client relationship and protected by the attorney-client privilege;
- Government Code, § 6254, subdivision (k), and California Code of Civil Procedure, §§ 2018.030 and 2018.020 (attorney work product doctrine): Documents that attorneys prepare for CHHS, including documents generated by others under the direction of CHHS's attorneys, reflecting the attorney's impressions, conclusions, opinions, or legal research or theories pertaining to the issues listed in your request are protected by the attorney work product doctrine.
- Government Code, § 6255 (deliberative process): Records that reveal the deliberative process of Secretary Ghaly or his staff (Gov. Code, § 6255; *Cal. First Amend. Coalition v. Super. Ct.* (1998) 67 Cal.App.4th 159; *Times Mirror Co. v. Super. Ct.* (1991) 53 Cal.3d 1325). Such records include factual records. *Id.* at 1343. Your request for records detailing the decision making process underpinning the delineated COVID-19 related orders is targeted directly at the deliberative process of the State's top health policy maker and head of the California Health and Human Services Agency, and most of the records are, as a result, exempt from disclosure.

Thank you for contacting CHHS with your request.

Sincerely,



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