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18 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
19 **FOR THE COUNTY OF SACRAMENTO**  
**UNLIMITED JURISDICTION**

20 KELLY CLARK, DIANNE WOOTON,  
KIONA MILLIRONS,

21 Plaintiffs and Petitioners,

22 vs.

23 SACRAMENTO COUNTY DISTRICT  
ATTORNEY'S OFFICE, SACRAMENTO  
24 POLICE DEPARTMENT—a *political*  
25 *subdivision of the City of Sacramento*, CITY OF  
SACRAMENTO,

26 Defendants and Respondents.

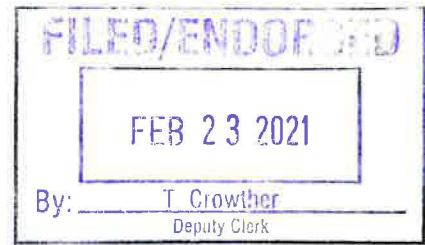
Case No. 34-2020-80003417-CU-WM-GDS

**MEMORANDUM AND POINTS OF  
AUTHORITIES IN SUPPORT OF  
PETITION FOR WRIT OF MANDATE  
UNDER THE CALIFORNIA PUBLIC  
RECORDS ACT AND CALIFORNIA  
CONSTITUTION, ARTICLE I, SECTION 28**

Date: April 9, 2021

Time: 11:00 a.m.

Dept.: 21



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1 On December 11, 2018, Ronald Seay shot and killed Amber Clark—a librarian at the North  
2 Natomas Branch of the Sacramento Public Library—as she sat in her car in front of her workplace.  
3 (Complaint, Dkt. No. 1, hereinafter “Compl.” at ¶ 1.) Amber Clark was a victim of gun violence. Since  
4 that day Plaintiffs in this action—Amber Clark’s widowed husband, sister, and mother—have suffered  
5 enduring heartache, emptiness, and grief. They are also victims of gun violence.

6 Through this Complaint and Writ of Mandate, Plaintiffs ask the Court to recognize their status  
7 as victims both under the California Public Records Act (“CPRA”) and the California Constitution. They  
8 ask the Court to direct Defendants to disclose public records regarding the firearm and ammunition used  
9 in Amber Clark’s murder. Should the Court deem it necessary prior to directing disclosure of these  
10 public records, Plaintiffs request *in camera* review of the records. Such a review of the contested public  
11 records will reveal that disclosure of these records to these victims will not jeopardize the safety of any  
12 government witnesses. Nor will disclosure impede resolution of Defendants’ investigation into the  
13 murder. Instead, disclosure of the records may allow these victims to better understand how the firearm  
14 and ammunition were purchased and used to murder Amber Clark. Plaintiffs also hope that, by obtaining  
15 these public records, they might prevent future attackers from obtaining firearms in a similar manner—  
16 so that future families will not have to experience their grief.

## 17 I. FACTUAL BACKGROUND

### 18 A. Plaintiffs are Amber Clark’s Closest Family

19 Plaintiffs seek basic information about the weapon used in Amber Clark’s murder so that they  
20 can make sense of what happened on December 11, 2018. Ronald Seay was detained shortly after  
21 Amber’s murder and remains in custody. (Declaration of Molly Thomas-Jensen, hereinafter “Thomas-  
22 Jensen Dec.”, filed herewith, at ¶ 4.) There are no suspected accomplices. (*Id.* at ¶ 5.) Much of what  
23 Plaintiffs seek through this lawsuit will be turned over to Seay’s defense counsel (if it has not already  
24 been turned over). (*Id.* at ¶ 8; Thomas-Jensen Dec., Ex. A; *See also* Pen. Code § 1054.1.) They hope to  
25

1 identify flaws in the system that allowed Ronald Seay to obtain a handgun and help prevent future acts  
2 of violence.

3 Together, Plaintiffs comprise Amber Clark's inner circle, and they continue to grapple with the  
4 ripple effects, both physical and emotional, of her unexpected and tragic death. (Compl. at ¶ 4; *see also*  
5 Verification of Plaintiff Kelly Clark to the Complaint, Dkt. No. 4 ("Clark Verification").) For over two  
6 years, they have pleaded with Defendants for information regarding Amber's death. Their requests have  
7 been repeatedly denied. (Thomas-Jensen Dec. at ¶ 6.)

8  
9 Kelly Clark is Amber's husband and a 21-year veteran of the Air Force. He works as a data  
10 analyst for the Sacramento Public Library. Following the loss of his wife, Mr. Clark struggles with  
11 depression and anxiety, and requires medication in order to go about his daily life. He has had trouble  
12 sleeping and has developed a discomfort with large crowds and loud noises. He fears being ambushed  
13 in his own car. (Compl. at ¶ 5; Clark Verification.)

14  
15 Since Amber's death, her mother, Dianne Wooton, has experienced depression, anxiety, panic,  
16 and an inability to concentrate. More than two years after burying her daughter, Ms. Wooton continues  
17 to process her grief with the help of counseling and medication. As a survivor, she has gradually resumed  
18 functioning and performing daily tasks. In addition to being her daughter, Amber Clark was also co-  
19 guardian to Dianne's intellectually disabled daughter. Caring for her without Amber's support means  
20 that Ms. Wooton must confront her feelings of loss every day. (Compl. at ¶ 6; Clark Verification.)

21  
22 Plaintiff Kiona Millirons, Amber's sister, continues to grieve the loss of her sister. After speaking  
23 out about the circumstances of her sister's death, Ms. Millirons fears becoming a target of gun violence  
24 herself. She has trouble sleeping. She has lost weight and struggles with concentration and memory  
25 loss. In addition to her own grief, Ms. Millirons tries to help her children process their grief and trauma  
26 over the loss of their beloved aunt. Amber's niece struggles with depression and anxiety. Amber's  
27

nephew deals with anxiety and a newly developed fear of crowds. Both children experience distress during active shooter drills in their schools. Ms. Millirons is accruing debt to pay for her family's substantial physical and mental healthcare needs in the wake of the shooting. (Compl. at ¶ 7; Clark Verification.)

**B. The Family's Search for Answers**

How was Ronald Seay able to obtain the gun he used to kill Amber Clark? In the weeks, months, and now years following her murder, Plaintiffs have sought to answer this question. Shortly after Amber's murder, Plaintiffs learned that Ronald Seay had been banned from the North Natomas Branch Library two months before, following an incident involving aggressive behavior towards both library staff and customers. (Compl. at ¶ 2.)

Plaintiffs were also told by investigators that, at the time of the shooting, Ronald Seay had a lengthy police record and numerous mental health commitments. (*Id.* at ¶ 2.) Both his criminal and mental health history could have barred Seay from possessing a firearm under federal law. Yet, Plaintiffs were also told that Seay was able to purchase the gun that he used to murder Amber Clark from a pawn shop in Missouri in the summer of 2018 before his background check could be completed. (*Id.* at ¶ 3.) They grew deeply troubled the more they learned. They set out to confirm what they were hearing in hopes of identifying any gaps in the system that could have contributed to Amber's murder. By discovering and highlighting the circumstances of her death, they hoped they might prevent a future similar tragedy.

**C. Procedural History**

On March 3, 2020, Plaintiffs, through counsel, submitted a request for ten (10) categories of records relating to the death of Amber Clark to the Defendant Sacramento County District Attorney's Office and the Defendant Sacramento Police Department. Mindful that the CPRA mandates specific

obligations to crime victims, Plaintiffs tailored their requests to the victims' access provision of section 6254(f) of the Government Code and requested the following documents:

- a. Records reflecting any firearms trace request made to the Bureau of Alcohol, Tobacco, Firearms, and Explosives ("ATF"), and any firearms trace results received from ATF or any other law enforcement agency, concerning any firearm(s) recovered in connection with the homicide of Amber Clark.
- b. All property vouchers or similar records describing any firearm(s), ammunition, ammunition casing(s), or firearm magazine(s) recovered in connection with the homicide of Amber Clark.
- c. Any other records reflecting a description of the firearm(s), ammunition, ammunition casing(s), or firearm magazine(s) involved in the offense, including but not limited to those reflecting the serial number, make, and/or model of any firearm(s) recovered.
- d. Any records relating to the purchase, sale, or transfer of any firearm(s), ammunition, or firearm magazine(s) recovered in connection with the homicide of Amber Clark.
- e. Records of any witness statement solely concerning when, where, how any firearm(s), ammunition, or firearm magazine(s) used in the homicide of Amber Clark were obtained by Ronald Seay.
- f. Records reflecting the name(s) and address(es) of all person(s) from whom the firearms(s), ammunition, or firearm magazine(s) used in the homicide of Amber Clark were obtained by Ronald Seay.
- g. Records of any statement made by Ronald Seay solely concerning the firearm(s), ammunition, or firearm magazine(s) used in the homicide of Amber Clark, or solely concerning when, where, and/or how any such firearm(s), ammunition, or firearm magazine(s) were obtained by Ronald Seay.
- h. Any records relating to statements made by Ronald Seay prior to the homicide of Amber Clark in which Mr. Seay indicated that he wanted to harm other people, including but not limited to statements made by Mr. Seay in June 2018 and documented by the University of Missouri at St. Louis Police Department.
- i. Records of any search, conducted by the Sacramento Police Department in October 2018, for Ronald Seay's previous criminal arrests or convictions.
- j. Records of any communications with other law enforcement agencies about the firearm(s), ammunition, or firearm magazine(s) used in the homicide of Amber Clark, or concerning when, where, and/or how any such firearm(s), ammunition, or firearm magazine(s) were obtained by Ronald Seay.

1 (See Thomas-Jensen Dec. at ¶ 9, Ex. B (March 3, 2020 Request to Sacramento District Attorney's Office,  
2 hereinafter "Request to DA"); see also *id.* at ¶ 10, Ex. C (March 3, 2020 Request to Sacramento Police  
3 Department, hereinafter "Request to SPD."))

4 On March 5, 2020, the Sacramento District Attorney's Office denied Plaintiffs' records request in full,  
5 claiming the records requested were exempt from disclosure under section 6254(f) of the Government Code  
6 as records of complaints to, or investigations conducted by, a local police agency and investigatory files  
7 compiled by any other local agency for law enforcement or licensing purposes. (Thomas-Jensen Dec. at ¶ 11,  
8 Ex. D (March 5, 2020 Letter from Sacramento District Attorney's Office, hereinafter "DA Response Letter").)

10 On April 30, 2020, the Sacramento Police Department also denied Plaintiffs' records request in full,  
11 claiming the records were exempt pursuant to Government Code sections 6254(f), 6254(k) and 6255(a),  
12 Evidence Code section 1040, and Penal Code sections 13100 et seq., and 13300 et seq. (Thomas-Jensen Dec.,  
13 ¶ 12, Ex. E (April 30, 2020 Letter from City of Sacramento, hereinafter "SPD Response Letter").) Defendants'  
14 denial letters did not deny possession or custody of all the requested records, nor did they provide any specific  
15 justification as to why the public interest prevented the disclosure of all of the information requested by  
16 Plaintiffs. (*Id.*) Neither letter acknowledged Plaintiffs' status as victims nor the victims' access provisions of  
17 section 6254(f) of the Government Code. (*Id.*) Although counsel for Plaintiffs attempted to reach out to  
18 resolve their dispute without court intervention, Defendants steadfastly refused to provide any information in  
19 response to the records requests. (Thomas-Jensen Dec. at ¶ 6.)

21 On June 29, 2020, Plaintiffs filed a Complaint for Declaratory Relief and Petition for Writ of Mandate  
22 in order to obtain public records about the firearms and ammunition used to murder Amber Clark.

24 On September 4, 2020, Plaintiffs served their First Set of Special Interrogatories and First Set of  
25 Requests for Production on Defendants. (Thomas-Jensen Dec. at ¶ 7.) Although Defendants' motions for a  
26 protective order as to those discovery requests are not pending before this Court, both the County and  
27

1 the City previewed their merits arguments in their briefing. (*See* Memorandum of Points and Authorities  
2 in support of City of Sacramento, including Sacramento Police Department’s Motion for Protective  
3 Order (Oct. 13, 2020), Dkt. No. 45, hereinafter “City Motion for Prot. Order”; *see also* Memorandum  
4 of Points and Authorities in support of Sacramento County District Attorney’s Motion for Protective  
5 Order (Oct. 30, 2020), Dkt. No. 58, hereinafter “DA Motion for Prot. Order.”) Additionally, Defendants  
6 submitted three nearly identical declarations in support of their motions for a protective order that  
7 concluded, without detail, that disclosure of the requested documents would undermine their murder  
8 investigation. (*See* Declaration of Sgt. Scott McLafferty (Oct. 9, 2020), Dkt. No. 46, hereinafter  
9 “McLafferty Dec.”; *see also* Declaration of Rod Norgaard (Oct. 23, 2020), Dkt. No. 60, hereinafter  
10 “Norgaard Dec.”; *see also* Declaration of Richard Miller (Oct. 26, 2020), Dkt. No. 59, hereinafter “Miller  
11 Dec.”) Neither the County nor the City acknowledged Plaintiffs’ status as victims in their analysis, nor  
12 how the victims’ access provision of section 6254(f) applied to their requests.  
13

14 By its ruling dated December 21, 2020, the Court granted Defendants’ Motions for Protective  
15 Orders. In granting Defendants’ motions, the Court reserved judgment on the merits of Plaintiffs’  
16 Complaint and Writ, and noted that it was not yet “appropriate for the Court to opine as to the merits of  
17 Respondents’ claims of exemption via the instant motion.” (*Clark et al. v. Sacramento County District*  
18 *Attorney’s Office et al.*, Ruling on Submitted Matter re: Motions for Protective Order, Dkt. No. 69 (Dec.  
19 21, 2020) at 4.) By the date of oral argument on this action, Plaintiffs’ unfulfilled initial records request  
20 will be more than one year old.  
21

## 22 **II. STANDARD OF REVIEW**

### 23 **A. California’s Constitution and Public Records Act Strongly Favor Disclosure of** 24 **Information to Victims of Crime.**

25 California’s Legislature enacted the California Public Records Act (“CPRA”) in 1968, making  
26 access to governmental information a “fundamental right.” (*Am. Civil Liberties Union Found. v.*  
27

1 *Superior Court* (2017) 3 Cal.5th 1032, 1038.) The text of the CPRA sets forth the right of “every person  
2 . . . to inspect any public record,” which means “all public records are subject to disclosure unless the  
3 Legislature has expressly provided to the contrary.” (*Williams v. Superior Court* (1993) 5 Cal.4th 337,  
4 346 [quoting Gov. Code § 6253(a)].) “The core purposes of the CPRA are to prevent secrecy in  
5 government and to contribute significantly to the public understanding of government activities.”  
6 (*Fredericks v. Superior Court* (2015) 233 Cal.App.4th 209, 223.)

7  
8 In 2004, voters enacted Proposition 59, which “enshrined the CPRA’s right of access in the state  
9 Constitution.” (*Am. Civil Liberties Union Found., supra*, 3 Cal.5th at 1039.) Article I, section 3,  
10 subdivision (b)(1) of the California Constitution now reads: “The people have the right of access to  
11 information concerning the conduct of the people’s business, and, therefore, the meetings of public  
12 bodies and the writings of public officials and agencies shall be open to public scrutiny.” To make this  
13 right concrete, the Constitution instructs: “A statute, court rule, or other authority, including those in  
14 effect on the effective date of this subdivision, shall be broadly construed if it furthers the people’s right  
15 of access, and narrowly construed if it limits the right of access.” (Cal. Const. art. I, § 3, subd. (b)(2).)

16  
17 When interpreting the CPRA, California courts are thus “guided by familiar principles of  
18 statutory interpretation, as well as the constitutional imperative to construe CPRA in a manner that  
19 furthers disclosure.” (*Am. Civil Liberties Union Found., supra*, 3 Cal.5th at 1039 [internal quotation  
20 marks and citations omitted].) In interpreting the CPRA, as with any statute:

21 A court’s overriding purpose in construing a statute is to ascertain legislative intent  
22 and to give the statute a reasonable construction conforming to that intent. In  
23 interpreting a statute to determine legislative intent, a court looks first to the words  
24 of the statute and gives them their usual and ordinary meaning. Statutes must be  
25 given a fair and reasonable interpretation, with due regard to the language used and  
26 the purpose sought to be accomplished.

27 (*Home Depot, U.S.A., Inc. v. Contractors’ State License Bd.* (1996) 41 Cal.App.4th 1592, 1600-01  
28 [internal quotation marks and citations omitted]; *accord Fredericks, supra*, 233 Cal.App.4th at 224.)



1 But, because the Constitution requires broad construction of this statute, where doing so would further  
2 rights of access, any ambiguities must be resolved in favor of disclosure of records. (*Fredericks, supra*,  
3 233 Cal.App.4th at 229.)

4 Finally, the CPRA should also be interpreted in light of California's extensive protections for  
5 victims of crime and recognition of their unique reliance upon government agencies. In 2008, voters  
6 enacted "Marsy's Law," which sets forth certain rights for victims of crimes in the California  
7 Constitution. The Constitution now declares that "[t]he rights of victims of crime and their families in  
8 criminal prosecutions are a subject of grave statewide concern" and also that "California's victims of  
9 crime are largely dependent upon the proper functioning of government, upon the criminal justice system  
10 and upon the expeditious enforcement of the rights of victims of crime described herein, in order to  
11 protect the public safety and to secure justice when the public safety has been compromised by criminal  
12 activity." (Cal. Const., art. I, § 28, subd. (a)(1), (a)(2).) In other words: California crime victims have a  
13 particular, heightened interest in ensuring that their government is operating in an efficient and fair  
14 manner.  
15

16  
17 **B. Defendants Must Make a Particularized Factual Showing to Carry Their Burden**  
18 **Establishing a Risk that Would Justify Withholding Records.**

19 The CPRA starts with the presumption that all public records are to be disclosed, and then carves  
20 out certain exemptions for withholding. Because of this presumption, Defendants face a heightened  
21 burden to establish a factual basis for withholding. (*See Sacramento County Employees' Ret. Sys. v.*  
22 *Superior Court* (2011) 195 Cal.App.4th 440, 453.) In support of their claimed exemptions, Defendants  
23 may submit declarations from witnesses with personal knowledge of the case. However, "vaguely  
24 worded declarations making only general assertions" do not satisfy the government's burden of  
25 establishing risk for other exemptions of CPRA. (*Long Beach Police Officers Ass'n v. City of Long*  
26 *Beach* (2014) 59 Cal.4th 59, 75.) Moreover, any risk of harm must be real and not speculative. A  
27

1 “persuasive illustration” rather than a “purely speculative” one is necessary, and “mere assertion of  
2 possible endangerment” does not suffice. (*See Comm’n on Peace Officer Standards & Training v.*  
3 *Superior Court* (2007) 42 Cal. 4th 278, 302, construing Section 6254(c); *see also Am. Civil Liberties*  
4 *Union of Northern California v. Superior Court* (2011) 202 Cal.App.4th 55, 75.)

### 5 **III. ARGUMENT**

6 The documents requested are “public records” within the meaning of the CPRA. Plaintiffs  
7 recognize there are law enforcement exemption provisions under the CPRA. (Gov. Code §6254(f).)  
8 However, plaintiffs—Amber Clark’s widowed husband, her sister, and her mother—are victims both  
9 under the CPRA and the California Constitution. Because plaintiffs are crime victims, section 6254(f)  
10 mandates that Defendants disclose certain public records to them that might otherwise be properly  
11 withheld under section 6254(f), because they have rights that are separate and distinct from their rights  
12 as members of the public. In their motions for a protective order, Defendants raised three categories of  
13 objections that they believe exempt disclosure: 1) that records of law enforcement investigation are  
14 exempt from disclosure “on their face” under §6254(f) (City Motion for Prot. Order at 5); 2) that  
15 disclosure of records is prohibited by federal and/or state law under §6254(k); and 3) that disclosure  
16 should be denied under the CPRA’s “catch-all” public interest provision pursuant to §6255(a). All of  
17 these objections are unavailing. It is the Defendants’ burden to show that documents are exempt from  
18 production, and nothing the Defendants have argued to date suggests that they can come close to meeting  
19 that burden. The Court should direct Defendants to disclose the requested public records. In the  
20 alternative, if the Court determines it is necessary, Plaintiffs respectfully request that this Court conduct  
21 an *in camera* review to determine whether the requested records should be produced to Plaintiffs.  
22  
23  
24

#### 25 **A. Plaintiffs Sought Records Covered By the CPRA.**

26 The CPRA requires that local agencies make “public records” available for inspection unless  
27 those records are “exempt from disclosure by express provisions of law.” (Gov. Code § 6253.) The  
28

1 records that Plaintiffs requested are public records as that term is defined by the CPRA. (Gov. Code §  
2 6252(e) [defining “Public records” to include “any writing containing information relating to the conduct  
3 of the public’s business prepared, owned, used, or retained by any state or local agency regardless of  
4 physical form or characteristics”]; *see also Coronado Police Officers Ass’n v. Carroll* (2003) 106  
5 Cal.App.4th 1001, 1006 [“The definition is broad and intended to cover every conceivable kind of record  
6 that is involved in the governmental process.”] (internal quotation marks and citations omitted).)

7  
8 **B. Defendants Have Not Met Their Burden of Showing that the § 6254(f)  
Investigation Exemption Allows Them to Withhold the Requested Records.**

9 Both the City and the County cited Government Code section 6254(f)—the investigations  
10 exemption—as a basis for withholding the requested documents. (Thomas-Jensen Dec. at ¶¶ 11-12, Exs.  
11 D, E (DA Response Letter; SPD Response Letter).) That provision, in relevant part, exempts from  
12 disclosure the following records:

13  
14 Records of complaints to, or investigations conducted by, or records of intelligence  
15 information or security procedures of . . . any state or local police agency, or any  
16 investigatory or security files compiled by any other state or local police agency, or  
any investigatory or security files compiled by any other state or local agency for  
correctional, law enforcement, or licensing purposes.

17 (Gov. Code § 6254(f).) If the statute ended there, Plaintiffs agree that their requests would be exempt  
18 from the CPRA’s general disclosure requirement.

19 But, of course, the statute does *not* end there. It goes on to mandate an exception for crime  
20 victims to the investigations exemption, which requires government agencies to disclose certain  
21 documents and information to crime victims. In relevant part:

22  
23 However, state and local law enforcement agencies *shall* disclose the names and  
24 addresses of persons involved in, or witnesses other than confidential informants  
25 to, the incident, *the description of any property involved*, the date, time, and  
26 location of the incident, all diagrams, *statements of the parties involved in the*  
27 *incident, the statements of all witnesses*, other than confidential informants, to the  
28 victims of an incident, or an authorized representative thereof . . . , unless the  
disclosure would endanger the safety of a witness or other person involved in the  
investigation, or unless disclosure would endanger the successful completion of the

1 investigation or a related investigation. However, this subdivision does not require  
2 the disclosure of that portion of those investigative files that reflects the analysis or  
conclusions of the investigating officer.

3 (Gov. Code § 6254(f) (emphasis added).) In other words: victims of crimes are entitled to certain  
4 information, such as descriptions of property and witness statements, even if those records otherwise  
5 could be withheld from the public, unless disclosure would endanger a witness or the investigation.

6 The California Supreme Court has recognized that this provision within section 6254(f) sets forth  
7 “additional required disclosures”—disclosures to victims above and beyond what government agencies  
8 must generally make to non-victim members of the public—and that it “represent[s] the Legislature’s  
9 judgment, set out in exceptionally careful detail, about what items of information should be disclosed  
10 and to whom.” (*Williams, supra*, 5 Cal.4th at 361.) This exception makes sense: victims of crimes are a  
11 special category of persons, who are distinct from the general public. They have a special and heightened  
12 need for information that is derived from their “dependen[ce] upon the proper functioning of  
13 government, upon the criminal justice system and upon the expeditious enforcement of the rights of  
14 victims of crime.” (Cal. Const., art. I, § 28, subd. (a)(2).)

15  
16 At oral argument on the motions for a protective order, counsel for the Sacramento County  
17 District Attorney’s Office questioned whether Plaintiffs qualified as victims of crime under the CPRA’s  
18 victim’s access provision. (Thomas-Jensen Dec. at ¶ 13, Ex. F (Reporter’s Transcript of Proceedings,  
19 *Clark v. Sacramento County District Attorney’s Office* (Dec. 18, 2020), at 8:2-23).) Plaintiffs are the  
20 widowed husband, sister, and mother of Amber Clark, who was murdered on December 11, 2018.  
21 (Compl. at ¶¶ 5-8.) Under any commonsense definition, that makes them each a victim of Amber’s  
22 murder. It also makes them crime victims under the California Constitution. The California Constitution  
23 expressly provides: “The term ‘victim’ also includes the person’s spouse, parents, children, siblings, or  
24 guardian, and includes a lawful representative of a crime victim who is deceased, a minor, or physically  
25 or psychologically incapacitated.” (Cal. Const., art. I, § 28, subd. (a)(17)(d).) While the CPRA does not  
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1 specifically define “victim,” excluding the immediate family members of murdered persons would  
2 render the victims’ access provision of section 6254(f) inoperative in any homicide case. That would be  
3 an absurd result, and absent a showing that the Legislature intended to exclude the widowed husband of  
4 a murdered woman from the victims’ access provision, this Court should apply common sense and the  
5 California Constitution to conclude that the plaintiffs here are all victims as that term is used in section  
6 6254(f).<sup>1</sup>

7  
8 The records that Plaintiffs have requested fall within the victims’ access provision, because they  
9 almost certainly contain one or more of the following: (1) “the names and addresses of persons involved  
10 in, or witnesses other than confidential informants to, the incident”; (2) a “description of any property  
11 involved”; (3) “diagrams” of the incident; (4) “statements of the parties involved in the incident”; or (5)  
12 “the statements of all witnesses, other than confidential informants.” (Gov. Code § 6254(f).) For  
13 instance, Plaintiffs’ second request—“All property vouchers or similar records describing any firearm(s),  
14 ammunition, ammunition casing(s), or firearm magazine(s) recovered in connection with the homicide  
15 of Amber Clark”—would certainly contain a “description of . . . property involved” in the homicide and  
16 might also contain incident diagrams or witness statements. Several of the requests are certain to *only*  
17 cover documents that are expressly included in the victims’ access provision. For example, *compare*  
18 *request number 5*: “Records of any witness statement solely concerning when, where, how any  
19 firearm(s), ammunition, or firearm magazine(s) used in the homicide of Amber Clark were obtained by  
20 Ronald Seay,” *with the statute*: “statements of the parties involved in the incident [and] the statements  
21 of all witnesses, other than confidential informants.” (Gov. Code § 6254(f).)  
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26 <sup>1</sup> Even if there were some ambiguity (there is not), California courts must construe “in favor of  
27 disclosure” in the face of ambiguity. (*Fredericks, supra*, 233 Cal.App.4th at 229; *see also* Cal. Const.  
28 art I, § 3, subd. (b)(2).)

1 While Defendants could, in theory, withhold or redact documents if they meet their burden of  
2 showing that disclosure would cause certain harms or of showing that the documents contain additional  
3 information beyond what they must disclose per the victims' access provision, they have come nowhere  
4 near their burden in any of their pre-litigation correspondence with Plaintiffs or in any of the affidavits  
5 they submitted in connection with their motions for a protective order. Government Code section 6254(f)  
6 allows government agencies to withhold documents covered by the victims' access provision if they can  
7 establish that "the disclosure would endanger the safety of a witness or other person involved in the  
8 investigation, or unless disclosure would endanger the successful completion of the investigation or a  
9 related investigation." This requires a specific, factual showing justifying the decision to withhold each  
10 record or piece of information. (*See Long Beach Police Officers Ass'n, supra*, 59 Cal.App.4th at 75;  
11 *Fredericks, supra*, 233 Cal.App.4th at 235 [noting that police department could sustain its burden  
12 through "a showing that [each] particular item of information" should be withheld].)

14 It is this "particularized showing," that is absent from *any* of the declarations submitted to date  
15 in this case. (*Id.*) Plaintiffs submitted three declarations, which purported to have been drafted by three  
16 separate authors (from two separate entities) but contained identical passages. (*See, e.g.,* McLafferty  
17 Dec. at ¶ 4 ["In my opinion, disclosure of the records and information contained therein *could* jeopardize  
18 this investigation as well as future investigations. . . . Release of the information *has the potential* to  
19 damage or taint future investigation into this matter and may compromise future testimony."] (emphasis  
20 added); *see also* Miller Dec. at ¶ 8 ["In my opinion, disclosure of the records and information contained  
21 therein *could* jeopardize this investigation as well as future investigations. . . . Release of the information  
22 *has the potential* to damage or taint future investigation into this matter and may compromise future  
23 testimony."] (emphasis added); *see also* Norgaard Dec. at ¶ 8 ["In my opinion, disclosure of the records  
24 and information contained therein *could* jeopardize this investigation as well as future investigations. . .  
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1 Release of the information *has the potential* to damage or taint investigation into this matter and may  
2 compromise future testimony.”] (emphasis added).) As an initial matter, this “cut-and-paste” approach  
3 to drafting declarations belies their purported probative value.

4 Even if these three declarations had been drafted to reflect each declarant’s individual opinions  
5 and understandings, they still contain only a collection of vague statements and speculative suggestions,  
6 and they lack any references to the specific facts of this case, let alone the “persuasive illustrations” and  
7 particularized showing that precedent from the California Supreme Court requires. (*Long Beach Police*  
8 *Officers Ass’n, supra*, 59 Cal.App.4th at 75.) Only a particularized showing of what harm might flow  
9 from disclosure of the requested information (rather than “mere assertion of possible endangerment”)  
10 can meet the government’s burden here. (*See Comm’n on Peace Officer Standards & Training, supra*,  
11 42 Cal.4th at 302 [construing Section 6254(c)].) By relying upon vague statements of what “could”  
12 happen or what “has the potential” to happen, Defendants’ declarations suggest that their determination  
13 to withhold the requested records lacked a concrete foundation. Thus far, Defendants have not made a  
14 particularized showing that could meet their burdens under the CPRA, and nothing they have produced  
15 to date indicates that they will be able to do so.

16 The records that Plaintiffs seek are unlikely to contain any information that would jeopardize  
17 this investigation or future investigations. Rather, Plaintiffs seek precisely the sort of basic information  
18 about what happened that the victims’ access provision of section 6254(f) entitles them to access. The  
19 Defendants have a high burden to meet, and the vague and conclusory justifications that they have  
20 provided to date cannot meet their burden.

21 **C. Section 6254(k) Is Not a Basis for Withholding Because Plaintiffs’ Requests Are**  
22 **Not Exempted or Prohibited Under Federal or State Law.**

23 In its response to Plaintiffs’ request, the City also relied on section 6254(k) to withhold certain,  
24 unspecified records. (Thomas-Jensen Dec. at ¶ 12, Ex. E (SPD Response Letter).) The City invoked  
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1 section 6254(k) in response to requests seeking records reflecting firearms tracing (Request 1), records  
2 reflecting Ronald Seay's prior arrests or convictions (Request 9), and records of communications with  
3 other law enforcement agencies regarding Seay's firearms, ammunition, and magazines (Request 10).  
4 While the County did not raise section 6254(k) in its initial response to Plaintiffs' request, it has raised  
5 this section in briefing its opposition to discovery in this case. (DA Motion for Prot. Order at 4.)  
6 Government Code section 6254(k) permits withholding where disclosure is "exempted or prohibited  
7 pursuant to federal or state law." While neither Defendant has clearly identified an underlying federal or  
8 state law, it appears based on the County's statements to the press and discovery briefing that the County  
9 plans to rely on a 2012 federal appropriations law known as the "Tiahrt Rider." (DA Motion for  
10 Protective Order at 4 ["SCDA further objects to each interrogatory to the extent that the 'Tiahrt Rider'  
11 ... applies"]; *see also* Thomas-Jensen Dec. at ¶ 14, Ex. G (Steve Large, *Family of Slain Sacramento*  
12 *Librarian Amber Clark Now Suing Police and Prosecutors*, CBS SACRAMENTO, June 30, 2020).)

14 Such reliance is mistaken, though, because the Tiahrt Rider cannot justify withholding. The  
15 Tiahrt Rider forbids only *public disclosures* of certain information, not the narrower, targeted disclosure  
16 to crime victims at issue here. Even if this federal appropriations rider were broad enough to cover  
17 disclosure to Plaintiffs, such a prohibition would exceed Congress' authority under the Tenth  
18 Amendment of the United States Constitution, because Congress cannot commandeer state and local law  
19 enforcement by forcing them to act—or refrain from acting—as part of a federal regulatory scheme.

#### 21 1. Overview of the Tiahrt Rider

22 The phrase "Tiahrt Rider" typically refers to a series of appropriations laws enacted between  
23 2003 and 2012. The 2012 Tiahrt Rider, enacted as part of the Consolidated and Further Continuing  
24 Appropriations Act, 2012, is the operative version today. (Pub. L. No. 112-55, 125 Stat 552, 609–10  
25 (2011) (hereinafter "2012 Tiahrt Rider"); *see also* *Ctr. for Investigative Reporting v. U.S. Dep't of Justice*  
26 (9th Cir. 2020) 982 F.3d 668, 679 [identifying 2012 Tiahrt Rider as "the only operative Rider"].) The  
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1 2012 Tiahrt Rider's principal function is to restrict how a federal agency, the Bureau of Alcohol,  
2 Tobacco, Firearms, and Explosives ("ATF"), uses federally appropriated funds to disclose firearms trace  
3 data. (See 2012 Tiahrt Rider, 125 Stat. at 609 ["[N]o funds appropriated under this or any other Act may  
4 be used to disclose part or all of the contents of the Firearms Trace System database maintained by the  
5 National Trace Center of the Bureau of Alcohol, Tobacco, Firearms and Explosives. . . ."].)

6 Firearm trace data is the information generated when ATF tracks a firearm recovered by law  
7 enforcement from a manufacturer or importer through the distribution chain to the first retail purchaser.  
8 (See Thomas-Jensen Dec. at ¶ 15, Ex. H (ATF, Fact Sheet—National Tracing Center, *available at*  
9 <https://perma.cc/QAE2-PZV5>.) ATF compiles the results of firearms tracing in a computerized  
10 database. Firearms traces are initiated at the request of federal, state, local, tribal, and foreign law  
11 enforcement agencies who have recovered a firearm in the course of a criminal investigation, and ATF  
12 shares trace results with the requesting agency once the trace is complete. The Tiahrt Rider allows ATF  
13 to make this disclosure by exempting the sharing of trace data with law enforcement and national security  
14 entities from its blanket prohibition. (2012 Tiahrt Rider, 125 Stat. at 609–10 [allowing ATF to share  
15 trace data with, *inter alia*, "a Federal, State, local, or tribal law enforcement agency, or a Federal, State,  
16 or local prosecutor"].)

17 Because the Tiahrt Rider's appropriations restriction only applies to the use of federally  
18 appropriated funds by ATF, which is a *federal* government agency, it has no application to the  
19 Defendants, which are both *local* government agencies. Rather, Defendants' invocation of the Tiahrt  
20 Rider would appear to rest on a separate provision, which states in relevant part that "no person or entity  
21 described in (1), (2) or (3)"—meaning the federal, state, local, tribal, and foreign law enforcement  
22 recipients of trace data—"shall knowingly and publicly disclose such data; and all such data shall be  
23 immune from legal process." (2012 Tiahrt Rider, 125 Stat. at 610.) But that prohibition is also couched  
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1 in the language of appropriations; for this reason the Ninth Circuit described similar language in earlier  
2 versions of the Tiahrt Rider as “by no means an explicit prohibition on disclosure itself.” (*Ctr. for*  
3 *Investigative Reporting, supra*, 982 F.3d at 668 n.5.)

## 4                   **2.       The 2012 Tiahrt Rider Does Not Prohibit Disclosures to Crime Victims.**

5           To the extent that the Tiahrt Rider prohibits the “knowing[] and public[]” disclosure of trace data,  
6 it does not prohibit Defendants from disclosing records to Plaintiffs—who are crime victims, *not* the  
7 public. As explained above, Plaintiffs are the widowed husband, sister, and mother of Amber Clark, and  
8 are therefore are victims of Amber Clark’s murder under both the California Constitution and the CPRA.  
9 (*See supra*, p. 12; *see also* Cal. Const., art. I, § 28; Gov. Code § 6254(f).) Exercising their rights as  
10 crime victims, Plaintiffs are entitled to certain records under the CPRA that the public is not entitled to  
11 access, including the names and addresses of persons involved, descriptions of the property involved  
12 (here, the handguns, ammunition, and firearms accessories involved in Amber’s murder), and witness  
13 statements (including witnesses who know how Seay obtained his weapons). (*Id.*) Under the plain  
14 language of the CPRA, disclosure of such records to Plaintiffs under the victims’ access provision is not  
15 the same as disclosing them to the public, and it does not open these records up to public access.  
16

17           Moreover, the phrase “publicly disclose” as used in the Tiahrt Rider should not be stretched to  
18 encompass the narrower victims’ access provision of the CPRA as a matter of simple common sense and  
19 basic canon of statutory construction: these two laws were passed by separate legislative bodies with  
20 different intentions, and they use different terms, which should be afforded different meanings. (*See*  
21 *Prang v. Amen* (2020) 58 Cal.App.5th 246, 258 [“the use of two different terms in a statute indicates a  
22 legislative intent to distinguish between the terms”]; *see also Peralta Community College Dist. v. Fair*  
23 *Employment & Housing Comm’n* (1990) 52 Cal.3d 40, 52 [“The declaration of a later Legislature is of  
24 little weight in determining the relevant intent of the Legislature that enacted the law.”].) In addition,  
25 any statute invoked to justify withholding under section 6254(k) is subject to the “familiar rule that we  
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1 must construe statutory exemptions narrowly,” in line with the CPRA’s overarching goal of disclosure.  
2 (*Sacramento County Employees’ Ret. Sys.*, *supra*, 195 Cal.App.4th at 455 & 463-64 [narrowly  
3 construing protections for “individual records of [pension] members” under Cal. Gov’t Code § 31532,  
4 to allow for production under CPRA].) The same is true of statutes invoked to justify withholding under  
5 FOIA exemption 3—including the Tiahrt Rider. (*See Ctr. for Investigative Reporting*, *supra*, 982 F.3d  
6 at 675 [noting, in case construing Tiahrt Rider as potential FOIA exemption, that FOIA exemptions  
7 ““must be narrowly construed””].)

8  
9 The California Legislature deliberately set up a two-tier disclosure system that establishes one  
10 set of required disclosures to the public, and a separate and additional set of disclosures that government  
11 agencies must make to victims of crime. (Gov. Code § 6254(f).) If the Tiahrt Rider is read so broadly  
12 as to prohibit disclosure of information to victims of crimes, it would undercut the scheme that the  
13 California Legislature carefully created, by effectively merging these two categories into one.

14  
15 **3. The Tiahrt Rider Only Covers ATF Firearms Trace Reports and Data  
Extracted from ATF’s Trace Database.**

16 In addition, the Tiahrt Rider’s restrictions only apply to “such data,” meaning specifically the  
17 firearms trace report that ATF shares with requesting law enforcement at the conclusion of a trace. It  
18 does not encompass other records—even records collateral to the tracing process—such as the tracing  
19 request(s) that the City or County made to ATF, witness statements concerning the provenance of Seay’s  
20 weapons, or other police records not authored by ATF that memorialize where Seay’s firearms were  
21 acquired. Because Defendants have so far refused to identify the records withheld on the basis of  
22 section 6254(k), it is not possible to determine the extent to which Defendants rely on the Tiahrt Rider  
23 to withhold records that go beyond firearms trace report(s) obtained from ATF. Such records would not  
24 qualify as “such data” under the Tiahrt Rider, and could not be withheld on this basis as well.  
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1                   **4. As Applied to Defendants, the Tiahrt Rider Constitutes Unlawful Federal**  
2                   **Commandeering of State Law Enforcement.**

3                   The Tiahrt Rider faces a more foundational problem.<sup>2</sup> As applied here, its command that state  
4 and local law enforcement refrain from disclosing certain information contained in state and local police  
5 records exceeds Congress' authority under the Tenth Amendment of the U.S. Constitution. At bottom,  
6 this is because the Framers deliberately chose to "confer[] upon Congress the power to regulate  
7 individuals, not States." (*New York v. United States* (1992) 505 U.S. 144, 166 [striking down federal  
8 law that required states to either regulate or take title to radioactive waste].) As a result, Congress may  
9 not "command the States' officers, or those of their political subdivisions, to administer or enforce a  
10 federal regulatory program." (*Printz v. United States* (1997) 521 U.S. 898, 935 [striking down portions  
11 of Brady Handgun Violence Prevention Act that required state and local law enforcement officers to  
12 administer federal background checks].)

13  
14                   The Tenth Amendment's anticommandeering jurisprudence "is simply the expression of a  
15 fundamental structural decision incorporated into the Constitution, *i.e.*, the decision to withhold from  
16 Congress the power to issue orders directly to the States." (*Murphy v. Nat'l Collegiate Athletic Ass'n*  
17 (2018) 138 S. Ct. 1461, 1475.) Under this doctrine, Congress may not compel state legislative or  
18 executive branches to "regulat[e] according to the instructions of Congress." (*New York, supra*, 505  
19 U.S. at 175.). In *Printz*, the U.S. Supreme Court extended this principle from state officers with  
20 policymaking authority to those assigned more ministerial tasks, like conducting background checks for  
21 handgun licensing. (*See Printz, supra*, 521 U.S. at 929–30.) In the Supreme Court's most recent  
22 anticommandeering case, the Court made clear that the distinction between a federal law commanding  
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25                   <sup>2</sup> The Court need not reach this issue, if it rules in favor of disclosure on the statutory bases set  
26 forth above. (*NBC Subsidiary (KNBC-TV), Inc. v. Superior Court* (1999) 20 Cal.4th 1178, 1190 [relying  
27 upon "the prudential rule of judicial restraint that counsels against rendering a decision on constitutional  
28 grounds if a statutory basis for resolution exists."].)

1 affirmative action as opposed to imposing a prohibition is an “empty” one and that “[t]he basic  
2 principle—that Congress cannot issue direct orders to state legislatures—applies in either event.” (*See*  
3 *Murphy, supra*, 138 S.Ct. at 1478 [striking down federal law that prohibited states from authorizing  
4 certain forms of sports betting].)

5 The anticommandeering doctrine serves several important purposes. First, it ensures a system of  
6 dual federal-state sovereignty that protects individual liberty by dividing power among sovereigns as a  
7 bulwark against government overreach. (*Murphy, supra*, 138 S.Ct. at 1477; *see also Printz, supra*, 521  
8 U.S. at 921.) It also ensures proper accountability, by preventing states from shouldering the costs (and  
9 blame) for the implementation of federal initiatives. (*Id.*)

11 As applied to the City and County, the Tiahrt Rider runs afoul of the anticommandeering doctrine  
12 because it functions as a federal command to California’s executive branch officials to engage in the  
13 federal regulatory scheme for firearms tracing by refraining from certain activities using trace data. This  
14 runs a very real risk of misplaced accountability, just as in *Printz* and related cases: state officials are  
15 being forced to shield the workings of state government from public scrutiny in service of obscure federal  
16 objectives, and to expend funds from state coffers to do so. This is an infringement on California’s  
17 sovereign authority just as surely as if Congress had tried to write the words of the Tiahrt Rider into the  
18 text of the CPRA.

20 Congress had a multitude of options to achieve the Tiahrt Rider’s objectives without running  
21 afoul of the Tenth Amendment; it has simply failed to do so here. For example, it could also have  
22 structured the restriction as a generally applicable law—i.e., one that applies not just to government  
23 recipients of trace data but to the public as well. (*See, e.g., Reno v. Condon* (2000) 528 U.S. 151  
24 [upholding federal law that regulated disclosure and resale of drivers’ personal information, where law  
25 applied to state licensing authorities as well as to commercial information brokers].) Or, it could have  
26

1 preempted state law by regulating private conduct directly, displacing state law to the extent it conflicted  
2 with these rights. (*See Murphy, supra*, 138 S.Ct. 1479–80 [discussing preemption].)

3 But the Tiahrt Rider does precisely what the U.S. Constitution says that Congress may not do: it  
4 acts directly and near-exclusively on state and local officials, commandeering their resources and  
5 dictating to them how to handle materials in their own law enforcement records in service of federal  
6 objectives. This exceeds Congress’ constitutional authority and infringes on the sovereign power  
7 reserved to California under the Tenth Amendment. Because it is invalid as applied to Defendants, the  
8 Tiahrt Rider cannot be invoked as a basis for withholding under section 6254(k).  
9

10 **D. The Section 6255(a) “Catch-All” Exemption Does Not Provide a Basis to Withhold**  
11 **Records Here.**

12 Defendants’ final basis for withholding is to fall back on the “catch-all” exemption in section  
13 6255(a). This section permits withholding if an agency demonstrates “that on the facts of the particular  
14 case the public interest served by not disclosing the record clearly outweighs the public interest served  
15 by disclosure of the record.” (Gov. Code § 6255(a).) The City cited section 6255(a) in response to all  
16 requests for which it acknowledged responsive documents. (SPD Response Letter [citing  
17 section 6255(a) in response to requests 1–3 and 8–10].) The County did not cite this section in its  
18 Responses but asserted it as a basis for opposing discovery (*Cf. Thomas-Jensen Dec. at ¶ 10, Ex. D (DA*  
19 *Response Letter)*; *see also DA Motion for Prot. Order, at 7–8.*)  
20

21 As the proponents of nondisclosure, Defendants have the burden “to demonstrate a clear  
22 overbalance on the side of confidentiality” in order to justify withholding under the catch-all exemption.  
23 (*Michaelis, Montanari & Johnson v. Superior Court* (2006) 38 Cal.4th 1065, 1071; *see also Am. Civil*  
24 *Liberties Union Found., supra*, 3 Cal.5th at 1043.)

25 As an initial matter, section 6255(a) should not be used as an end run around the victims’ access  
26 provision of section 6254(f), which reflects the Legislature’s carefully calibrated balance of interests.  
27



1 (See *City of Hemet v. Superior Court* (1995) 37 Cal.App.4th 1411, 1421–22 [rejecting application of  
2 section 6255(a) to create a new categorical exemption where Legislature had already “provide[d] specific  
3 exemptions for a plethora of limited and obscure categories”].) Here, the Legislature has already  
4 determined that two factors govern the disclosure of information to crime victims under section 6254(f):  
5 whether disclosure would “endanger the safety of a witness or other person involved in the investigation”  
6 or “endanger the successful completion of the investigation or a related investigation.” (Gov. Code §  
7 6254(f).) These factors represent the Legislature’s settled judgment (see *Williams, supra*, 5 Cal.4th at  
8 361), and should not be jettisoned in favor of new factors engrafted through the catch-all provision. The  
9 Legislature has expressly directed how courts should evaluate disclosure of records to crime victims in  
10 cases where there are other concerns weight against the important public interest in favor of disclosure;  
11 there is no basis for overriding the Legislature’s clear guidance here. Plaintiffs are aware of no cases in  
12 which victims entitled to public records through the victims’ access provision of section 6254(f) have  
13 been denied such records on the ground of overriding public interest under section 6255(a).  
14  
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16 Even were this Court to apply a standard section 6255 analysis, Defendants cannot carry their  
17 burden of showing that the public interest in withholding clearly outweighs the public interest served by  
18 disclosure. Here, the public interests in disclosure go well beyond Plaintiffs’ personal interests in  
19 learning about the circumstances of Amber Clark’s murder, identifying responsible parties, and  
20 advocating for policy change. In terms of interests shared by the wider public, the requested records are  
21 likely to educate the public about both the sources of guns used in crimes in California, and about how  
22 dangerous (and potentially prohibited) users come to possess firearms. Disclosure will also likely shed  
23 light on important functions of government, including the ability of local authorities to detect, deter, and  
24 prevent violence in public spaces like the North Natomas library branch where Amber Clark was  
25 murdered. As the Plaintiffs succinctly stated in their initial requests: “We believe these records contain  
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critical information that may prevent similar tragedies from occurring in the future.” (Request to SPD, Request to DA).

In opposition to these public interests, Defendants have thus far offered only vague and conclusory assertions that withholding is necessary in order “to assur[e] an untainted and fair trial” and to “allow[] the Sacramento Police Department to continue its investigation with the cooperation of witnesses and other agencies.” (City Motion for Prot. Order at 6). As explained above, “vaguely worded declarations making only general assertions about the risks” that allegedly flow from disclosure do not carry the government’s burden as a matter of law. (*Long Beach Police Officers Ass’n, supra*, 59 Cal.4th at 75.) Nor do speculative, categorical theories of harm like the ones asserted by the City and County to date suffice, as they would apply with equal force to any hypothetical law enforcement record germane to any prosecution. (*See id.* [rejecting “blanket rule” that would have insulated the names of any and all officers involved in on-duty shootings from disclosure and requiring individualized proof as to specific records].)

Here, despite claiming in conclusory fashion that disclosure could jeopardize witness cooperation or the fair administration of justice, Defendants have thus far declined to furnish even basic substantiating details. Which witness(es)? What kind of record could change a cooperative witness into an uncooperative one? Why, if records are subject to discovery by the defendant in Amber Clark’s murder case, is there reason to believe that disclosure of these same records to Plaintiffs would jeopardize witnesses or the trial? Defendants’ cookie-cutter affirmations answer none of these questions, and cannot carry their burden of establishing that public interests clearly favor withholding. Defendants’ invocation of section 6255(a) should be rejected.

#### IV. CONCLUSION

By the date of oral argument, it will be nearly two-and-a-half years since Amber Clark was taken away

1 from her family. Since the days immediately following Amber's murder, her family has sought answers to  
2 their questions about how this could have happened. Plaintiffs ask that the Court direct Defendants to produce  
3 the requested records or, in the alternative, conduct an *in camera* review of Defendants' withheld documents.  
4 Plaintiffs respectfully submit that such a review will confirm that: Disclosure of the requested records will not  
5 jeopardize the safety of any witness; disclosure of the requested records will not impede the government's  
6 investigation into the murder of Amber Clark, and that; as crime victims, Plaintiffs are entitled to the documents  
7 requested under both the California Public Records Act and the California State Constitution.  
8

9 Respectfully submitted,

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