

Law Offices of Craig P. Alexander

24681 La Plaza, Suite 250

Dana Point, CA 92629

Office: 949-481-6400 Facsimile: 949-242-2545

E-mail: craig@craigalexanderlaw.com

VIA ELECTRONIC (BRENDA.GEE@UCSF.EDU & TOM.DELLNER@UCSF.EDU) ONLY

February 10, 2021

Ms. Brenda Gee

Mr. Tom Dellner

University of California, San Francisco

Office of the Executive Vice Chancellor and Provost

513 Parnassus Ave., S-115

San Francisco, CA 94143-0400

RE: California Public Records Act Request of Terrisa Bukovinac and Pro-Life San Francisco – CPRA Request No. 020-107

Dear Ms. Gee and Mr. Dellner:

I am delivering this letter as part of and in response to your electronic mail message to me of December 8, 2020. I am also attaching a copy of my letter to you of August 24, 2020. I do not recall receiving any further contact from UCSF since December 8, 2020.

I would like to address the points you have made and the status of the UCSF's search and review for the responsive documents my clients have requested.

For section 1.1 UCSF stated on December 8, 2020 (and earlier) it is "Searching one additional unit". It has been approximately two months. Has UCSF completed its search of that unit? Did it find responsive documents? If so, please disclose them.

For section 1.2 UCSF stated "No responsive records in central procurement." First I wish to address that "procurement" does not just mean a contract for products (fetal tissue) in exchange for money. It also means instances where UCSF laboratories obtained fetal tissue with or without a payment of money or other consideration. Also, there are five persons (example: Stoddart, Cheryl) for which UCSF has not stated if it found responsive records requested or not. What is the status of these searches?

In the case of Nam Tran the university stated: "Responsive records located. Under review as of 11/20/20." It has been over two and one half months and the university has not disclosed those records, part of those records or explained why some or all of those records are being withheld.

At this point I wish to note that I have read the case of *Humane Soc’y of U.S. v. Superior Court* (2013) 214 Cal. App. 4th 1233 that you cited to me. In that case the Court of Appeals found that once the university publishes its research then the relevant documents (background research, testing, etc.) and post publication information as well is subject to California Public Records Act requests. Thus, I wish to bring to your attention the following published reports by the UCSF and its researchers (who are listed in our August 24, 2020 letter):

1. Cheryl Stoddart
Funded by NIH contract HHSN266200700002
Preexposure Prophylaxis with Albumin-Conjugated C34 Peptide HIV-1 Fusion Inhibitor in SCID-hu Thy/Liv Mice ([April 2012](#))

Funded by contract [HHSN72201400002C](#)
Replication of CMV in the gut of HIV-infected individuals and epithelial barrier dysfunction ([February 2017](#))
2. Elze Rackaityte
Funded by F31 AI136336
CD161 contributes to prenatal immune suppression of IFN- γ -producing PLZF+ T cells ([July 2019](#))
3. Joanna Halkias
Funded by K08 AI128007
Viable bacterial colonization is highly limited in the human intestine in utero ([February 2020](#))
4. Timothy Henrich
Funded by R33 AI116205
Increased HIV-1 transcriptional activity and infectious burden in peripheral blood and gut-associated CD4+ T cells expressing CD30 ([February 2018](#))
5. Julie Sneddon
Funded by R01 DK118421
A single-cell atlas and lineage analysis of the adult Drosophila ovary ([November 2020](#))
6. Aparna Bhaduri
Funded by K99 NS111731
Cell stress in cortical organoids impairs molecular subtype specification ([January 2020](#))

- Funded by F32 NS103266
Establishing Cerebral Organoids as Models of Human-Specific Brain Evolution
[\(February 2019\)](#)
7. Sarah Monica Knox
Funded by R01 DE024188
SOX2 regulates acinar cell development in the salivary gland [\(June 2017\)](#)
- Funded by R01 EY026492
Defining epithelial cell dynamics and lineage relationships in the developing lacrimal gland [\(July 2017\)](#)
8. Alan Verkman
Funded by P30 DK072517
Ocular Surface Potential Difference Measured in Human Subjects to Study Ocular Surface Ion Transport [\(October 2020\)](#)
9. David Rowitch
Funded by P01 NS083513
Brain size and limits to adult neurogenesis [\(February 2016\)](#)
10. Hanna Retallack
Funded by F31 NS108615
Persistence of ambigrammatic narnaviruses requires translation of the reverse open reading frame [\(December 2020\)](#)
11. Laurence Baskin, Gerald R. Cunha -
Funded by DK058105
Response of xenografts of developing human female reproductive tracts to the synthetic estrogen, diethylstilbestrol [\(October 2017\)](#)
12. Nam D. Tran
Optimizing cryopreservation of human spermatogonial stem cells: comparing the effectiveness of testicular tissue and single cell suspension cryopreservation
[\(November 2014\)](#)

In addition, the UCSF has not laid a proper foundation to claim that all of the research information (such as the obtaining and use of fetal tissue in its research) should be withheld from disclosure due to the public's interest in non-disclosure being greater than the public's interest in disclosure. And it is always the government agency's burden to prove that. Govt. code section 6255. Here UCSF has done nothing but to make an

extremely generalized statement that the *Humane Soc’y* case bars disclosure of responsive records across the many categories of information my clients requested.

Thus, under the CPRA statute, the California Constitution and under the *Humane Soc’y* case, UCSF must search for and disclose those documents requested that were part of or were the basis of these above referenced published reports. Plus, we ask for those responsive documents regarding Request No. I (1) and (2) as set forth in our August 24, 2020 letter that came in after those publications were released but were used for continued research or justification of the conclusions of those published reports. This also includes Request I (3).

Regarding Request I (3) (what you listed as 1.3) UCSF stated “Overly broad – multiple individuals no longer with UCSF.” Did UCSF attempt to search for the requested records for those individuals still with UCSF? If UCSF did attempt a search for responsive records, how many potential responsive records did it locate? If it will assist UCSF in locating documents responsive to this request, let me propose:

"Any and all communications, emails, documents, logs or other records of fetal tissue procurement or donation from the aforementioned entities, including but not limited to those involving Dr. Jennifer Kerns, Director of Research at the Women's Options Center 6G.”

For Request I (4) (listed as 1.4) did the search include non-monetary compensated “contracts”? In other words, documents between UCSF and NIH that were regarding fetal tissue being delivered to UCSF (with or without the exchange of money being involved) for research purposes? Did the searches include the NIH contract numbers that were hyperlinked in our letter of August 24, 2020? In other words, documents between UCSF and NIH regarding the support of fetal tissue research projects—regardless of whether the sources of fetal tissues, or logistics for their delivery, are part of the agreements. The one hyperlinked contract (HHSN72201400002C) serves as an example of what we are looking for.

Request No. II (what UCSF lists as 2.1) states:

“All documents regarding any active fetal tissue research projects not funded by NIH including, but not limited to, UCSF Rap Grants, ASRM investigator awards (American Society for Reproductive Medicine and / or the Weston Haven Foundation). This includes but is not limited to any and all documents regarding the frequency of specimen procurement.

The timeframe for this request is January 1, 2008 and the present date.”

I have been advised by my clients that the proper designation is “...awards (American Society for Reproductive Medicine) and/or the Weston Haven Foundation....”

UCSF states this is “Overly broad.” Why is this overly broad? Did the university attempt to conduct a search for these documents before declaring this category of search is “overly broad”? How does the university recommend we re-define our request to assist my client in obtaining responsive documents for this category? Govt. Code section 6253.1.

For Requests III (1) & (2) (listed by UCSF as 3.1 and 3.2): UCSF states “Search in progress.” I request to know if that search has now resulted in the location of responsive documents to be disclosed.

For Requests III (3) (listed as 3.3: UCSF states “Responsive records located. Under review as of 11/20/20.” I respectfully submit that UCSF has had sufficient time to conduct its review of the training standards for the Ryan Residency and Fellowship in Family Planning and to disclose those documents. In addition, I find it doubtful that there can be any exemptions under the CPRA allowed for “training standards” as those should not involved specific students, trainees, or other information subject to any privacy objections.

Request No. IV (1) (listed by UCSF as 4.1) requests:

“Any and all communications between UCSF and the Desert Star Institute for Family Planning.

“The timeframe for this request is January 1, 2008 and the present date.”

UCSF responded “Overly broad.” Again did the university make an attempt to search for the records and if so how many potentially responsive documents did you locate?

In addition, my clients are willing to limit the request to those responsive documents that reflect communications between UCSF and the Desert Star Institute for Family Planning regarding:

- a. For the training of UCSF students under any program at Desert Star Institute of Family Planning;
- b. For the use of UCSF students under any program at Desert Star Institute of Family Planning;
- c. For financial aide or scholarships for UCSF students to receiving training or for internships and/or externships and/or other methods that UCSF participates in for students to attend Desert Star Institute of Family Planning; and
- d. For standards for UCSF students to train or receive training at Desert Star Institute of Family Planning.

Naturally if any of these responsive records mentions or contains the name of any particular student, we expect that UCSF will redact any name or other personally

identifiable information from the record before transmitting to my clients the responsive documents.

The timeframe for this Request IV. (1) continues to be from January 1, 2008 and the present date.

Thank you in advance for your courtesy and cooperation and I look forward to hearing from you soon.

Very truly yours,

//s//

Craig P. Alexander

cc: Client via electronic mail only