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SUPERIOR COURT OF CALIFORNIA
COUNTY OF HUMBOLDT

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11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF HUMBOLDT
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14 In the Matter of the Investigation:

15 **IN RE HUMBOLDT COUNTY CHILD**
16 **PROTECTION AND MANDATORY**
REPORTING COMPLIANCE

Case No. CV160225

OPPOSITION TO MOTION TO QUASH
INVESTIGATIVE SUBPOENA AND
REQUEST TO VACATE HEARING

Hearing Date: March 25, 2016
Time: 8:30 a.m.
Department: 6

1 **INTRODUCTION**

2 Kamala D. Harris, Attorney General of the State of California, respondent herein,
3 respectfully requests that the court decline to consider the Motion to Quash Investigative
4 Subpoena (the “Motion”) brought by the Humboldt County Department of Health and Human
5 Services (“DHHS”) and vacate the hearing currently scheduled for March 25, 2016, because the
6 Court lacks jurisdiction to consider the Motion.¹ DHHS has been served with an investigative
7 subpoena issued by the Attorney General (the “Subpoena”) pursuant to Government Code section
8 11180 et seq. (“Section 11180”), in connection with the Attorney General’s civil investigation
9 relating to Humboldt County agencies’ compliance with California’s Child Abuse and Neglect
10 Reporting Act (“CANRA”), set forth in Penal Code section 11164 et seq. DHHS has filed an
11 improper motion, however, because this Court lacks jurisdiction to render any determination
12 related to DHHS’s requirement to comply with the Subpoena. Government Code section 11187,
13 subdivision (d), states that the validity of objections a witness may have to an investigative
14 subpoena shall be determined *exclusively* in a proceeding brought by the Attorney General to
15 compel compliance. Legislative history and case law discussing enforcement of subpoenas issued
16 pursuant to a Section 11180 investigation further confirm that a witness may not bring an action
17 to quash or otherwise seek relief from an investigative subpoena.

18 Moreover, the issues raised by DHHS in its Motion go well beyond the jurisdiction of the
19 juvenile court. The juvenile court is a court of limited jurisdiction that can only consider issues
20 within its statutory parameters. DHHS’s challenge to the Attorney General’s constitutional
21 powers and statutory authority to conduct this investigation under Section 11180 is not only
22 without merit, but, more importantly, raises issues outside the scope of the juvenile court’s
23 purview. The proper forum to adjudicate DHHS’s arguments is in a proceeding to compel the
24 Subpoena’s compliance filed by the Attorney General in a superior court of general jurisdiction.

25 ¹ Respondent understands that a petition for relief from subpoena was also filed in this
26 matter on March 17, 2016 with the Court. (See Declaration of Christine Chuang in Support of
27 Opposition to Motion to Quash Investigative Subpoena (“Chuang Decl.”), ¶ 4.) However,
28 because Respondent has not yet been served with a copy of the petition, and in light of the March
25 hearing date, Respondent submits this Opposition to comply with Local Rule 7.26. (Chuang
Decl., ¶ 5.)

1 Thus, the Attorney General respectfully requests that the court decline to consider the
2 Motion and vacate the March 25 hearing.

3 LEGAL AUTHORITY

4 I. A WITNESS MAY NOT FILE A MOTION TO QUASH AN INVESTIGATIVE SUBPOENA 5 ISSUED PURSUANT TO SECTION 11180

6 The Attorney General has initiated an investigation under Section 11180 to investigate
7 compliance by Humboldt County agencies with CANRA. As California’s chief law officer, the
8 Attorney General has the authority to ensure that the laws of the State are being adequately
9 enforced in every county. (Cal. Const., Art. V, § 13.) The Attorney General, as head of the
10 Department of Justice (Gov. Code, §§ 12510, 15000), is explicitly authorized to “make
11 investigations and prosecute actions concerning. . . [a]ll matters relating to the business activities
12 and subjects under the jurisdiction of the department. . . [v]iolations of any law. . . [and] [s]uch
13 other matters as may be provided by law.” (Gov. Code, § 11180.) Section 11180 investigations
14 are not derived from a judicial function and are instead administrative inquiries not dependent on
15 a case or controversy in order to obtain evidence. Thus, the scope of the Attorney General’s
16 investigative authority conferred by Section 11180 is broad and far reaching and she has the
17 power to investigate ‘merely on suspicion that the law is being violated, or even just because it
18 wants assurance that it is not.’” *Brovelli v. Super. Ct. of L.A. County* (1961) 56 Cal.2d 524, 529
19 (quoting *United States v. Morton Salt Co.* (1950) 338 U.S. 632, 642-643).) Furthermore, because
20 Section 11180 investigations are not judicial proceedings, they are not governed by Code of Civil
21 Procedure provisions that apply to proceedings of a judicial nature. (*People v. West Coast Shows,*
22 *Inc.* (1970) 10 Cal.App.3d 462, 470.)

23 Government Code section 11181 sets forth the wide variety of methods by which the
24 Attorney General may carry out her authority to conduct an investigation, including the issuance
25 of investigative subpoenas such as the one at issue herein, to ascertain whether any violations
26 have occurred. (See *West Coast Shows, Inc., supra*, 10 Cal.App.3d at pp. 464-65; see also
27 *Brovelli, supra*, 56 Cal.2d at p. 529.)

28 If a witness refuses to respond to an investigative subpoena issued by the Attorney General,

1 Government Code section 11187 provides that the Attorney General may file a petition in the
2 superior court for an order compelling compliance with the subpoena. (*People ex rel. Franchise*
3 *Tax Bd. v. Super. Ct.* (1985) 164 Cal.App.3d 526, 537, overruled on another ground in *Dana*
4 *Point Harbor Collective v. Super. Ct.* (2010) 51 Cal.4th 1, 11, fn. 6.) The validity of the
5 witness’s objections shall be determined “exclusively” in such a proceeding. (Gov. Code, §
6 11187, subd. (d); see also *Fielder v. Berkeley Properties Co.* (1972) 23 Cal.App.3d 30, 39
7 [witness not entitled to hearing in the nature of a motion to quash].) In *Fielder*, witnesses refused
8 to respond to an investigative subpoena served in connection with an investigation by the Director
9 of Agriculture and the Director filed a petition to compel compliance pursuant to Government
10 Code section 11187. (*Fielder, supra*, 23 Cal.App.3d at p. 35.) In response, the witnesses filed a
11 motion to quash, which the court, appropriately, refused to entertain. (*Id.* at pp. 36-37.) The
12 court of appeal affirmed that the witnesses were not entitled to a hearing in the nature of a motion
13 to quash, finding that “[s]uch a hearing is not within the contemplation of the subject
14 administrative inquiry and investigation.” (*Id.* at p. 40.)

15 Indeed, the intent of the legislation governing disputes over investigative subpoenas was to
16 bar the type of application brought by DHHS. (See Assem. Com. On Judiciary, Rep. on Sen. Bill
17 No. 434 (2003-2004 Reg. Sess.) as amended June 4, 2003, p. 7.) The author of the bill explained:

18 The bill clarifies the procedures for contesting and enforcing
19 subpoenas by providing that objections to a subpoena be resolved
20 when an agency seeks a court order enforcing the subpoena . . .
21 [S]ome parties have sought to preemptively derail an investigation
22 by filing a motion or action in a court other than the court
23 supervising the investigation. These motions are often filed a great
24 distance from the logical supervising court, and sometimes result in
25 conflicting orders from courts unaware of the activities of other
26 courts. To prevent this problem, and to streamline the subpoena
27 dispute process, the bill would provide that objections to a
28 subpoena be resolved when the agency brings an action to enforce
the subpoena by court order.

(*Ibid.*)

26 Thus, DHHS’s exclusive remedy if it refuses to produce the requested records is to show
27 cause in response to a petition to compel compliance brought by the Attorney General. (Gov.
28 Code, § 11188; see also *West Coast Shows, Inc., supra*, 10 Cal.App.3d at pp. 468-70 [“[T]he

1 Government Code provides an opportunity for adjudication of all claimed constitutional and legal
2 rights before one is required to obey the command of a subpoena duces tecum issued for
3 investigative purposes. This is an equivalent, if not greater, measure of constitutional protection
4 to that afforded in judicial proceedings under Code of Civil Procedure sections 1985 and
5 2036.”].)

6 The Attorney General has not yet filed a petition to compel compliance with the Subpoena.
7 If and when she does, it will be in accordance with Government Code sections 11186, 11187, and
8 11188, and DHHS will have an opportunity to raise its objections at the appropriate time and in
9 the appropriate forum.

10 **II. THE JUVENILE COURT DOES NOT HAVE AUTHORITY TO DETERMINE ISSUES**
11 **RELATING TO THE SCOPE OF THE ATTORNEY GENERAL’S CONSTITUTIONAL AND**
12 **STATUTORY AUTHORITY TO ENFORCE STATE LAWS AND CONDUCT**
13 **INVESTIGATIONS**

14 Additionally, although DHHS claims that the juvenile court should determine the disputed
15 matters raised in its Motion, the issues raised by DHHS are well beyond the scope of the Juvenile
16 Court’s statutory powers. “Juvenile courts are courts of *limited* jurisdiction.” (*Daniel V. v.*
17 *Superior Court* (2006) 139 Cal.App.4th 28, 47 [emphasis in original]; see also *In re Chantal S.*
18 (1996) 13 Cal.4th 196, 200 [“A ‘juvenile court’ is a superior court exercising limited jurisdiction
19 arising under juvenile law.”].) Thus, juvenile court judges exercise only part of the jurisdiction of
20 the superior courts. (See *Singer v. Bogen* (1957) 147 Cal.App.2d 515, 524 [“The superior court is
21 a court of general jurisdiction and the juvenile court is but a part thereof. . .[W]hen a judge sits as
22 a judge of the juvenile court, he is sitting as a judge of the superior court, exercising a part of the
23 general jurisdiction conferred by the law in such cases.”].) A juvenile court “is vested with
24 jurisdiction only to make those limited determinations authorized by the legislative grant of those
25 special powers.” (*In re Lisa R.* (1975) 13 Cal.3d 636, 643.) Where a juvenile court lacks
26 statutory authority to act, it is without jurisdiction to issue orders. (See *In re Jody R.* (1990) 218
27 Cal.App.3d 1615, 1628.)
28

1 That DHHS raises the issue of Welfare & Institutions Code section 827 (“Section 827”),
2 including the confidentiality of the records sought, does not alter this analysis.² Though the
3 Juvenile Court may have authority to determine access to records by “any other person” not listed
4 as exempt under Section 827 when a third party files a petition for juvenile records (Welf. & Inst.
5 Code, §827(a)(1)(P)), this dispute instead involves the evaluation of whether the Attorney
6 General’s constitutional authority provides her with a district attorney’s Section 827 self-
7 executing right to inspect juvenile records in the context of an investigation under Section
8 11180.³ Moreover, DHHS already concedes that the Attorney General can access juvenile records
9 protected under Section 827 when “standing in the shoes” of a district attorney. (See Motion at p.
10 5.)

11 Accordingly, this Court does not have jurisdiction to issue orders relating to the Attorney
12 General’s investigation into Humboldt County agencies’ compliance with CANRA, including
13 whether DHHS must comply with the Subpoena. The proper forum to determine this issue is a
14 proceeding to compel compliance brought by the Attorney General in a court of general
15 jurisdiction.

16 CONCLUSION

17 In conclusion, because DHHS’s Motion is improperly filed and the court has no jurisdiction
18 to entertain the issues raised in DHHS’s Motion, the Attorney General respectfully requests that
19 the court decline to consider the Motion and vacate the March 25 hearing.

20 ² Government Code section 11183 protects the confidentiality of any information,
21 including juvenile records, obtained by officers during the course of an investigation by making it
22 a misdemeanor to disclose such information except under very limited circumstances.

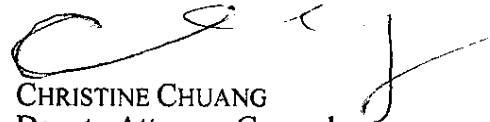
23 ³ This exemption does not require that prosecutors who seek to obtain case files do so for
24 a specific criminal or juvenile case. Rather, the exemption is meant to designate a broad category
25 of prosecutors who are entitled to inspect and copy juvenile case files without a court order.
26 (Compare Welf. & Inst. Code, § 827, subd. (a)(1)(B) [“The district attorney, a city attorney, or
27 city prosecutor authorized to prosecute criminal or juvenile cases under state law”] and subd.
28 (a)(1)(G) [“Judges, referees, other hearing officers, probation officers, and law enforcement
officers *who are actively participating in criminal or juvenile proceedings involving the child*”]
(emphasis added).) The Legislature could have limited the access provided to district attorneys
under section 827 to a particular criminal or juvenile proceeding, but it did not. (See *Gikas v.*
Zolin (1993) 6 Cal.4th 841, 852 [*expressio unius est exclusio alterius* means that inclusion of one
thing in a statute necessarily indicates exclusion of another thing not expressed in the statute].)

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Dated: March 18, 2016

Respectfully Submitted,

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