



## OFFICE OF THE DISTRICT ATTORNEY

COUNTY OF VENTURA, STATE OF CALIFORNIA

**ERIK NASARENKO**  
District Attorney

July 30, 2021

Ellen Leonida, Esq.  
BraunHagey & Borden, LLP  
351 California Street, 10th Floor  
San Francisco, CA 94104

Re: Public Records Act Request

Dear Ms. Leonida:

This letter is in response to your request under the California Public Records Act (CPRA, Gov. Code, § 6250 et seq.), dated and received on July 23, 2021. Given that one aspect of your request is an updated renewal of the prior request as referenced in a letter dated May 13, 2019, the following previously raised exemptions are asserted to records covering 2019 to the present.

While we are happy to provide records in accordance with the Public Records Act, you request items that the law not only exempts from disclosure but flatly prohibits from disclosure. Compliance with the request would result in public dissemination of case file records that would violate the privacy rights of thousands of juvenile criminal offenders and the legitimate privacy concerns of tens of thousands of adult offenders. In addition, providing such records would be tantamount to disseminating summary local criminal records, which is also prohibited. As set forth more fully below, we will not provide such records.

We are not providing documents that are exempt from disclosure under the following provisions of the CPRA:

- The request does not “make a focused and effective request that reasonably describes an identifiable record or records.” (Gov. Code, §§ 6253(b), 6253.1(a).) The request is not limited, focused and specific. (*Rogers v. Superior Court* (1993) 19 Cal.App.4th 469, 480-481.)

- The request is unduly burdensome, would compel production of a huge volume of material, or require the agency to search an enormous volume of data for a “needle in the haystack.” (Gov. Code, § 6255; *California First Amendment Coalition v. Superior Court* (1998) 67 Cal.App.4th 159, 166.) The request seeks production of every document related to every case this office handled for a two-year period, which is estimated to exceed 40,000 cases.
- The Public Records Act is limited to writings prepared, owned, used or retained by a local agency. (Gov. Code, § 6252(e).) It does not require the agency to create new records. (*Fredericks v. Superior Court* (2015) 233 Cal.App.4th 209, 227.) We do not track cases by demographic data as you have requested. The process of searching each case file to compile such data would be unduly burdensome, would far exceed the dollar figure the ACLU indicated it is willing to spend, and would require disclosure of information exempted under numerous provisions of the Public Records Act.
- A preliminary injunction was issued with respect to the County of Ventura regarding a request by the Ventura County Deputy Sheriff’s Association (VCDSA) [VCSC case no. 56-2019-00523492-CU-WM-VTA]. Peace officers employed by the District Attorney’s Office and the Sheriff’s Office are members of the VCDSA. The County of Ventura and its District Attorney’s Office are enjoined from providing any confidential responsive documents pre-dating January 1, 2019. (Pen. Code, § 832.7.)
- Penal Code section 832.7 expressly applies only to personnel records involving a “sustained finding” of various types of misconduct. Penal Code section 832.8(b) defines “sustained” as “a final determination by an investigating agency, commission, board, hearing officer, or arbitrator, as applicable, following an investigation and opportunity for an administrative appeal pursuant to Sections 3304 and 3304.5 of the Government Code, that the actions of the peace officer or custodial officer were found to violate law or department policy.”
- Penal Code section 832.7 expressly states that the section does not apply to investigations or proceedings conducted by a district attorney’s office concerning the conduct of peace officers or custodial officers, or of an agency or department that employs those officers. (Pen. Code, § 832.7(a).)
- Investigatory files compiled by a local agency for law enforcement purposes. (Gov. Code, § 6254 (f).)

- Attorney core work product. (Gov. Code, §§ 6254(k), 6276.04; Code Civ. Proc., § 2018.030(a); Pen. Code, § 1054.6.)
- Deliberative process privilege. (Gov. Code, §§ 6254(k), 6276.32; Evid. Code, § 1040; *Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325; *Gomez v. City of Nashua, N.H.* (D.N.H. 1989) 126 F.R.D. 432; *United States v. Fernandez* (9th Cir. 2000) 231 F.3d 1240.)
- Communications with investigating agency protected by official information privilege. (Gov. Code, §§ 6254 (k), 6276.32; Evid. Code, § 1040.)
- Communications protected by privilege for identity of informer. (Gov. Code, §§ 6254 (k); Evid. Code, § 1041.)
- Privileged confidential spousal communications. (Gov. Code, § 6254(k); Evid. Code, § 980.)
- Records regarding ongoing investigation. (Gov. Code, §§ 6254(k), 6255, 6276.32; Evid. Code, § 1040; *People v. Jackson* (2003) 110 Cal.App.4th 280, 288; see *County of Orange v. Superior Court* (2000) 79 Cal.App.4th 759, 764-765.)
- Communication between District Attorney's Office and law enforcement agency explaining reasons why case was rejected for prosecution. (Gov. Code, §§ 6254(k), 6255, 6276.32; Evid. Code, § 1040; *Rackauckas v. Superior Court* (2002) 104 Cal. App. 4th 169.)
- Department of Motor Vehicle records. (Gov. Code, §§ 6254(k), 6276.30; Veh. Code, §§ 1808(e), 1808.21, 1808.45-1808.47; 18 USC 2721-2725.)
- Summary criminal history records ("rap sheets"). (Gov. Code, §§ 6254(k), 6276.12; Pen. Code, §§ 11142, 11143; *Westbrook v. County of Los Angeles* (1994) 27 Cal.App.4th 157, 165.)
- Local summary criminal history records, including computerized database with defendant's criminal history in the county. (Gov. Code, §§ 6254(k), 6276.12; Penal Code, §§ 13300-13305; 89 Ops. Cal. Atty. Gen. 204 (2006); *Westbrook v. County of Los Angeles* (1994) 27 Cal.App.4th 157, 165.)

- Personal information. (Gov. Code, §§ 6254(k), 6276.34; Civ. Code, §§ 1798.3, 1798.24; Code Civ. Proc., § 1985.4.)
- FBI rap sheets. (Gov. Code, § 6254(k); 28 USC 534(a)(4); *Department of Justice v. Reporters Committee for Freedom of the Press* (1989) 489 US 749.)
- Records of Department of Corrections and Rehabilitation. (Gov. Code, § 6254(k); Cal. Code Regs., title 15, §§ 2087, 3370; 13 Ops. Cal. Atty. Gen. 180 (1949).)
- Correspondence from defendant's counsel. (Gov. Code, §§ 6254(k), 6255; Evid. Code, §§ 1152, 1153.)
- Probation reports. (Gov. Code, §§ 6254(k), 6276.36; Pen. Code, § 1203.05.)
- Reports of suspected child abuse or neglect. (Gov. Code, §§ 6254(k), 6276.10, 6276.40; Pen. Code §§ 293(c), 11167(d), 11167.5, 13823.5(c).)
- Information protected by right to privacy. (Gov. Code, §§ 6254(k), 6255; Cal. Const., art. I, sec. 1; *Central Valley Ch. 7th Step Foundation, Inc. v. Younger* (1989) 214 Cal.App.3d 145, 161-162; *Younger v. Berkeley City Council* (1975) 45 Cal.App.3d 825, 832).
- Personal information of victims and witnesses. (Gov. Code, §§ 6254(k), 6255; Pen. Code, §§ 841.5, 964, 1054(c), 1054.2.)
- Medical records. (Gov. Code, §§ 6254(k), 6276.30; Civ. Code, §§ 56.10, 56.11, 56.13; 42 CFR Part 2.)
- Drafts. (Gov. Code, § 6254(a).)
- Sealed search warrant documents. (Gov. Code, §§ 6254(k); *People v. Hobbs* (1994) 7 Cal.4th 948; Cal. Rules of Court, rules 2.550, 2.551.)
- Reporter's transcripts must be obtained directly from the court reporter. (Gov. Code, §§ 6254(k), 69954 (d).)
- Personnel records. (Gov. Code, §§ 6254(c), 6254(f), 6255; Cal. Const., art. I, § 1; *Board of Trustees v. Superior Court* (1981) 119 Cal.App.3d 516, 525-526; *Johnson v. Winter* (1982) 127 Cal.App.3d 435.)

Ellen Leonida, Esq.  
July 30, 2021  
Page 5

- Peace officer personnel records. (Gov. Code, §§ 6254(c), 6254(k); 6276.34; Evid. Code, §§ 1043, 1045; Pen. Code, § 832.7(a).)
- Home addresses, home telephone numbers, personal cellular telephone numbers, and birth dates of employees of a public agency. (Gov. Code, § 6254.3.)
- Juvenile records are not public may be obtained only by filing a petition with the Juvenile Court. (Gov. Code §§ 6254 (k), 6276.28, 6276.46; Welf. & Inst. Code §§ 204.5, 389, 781, 827, 827.6, 828, 828.1, 828.3; Cal. Rules of Court, rule 5.552.)
- The public interest in not disclosing the records outweighs the public interest in disclosure. (Gov. Code, § 6255.)

Regarding your request for updated records related to the ACLU's letter dated July 29, 2019, as well as the records specifically referenced in items 1. – 4. (including all sub-paragraphs) of your letter dated July 23, 2021, given the potentially voluminous nature of the records sought and the time required to locate and review them for possible release, we request an extension of time to provide such records to August 27, 2021.

In regard to your request for a fee waiver, or in the alternative to be notified that costs will exceed \$100, we will evaluate and respond to that request once we have identified the potentially responsive records.

Very truly yours,



**MILES WEISS**  
Chief Deputy District Attorney

RMW:ct

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