



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE

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VIA ELECTRONIC MAIL

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August 19, 2021

Ellen Leonida
ACLU Northern California

Dear Ms. Leonida:

CALIFORNIA PUBLIC RECORDS ACT REQUEST

The Los Angeles County District Attorney's Office (LADA) is in receipt of your California Public Records Act (PRA) request dated July 23, 2021, seeking:

"This CPRA letter constitutes a renewal of the ACLU's two prior requests (as relevant, updated to the present day) and also a request for the additional following records in the possession or control of the Office of the District Attorney of Los Angeles for the time-period 2015 to Present:

1. *Any and all written policies, memoranda, or guidance documents regarding:*
 - a. *Diversion eligibility and/or programming;*
 - b. *Custody and/or bail recommendations;*
 - c. *Charging recommendations and/or decisions, including, but not limited to:*
 - i. *Charging recommendations and/or decisions regarding enhancements;*
 - ii. *Charging recommendations and/or decisions regarding special circumstances; or*
 - iii. *Charging recommendations and/or decisions regarding wobblers;*
 - d. *Compliance with Brady v. Maryland, 373 U.S. 83 (1963);*
 - e. *Jury selection;*
 - f. *Sentencing recommendations;*
 - g. *Prosecution of minors;*
 - h. *Parole recommendations;*
 - i. *Pardon and commutation recommendations;*
 - j. *Reports to the State Bar relating to discipline and/or prosecutorial misconduct;*
 - k. *Data collection relating to criminal matters, including demographic data of defendants and victims; or*
 - l. *Referral of cases for federal prosecution.*

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2. *Any and all policies regarding training as well as any training materials, recorded trainings, or related materials:*
 - a. *Which are mandatory for prosecutors;*
 - b. *Which are optional for prosecutors;*
 - c. *Which relate to jury selection;*
 - d. *Which relate to bias, implicit bias, unconscious bias, and/or racism; or*
 - e. *Which relate to presentation and/or use of evidence from social media platforms (including but not limited to YouTube, Snapchat, Instagram, TikTok, Twitter, Facebook, Reddit and Tumblr) and other media (including but not limited to movies, song lyrics, and videos).*
3. *Records concerning the Racial Justice Act:*
 - a. *Implementation of and compliance with the RJA;*
 - b. *Communications concerning the RJA; or*
 - c. *Trainings related to the RJA.*
4. *All investigations into Batson-Wheeler motions, including, but not limited to:*
 - a. *Motions filed;*
 - b. *Motions granted;*
 - c. *Internal training and/or discipline; or*
 - d. *Reports to the State Bar relating to any Batson-Wheeler motions made and granted.”*

The ACLU’s two prior requests referenced herein were attached as Exhibits 1 and 2 to the current request and are dated May 13, 2019 and July 29, 2019.

Some of the records and information you request are exempt from disclosure under the Public Records Act and will not be released. For each of the requested items, the following records are exempt from disclosure:

Preliminary drafts, notes, interagency or intra-agency memoranda. See Government Code § 6254(a), which separately exempts “preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding those records clearly outweighs the public interest in disclosure.”

Burdensome requests. See *American Civil Liberties Union v. Deukmejian* (1982) 32 Cal.3d 440, 452-453; *County of Los Angeles v. Superior Court (Kusar)* (1993) 18 Cal.App.4th 588, 591-592.

Attorney work product and the official information privilege, including attorney work product found in memoranda discussing case issues or office policy and relating to questions of concern pertaining to the DA’s prosecutorial function. See Government Code §§ 6254, subdivisions (a) and (k), and 6255; Pen. Code § 1054.6; Evidence Code § 1040.

Deliberative process. See Government Code § 6255; (*California First Amendment Coalition v. Superior Court* (1998) 67 Cal.App.4th 159)

Records in which the public interest in non-disclosure of the record *clearly outweighs* the public interest served by disclosure. See Government Code, § 6255(a); (*L.A. Unified School District v.*

Superior Court (2014) 228 Cal.App.4th 222.) Specifically, records that would reveal the thought process or “decision making process in such a way as to discourage candid discussion within the agency and thereby undermine the agency’s ability to perform its function.” *Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325, 1342, quoting *Dudman Communications v. Dept. of Air Force* (D.C. 1987) 815 F.2d 1565, 1568.)

Notwithstanding the above, the LADA has identified responsive records, and will produce all non-privileged, non-exempt, and/or non-confidential records without waiving any available rights, defenses, or claims of privilege or exemption of any record under the CPRA or any other applicable statutes.

Given the considerable number of items in your July 23, 2021 request, which incorporates a request for updated and renewed records from the May 13, 2019 and July 29, 2019 requests, the LADA needs additional time to search for, collect and appropriately examine a voluminous amount of separate and distinct records. The new and renewed requests seek a total number of forty-four (44) separate and distinct categories of records. Therefore, the LADA will produce records on a rolling basis. Instances in which we have found no responsive records will be identified, and additional objections, privileges and exemptions will be described in supplemental responses. Please note, that unless the item has been identified as complete, the search for and review of responsive records is ongoing.

The first set of responsive records will be attached herein. See Attachments 1-12

July 23, 2021 Request:

Diversion eligibility and/or programming; Attachment 1 (58 pages of General Office Memoranda (GOM’s) and Special Directives (SD’s))

Custody and/or bail recommendations; Attachment 2 (51 pages of GOM’s and SD’s)

Charging recommendations and/or decisions regarding enhancements; Attachment 3 (29 pages of GOM’s and SD’s)

Charging recommendations and/or decisions regarding special circumstances; Attachment 4 (34 pages of GOM’s and SD’s)

Charging recommendations and/or decisions regarding wobblers; Attachment 5 (8 pages of GOM’s)

Jury selection; Attachment 6 (5 pages of GOM’s)

Sentencing recommendations; Attachment 7 (81 pages of GOM’s and SD’s)

Prosecution of minors; Attachment 8 (39 pages of GOM’s and SD’s)

Parole recommendations; Attachment 9 (30 pages of GOM’s and SD’s)

- A portion of GOM 18-041 was redacted because the public interest in non-disclosure of the record *clearly outweighs* the public interest served by disclosure. See Government Code, § 6255(a); (*L.A. Unified School District v. Superior Court* (2014) 228 Cal.App.4th 222.) Specifically, a security concern regarding an internal LADA database present in the record renders Government Code § 6255 applicable.

Updated May 13, 2019 Request:

All records relating to how many parole hearings the office attended, how many hearings your office opposed, and how many parole hearings your office opposed when the next of kin took no position in the calendar years of 2019 through 2021; Attachments 10-12 (3 Excel spreadsheets - Complete)

The next set of records will be disclosed on or before September 20, 2021.

Very truly yours,

GEORGE GASCÓN
District Attorney

By *Kimberly Toney*

Kimberly Toney
Special Assistant
Administration