



Brian E. Washington
COUNTY COUNSEL

Renee Giacomini Brewer
ASSISTANT COUNTY COUNSEL

Jenna J. Brady
CHIEF DEPUTY COUNTY COUNSEL

Patrick M. K. Richardson
Stephen R. Raab
Steven M. Perl
Brian C. Case
Kerry L. Gerchow
Tarisha K. Bal
Deidre K. Smith
Brandon W. Halter
Sarah B. Anker
Jacy C. Dardine
Kate K. Stanford

DEPUTIES

Colleen McGrath
ADMINISTRATIVE SERVICES
OFFICER

Marin County Civic Center
3501 Civic Center Drive
Suite 275
San Rafael, CA 94903
415 473 6117 T
415 473 3796 F
415 473 2226 TTY
www.marincounty.org/cl

September 17, 2021

VIA NEXTREQUEST ONLY

Ellen Leonida
Braun Hagey & Borden LLP
351 California Street, 10th Floor
San Francisco, CA 94104
praresponse@braunhagey.com

Re: Public Records Act Request dated September 7, 2021
File No. 21-507

Dear Ms. Leonida,

My office represents the County of Marin. We are in receipt of your Public Records Act (PRA) request, dated September 7, 2021. You have requested the following regarding relevant case, individual, and/or charge-level data in the possession or control of the Marin District Attorney's Office for all cases considered for prosecution and/or prosecuted during the time-period 2015 to Present.

Request No. 1: Unique identifier(s) associated with each defendant, each case, and each arrest:

- a. Name of defendant
- b. Court case number(s)
- c. Arresting agency number(s)
- d. Any other unique identifier(s)

Response to Request No. 1: The Marin County District Attorney's Office can provide a spreadsheet that contains all non-exempt, responsive information that is captured in the District Attorney's case management software.

Request No. 2: Demographic and other information concerning each defendant:

- a. Race
- b. Ethnicity
- c. Country of origin or nationality
- d. Gender/sex
- e. Age or date of birth
- f. Prior criminal convictions of a defendant

Response to Request No. 2: The Marin County District Attorney’s Office can provide a spreadsheet that contains all responsive information that is captured in the District Attorney’s case management software. The District Attorney’s case management software does not capture ethnicity, country of origin, nationality, or prior criminal convictions of a defendant. To review every relevant case file to locate documents that indicate this information, would be unduly burdensome. Under applicable California law, even a focused, specific request, when it would require an agency to search volumes of documents or to produce a large volume of material can be objectionable as “unduly burdensome.” (*California First Amendment Coalition v. Superior Court* (1998) 67 Cal.App.4th 159, 166; citing *American Civil Liberties Union Foundation v. Deukmejian* (1982) 32 Cal.3d 440.)

Request No. 3: Information regarding each arrest:

- a. Zip code of arrest
- b. Date of arrest
- c. Charge identified by law enforcement referring individual (including top charge by law enforcement referring)

Response to Request No. 3: The Marin County District Attorney’s Office can provide a spreadsheet that contains all responsive information that is captured in the District Attorney’s case management software: date of booking (it does not capture date of arrest) and the charges the individual was referred under by law enforcement. The District Attorney’s case management software does not capture zip code of arrest. To review every relevant case file to locate documents that indicate this information, would be unduly burdensome. Under applicable California law, even a focused, specific request, when it would require an agency to search volumes of documents or to produce a large volume of material can be objectionable as “unduly burdensome.” (*California First Amendment Coalition v. Superior Court* (1998) 67 Cal.App.4th 159, 166; citing *American Civil Liberties Union Foundation v. Deukmejian* (1982) 32 Cal.3d 440.)

Request No. 4: ADA assigned to the case

Response to Request No. 4: The Marin County District Attorney’s Office can provide a spreadsheet that contains all responsive information that is captured in the District Attorney’s case management software. Please note, the District Attorney’s case management software only tracks the last assigned Deputy and there are often multiple assignments over the life of a case – assignment changes are not tracked. Additionally, some cases do not have an assigned Deputy in the case management software.

Request No. 5: Decisions to decline to prosecute:

- a. Date of decision to decline to prosecute

- b. Identity of person who made final decision to decline prosecution
- c. Charges declined to prosecute (charge-level declinations as opposed to individual- or case- level where available)
- d. Reasons for the declinations to prosecute, including but not limited to:
 - i. police misconduct involved in case;
 - ii. injuries to persons involved;
 - iii. injuries to suspect;
 - iv. financial loss to persons involved;
 - v. prior criminal record of suspect; and
 - vi. victim's level of cooperation in prosecuting case.

Response to Request No. 5: The District Attorney's Office is not in possession of any non-exempt, responsive records that would disclose the requested information.

Request No. 6: Diversion offers and decisions (formal and informal, and including collaborative court and deferred prosecution):

- a. Date of diversion offer
- b. Type of diversion offered
- c. Whether diversion accepted
- d. Whether diversion completed

Response to Request No. 6: The District Attorney's case management software does not capture diversion offers and decisions. To review every relevant case file to locate documents that indicate this information, would be unduly burdensome. Under applicable California law, even a focused, specific request, when it would require an agency to search volumes of documents or to produce a large volume of material can be objectionable as "unduly burdensome." (*California First Amendment Coalition v. Superior Court* (1998) 67 Cal.App.4th 159, 166; citing *American Civil Liberties Union Foundation v. Deukmejian* (1982) 32 Cal.3d 440.)

Request No. 7: Charges filed:

- a. Statutes (applicable code section)
- b. Severity (i.e., infraction, misdemeanor, wobbler, felony)
- c. Any enhancements
- d. Maximum sentence

Response to Request No. 7: The Marin County District Attorney's Office can provide a spreadsheet that contains all responsive information that is captured in the District Attorney's case management software. The District Attorney's case management software does not capture maximum sentence of the charges filed.

Request No. 8: Factors considered in deciding charges to file, and level of charges, including:

- a. Injuries to persons
- b. Financial loss to persons
- c. Status of victim (i.e., law enforcement, child, spouse, etc.)
- d. Prior criminal history of defendant
- e. Victim's cooperation

Response to Request No. 8: The District Attorney's case management software does not capture the factors considered in deciding whether to file charges. The District Attorney's Office is not in possession of any non-exempt records that would provide the requested information.

Request No. 9: Bail/custody information:

- a. Bail amount requested
- b. Detention orders sought
- c. Whether bail was set or denied
- d. Whether individuals were released on bail or not
- e. Pre-plea/pre-trial custody status

Response to Request No. 9: The District Attorney's case management software does not capture the requested bail/custody information. To review every relevant case file to locate documents that indicate this information, would be unduly burdensome. Under applicable California law, even a focused, specific request, when it would require an agency to search volumes of documents or to produce a large volume of material can be objectionable as "unduly burdensome." (*California First Amendment Coalition v. Superior Court* (1998) 67 Cal.App.4th 159, 166; citing *American Civil Liberties Union Foundation v. Deukmejian* (1982) 32 Cal.3d 440.)

Request No. 10: Plea offers:

- a. Charge(s) offered, including severity (i.e., infraction, misdemeanor, felony), including enhancements
- b. Dates of plea offers
- c. Sentence(s)/disposition(s) offered
- d. Records of whether any plea offer was accepted, including date of acceptance

Response to Request No. 10: The District Attorney's case management software does not capture plea offers. To review every relevant case file to locate documents that indicate this information, would be unduly burdensome. Under applicable California law, even a focused, specific request, when it would require an agency to search volumes of documents or to produce a large volume of material can be objectionable as "unduly burdensome." (*California First Amendment Coalition v. Superior Court* (1998) 67 Cal.App.4th 159, 166; citing *American Civil Liberties Union Foundation v. Deukmejian* (1982) 32 Cal.3d 440.)

Request No. 11: Case outcomes:

- a. Charges of conviction
- b. Dismissed charges
- c. Sentences

Response to Request No. 11: The District Attorney’s case management software does not capture case outcomes. To review every relevant case file to locate documents that indicate this information, would be unduly burdensome. Under applicable California law, even a focused, specific request, when it would require an agency to search volumes of documents or to produce a large volume of material can be objectionable as “unduly burdensome.” (*California First Amendment Coalition v. Superior Court* (1998) 67 Cal.App.4th 159, 166; citing *American Civil Liberties Union Foundation v. Deukmejian* (1982) 32 Cal.3d 440.)

Request No. 12: Counsel for defendant, whether public defender or private counsel

Response to Request No. 12: The Marin County District Attorney’s Office can provide a spreadsheet that contains all responsive information that is captured in the District Attorney’s case management software.

Request No. 13: Demographic and other information concerning victims:

- a. Race
- b. Ethnicity
- c. Gender/sex

Response to Request No. 13: The Marin County District Attorney’s Office can provide a spreadsheet that contains all responsive information that is captured in the District Attorney’s case management software: Race and Gender/Sex. The District Attorney’s case management software does not capture ethnicity.

Request No. 14: Recommendations regarding parole

Response to Request No. 14: The District Attorney’s case management software does not capture recommendations regarding parole. To review every relevant case file to locate documents that indicate this information, would be unduly burdensome. Under applicable California law, even a focused, specific request, when it would require an agency to search volumes of documents or to produce a large volume of material can be objectionable as “unduly burdensome.” (*California First Amendment Coalition v. Superior Court* (1998) 67 Cal.App.4th 159, 166; citing *American Civil Liberties Union Foundation v. Deukmejian* (1982) 32 Cal.3d 440.)

Request No. 15: Recommendations regarding pardon or commutation

Response to Request No. 15: The District Attorney’s case management software does not capture recommendations regarding pardon or commutation. To review every relevant case file to locate documents that indicate this information, would be unduly burdensome. Under applicable California law, even a focused, specific request, when it would require an agency to search volumes of documents or to produce a large volume of material can be objectionable as “unduly burdensome.” (*California First Amendment Coalition v. Superior Court* (1998) 67 Cal.App.4th 159, 166; citing *American Civil Liberties Union Foundation v. Deukmejian* (1982) 32 Cal.3d 440.)

In order to provide the requested data, the Marin County District Attorney’s Office must engage in data compilation, extraction and programming. Pursuant to Government Code section 6253.9 (b)(2) the requestor shall bear that cost. The Marin County District Attorney’s Office has estimated that it will take 9 hours of a staff members time at the rate of 69.38/hour. Therefore, prior to compiling/extracting the requested data, please forward a check payable to the Marin County District Attorney’s office in the amount of \$624.42.

Responsive data will be released unless it is exempt from disclosure based on the following:

1. Confidential information protected by the attorney-client privilege or attorney work product doctrine. Government Code Section 6254(k) and Evidence Code Section 950 et seq.
2. Records, the disclosure of which are exempted or prohibited pursuant to federal or state law. Government Code Section 6254(k).
3. Records exempt because the public interest in withholding the records clearly outweighs the public interest in disclosure of the records. Government Code Section 6255.
4. Records exempt from disclosure as investigative and intelligence information. Government Code Section 6254(f).
5. Personnel, medical or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy. See Government Code Section 6254(c).

If you have any questions or concerns, please do not hesitate to contact me directly.

Sincerely,



Sarah B. Anker
Deputy County Counsel