



September 30, 2021

Sent U.S. Mail (Flash Drive Included)

Ellen Leonida
PRA Responses
BraunHagey & Borden LLP
351 California Street, 10th Floor
San Francisco, CA 94104
leonida@braunhagey.com

RE: Public Records Request – Policy Documents

Ms. Leonida:

As you know based on the emails I sent you on July 26, 2021, August 2, 2021 and August 16, 2021, I am the designated representative of the Sonoma County District Attorney's Office (SCDA) assigned to oversee your California Public Records Act (hereinafter "PRA") request dated July 23, 2021. The Sonoma County District Attorney's Office received your emailed PRA request on July 23, 2021 and copy of the same request via U.S. Postal Service on July 26, 2021. Contained in my August 16, 2021 letter, I stated I would provide you with discoverable records by September 30, 2021. Also contained in my August 16, 2021 letter, I provided you with what I felt was relevant controlling statutes and case law regarding your request. To date, you have not responded to my August 16, 2021 letter.

Your four (4)-page email (July 23, 2021) requests documents relating to SCDA policy, District Attorney training and the Racial Justice Act (RJA) from 2015 to the present. This correspondence details what we are providing you in response to your request.

Specifically, your request is as follows:

Request One:

"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 commutations 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.*

Response One:

Documents provided via Flash Drive A.

Also see: <https://sonomacounty.ca.gov/DA/Policies-and-Procedures/>

In reference to documents requested but not provided above, the Sonoma County District Attorney's Office does not have any responsive documents to disclose.

It should be noted that some of the records you have requested are records produced and copyrighted by a third party. The Sonoma County District Attorney's Office is not able to make and distribute copies of copyrighted works. (See SCDA letter to Requester dated August 16, 2021, also see Gov. Code §6254(k); 17 U.S.C. § 101, 102, and 106).

Additionally, to the extent that these requests seek records containing the SCDA's or a County Department's deliberative process or decision-making process, the disclosure of which would inhibit frank and open discussion among County agents, (Gov. Code § 6255; Times Mirror Co. v. Superior Court (1991) 53 Cal.3d 1325) the public interest in withholding these records clearly outweighs the public interest in disclosure in light of the public's interest in the County maintaining the privacy of records pertaining to pending agency action and/or encouraging the candid discussion of legal or policy matters amongst County officials. Such documents will not be disclosed.

Request Two:

"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).

Response Two:

Flash Drive A – List of in-house SCDA trainings.

The SCDA Office objects in part to this request on the grounds that the request is vague and overbroad. Furthermore, it should be noted that some of the records you have requested are records produced copyrighted by a third party. The Sonoma County District Attorney's Office is not able to make and distribute copies of copyrighted works. (See SCDA letter to Requester dated August 16, 2021, also see Gov. Code §6254(k); 17 U.S.C. § 101, 102, and 106).

Additionally, for some of the requests the SCDO Office does not have any responsive documents to disclose.

Also, to the extent that these requests seek records containing the SCDA's or a County Department's deliberative process or decision-making process, the disclosure of which would inhibit frank and open discussion among County agents, (Gov. Code § 6255; Times Mirror Co. v. Superior Court (1991) 53 Cal.3d 1325) the public interest in withholding these records clearly outweighs the public interest in disclosure in light of the public's interest in the County maintaining the privacy of records pertaining to pending agency action and/or encouraging the candid discussion of legal or policy matters amongst County officials. Such documents will not be disclosed.

Request Three:

“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.

Response Three:

Flash Drive A – List of in-house SCDA trainings.

Some of the records you have requested are records produced and copyrighted by a third party. The Sonoma County District Attorney's Office is not able to make and distribute copies of copyrighted works. (See SCDA letter to Requester dated August 16, 2021, also see Gov. Code §6254(k); 17 U.S.C. § 101, 102, and 106).

Finally, to the extent that these requests seek records containing the SCDA's or a County Department's deliberative process or decision-making process, the disclosure of which would inhibit frank and open discussion among County agents, (Gov. Code § 6255; Times Mirror Co. v. Superior Court (1991) 53 Cal.3d 1325) the public interest in withholding these records clearly outweighs the public interest in disclosure in light of the public's interest in the County maintaining the privacy of records pertaining to pending agency action and/or encouraging the candid discussion of legal or policy matters amongst County officials. Such documents will not be disclosed.

Request Four:

“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.

Response Four:

The SCDA's case management system is not programmed to identify, categorize, list, or record data associated with Batson-Wheeler motions. Further, in the normal course of business, the SCDA does not compile this data into a usable report or record. If such data exists and in order to fulfill your information request, SCDA staff would have to manually compile the data from each criminal file. The SDCA would have to review over 30,000 files for each calendar year. The Public Records Act requires the requestor to bear the cost of compiling data into a format not

otherwise available (Gov. Code § 6253.9). Should you request the SCDA to search for and then to compile the data into a usable form, the County of Sonoma would require you to pay for the cost of the search and compilation. Said data, if it exists, would be compiled in such a manner that ensure ancillary data remain privacy protected.

Some of the records you have requested are records produced and copyrighted by a third party. The Sonoma County District Attorney's Office is not able to make and distribute copies of copyrighted works. (See SCDA letter to Requester dated August 16, 2021, also see Gov. Code §6254(k); 17 U.S.C. § 101, 102, and 106).

Finally, to the extent that these requests seek records containing the SCDA's or a County Department's deliberative process or decision-making process, the disclosure of which would inhibit frank and open discussion among County agents, (Gov. Code § 6255; Times Mirror Co. v. Superior Court (1991) 53 Cal.3d 1325) the public interest in withholding these records clearly outweighs the public interest in disclosure in light of the public's interest in the County maintaining the privacy of records pertaining to pending agency action and/or encouraging the candid discussion of legal or policy matters amongst County officials. Such documents will not be disclosed.

The Sonoma County District Attorney's Office practice is to cooperatively comply with all Public Records Act requests. The District Attorney's Office is committed to providing public records to the extent such documents are subject to disclosure pursuant to the Public Records Act. Please contact me immediately if you disagree with my analysis of the precedent you have provided or with my understanding of the authority. I am more than willing to consider any additional persuasive materials or differing conclusions. My goal is to comply as best I can with your PRA while also avoiding any violations of State and/or Federal law.

Sincerely,

A handwritten signature in blue ink, appearing to read "W. Brockley", is written over a horizontal line.

WILLIAM J. BROCKLEY
Assistant District Attorney