



# OFFICE OF THE DISTRICT ATTORNEY

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## CALAVERAS COUNTY

BARBARA M. YOOK  
DISTRICT ATTORNEY

October 1, 2021

Ellen Leonida  
Braunhagey & Borden, LLP  
[leonida@braunhagey.com](mailto:leonida@braunhagey.com)

Re: California Public Records Act Request

Dear Ellen Leonida:

The Calaveras County District Attorney's Office is in receipt of your request for records, dated September 7, 2021, made under the California Public Records Act ("CPRA").

Your CPRA request for public records contains 15 items, specifically:

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)
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
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)
4. ADA assigned to the case
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.
- 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
- 7. Charges filed
  - a. Statutes (applicable code section)
  - b. Severity (i.e., infraction, misdemeanor, wobbler, felony)
  - c. Any enhancements<sup>5</sup>
  - d. Maximum sentence
- 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
- 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
- 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
- 11. Case outcomes
  - a. Charges of conviction
  - b. Dismissed charges
  - c. Sentences
- 12. Counsel for defendant, whether public defender or private counsel
- 13. Demographic and other information concerning victims
  - a. Race
  - b. Ethnicity
  - c. Gender/sex
- 14. Recommendations regarding parole
- 15. Recommendations regarding pardon or commutation

I have reviewed each item you requested carefully and have determined that our case management system can generate reports, based on the issue or refusal date, with records responsive to your request for items 1(b), 1(c), 1(d), 2(a), 2(d), 5(a), 5(d), 7(a), 7(b), 7(c), 11(a), 11(b), 11(c), and 12 from February 22, 2021. We are providing you with these records in electronic form pursuant to your request. Please note that the race and sex listed for each defendant was obtained from law enforcement reports; this office did not make a determination of race or sex for any of these defendants. The records prior to February 22, 2021 are in paper files and contained in a database we no longer have license to manipulate. Collecting the data you are requesting from 2015 to February 21, 2021, would require a hand search and analysis of thousands and thousands of files. Hand searching and gathering the records you requested would consume months of staff time. It is our position that diverting months of staff time away from current duties to conduct this search is contrary to public interest and far outweighs the need you expressed in your request. Therefore, we are declining to provide you with these records from 2015 to February 21, 2021 at this time because it is overly burdensome. That said, our prior records in open and active cases with current court dates are in process of being fully migrated into our new system. While this will only be a sub-set of the prior data you are requesting, since we will not be fully migrating prior closed cases, we can provide this data to you on a rolling basis as these records are available if you feel that would be of value. Please advise on this point.

We are declining to provide documents responsive to items 1(a), 2(b), 2(c), 2(e), 2(f), 3(a), 3(b), 3(c), 5(c), 6(a), 6(b), 6(c), 6(d), 7(d), 9(a), 9(b), 9(c), 9(d), 9(e), 10(a), 10(b), 10(c), 10(d), 13(a), 13(b), 14, and 15. With respect to these items, we cannot provide them as we either do not have the data, or if we do have it, our case management system will not generate a report reflecting the item. A case by case search would be required within our case management system and a hand search would be required of our other files to collect data that does exist. A case by case search and hand search of thousands and thousands of records is overly burdensome as explained above. For records that may be in our case management system that are not easily extracted using built-in reports, fulfilling those portions of your request will require specialized programming and computer services. Therefore, pursuant to Government Code §6253.9(b)(2), you are required to bear those programming and computer service costs. Please advise if you are interested in paying to extract this information so we can request a quote from a computer specialist in order to provide you an estimate of those costs. We are further declining to provide records requested in items 2(e) and 2(f) as privileged personal identifying information, criminal history information, and official information, pursuant to Penal Code sections 530.55, 11142, 11075 et seq., and Evidence Code section 1040.

The undersigned is the prosecutor ultimately responsible in items 4 and 5(b) as counsel for the People in criminal cases. With very rare exception, prosecutors are considered fungible by the court and matters are set at the convenience of the court and defense counsel. Identifying which individual deputy or deputies performed which prosecutorial function in each case cannot be

determined without specifically analyzing each case and speaking with each deputy. This analysis is overly burdensome and not a record within the letter or spirit of the CPRA.

With respect to items 8(a), 8(b), 8(c), 8(d), and 8(e), these items may in part be captured by our case management system depending on the type of charge involved, but there is no report or mechanism by which they can be identified as “factors that were considered in deciding charges to file and level of charges” by our case management system. Each decision would have to be re-evaluated to try to dissect what was or was not considered in thousands and thousands of cases. This re-evaluation is overly burdensome and not within the letter or spirit of the CPRA. In addition, item 8(d) is privileged and confidential pursuant to Penal Code sections 11142 and 11075 et seq., and Evidence Code section 1040. Further, to the extent that these items are seeking attorney work product, we will not be providing this information as it is privileged pursuant to the attorney work product doctrine.

With respect to item 13(c), our Victim Services program does collect demographics on victims engaging in our program regarding gender. This would only provide you with data on a sub-set of our cases. Please advise if you believe this sub-set of data would be beneficial to you and we will provide it to you.

Court records on criminal cases are available at <http://www.calaveras.courts.ca.gov/>. Filed charging documents and court minute orders are publicly available and these records may provide you with much of the data you are seeking.

While an attempt was made to give a full explanation for the partial denial of your request, the short period allowed by statute for a response does not permit adequate time to prepare a fully comprehensive reply.

Thank you for your interest in the criminal justice system. You are welcome to contact me should you have any questions.

Sincerely,



Barbara M. Yook

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