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October 13, 2021

SENT VIA U.S. MAIL AND EMAIL

Ellen Leonida—PRA Responses
BraunHagey & Borden LLP
351 California Street
10th Floor
San Francisco, CA
94104

Re: CPRA on behalf of ACLU for Records Relevant to the Implementation of the RJA (Dated September 7, 2021)

Ms. Leonida,

The following is a response to your CPRA request on behalf of the ACLU dated September 7, 2021 for additional records related to the case, individual, and charge-level data "...for all cases considered for prosecution and/or prosecuted during the time period 2015 to present."

INITIAL NOTE: This office uses a computerized case management system in the processing of criminal cases. This office switched from a different case management system to our current case management system during the period when records are requested in this CPRA. The two case management systems used during the 2015-present timeframe record and store data differently, and therefore searches of the current case management system for data from the older case management system need to be verified individually for accuracy.

In order to identify the volume of records potentially requested by this CPRA, two Information Technology professionals from this office were assigned to calculate the number of individual case files. It took these two IT professionals 6 hours devoted solely to this task to arrive at the total number of case files impacted by the CRPR. The present CPRA requests detailed information from 49 separate data points on 65,924 case files, or roughly 3,230,276 individual records.

- 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)**

In general, requests 1 through 3 seek local summary criminal history information as described in Penal Code § 13300. This office has access to such data through our office computerized case management systems. These systems are *local criminal offender record information (CORI) systems*, within the meaning of California Penal Code section 13100 et seq. As such, disclosure of the information is limited by statute. Penal Code §§ 13300 – 13305. Knowing disclosure to an unauthorized person may in fact be a crime. Penal Code §§ 13302 – 13304.

Cases addressing the availability of this type of information include *Westbrook v. County of Los Angeles* (1994) 27 Cal.App.4th 157, and *Craig v. Municipal Court* (1979) 100 Cal. App.3d 69. The topic is also specifically discussed in the *Opinion of the California Attorney General*, No. 06-203, 89 Ops.Cal.Atty.Gen. 204 (9/20/2006). These authorities all confirm that the information identifying all persons referred to his office by law enforcement agencies for review for the filing of criminal charges is subject to the confidentiality provisions of the CORI statutes. Government Code section 6254(f) does provide for the release of certain basic information with respect to arrested persons. However, that obligation is an obligation of the arresting agency, not the District Attorney. Further, the obligation under 6254(f) covers only contemporaneous disclosure, and does not cover historical requests such as yours. It therefore does not provide a basis for granting your request. *County of Los Angeles v. Superior Court* (1993) 18 Cal.App.4th 588, at 595 – 602; see also the related discussion in *Westbrook v. County of Los Angeles* (1994) 27 Cal.App.4th 157, at 165-167.

Lastly, this request seeks an extremely large body of data covering a substantial period of time and is thus very similar to the request for court records made and rejected in *Westbrook v. County of Los Angeles* (1994) 27 Cal.App.4th 157. Accordingly, we cannot disclose the records sought in requests 1 through 3.

Moreover, this request would necessitate a hand search of all computerized files or the reprogramming of our current case management software to enable a search for the requested records. Government Code section 6255 exempts records from disclosure because the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record. The present CPRA request requires us to search an enormous volume of data, either by hand search or by the development of computer software, and thus is objectionable as unduly burdensome. See *County of Los Angeles v. Superior Court* (1993) 18 Cal.App.4th 588.

Additionally, this PRA requests information gathered by law enforcement agencies relating to criminal referrals on minors and which can be released in very limited circumstances pursuant to California Welfare & Institutions Code §§ 827-828, none of which apply in the present case. see *Westcott v. County of Yuba* (1980) 104 Cal.App.3d 103; see also *T.N.G. v. Superior Court* (1971) 4 Cal.3d 767.

NOTE: This office does not track the data requested in request 2b, 2c, or 3a. The Public Records Act applies to existing records and does not require a public agency to create a record that does not exist. (Gov't Code § 6252(e) and (f).)

4. ADA assigned to the case

Please be advised that you will not be provided a list of all ADAs and Deputy District Attorneys assigned to handle each of the requested cases in our office, as the public interest in withholding this record clearly outweighs the public interest in the disclosure of the record. (Government Code § 6255(a).) The County of Placer and its departments have developed public points of contact. Public points of contact are monitored by staff who have been designated to communicate with members of the general public, thus providing a more streamlined, consistent, accurate, and verifiable flow of information.

Moreover, this request would necessitate a hand search of all computerized files or the reprogramming of our current case management software to enable a search for the requested records. Government Code section 6255 exempts records from disclosure because the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record. The present CPRA request requires us to search an enormous volume of data, either by hand search or by the development of computer software, and thus is objectionable as unduly burdensome. See *County of Los Angeles v. Superior Court* (1993) 18 Cal.App.4th 588.

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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.**

Request 5 seeks information which expressly involves the opinions, conclusions, or impressions of attorney staff who were involved in a particular decision, and thus which constitute core work product. As such, this information is exempt pursuant to Government Code § 6254(k). Additionally, the information sought in request 5 constitutes records which would reveal the deliberative process of the officers and employees of this office, and thus is exempt pursuant to California Government Code § 6255(a); *See also California First Amendment Coalition v. Superior Court* (1998).

Additionally, locating records responsive to this request would necessitate an individual search of every computerized case file that was created over the course of the previous seven years. This office does not have the resources to conduct a search of such a volume of cases for responsive records and then to individually segregate exempt from non-exempt records. Accordingly, this request is overly burdensome pursuant to Government Code § 6255(a).

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**

Request 6 seeks information which expressly involves the opinions, conclusions, or impressions of attorney staff who were involved in a particular decision, and thus which constitute core work product. As such, this information is exempt pursuant to Government Code § 6254(k). Additionally, the information sought in request 6 constitutes records which would reveal the deliberative process of the officers and employees of this office, and thus is exempt pursuant to California Government Code § 6255(a); *See also California First Amendment Coalition v. Superior Court* (1998).

Additionally, locating records responsive to this request would necessitate an individual search of every computerized case file that was created over the course of the previous seven years. This office does not have the resources to conduct a search of such a volume of cases for responsive records and then to individually segregate exempt from non-exempt records. Accordingly, this request is overly burdensome pursuant to Government Code § 6255(a).

7. Charges filed

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

Request 7 seeks local summary criminal history information as described in Penal Code § 13300. This office has access to such data through our office computerized case management systems. These systems are *local criminal offender record information (CORI) systems*, within the meaning of California Penal Code section 13100 et seq. As such, disclosure of the information is limited by statute. Penal Code §§ 13300 – 13305. Knowing disclosure to an unauthorized person may in fact be a crime. Penal Code §§ 13302 – 13304.

Cases addressing the availability of this type of information include *Westbrook v. County of Los Angeles* (1994) 27 Cal.App.4th 157, and *Craig v. Municipal Court* (1979) 100 Cal. App.3d 69. The topic is also specifically discussed in the *Opinion of the California Attorney General*, No. 06-203, 89 Ops.Cal.Atty.Gen. 204 (9/20/2006). These authorities all confirm that the information identifying all persons referred to his office by law enforcement agencies for review for the filing of criminal charges is subject to the confidentiality provisions of the CORI statutes. Government Code section 6254(f) does provide for the release of certain basic information with respect to arrested persons. However, that obligation is an obligation of the arresting agency, not the District Attorney. Further, the obligation under 6254(f) covers only contemporaneous disclosure, and does not cover historical requests such as yours. It therefore does not provide a basis for granting your request. *County of Los Angeles v. Superior Court* (1993) 18 Cal.App.4th 588, at 595 – 602; see also the related discussion in *Westbrook v. County of Los Angeles* (1994) 27 Cal.App.4th 157, at 165-167. Lastly, this request seeks an extremely large body of data covering a substantial period of time and is thus very similar to the request for court records made and rejected in *Westbrook v. County of Los Angeles* (1994) 27 Cal.App.4th 157. Accordingly, we cannot disclose the records sought in request 7.

Moreover, this request would necessitate a hand search of all computerized files or the reprogramming of our current case management software to enable a search for the requested records. Government Code section 6255 exempts records from disclosure because the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record. The present CPRA request requires us to search an enormous volume of data, either by hand search or by the development of computer software, and is thus

objectionable as unduly burdensome. See *County of Los Angeles v. Superior Court* (1993) 18 Cal.App.4th 588.

Additionally, this PRA requests information gathered by law enforcement agencies relating to criminal referrals on minors and which can be released in very limited circumstances pursuant to California Welfare & Institutions Code §§ 827-828, none of which apply in the present case. see *Westcott v. County of Yuba* (1980) 104 Cal.App.3d 103; see also *T.N.G. v. Superior Court* (1971) 4 Cal.3d 767.

NOTE: This office does not track or record the data requested in request 7d. The Public Records Act applies to existing records and does not require a public agency to create a record that does not exist. (Gov't Code § 6252(e) and (f).)

- 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**

Request 8 seeks information which expressly involves the opinions, conclusions, or impressions of attorney staff who were involved in a particular decision, and thus constitute core work product. As such, this information is exempt pursuant to Government Code § 6254(k). Additionally, the information sought in request 8 constitutes records which would reveal the deliberative process of the officers and employees of this office, and thus is exempt pursuant to California Government Code § 6255(a); See also *California First Amendment Coalition v. Superior Court* (1998).

Additionally, locating records responsive to this request would necessitate an individual search of every computerized case file that was created over the course of the previous seven years. This office does not have the resources to conduct a search of such a volume of cases for responsive records and then to individually segregate exempt from non-exempt records. Accordingly, this request is overly burdensome pursuant to Government Code § 6255(a).

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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**

Request 9 seeks information which expressly involves the opinions, conclusions, or impressions of attorney staff who were involved in a particular decision, and thus constitute core work product. As such, this information is exempt pursuant to Government Code § 6254(k). Additionally, the information sought in request 9 constitutes records which would reveal the deliberative process of the officers and employees of this office, and thus is exempt pursuant to California Government Code § 6255(a); *See also California First Amendment Coalition v. Superior Court* (1998).

Additionally, locating records responsive to this request would necessitate an individual search of every computerized case file that was created over the course of the previous seven years. This office does not have the resources to conduct a search of such a volume of cases for responsive records and then to individually segregate exempt from non-exempt records. Accordingly, this request is overly burdensome pursuant to Government Code § 6255(a).

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**

Request 10 seeks information which expressly involves the opinions, conclusions, or impressions of attorney staff who were involved in a particular decision, and thus constitute core work product. As such, this information is exempt pursuant to Government Code § 6254(k). Additionally, the information sought in request 10 constitutes records which would reveal the deliberative process of the officers and employees of this office, and thus is exempt pursuant to California Government Code § 6255(a); *See also California First Amendment Coalition v. Superior Court* (1998).

Additionally, locating records responsive to this request would necessitate an individual search of every computerized case file that was created over the course of the previous seven years. This office does not have the resources to conduct a search of such a volume of cases for responsive records and then to individually segregate exempt from non-exempt records. Accordingly, this request is overly burdensome pursuant to Government Code § 6255(a).

11. Case outcomes

a. Charges of conviction

b. Dismissed charges

c. Sentences

Request 11 seeks local summary criminal history information as described in Penal Code § 13300. This office has access to such data through our office computerized case management systems. These systems are *local criminal offender record information (CORI) systems*, within the meaning of California Penal Code section 13100 et seq. As such, disclosure of the information is limited by statute. Penal Code §§ 13300 – 13305. Knowing disclosure to an unauthorized person may in fact be a crime. Penal Code §§ 13302 – 13304.

Cases addressing the availability of this type of information include *Westbrook v. County of Los Angeles* (1994) 27 Cal.App.4th 157, and *Craig v. Municipal Court* (1979) 100 Cal. App.3d 69. The topic is also specifically discussed in the *Opinion of the California Attorney General*, No. 06-203, 89 Ops.Cal.Atty.Gen. 204 (9/20/2006). These authorities all confirm that the information identifying all persons referred to his office by law enforcement agencies for review for the filing of criminal charges is subject to the confidentiality provisions of the CORI statutes. Government Code section 6254(f) does provide for the release of certain basic information with respect to arrested persons. However, that obligation is an obligation of the arresting agency, not the District Attorney. Further, the obligation under 6254(f) covers only contemporaneous disclosure, and does not cover historical requests such as yours. It therefore does not provide a basis for granting your request. *County of Los Angeles v. Superior Court* (1993) 18 Cal.App.4th 588, at 595 – 602; see also the related discussion in *Westbrook v. County of Los Angeles* (1994) 27 Cal.App.4th 157, at 165-167. Lastly, this request seeks an extremely large body of data covering a substantial period of time and is thus very similar to the request for court records made and rejected in *Westbrook v. County of Los Angeles* (1994) 27 Cal.App.4th 157. Accordingly, we cannot disclose the records sought in request 11.

Moreover, this request would necessitate a hand search of all computerized files or the reprogramming of our current case management software to enable a search for the requested records. Government Code section 6255 exempts records from disclosure because the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record. The present CPRA request requires us to search an enormous volume of data, either by hand search or by the development of computer software, and thus is objectionable as unduly burdensome. See *County of Los Angeles v. Superior Court* (1993) 18 Cal.App.4th 588.

Additionally, this PRA requests information gathered by law enforcement agencies relating to criminal referrals on minors and which can be released in very limited circumstances pursuant to California Welfare & Institutions Code §§ 827-828, none of which apply in the present case.

see *Westcott v. County of Yuba* (1980) 104 Cal.App.3d 103; see also *T.N.G. v. Superior Court* (1971) 4 Cal.3d 767.

12. Counsel for defendant, whether public defender or private counsel

13. Demographic and other information concerning victims

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

Requests 12 and 13 seek information that is not searchable in our case management system. Accordingly, locating records responsive to this request would necessitate an individual search of every computerized case file that was created over the course of the previous seven years. This office does not have the resources to conduct a search of such a volume of cases for responsive records and then to individually segregate exempt from non-exempt records. Accordingly, this request is overly burdensome pursuant to Government Code § 6255(a).

14. Recommendations regarding parole

15. Recommendations regarding pardon or commutation

Request 14 and 15 seeks information which expressly involve the opinions, conclusions, or impressions of attorney staff involved in a particular decision, and thus constitute core work product. As such, this information is exempt pursuant to Government Code § 6254(k). Additionally, the information sought in requests 14 and 15 constitute records which would reveal the deliberative process of the officers and employees of this office, and thus is exempt pursuant to California Government Code § 6255(a); See also *California First Amendment Coalition v. Superior Court* (1998).

Additionally, locating records responsive to this request would necessitate an individual search of every computerized case file that was created over the course of the previous seven years. This office does not have the resources to conduct a search of such a volume of cases for responsive records and then to individually segregate exempt from non-exempt records. Accordingly, this request is overly burdensome pursuant to Government Code § 6255(a).

If you have any questions or concerns, feel free to contact me.

Sincerely,



David H. Tellman
Chief Assistant District Attorney