

MONTEREY COUNTY

OFFICE OF THE DISTRICT ATTORNEY

JEANNINE M. PACIONI, DISTRICT ATTORNEY



November 9, 2021

VIA Electronic Mail

Ellen Leonida, Esq.
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Re: California Public Records Act Request

Dear Ms. Leonida:

This is our second supplemental response to your request for records, dated September 7, 2021, requesting various records pertaining to all cases prosecuted and considered for prosecution from 2015 to present.

Updated response regarding each of your specific requests, where applicable:

1. *Unique identifier(s) associated with each defendant, each case, and each arrest*
 - a. *Name of defendant*
 - b. *Court case number*
 - c. *Arresting agency number(s)*
 - d. *Any other unique identifier(s)*

Responsive documents have been identified, in the form of the Screened Cases Report, which is being mailed out under a separate cover, as the size of the file is too large for our county email system.

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2. *Demographic and other information concerning each defendant*
 - a. *Race*
 - b. *Ethnicity*
 - c. *County or origin or nationality*
 - d. *Gender/sex*
 - e. *Age or date of birth*
 - f. *Prior criminal convictions of a defendant*

No update to our October 1, 2021 response.

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)*

No update to our October 1, 2021 response.

4. *ADA assigned to the case*

The only update as to the Screened Cases Report is that I noticed when I reviewed the report that it does include some cases which were filed many years prior to our case management system, and which are outside the time period requested. These are some very old cases which significantly predate our case management system, and it appears when they were converted over, the “screening completed date,” became the date it was next accessed. It’s clear to me that the attorney name is not correct on those cases – it appears that when some older cases were revived for appellate or habeas matters, our system registered that new attorney as the screening attorney.

We have identified another responsive document, The Final Disposition Report, which will show the last attorney assigned to the case. (I would note that it could be showing the attorney who handled the matter for a violation of probation or appellate matter, not the trial attorney.) Minute orders obtained from the court would be the most accurate way to obtain the Deputy District Attorney who handled the case at a particular procedural stage.

The Final Disposition Report is approximately 9400 pages in length, and will require redacting prior to production, as it includes the defendants’ social security numbers, heights and weights, which need to be redacted for privacy reasons prior to disclosure of the report. Once that redacting has been completed, I will mail out that report in digital form.

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 person 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*

No update to our October 1, 2021 response.

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*

The Final Disposition Report will show some cases which were disposed of through diversion. There are diversion codes on the code list that we will provide.

I'll also be providing two separate reports/logs kept by our office on our Corrective Solutions diversion program – one for cases diverted pre-filing and another for cases diverted post-filing. I will need to redact the defendants' confidential contact information from those reports, to maintain defendants' privacy prior to turning over those reports. Once that redaction is complete, I will provide copies of those reports.

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

The only addition to our previous response is that, upon reviewing the Screened Cases Report, it does not appear to show any enhancements that were charged. We do not have a report that we can run which will show enhancements. The only way to obtain that information would be to individually access the more than 50,000 cases involved and create a new document logging the

enhancements. This is an overly burdensome request under Government Code section 6255(a), such that the public interest in nondisclosure clearly exceeds the public interest in disclosure. It would also amount to the creation of a new record, which the Act does not require.

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*

There is no update to our October 1, 2021 response.

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*

There is no update to our October 1, 2021 response.

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*

There is no update to our October 1, 2021 response.

11. *Case outcomes*
 - a. *Charges of conviction*
 - b. *Dismissed charges*
 - c. *Sentences*

Responsive documents have been identified, in the form of the Final Disposition Report described above, which will be provided following redaction of the defendants' confidential personal information.

As I indicated in my October 1, 2021 response, the report does not show sentencing information, other than the date of sentencing. The only way to obtain this information would be to individually access the more than 50,000 cases involved and note the sentences on a separate document. This is an overly burdensome request under Government Code section 6255(a), such that the public interest in nondisclosure clearly exceeds the public interest in disclosure. It would also amount to the creation of a new record, which the Act does not require.

Relevant minute orders with the sentencing information could be obtained from the court, by your organization, using the sentencing date contained in the report.

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

Responsive documents have been identified, in the form of the Final Disposition Report. I would note that any cases assigned to Susan Chapman, Jim Egar or Jeremy Dzubay are likely public defender cases, although it is unlikely that those specific attorneys (management) were the actual trial attorneys.

13. Demographic and other information concerning victims

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

There is no update to our October 1, 2021 response.

14. Recommendations regarding parole

I am still awaiting clarification from you as to whether your request is for parole recommendation on cases filed after January 1, 2015, or if you are seeking parole recommendations made after January 1, 2015, regardless of when the case was filed. Once I receive that information, I can better work on this request.

15. Recommendations regarding pardon or commutation

I am still awaiting clarification from you as to whether your request is for parole recommendation on cases filed after January 1, 2015, or if you are seeking parole recommendations made after January 1, 2015, regardless of when the case was filed. Once I receive that information, I can better work on this request.

In summary, the Screened Cases Report, and the two code conversion keys are ready to send out and will be sent via U.S. Mail. The final Case Disposition Report and the two Diversion Reports/Logs will be sent out once the redaction described above has been completed.

I am happy to discuss this supplemental response and try to answer any questions about the various reports being provided, once they are received. If you wish to dispute any determination contained in this response, please advise us of your legal argument. If you would also provide us with a citation or legal authority which supports your argument, we are willing to reconsider our opinion

Sincerely.

A handwritten signature in black ink, appearing to read 'C. Johnson', with a long horizontal flourish extending to the right.

Cristina Johnson
Deputy District Attorney