



Sacramento County District Attorney's Office

ANNE MARIE SCHUBERT
District Attorney

Rod Norgaard
Chief Deputy

Michael M. Blazina
Assistant District Attorney

February 24, 2022

Ellen Leonida
351 California Street, 10th Floor
San Francisco, CA 94104

Re: Public Records Act Request

Dear Ms. Leonida:

We are in receipt of your request for records under the California Public Records Act (CPRA) dated February 18, 2022.

Specifically, you have requested:

“[T]he following records regarding relevant case, individual, and/or charge-level data in the possession or control of Sacramento District Attorney’s Office for all cases considered for prosecution and/or prosecuted during the time-period 2015 to Present:

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
 - 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 address each of your numbered requests individually:

1. This office prosecutes more than 20,000 cases per year. As such, your request encompasses more than 140,000 individual criminal cases. We do not keep or maintain an index that identifies any of the information you seek in request 1.a.- d. The CPRA applies to existing records and does not require a public agency to create a record that does not exist. (Gov't Code section 6252(e) and (f).) With regard to 1.a. – c., we could conduct a search of our computerized case management system and create a spreadsheet that would include the defendant(s)' name(s), court case number, and arresting agency case number. Under the PRA, the requester is responsible for paying the costs associated with preparing the computer inquiry to retrieve the data. California Government Code § 6253.9. If you are interested in pursuing this matter, please advise me, and I will ask our IT section to prepare an estimate of the amount of programming time required. Once we have the estimate, you would be responsible for paying that cost before we proceed. After the data is assembled, if it took less computer programming time than had been estimated, you would receive a refund; if it took more time, then you would be required to pay the balance before receiving the data. With regard to 1.d., you do not define “unique identifier.” This phrase could include private information such as social security numbers, Criminal Identification Index numbers, drivers license numbers, or other information that if released, the public interest served by not disclosing these items outweighs the public interest served by disclosing them. (Government Code section 6255.) Further, the release of such information may be prohibited from such release to the general public by other state and federal law. (Government Code section 6254(k).) As such, any computer search would not include any “unique identifier” other than a defendant's name and local identifier (“xref” number) which are set forth in our criminal complaints and informations filed with the court as public documents.

2. For request 2.a. – f., we do not keep or maintain an index that identifies any of the information you seek, nor is the information maintained by this office in our computerized case management system. While the information may exist to some extent within our physical case files, this

request would require us to hand search more than 140,000 individual case files to retrieve all such information that may exist. Such a request is unduly burdensome, something not required under the CPRA. Even if such a search was conducted, Government Code section 6254(f) exempts from CPRA disclosure records of complaints to or investigations conducted by any local police agency, investigatory files compiled by any local police agency, and investigatory files compiled by any other local agency for law enforcement or licensing purposes. Under the California Constitution and by statute, the District Attorney is vested with broad authority to investigate violations of the law, and prosecute such matters in criminal, civil, or administrative actions, as may be appropriate. The District Attorney's employees include peace officers, attorneys, and other staff who perform such investigations. There can be no question that the District Attorney's Office is a local agency that conducts police or law enforcement investigations and has complaints and investigatory files within the meaning of section 6254(f). Case law supports this conclusion. (See *Rivero v. Superior Court* (1997) 54 Cal.App.4th 1048; *Rackaucas v. Superior Court* (2012) 104 Cal.App.4th 169; *Fagan v. Superior Court* (2003) 111 Cal.App.4th 607; *County of Los Angeles v. Superior Court* (2005) 130 Cal.App.4th 1099.) This exemption applies not only to documents generated by the agency, but also to records gathered from victims, witnesses, and others. (See *Haynie v. Superior Court* (2001) 26 Cal.4th 1061.) This exemption continues to apply even if the case is complete, and the investigation closed. (See *Rivero v. Superior Court* (1997) 54 Cal.App.4th 1048; *Williams v. Superior Court* (1993) 5 Cal.4th 337.) To the extent that we may be in possession of some of the materials you seek, such materials are part of our investigatory files and are thus exempt from production under the CPRA.

Further, you specifically ask for "prior criminal convictions" of all defendants without limitation. To the extent that a prior conviction was charged on a complaint or information, the computerized search of our case management system would include the information about the filed prior convictions but would not include any prior conviction not charged. Not only would the non-charged prior convictions be exempt from CPRA production under Government Code section 6254(f) because they would come from our investigatory files, your request constitutes an undue burden as it would require a hand search of more than 140,000 criminal case files. Also, this request - as phrased - would require us to make public the entire criminal history without limitation of all persons who were charged over a seven-year period, and the information would come from documents restricted from public dissemination by other laws within the meaning of Government Code section 6254(k) and thus exempt from production. (*Westbrook v. County of Los Angeles* (1994) 27 Cal.App.4th 157.) Depending on the information and its source, knowing disclosure to an unauthorized person may in fact be a crime. (Penal Code §§ 13302 – 13304.) Finally, the public interest served by not disclosing these items outweighs the public interest served by disclosing them. (Government Code section 6255.)

For request 3.a. – c., we do not keep or maintain an index that identifies any of the information you seek, nor is the information maintained by this office in our computerized case management system. The zip code and arrest date information you seek may be in the possession of the law enforcement agency that effectuated any individual arrest. As with requests 1. and 2. above, to the extent we possess zip code and arrest date information, it would require a hand search of more than 140,000 case files, including additional tens of thousands of case files for which we declined to file charges, to identify all documents relevant to this request. Such a task is unduly

burdensome, and the information would come from our investigatory files which are exempt from production under Government code section 6254(f). The same is true for the “charges identified by law enforcement.”

For request 4., by “ADA” I assume you mean the name of the Deputy District Attorney assigned to the case. A search of our computerized case management system could potentially supply this information. However, please note that it is common for a case to be assigned to multiple prosecutors throughout various stages of criminal proceedings and that number of prosecutors generally increases the longer a case takes to make its way from initial filing to its termination by trial, plea, or dismissal. Also note that our computerized case management system does not always indicate that a case was assigned to a particular prosecutor, and to thoroughly identify all assigned prosecutors to any particular case would require an unduly burdensome hand search as described above. Should you wish to proceed with a computerized search for the readily accessible records in our possession, please advise me. The payment requirements are the same as described above.

For request 5.a. – d.i. – vi., documentation regarding a decision by the District Attorney’s Office not to file criminal charges is confidential. These records are exempted from disclosure by the deliberative process privilege, and also on the ground that the public interest served by not disclosing these items outweighs the public interest served by disclosing them. (Government Code section 6255. *Times Mirror Co. v Superior Court* (1991) 53 Cal.3d 1325; *Rogers v Superior Court* (1993) 19 Cal.App.4th 469; *Wilson v. Superior Court* (1996) 51 Cal.App.4th 1136.) Moreover, records reflecting an attorney’s mental impressions, legal considerations, opinions, and conclusions are considered privileged work product. In addition, because a decision was made in a case not to file charges, no proceedings occurred in court and thus are not otherwise public. The identify of the particular prosecutor who declined to file charges would come from our investigatory files which are exempt from production pursuant to Government Code section 6254(f).

For request 6.a. – d., we do not have an index of any of this information. The only way to identify this information would be to conduct a hand search of over 140,000 cases which is unduly burdensome, and the contents of those files are exempt from production pursuant to Government Code section 6254(f).

For request 7.a. – c., this information would be provided to you should you elect to pursue the computerized case management system search as described above. For request 7.d., we do not have an index identifying the “maximum sentence” of any particular case, nor is that calculation stored in our computerized case management system. Should you proceed with the search described above, you would have the necessary information to calculate the maximum sentence for any one of, or all of, the cases. Also, you would need to identify at what stage of the proceedings you are seeking the charges. Charges are sometimes amended as a case progresses. In felony cases charges are initially filed via complaint. Following a preliminary hearing or indictment, charges are filed by information or indictment. When requesting “charges filed,” you would need to specify whether you mean by the initial charging document, what the charges were at the time of resolution, or all charges at any stage of the proceedings.

For request 8.a. – e., we do not have an index of this information nor is it stored in our computerized case management system. Further, documentation regarding a filing decision by the District Attorney’s Office is confidential. These records are exempted from disclosure by the deliberative process privilege, and also on the ground that the public interest served by not disclosing these items outweighs the public interest served by disclosing them. (Government Code section 6255. *Times Mirror Co. v Superior Court* (1991) 53 Cal.3d 1325; *Rogers v Superior Court* (1993) 19 Cal.App.4th 469; *Wilson v. Superior Court* (1996) 51 Cal.App.4th 1136.) Moreover, records reflecting an attorney’s mental impressions, legal considerations, opinions, and conclusions are considered privileged work product.

For request 9.a. – e., we do not have an index of this information. I note that this request is extremely vague and broad. For example, by “bail amount requested” do you mean the law enforcement agency, the probation department, the District Attorney’s office, or the defendant? I do not understand what is meant by “detention orders sought” as that could include a Governor’s Warrant, a writ to obtain a federal prisoner for appearance in state court, an order setting bail, or a material witness hold. “Whether bail was set or denied” is vague in that orders setting bail commonly are revisited as a case makes its way through the court process and bail can be set, revoked, or modified during the pendency of a case; the same is true for “whether individuals were released on bail or not” and “pre-plea/pre-trial custody status. That said, the information you seek would come from over 140,000 of our investigatory files and to obtain the information is not only unduly burdensome but would retrieve records exempt from production pursuant to Government Code section 6254(f).

For request 10.a. – d., this request is also vague and broad. As cases progress through the court process, plea offers are commonly revised upward and/or downward with respect to both sentence, charge, and disposition specifics in general. We do not have an index of this information. The information you seek would come from over 140,000 of our investigatory files and to obtain the information is not only unduly burdensome but would retrieve records exempt from production pursuant to Government Code section 6254(f).

For request 11.a. – c., we do not have an index of this information. It would come from our investigatory files which are exempt from production pursuant to Government Code section 6254(f).

For request 12., we do not have an index of this information. I note that is not uncommon for a defendant to have multiple defense attorneys either assigned or retained, or a combination of both, throughout the pendency of his or her case. To identify any or all counsel would require a search of over 140,000 of our investigatory files, and to obtain the information is not only unduly burdensome but would retrieve records exempt from production pursuant to Government Code section 6254(f).

For request 13.a. – c., we do not have an index of this information. Further, to identify this information would require a search of over 140,000 of our investigatory files, which is not only unduly burdensome, but would retrieve records exempt from production pursuant to Government Code section 6254(f).

For requests 14. And 15., this information would come from our investigatory files which are exempt from CPRA production pursuant to Government Code section 6254(f). That said, our practice is to make public many of our documents relating to these requests. These documents can be found at these links: <https://www.sacda.org/early-prison-releases/early-prison-releases-opposition-letters/> and <https://www.sacda.org/early-prison-releases/early-prison-releases-by-cdcr/>.

Sincerely,

ANNE MARIE SCHUBERT
DISTRICT ATTORNEY

A handwritten signature in black ink, appearing to read 'AMS', is written over a light gray rectangular background.

Richard Miller
Assistant Chief Deputy District Attorney