



OFFICE OF THE
DISTRICT ATTORNEY
ORANGE COUNTY, CALIFORNIA
TODD SPITZER

Via Email Transmission: praresponse@braunhagey.com

March 14, 2022

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

Dear Ms. Leonida,

I am the designated representative of the Orange County District Attorney's Office ("OCDA") assigned to handle your California Public Records Act (Gov. Code § 6250 et.seq.) request (the "Request") that is dated February 18, 2022, and that I previously replied to on March 1, 2022. In compliance with Government Code § 6253, this letter constitutes our formal response, which is made within that statutorily required time, to your public record demand. In the Request, you also reference a July 23, 2021 Public Records Act request to this office, that I replied to on August 19, 2021. Please find below your request and our response to the request:

Request No. 1: "This CPRA letter is a further request for the following records regarding relevant case, individual, and/or charge-level data in the possession or control of Orange County 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

REPLY TO: ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE

WEB PAGE: <http://orangecountyda.org/>

☒ MAIN OFFICE
300 N. FLOWER ST.
SANTA ANA, CA 92703
PO. BOX 808 (92702)
(714) 834-3600

☐ NORTH OFFICE
1275 N. BERKELEY AVE.
FULLERTON, CA 92832
(714) 773-4480

☐ WEST OFFICE
8141 13TH STREET
WESTMINSTER, CA 92683
(714) 896-7261

☐ HARBOR OFFICE
4601 JAMBOREE RD.
NEWPORT BEACH, CA 92660
(949) 476-4650

☐ JUVENILE OFFICE
341 CITY DRIVE SOUTH
ORANGE, CA 92668
(714) 935-7624

☐ CENTRAL OFFICE
300 N. FLOWER ST.
SANTA ANA, CA 92703
PO. BOX 808 (92702)
(714) 834-3952

- 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

Response: In this request, you have requested more than 7 years of records of prosecution data of all infraction, misdemeanor, and felony charges from this agency under the California Public Records Act.

Your request calls for a compilation of information not existing within the Orange County District Attorney's Office. The Public Records Act applies to existing records and does not require a public agency to create a record that does not exist. (Gov. Code § 6252 (e) and (f); *Sander v. State Bar of California* (2013) 58 Cal. 4th 300.)

Your request is overbroad and unduly burdensome. "[A] request which compels the production of a huge volume of material may be objectionable as unduly burdensome." (*California First Amendment Coal. v. Superior Court* (1998) 67 Cal.App.4th 159) Additionally, any compilation of the requested data is unreasonable in light of the volume of the requested data, programming needed to extract it and the public interest served by disclosure of such records. The term "public interest" encompasses "public concern and the cost and efficiency of government." (*North County Parents Org. v. Dep't of Education* (1994) 23 Cal.App.4th 144, 152; *County of Los Angeles v. Superior Court* (1993) 18 Cal.App.4th 588, 600-601; *Bertoli v. City of Sebastopol* (2015) 233 Cal.App.4th 353.) The Public Records Act is to be interpreted through the lens of reasonableness noting the "press of business of public agencies, particularly in these difficult fiscal times." (*Fredericks v. Superior Court* (2015) 233 Cal.App.4th 209, 229.)

In an effort to assist you in making a focused and effective request under the Public Records Act, if there is a specific record you would like to inspect or have produced to you, you may send the request to the following address: 300 North Flower St. Santa Ana, CA 92703 or media@da.ocgov.com. Requests for the inspection or production of records under the Public Records Act are processed in the ordinary course of business and disclosable records are available for inspection and production as required by law.

In conclusion, the OCDA claims for its records, such as might exist, all applicable exemptions from the California Public Records Act disclosure. In maintaining the lawful confidentiality of these records, the OCDA claims, enforces, and applies all applicable exemptions, privileges, and proscriptions against public disclosure or records, including but not limited to, those listed in Article 2 of Government Code, Title 1, Division 7, Chapter 3.5, the California Evidence and Penal Codes, and the Federal Rules of Evidence.

While we have set forth our reasons for our denials, we reserve the right to present additional theories, and authority for non-disclosure in the future.

Sincerely,

Johanna Kim

Johanna Kim
Sr. Deputy District Attorney
Special Prosecutions Unit