

From: [Kouba, Grace](#)
To: [Josh Wilner](#)
Cc: [PRA Response](#)
Subject: RE: California Public Records Act Request
Date: Tuesday, September 27, 2022 3:04:02 PM
Attachments: [image001.png](#)

***** EXTERNAL MESSAGE *****

Dear Mr. Wilner,

Apologies for the delay in response. As I stated in my last email this past April, the raw data underlying the Race and Prosecutions reports is protected from disclosure as criminal offender record information under Penal Code sections 13102 and 13300. However, the DA's Office may be able to provide aggregate/statistical data if there are items that would be helpful to the ACLU but that were not included in the reports. This type of aggregate/statistical data is releasable under Penal Code section 13300(h), which allows release of statistical information so long as that information does not reveal the identity of the subject of the records in question. (See Penal Code, § 13300(h) ["It is not a violation of the article to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the records is not disclosed"].) Such aggregate/statistical information would include things like the percentage of defendants who are of a certain race, or the total number of defendants charged with a certain crime who were female, or other similar aggregate data elements.

It would not, however, include a dataset of the information sought in the ACLU's CPRA request minus names/identifiers, because such a dataset would pose a risk that individual defendants may be reidentified. Please note that anything released under the CPRA becomes public forever to anyone who requests it. The DA's Office is committed to transparency, but it is also committed to its duty to protect the privacy rights of those who come before the criminal justice system, and releasing large swaths of potentially re-identifiable data puts those privacy rights at risk. We expect that the ACLU, as a civil liberties advocate, will share our concerns about releasing data that could be reidentified and thereby infringe on the privacy rights of our County's residents and others involved in the criminal justice system.

That said, the DA's Office would like to assist the ACLU to the extent it is able. If there are specific items of aggregate/statistical data that would be helpful to the ACLU, please let me know. Assuming the DA's Office tracks the requested data elements in a format such that they are extractible through a data pull, and assuming they are not otherwise exempt from disclosure, the DA's Office would be happy to provide them. If you provide me with the particular data elements you would be seeking, I can take them to the DA's Office to determine whether those data elements are tracked in an extractible format. Please note that this data pull would be subject to costs under Gov. Code section 6253.9(b)(2); once we have determined which data elements are available for extraction, I can provide you with a cost estimate.

Please let me know if you have any questions. I would be happy to discuss over the phone if that would be helpful.

Thank you,
Grace



Grace Kouba | Deputy County Counsel
Office of the County Counsel, County of Santa Clara
70 West Hedding Street, East Wing, 9th Floor | San José, CA 95110
Office: (408) 299-6939 | Facsimile: (408) 292-7240
Pronouns: she/her/hers
grace.kouba@cco.sccgov.org | counsel.sccgov.org

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From: Josh Wilner <Wilner@braunhagey.com>
Sent: Friday, September 16, 2022 9:57 AM
To: Kouba, Grace <grace.kouba@cco.sccgov.org>
Cc: PRA Response <praresponse@braunhagey.com>
Subject: [EXTERNAL] Re: California Public Records Act Request

Ms. Kouba,

Please see the request for clarification below.

Regards,

Joshua Wilner
BRAUNHAGEY & BORDEN LLP

San Francisco

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

Tel: (415) 599-0210

New York

7 Times Square

27th Floor

New York, NY 10036-6524

Tel: (646) 829-9403

From: Josh Wilner <Wilner@braunhagey.com>
Sent: Friday, September 2, 2022 3:07 PM
To: Kouba, Grace <grace.kouba@cco.sccgov.org>
Cc: PRA Response <praresponse@braunhagey.com>
Subject: Re: California Public Records Act Request

Ms. Kouba,

I apologize for the delayed response. Our office is interested in obtaining all of the data we requested but we are willing to have the names and unique identifying information redacted to prevent the disclosure of summary criminal history information. Please let us know your position on this and if anything else would prevent the disclosure of this data. I am available tomorrow to speak on the phone, if that would be helpful.

Thank you.

Regards,

Joshua Wilner

BRAUNHAGEY & BORDEN LLP

San Francisco

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

Tel: (415) 599-0210

New York

7 Times Square

27th Floor

New York, NY 10036-6524

Tel: (646) 829-9403

From: Kouba, Grace <grace.kouba@cco.sccgov.org>
Sent: Friday, April 1, 2022 3:45 PM
To: Josh Wilner <Wilner@braunhagey.com>
Cc: PRA Response <praresponse@braunhagey.com>
Subject: RE: California Public Records Act Request

***** EXTERNAL MESSAGE *****

Dear Mr. Wilner,

Thank you for your email. I am glad to hear that the Race and Prosecutions reports will be helpful to the ACLU. As to your request for the raw data underlying the Race and Prosecutions reports, that information is protected from disclosure as criminal offender record information under Penal Code sections 13102 and 13300, so the DA's Office will be unable to provide it. If it would be useful, the DA's Office may be able to provide items of aggregate/statistical data that were not included in the reports. Please let me know if the ACLU would be interested in this type of aggregate/statistical data and, if so, which data elements they would be seeking.

Thank you,



Grace Kouba | Deputy County Counsel
Office of the County Counsel, County of Santa Clara
70 West Hedding Street, East Wing, 9th Floor | San José, CA 95110
Office: (408) 299-6939 | Facsimile: (408) 292-7240
Pronouns: she/her/hers
grace.kouba@cco.sccgov.org | counsel.sccgov.org

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From: Josh Wilner <Wilner@braunhagey.com>
Sent: Tuesday, March 29, 2022 10:32 AM
To: Kouba, Grace <grace.kouba@cco.sccgov.org>
Cc: PRA Response <praresponse@braunhagey.com>
Subject: [EXTERNAL] California Public Records Act Request

Ms. Kouba,

Thank you for reaching out to Ellen Leonida regarding our California Public Records Act Request. We spoke with the ACLU and they indicated that your annual Race and Prosecutions reports satisfy much of our request. That said, it would greatly further our aim to enforce the Racial Justice Act to have the raw data underlying the reports. Would it be possible to speak with you about obtaining this data? If, so please let us know times you are available to speak with us next week.

Thank you, again, for your assistance with our request.

Regards,

Joshua Wilner

BRAUNHAGEY & BORDEN LLP

San Francisco

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

Tel: (415) 599-0210

New York

7 Times Square

27th Floor

New York, NY 10036-6524

Tel: (646) 829-9403