



November 7, 2022

Via Email: leonida@braunhagey.com

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

Re: Public Records Act Request – Racial Justice Act (2)

Dear Ms. Leonida:

The County of Madera (the “County”) hereby supplements its response dated October 5, 2022, to your Public Records Act (“PRA”) request which seeks records related to the implementation of the Racial Justice Act and certain charge-level data for cases considered for prosecution from 2015 to present. The County is in receipt of your correspondence dated October 28, 2022, and November 7, 2022.

On October 5, 2022, the County informed you that the County would not produce certain information fields (name, case number, date of birth, prior criminal history, etc.) that would identify individuals and their criminal history, which is criminal offender record information (also referred to as “local summary criminal history information”) that cannot be produced pursuant to Penal Code sections 13300-13305. However, the D.A.’s Office is able to provide statistical or research information, “provided that the identity of the subject of the record is not disclosed.” Penal Code § 13300(h).

Your request for the name and other details of every defendant charged or convicted by the District Attorney is similar to the request for court data in *Westbrook v. County of Los Angeles*, 37 Cal. App. 4th 157 (1994), where the Court of Appeal held that the requestor was not entitled to the data under Penal Code section 13300. In addition to the statutory prohibition under section 13300, the court also held that “[t]he state constitutional right of privacy extends to protect defendants from unauthorized disclosure of criminal history records.” *Id.* at 165. According to the court, the individuals’ right to privacy outweighed the public’s right to know what goes on in the court system. (*Id.* at 166).

The same is true as to the databases maintained by the District Attorney. See 89 Ops. Cal. Atty. Gen. 204 (2006). There are important privacy reasons to not allow the public to have access to every person's criminal history information in a single place. Section 13302 does not open the door beyond what is already "publicly disclosable." That section merely means that other public records that aren't covered by Section 13300 are still subject to disclosure. See, e.g., *Weaver v. Superior Court*, 224 Cal. App. 4th 746, 751 (2014). However, the data sought by the ACLU comes from "the master record of information compiled by any local criminal justice agency ... pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, dates of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about the person." Penal Code § 13300(a)(1). If anyone could circumvent Section 13300 by simply submitting a PRA request to obtain the D.A.'s database information, then the privacy interest of anyone charged or convicted in Madera County would be nullified.

Given this, such information was redacted from the records produced in response to your request, on October 18, 2021. On January 18, 2022, you requested that records be produced in excel format. In order to maintain the integrity of the redactions within the records, and in order to produce the records in the requested excel format the information previously produced in PDF document was left blank. Absent the redacted information, all records have been produced to date.

As such, the County continues to assert the same exemptions as per our responses to you on October 18, 2021 and February 7, 2022 for the redactions made to the records produced. (See Gov. Code, § 6253, subd. (a) ["Any reasonably segregable portion of a record shall be available for inspection by any person requesting the record after deletion of the portions that are exempted by law."].)

Sincerely,

/s/ Nisha Dale

Nisha K. Dale
Deputy County Counsel

NKD/mc