



OFFICE OF THE
DISTRICT ATTORNEY
EL DORADO COUNTY, CALIFORNIA

VERN PIERSON, DISTRICT ATTORNEY

November 10, 2022

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

RE: PRA Request – ACLU July 2021

Dear Ms. Leonida,

We are writing to you in response to your Public Records Act request dated July 23, 2021 (and your recent two letters dated October 3 and November 2, 2022). In your July 23, 2021 PRA Request you seek information from as far back as 2015 relating to four separate categories of records:

1. Any and all written policies, memoranda, or guidance documents regarding a variety of topics including: (a) diversion eligibility/ programming; (b) custody/bail recommendations; (c) charging recommendations/decision including enhancements, special circumstances and wobblers; (d) *Brady v. Maryland* compliance; (e) jury selection; (f) sentencing recommendations; (g) prosecuting minors; (h) parole recommendations; (i) pardons/commutation recommendation; (j) reports to state bar relating to discipline/misconduct; (k) data collection (including demographics of defendant/victim); and (l) referral of cases for federal prosecution.
2. Any and all policies regarding training as well as any training materials, recorded trainings, or related materials: (a) which are mandatory; (b) which are optional; (c) which relate to jury selection; (d) which relate to bias, or implicit/unconscious bias, and or racism; (e) which relate to social media evidence presentation and use.
3. Records concerning the Racial Justice Act, including: Implementation of and compliance with the RJA; Communications concerning the RJA; or Trainings related to the RJA.
4. All investigations into Batson-Wheeler motions, including, but not limited to: Motions filed; Motions granted; internal training and/or discipline; or Reports to the State Bar relating to any Batson-Wheeler motions made and granted.

PLEASE REPLY TO:

** 778 Pacific Street
Placerville, CA. 95667
(530) 621-6472
Fax (530) 621-1280

1360 Johnson Blvd. Ste. 105
South Lake Tahoe, CA 96151
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Our original response in September 27, 2021 asserted a variety of objections and exemptions to the requested documents, and also noted that we did not have any documents responsive to Category 3 (Racial Justice Act Records) and 4 (Batson-Wheeler Records). On January 18,

2022, you followed up only concerning Category 1 (Policy and Guidance Records) and 2 (Training Records). Then on February 10, 2022, you sent another PRA which we interpreted as an attempt to further clarify your July 2021 PRA – stating that you were still seeking Category 3 Racial Justice Act Documents, and also seeking new 15 categories of documents. Once again, we responded on February 28, 2022 stating we did not have any responsive Category 3 Racial Justice Act records. Then, on March 25, 2022, you sent us a letter ONLY seeking Category 3 and 4 documents. (Which we had already told you twice we did not have.) We told you once again we did not have responsive records to Category 3 and 4 in our response on April, 8 2022. Then, you sent a letter on April 12, 2022 which appeared to ignore the 5 prior letters sent back and forth between our offices, once again requesting Category 3 and 4 documents – but, then also reengaged your discussion and request for the Category 1 and 2 documents.

In our June 3 2022 PRA response to your April 12, 2022 letter, we reconsidered our prior response to Category 1 and 2 requests, and decided even if we assert that they are confidential and/or excluded records, we would waive that privilege as to these documents and turn over the following:

- Category 1 responsive records: the “Legal and Case Prosecution Manual” which is the only policy manual we have for our office; and also,
- Category 2 responsive records: the only tracked internal trainings materials we had regarding the requested PRA training records we had conducted internally in our office.

In our response, we also told you that we did have other Category 2 responsive external training or reference material (CDAA type training/reference manuals). Even though we still assert that this material is confidential and excluded from public records, we have decided to waive that that privilege as to these documents and turn them over. As we mentioned in footnote 4 in our June 3, 2022 response, if you are seeking copies of these external reference and training manuals please let us know. We did get an estimate for the cost to copy the external training materials. Its approximately \$1,000 per attorney and we have 23 attorneys in our office. If these external training materials and reference manuals are something you want please let us know and understand the cost would be approximately \$23,000.

As you have threatened litigation in your last two letters, we think it best to conduct all further communication with El Dorado County Counsel Roger Runkle (530) 621-5770.

Very truly yours,
VERN PIERSON



District Attorney
JAMES A. CLINCHARD
Assistant District Attorney

Cc Roger Runkle