



Office of the District Attorney Alameda County

Nancy E. O'Malley
District Attorney
alcoda.org

December 28, 2022

Ellen Leonida
BraunHagey & Borden LLP
Via email: praresponse@braunhagey.com

RE: Your CPRA request dated February 10, 2022

Dear Ellen Leonida:

We are further writing in response to your California Public Records Act (CPRA) request of February 10, 2022. You requested "records regarding relevant case, individual, and/or charge-level data in the possession or control of the Alameda County District Attorney's Office for all cases considered for prosecution and/or prosecuted during the time period 2015 to present." Your request covered fifteen areas of inquiry, most with numerous subsections. On March 4, 2022, we provided a detailed letter responding to each request. On April 22, 2022, we provided statistical data and nonexempt responsive documents in response to items 14 and 15 of your request. We have corresponded with you on multiple dates between then and now including May 20, 2022, July 29, 2022, September 30, 2022, and November 30, 2022, letting you know we were still making progress on the remainder of your request.

On December 6, 2022, we received a letter from Kory DeClark of your office asking for some clarification with regard to our previous correspondence. Based on the context of the questions, we are presuming his December 6 letter refers to our letter dated March 4, 2022. In his letter he questioned our response regarding whether we tracked certain information. Our March 4, 2022 letter clearly responds to each of your areas of inquiry with information accurate as of that date. Regarding Mr. DeClark's specific inquiry regarding case outcomes, our current case management system does not track case outcomes. That information can be pulled from the court, but it is not our data, nor is it stored by us. We do not independently enter this information into our own system.

With this final letter we are providing an enormous amount of data responsive to the outstanding requests. This data reflects the requested time period of 2015 to February 10, 2022, the date we received your request. The data is pulled based on the police report review date. As you can see, portions of the spreadsheet have over 400,000 lines of data. To add clarity to our production, we have described our responses below.

- Item No.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)

Response to Item No. 1: We provided the names of charged defendants along with their Court case numbers in the spreadsheet tab entitled *Charged Cases*. Agency report numbers are shown in the spreadsheet tabs *Police Report* and *Victim*. Each of the spreadsheet tabs in the Excel workbook contains unique identifiers. The spreadsheet tab entitled *Legends & Notes* defines these unique identifiers.

Item No. 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

Response to Item No. 2: We provided defendants' race, gender/sex, and date of birth in the spreadsheet tab entitled *Police Report*. This data is not generated or input by our office but is pulled from the court. Because we collect and store this data, we are providing it. As referenced in our letter dated March 4, 2022, we do not track ethnicity, country of origin, or nationality. Further, we cannot disclose criminal history information; it is exempt from disclosure pursuant to Government Code section 6254(k), Penal Code sections 11076, 11105, and 13300.

Item No. 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)

Response to Item No. 3: We provided a spreadsheet tab entitled *Booking*. As referenced in our letter dated March 4, 2022, we do not track the zip code of arrests. Regarding dates of arrest, we only have data starting mid-2016. Note that arrest dates might reflect an arrest on scene, arrest pursuant to a warrant, a booking date, or numerous other scenarios. Regarding charges identified by referring law enforcement agencies, we only have data starting mid-2016 for booked suspects. We do not have data for cases presented to the Office that are uncharged and the defendant was not booked.

Item No. 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.

Response to Item No. 5: Please refer to the spreadsheet tab entitled *Police Report* for cases where this office declined to file criminal charges. The word "Rejected" in the column labeled "Charge Decision" indicates this office declined to file criminal charges. Please refer to the column "Review Date" for date of declination to prosecute. We withheld the identities of our staff members who made the final decisions pursuant to Government Code section 6255 and Evidence Code section 1040. As referenced in our letter dated March 4, 2022, we do not itemize "declinations." Additionally, a prosecutor's reasons for declining to prosecute are exempt from disclosure pursuant to Government Code sections 6254(f), 6254(k), and 6255, the attorney work product privilege, and the deliberative process privilege.

Item No. 7: Charges filed

- a. Statutes (applicable code section)
- b. Severity (i.e., infraction, misdemeanor, wobbler, felony)
- c. Any enhancements
- d. Maximum sentence

Response to Item No. 7: For statutes, severity, and enhancements, please refer to the spreadsheet tab entitled *Charged Cases*. Note that some of the charged cases fall outside the requested time frame. These cases were reviewed within the requested time frame, but they were not charged until much later.

As referenced in our letter dated March 4, 2022, we do not track maximum sentence.

Item No. 13: Demographic and other information concerning victims

- a. Race
- b. Ethnicity
- c. Gender/sex

Response to Item No. 13: We provided a spreadsheet tab entitled *Victims*. Please note, our records are incomplete. We only have victims' race and gender/sex data if a staff member entered the information into our database.

The data we provided in response to items 1, 2, 3, 5, 7, and 13 of your request reflects the data in our system. This data is complex and sometimes requires special knowledge to interpret. Since 2015 we have had three different data management systems and have accordingly suffered growing pains. The systems were built for individual case management and need to be specially programmed for the intensive data collection and reports you have requested. We have found errors and complexities within our own data and expect more errors to surface as we work with the data. I will explain two major complexities you should be aware of below.

First, in some instances you will note in the *Charged Cases* spreadsheet tab that some of the cases are shown as “pending” case numbers. Some of these “pending” cases are duplicative with a charged case and/or a result of data entry error. You will be able to discern this duplication with the Criminal Event Number (“CEN”). A “pending” case and charged case pertaining to the same defendant and police report number have the same CEN.

Second, until mid-2016, felony cases had lower court and upper court case numbers. After a defendant was held to answer or pled guilty and was certified for sentencing, the lower court case number was converted to an upper court case number. As a result, some cases are duplicated but have different docket numbers. You will be able to discern this duplication by referring to the CEN. The lower and upper court case numbers on a matter have the same CEN. Case numbers are not a distinct reference number.

There are certainly more complexities with the data than those we listed. The data is not static. We continue to update our information. We hope the records and clarifications we provided meet your needs. This letter and the attached data concludes your CPRA request of February 10, 2022. We thank you again for your patience and cooperation.

Very truly yours,

NANCY E. O’MALLEY
District Attorney

By:

/s/ *Catherine H. Kobal*

Catherine H. Kobal, Assistant District Attorney
Custodian of the Record

Enclosure

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