

From: [Heller, Shana](#)
To: [Kory DeClark](#)
Cc: [Josh Wilner](#)
Subject: RE: Request for Aggregate Data 11.30.22
Date: Tuesday, February 28, 2023 3:12:28 PM
Attachments: [image001.png](#)
[CPRA Request - Tables - Race-Gender Breakdown and Percentage Breakdown by Requested Charge Per Year.xlsx](#)

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

Dear Mr. DeClark,

I write in response to your firm's November 30, 2022 California Public Records Act request to the County of Santa Clara, which sought certain data elements regarding 31 offenses from the last five years. The scope of the request and the data elements were clarified in the below correspondence between my former colleague, Grace Kouba, and your colleague Josh Wilner.

Attached is a spreadsheet with the responsive data. Please note that the District Attorney's Office has included one tab for percentages and one for aggregate numbers. Please also note the following:

- Mr. Wilner requested data regarding both Penal Code 236.1(c)(1) and Penal Code 236.1(c)(2). However, the District Attorney's Office only tracks data for Penal Code 236.1(c), and therefore has included data related to Penal Code 236.1(c) instead.
- Mr. Wilner requested data regarding Health and Safety Code 11357(b). However, the District Attorney's Office tracks data for Health and Safety Code 11357(b)(1) and Health and Safety Code 11357(b)(2) separately, and therefore has provided data regarding those two offenses separately.

This production completes the District Attorney's Office's response to your request.

Thank you,
Shana



Shana Heller | 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) 299-5949
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From: Heller, Shana <shana.heller@cco.sccgov.org>
Sent: Monday, January 30, 2023 9:39 AM
To: Josh Wilner <Wilner@braunhagey.com>

Cc: PRA Response <praresponse@braunhagey.com>; Kory DeClark <declark@braunhagey.com>

Subject: RE: Request for Aggregate Data 11.30.22

Hi Josh,

Thank you for the clarification. The DA's Office will proceed with fulfilling the request.

Regards,

Shana



Shana Heller | Deputy County Counsel

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From: Josh Wilner <Wilner@braunhagey.com>

Sent: Saturday, January 28, 2023 2:11 PM

To: Heller, Shana <shana.heller@cco.sccgov.org>

Cc: PRA Response <praresponse@braunhagey.com>; Kory DeClark <declark@braunhagey.com>

Subject: [EXTERNAL] Re: Request for Aggregate Data 11.30.22

Hi Shana,

We would like the data to be broken down by calendar year, extending through January 1, 2023.

I'm cc'ing Kory DeClark, who will be handling your requests going forward. Thanks so much.

From: Heller, Shana <shana.heller@cco.sccgov.org>

Sent: Wednesday, January 25, 2023 3:45 PM

To: Josh Wilner <Wilner@braunhagey.com>

Cc: PRA Response <praresponse@braunhagey.com>

Subject: RE: Request for Aggregate Data 11.30.22

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

Dear Mr. Wilner,

I'm writing in response to your November 30, 2022 CPRA request sent to the County of Santa Clara DA's Office. You had previously been in touch with my colleague Grace Kouba, who is no longer with our office. The DA's Office has received and cashed the check. As they proceed to pull the data, we had a couple of clarifying questions:

- You seek data for 5 years. Would you like that data broken down by year? Or would you like the percentages covering the entire 5-year period?
- Now that we are in 2023, would you like data for January 1, 2018 – January 1, 2023 (and if broken down by year, each calendar year)? Or, would you like data based on the date of your request, i.e., for November 30, 2017 – November 30, 2022 (and if broken down by year, 11/30/2017-11/30-2018, etc.)?

The DA's Office will proceed with pulling the data once we hear from you. They estimate that it will

take around 3 to 4 weeks to compile the data.

Regards,

Shana



Shana Heller | Deputy County Counsel

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From: Kouba, Grace <grace.kouba@cco.sccgov.org>

Sent: Wednesday, December 7, 2022 3:56 PM

To: Josh Wilner <Wilner@braunhagey.com>

Cc: PRA Response <praresponse@braunhagey.com>

Subject: RE: Request for Aggregate Data 11.30.22

Dear Mr. Wilner,

I write in further response to your November 30, 2022 CPRA request sent to the County of Santa Clara DA's Office. As clarified on December 5, 2022, your request seeks the following data elements for a list of 31 offenses identified in your original November 30 email:

"We would like data from the last 5 years. We request percentage of defendants charged for each offense, broken up by race, ethnicity, and national origin. Please then break up each grouping by disposition (sentence, etc.) and gender."

The DA's Office does not track defendants' national origin or case dispositions in a queryable format, so aggregate/statistical data for those elements will not be available. Further, please note that the DA's Office tracks defendants' race and ethnicity together as a single category (entitled "Race/Ethnicity").

The DA's Office is able to conduct a data pull to provide a percentage breakdown, by race/ethnicity, of all defendants charged with the 31 identified offenses over the last five years. The DA's Office is further able to provide a percentage breakdown, by gender, of each of those race/ethnicity percentage groups. The cost of this task pursuant to Government Code section 6253.9(b)(2) is \$224.44. The DA's Office will generate this information after receiving payment. Please follow the below payment instructions to ensure smooth processing of your request:

1. Make payment in the amount indicated above payable to: County of Santa Clara
2. Send payment and a copy of this email to: 70 West Hedding Street, West Wing, San Jose, CA 95110, Attention: Angela Bernhard

Please let me know if you have any questions.

Thank you.



Grace Kouba | Deputy County Counsel

Office of the County Counsel, County of Santa Clara

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attached documents from your system.

From: Josh Wilner <Wilner@braunhagey.com>
Sent: Monday, December 5, 2022 2:23 PM
To: Kouba, Grace <grace.kouba@cco.sccgov.org>
Cc: PRA Response <praresponse@braunhagey.com>
Subject: [EXTERNAL] Re: Request for Aggregate Data 11.30.22

Hi Grace,

We would like data from the last 5 years. We request percentage of defendants charged for each offense, broken up by race, ethnicity, and national origin. Please then break up each grouping by disposition (sentence, etc.) and gender.

Let me know if you have any questions.

Regards,

Joshua Wilner

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7 Times Square

27th Floor

New York, NY 10036-6524

Tel: (646) 829-9403

From: Kouba, Grace <grace.kouba@cco.sccgov.org>
Sent: Thursday, December 1, 2022 10:50 AM
To: Josh Wilner <Wilner@braunhagey.com>
Cc: PRA Response <praresponse@braunhagey.com>
Subject: RE: Request for Aggregate Data 11.30.22

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

Dear Mr. Wilner,

I write in response to your November 30, 2022 email, which the County will treat as a request under the California Public Records Act. Can you please clarify which specific data elements you are seeking with respect to the charges listed in your email? For example, aggregate data could include the total number of people charged with each of these crimes over a certain time period, or the percentage of defendants charged with each crime who are of a certain gender or race, or other such aggregate/statistical figures. Once I know which aggregate data elements you are seeking, I will be

able to consult with the DA's Office to determine whether those elements are tracked in a queryable format, whether any privileges or exemptions apply, and what the cost estimate will be for the data extraction/compilation pursuant to Government Code section 6253.9(b)(2).

Thank you, and please let me know if you have any questions.



Grace Kouba | Deputy County Counsel

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From: Josh Wilner <Wilner@braunhagey.com>

Sent: Wednesday, November 30, 2022 4:09 PM

To: Kouba, Grace <grace.kouba@cco.sccgov.org>

Cc: PRA Response <praresponse@braunhagey.com>

Subject: [EXTERNAL] Request for Aggregate Data 11.30.22

Hi Grace,

We would like to request aggregate data for the charges below. Please note that we continue to assert that we are entitled to the raw data we requested in February but appreciate your offer to produce aggregate data while negotiations are ongoing. Let me know if you have any questions regarding the search. The charges are as follows:

Human Trafficking/Pimping and Pandering

PC 236.1(b)

PC 236.1(c)(1)

PC 236.1(c)(2)

PC 266h(a)

PC 266h(b)(1)

PC 266h(b)(2)

PC 266i(a)(1)

PC 266i(a)(2)

PC 266i(a)(3)

PC 266i(b)(2)

PC 653.23(a)(1)

PC 653.23(a)(2)

MJ

HS 11357(a)

HS 11357(b)

HS 11357(c)

HS 11359(b)

HS 11360(a)(2)

HS 11360(a)(3)(A)

HS 11360(a)(3)(B)

HS 11360(a)(3)(C)

HS 11360(a)(3)(D)

HS 11360(b)

False ID

VC 13004(a)

VC 13004.1(a)

Possession of a switchblade

PC 21510(a)

Pc 21510(B)

Gang Enhancements

PC 186.22(a)

Resisting arrest

PC 148(a)(1)

AWD

PC 245(a)(1)

PC 245(a)(4)

Contracting without a License

BP 7028(a).

Regards,

Joshua Wilner

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