



Northern
California

March 14, 2024

VIA ELECTRONIC MAIL ONLY

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RE: California Public Records Act Request

To the Office of the District Attorney, County of Tulare:

Pursuant to the California Public Records Act (“CPRA”)¹ and the California Constitution,² I am writing on behalf of the American Civil Liberties Union of Northern California (“ACLU”) to request records relevant to the implementation of California’s Racial Justice Act (“RJA”).

Records Requested:

1. Records sufficient to show all data elements accessible to the Office of the District Attorney, County of Tulare (the “DA”) to query case, individual, and/or charge-level data in DA databases or databases used by the DA;
2. All policy manuals, guides, instructions, and contracts for the development, management or use of DA databases or databases used by the DA;
3. Any and all contracts between the DA and Sicuro Data Analytics, LLC (“Sicuro”), including all amendments, restatements, revisions, or the like;
4. Any and all communications between the DA and Sicuro including but not limited to, memoranda, emails, and letters, to, from, or with Sicuro, including any plans for an audit of the Sicuro contract;
5. Any and all communications by representatives of the DA referencing Sicuro including but not limited to, memoranda, emails, and letters;

¹ Gov’t Code §§ 7920 *et seq.*

² Cal. Const., art. I, § 3(b)(2).

American Civil Liberties Union Foundation of Northern California

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6. All data, database, and related information submitted by the DA to Sicuro, even if those data sources are not maintained directly by the DA; and

7. Any and all finished or unfinished documents, data, analyses, memoranda, studies, maps, photographs, reports, and other written materials prepared by Sicuro.

In responding to this Request, please note that the CPRA broadly defines the term “record.” Specifically, the term includes “any writing containing information relating to the conduct of the people’s business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.”³ The CPRA defines, in turn, a “writing” as any “means of recording upon any tangible thing any form of communication or representation.”⁴ This Request therefore applies to *all* paper documents, as well as to *all* emails, videos, audio recordings, text messages, or other electronic records within the DA’s possession or control. Even if a record was created by a member of another government agency or a member of the public, it still must be produced so long as it is (or was) “used” or “retained” by the DA.⁵

As permitted by the CPRA, this Request sets forth the specific categories of information that we are seeking, rather than asks for documents by name.⁶ It is your obligation to conduct record searches based on the criteria identified herein.⁷ But should you come to believe that the present Request is overly broad, you are required to (1) offer assistance in identifying responsive records and information; (2) describe “the information technology and physical location in which the records exist;” and (3) provide “suggestions for overcoming any practical basis” that you assert as a reason to delay or deny access to the records or information sought.⁸

The CPRA requires that you respond to this Request in ten days.⁹ If you contend that an express provision of law exempts a responsive record from disclosure, either in whole or in part, you must make that determination in writing. Such a determination must specify the legal authority on which you rely and must identify both the name and title of the person(s) responsible for the determination not to disclose.¹⁰ Additionally, even if you contend that a portion of a record requested is exempt from disclosure, you still must release the non-exempt portion of that record.¹¹ Please note that the CPRA “endows” the DA with “discretionary authority to override” any of the Act’s statutory exemptions “when a dominating public

³ Gov’t Code § 7920.530(a).

⁴ *Id.* § 7920.545.

⁵ *Id.* § 7920.530(a); *see California State Univ. v. Superior Ct.*, 90 Cal. App. 4th 810, 824–25 (2001) (concluding that documents which were “unquestionably ‘used’ and/or ‘retained’ by [an agency]” were public records); *see also Cty. of Santa Clara v. Superior Ct.*, 170 Cal. App. 4th 1301, 1334 (2009) (“[W]hile section 6254.9 recognizes the availability of copyright protection for software in a proper case, it provides no statutory authority for asserting any other copyright interest.”).

⁶ Gov’t Code § 7922.530(a).

⁷ *See id.* § 7922.535; *see also Cty. of San Jose v. Superior Ct.*, 2 Cal. 5th 608, 627 (2017).

⁸ Gov’t Code § 7922.600(a).

⁹ *Id.* § 7922.535(a).

¹⁰ *Id.* § 7922; *see also id.* § 7922.540.

¹¹ *Id.* § 7922.525(b); *id.* § 7922.535(a).

interest favors disclosure.”¹²

Because this Request pertains to a matter of public concern and is made for the public interest (and not for any commercial benefit), ACLU requests a fee waiver. None of the information obtained will be sold or distributed for profit. ACLU also requests that, to the extent possible, documents be provided in electronic format. Doing so will eliminate the need to copy the materials and provides another basis for the requested fee-waiver. If, however, you are unwilling to waive costs and anticipate that costs will exceed \$50, or that the time needed to copy the records will delay their release, please contact me so that we can arrange to inspect the documents or decide which documents we wish to have copied and produced. Otherwise, please copy and send all responsive records as soon as possible, and—if necessary—on a rolling basis, to hamirali@aclunc.org or to Haazim Amirali - PRA Responses, ACLU of Northern California, 39 Drumm Street, San Francisco, CA 94111.

Thank you in advance for your assistance with this Request. We look forward to receiving your response within ten days. And once again, if you require any clarification of this Request, please let me know.

Best,



Shaila Nathu
Staff Attorney, Democracy & Civic Engagement Program
ACLU of Northern California

¹² *CBS, Inc. v. Block*, 42 Cal. 3d 646, 652 (1986); see also *Nat'l Conf. of Black Mayors v. Chico Cmty. Publ'g, Inc.*, 25 Cal. App. 5th 570, 579 (2018) (construing the CPRA's exemptions as "permissive, not mandatory—they allow nondisclosure but do not prohibit disclosure").