

MONTEREY COUNTY

OFFICE OF THE DISTRICT ATTORNEY

JEANNINE M. PACIONI, DISTRICT ATTORNEY



December 21, 2023

VIA U.S. Mail

ACLU
American Civil Liberties Union Foundation
Northern California
Emi MacLean
Senior Staff Attorney, ACLU of Northern California
Email: emaclean@aclunc.org

Re: California Public Records Act Request

Dear Ms. MacLean,

This Office is in receipt of a request for records made pursuant to the California Public Records Act ("the Act") as codified in Sections 7921.000 et. seq. of the California Government Code. Your request was dated November 17, 2023, and was received by this office on November 17, 2023.

Because we previously provided to your organization a report for cases disposed from 2015 to August 31, 2021, this response is for records from September 1, 2021 to November 30, 2023 for the following, unless specifically noted in bold:

1. *Unique identifier(s) associated with each defendant, each case, and each arrest*
 - a. *Name of defendant*
 - b. *Court case number*
 - c. *Arresting agency number(s)*
 - d. *Any other unique identifier(s)*
2. *Demographic and other information concerning each defendant*
 - a. *Race*
 - b. *Ethnicity*—**We do not collect this data element**
 - c. *Country or origin or nationality*—**We do not collect this data element**
 - d. *Gender/sex*
 - e. *Age or date of birth*
 - f. *Prior criminal convictions of a defendant*-- **Our case management system contains a local summary criminal history master record as defined in Penal Code section 13300(a). A member of the public is not an authorized recipient of such information under section 13300(b).**

Providing access to such records is a misdemeanor under section 13302.

3. *Information regarding each arrest*
 - a. *Zip code of arrest-- We do not collect this data element*
 - b. *Date of arrest—Our report cannot be modified to include this date, but date of issuance (filing) is included*
 - c. *Charge identified by law enforcement referring individual (including top charge by law enforcement referring)—Our report cannot be modified to include this charge, but it does include filed charges.*
4. *ADA assigned to the case*
5. *Decisions to decline to prosecute—This is privileged attorney work product. It is also exempt under Government Code section 7923.600*
 - 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 person 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*
6. *Diversion offers and decisions (formal and informal, and including collaborative court and deferred prosecution)—When diversion occurs, that status should appear on the Final Disposition Report.*
 - a. *Date of diversion offer*
 - b. *Type of diversion offered*
 - c. *Whether diversion accepted*
 - d. *Whether diversion completed*
7. *Charges filed*
 - a. *Statutes (applicable code section)*
 - b. *Severity (i.e. infraction, misdemeanor, wobbler, felony)*
 - c. *Any enhancements*
 - d. *Maximum sentence—We do not collect this data element*

8. *Factors considered in deciding charges to file, and level of charges, including--* **This is privileged attorney work product. It is also exempt under Government Code section 7923.600**
 - a. *Injuries to persons*
 - b. *Financial loss to persons*
 - c. *Status of victim (i.e. law enforcement, child, spouse, etc.)*
 - d. *Prior criminal history of defendant*
 - e. *Victim's cooperation*
9. *Bail/custody information—***We do not routinely collect this data element and it is not an element contained in a field. Although it may exist in attorney notes in some cases, retrieval would require a hand search of our files and is unduly burdensome under Government Code section 7922.000**
 - a. *Bail amount requested*
 - b. *Detention orders sought*
 - c. *Whether bail was set or denied*
 - d. *Whether individuals were released on bail or not*
 - e. *Pre-plea/pre-trial custody status*
10. *Plea offers—***This is exempt under Government Code section 7923.600 and disclosure to opposing party for purpose of advancing negotiations does not constitute waiver (*STI Outdoor v. Superior Court* (2001) 91 Cal.App.4th 334, 341.)**
 - a. *Charge(s) offered, including severity (i.e. infraction, misdemeanor, felony), including enhancements*
 - b. *Dates of plea offers*
 - c. *Sentence(s)/disposition(s) offered*
 - d. *Records of whether any plea offer was accepted, including date of acceptance*
11. *Case outcomes*
 - a. *Charges of conviction*
 - b. *Dismissed charges*
 - c. *Sentences—***Our report does not collect this data element, although it does show whether a case is sentenced. Locating the data would require a hand search of our files and is unduly burdensome under Government Code section 7922.000. Sentences for individual cases are available on the court portal.**
12. *Counsel for defendant, whether public defender or private counsel*
13. *Demographic and other information concerning victims—***The information is exempt under Government Code section 7923.600**
 - a. *Race*

- b. *Ethnicity*
- c. *Gender/sex*

14. *Recommendations regarding parole*—**We do not collect this element in a case management system field. In the uncommon case in which we provide a recommendation, locating that data would require a hand search of our files which is unduly burdensome under Government Code section 7922.000**

15. *Recommendations regarding pardon or commutation*-- **We do not collect this element in a case management system field. In the uncommon case in which we provide a recommendation, locating that data would require a hand search of our files which is unduly burdensome under Government Code section 7922.000**

It is possible that our case management system vendor (PBK) can design a custom report which could include discreet data elements you specify (which are not exempted or privileged as described above). Sentencing information may be one example. The data must exist as a field in our case management system. If you are interested in whether this is possible, I can explore the cost of that option for you (see Government Code section 7922.575(b)(2)). If you wish an estimate, please respond with a request specifying discreet data you want in the report. I believe the more data elements requested, the higher the cost.

Enclosed you will find the following reports, responsive to your November 17, 2023, request for records:

1. Final Disposition Report
2. Case Lists of Cases Referred to Corrective Solutions (diverted cases).

If you wish to dispute any determination contained in this response, please advise us of your legal argument and provide us with citation to legal authority which supports your argument.

Respectfully,

JEANNINE M. PACIONI
District Attorney



Berkley Brannon
Chief Assistant Deputy District Attorney