



C A L I F O R N I A

DEPARTMENT of JUSTICE

Rob Bonta

Attorney General

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April 9, 2025

Arturo Gutierrez

522 California Street, Suite 200

San Francisco, CA 94104

arturo.gutierrez@sanfrancisco.gov

Re: Public Records Act Request 2024-02986

Dear Arturo Gutierrez:

On November 4, 2024, the California Department of Justice (Department) received your request seeking records under the Public Records Act (PRA), as set forth in Government Code section 7920.000 et seq.

Specifically, you requested:

*This is **NOT** a request for information as defined in Penal Code § 11105(a)(2) (A) “State summary criminal history information”. Rather the information that I am submitting this California Public Records Request for, is for all of the following information, that is subject to these descriptions and limitations:*

- A. Any and all information, whatever;*
 - i. pertaining to the entire state of California’s Department of Correction and Rehabilitation;*
 - a. that is filed within the meaning of Penal Code § 11103*
 - ii. reported from or attributed to any county within this state of California;*
 - a. that is filed within the meaning of Penal Code § 11104*
- B. the above is limited to the following, and starting from 01/01/1983 to 11/01/2024; cataloged by each month throughout:*
 - i. that lists by each and every penal institution, the total number of persons confined therein to be grouped by race, i.e., Asian, white, black (or any term used that conveys race to that general effect). e.g., Folsom 2/1/1983 Asian 204; Black 5,971; White 8,121*
 - a. After 1993, include status as 2nd or 3rd striker by race*
 - ii. that lists by each and every county, the convictions as cataloged in e.g., Crime in California (2023) at page 41, 43-48 & 49-55; identifying the*

race, gender, crime convicted, e.g., April 2010 Robbery Ventura Black 73M, 4F White 16M, 0F Asian 7M, 1F; divided further into juvenile and adult

- iii. *please include, separate from Bii or combined therein the dispositions as listed on e.g., id., pages 56-59*
- C. *because the DOJ has been cataloging the above information, any currently held record that is consistent with the above and contains all targeted information as so grouped, is a satisfactory compliance.*
- D. *The above is subject to the limitation that no other personal identifying information is to be provided other than as noted above.*
- E. *Any race categorized as “other” may be excluded from the above if for the purpose of ensuring security for the CDCR facilities by not releasing the exact total population held at any given facility.*
- F. *All responsive records are preferred to be provided in electronic format.*

On November 14, 2024, we sent you a letter extending our time to respond to this request, and the Department received additional correspondence regarding this request. The Department is interpreting your request in the manner described below. If you wish to revise or provide additional clarification to your request, we invite you to do so.

In response to item A.ii. of your request, to the extent you are seeking records from Penal Code section 11104: “...(s)ince 1953, this section has required the California Attorney General to ‘file all ... information ... received and ... make a complete and systematic record and index, providing a method of convenience, consultation and comparison.’” (*People v. Martinez* (2000) 22 Cal.4th 106, 121.) This general provision applies to the Department’s obligation to store criminal history identification information and statistics. Section 11104 provides direction to the Department to create a “complete and systematic record” and obliges the Department to maintain records within its systems. To the extent that you are seeking a record relating to this data storage provision, the Department has no records responsive to such a request.

If your request instead is asking the Department to produce “all measurements, information and descriptions received” by the Department and the entirety of all Criminal History Identification and Statistics received by the Department since 1983, we decline to produce such a record.

In response to item A.i. of your request, to the extent you are also seeking records from Penal Code section 11103 for “measurements, processes, operations, signalitic cards, measurements, and descriptions of all persons confined in penal institutions of the state as far as possible,” this information is submitted to the Department by law enforcement agencies, Live Scan, or the California Department of Corrections and Rehabilitation and is contained in the Automated Criminal History System (ACHS). Access to record-level (i.e., individual level) criminal offender record information (CORI) is restricted to agencies that are statutorily authorized to receive such information (Pen. Code, §§ 11076, 11105), and those statutory restrictions are incorporated into the PRA. (Gov. Code, § 7927.705.) Your request states that you are “**NOT** requesting information as defined in Penal Code section 11105(a)(2)(A)...” However,

your request is seeking individual-level criminal history and personally identifiable data for “all persons confined in penal institutions of the state,” through Penal Code section 11104. Because you are seeking individual-level criminal history data maintained within ACHS, the Department must deny your request.

Your request also appears to request the Department categorize the records from Penal Code section 11103 and Penal Code section 11104 by the following subcategories: “penal institution,” “the total number of persons confined therein to be grouped by race,” “county,” “category,” and “the convictions” catalogued by “offense,” and “2nd or 3rd striker.” The subcategories you have identified—including convictions and offense type—are maintained within ACHS, and not from the Penal Code sections you have identified. Therefore, as these portions of your request are seeking confidential data, the Department must deny your request. (Pen. Code, §§ 11076, 11105; Gov. Code, § 7927.705.)

In response to item B.i.a. of your request, to the extent you are seeking sentencing and incarceration data or statistics under the California Three Strikes Law, the Department does not collect or maintain data regarding conviction of individuals pursuant to Penal Code section 667, subdivisions (b)-(i). Additionally, there is no mandate in how conviction or sentencing data is reported to the Department. What data the Department receives comes from multiple sources in varying formats. At this time, no data is sent to the Department on conviction or sentencing that includes Penal Code section 667, subdivisions (b)-(i), including whether it is a first, second, or third strike pursuant to this offense. Therefore, the Department is unable to provide data in relation to the Three Strikes Law, and the Department has no responsive records for this item of your request.

Further, your reference in items B.ii. and B.iii. of your request—to the Department’s publication “Crime in California (2023) at page 41, 43-48 & 49-55” and “dispositions as listed on e.g., id., pages 56-59” is misplaced as this request for data similarly categorized is once again seeking confidential ACHS conviction data¹ and must therefore be denied. (Pen. Code, §§ 11076, 11105; Gov. Code, § 7927.705.)

Moreover, your reference in item C. of your request—claiming “the DOJ has been cataloging the above information”—is also misplaced. As explained above in relation to item B.ii, the Department does not categorize ACHS data in *The Crime in California* publication in the manner you are seeking. Therefore, in response to item C of your request for “any currently held record that is consistent with the above and contains all targeted information as so grouped,” the Department completed a reasonable search, including checking with knowledgeable persons and in logical places, and did not locate any records that are responsive to your request.

¹ The *Crime in California* publication identifies the data in these specific pages as arrest data derived from Uniform Crime Reporting (UCR) program and the Monthly Arrest and Citation Register (MACR), not ACHS. This is important to note because MACR and UCR data is collected and maintained differently than ACHS. MACR data is collected pursuant to Penal Code sections 13010-13012 and 13020-13021—not sections 11103 or 11104—and is not responsive to your request.

Arturo Gutierrez

April 9, 2025

Page 4

The Department responds to this request only with regard to its own records. If you wish to review records in the custody or control of another state or local agency, you should direct your request for records to that agency. In this instance, you may want to contact the California Department of Correction and Rehabilitation or the district attorney's office for the county relevant to your request.

This completes the Department's response to your request.

Sincerely,

A handwritten signature in cursive script, reading "Danielle M. Brousseau". The signature is written in black ink and is positioned below the word "Sincerely,".

DANIELLE BROUSSEAU, Staff Services Manager I
California Justice Information Services Division

For ROB BONTA
Attorney General