Court of Appeal, Second Appellate District
Eva McClintock
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Court of Appeal, Second Appellate District
Eva McClintock
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IN THE COURT OF APPEAL OF CALIFORNIA

SECOND APPELLATE DISTRICT

ARTURO GUTIERREZ *Petitioner*, vs. THE CALIFORNIA DEPARTMENT OF JUSTICE and THE SUPERIOR COURT OF LOS ANGELES COUNTY *Respondent*.	Case No. Superior Court Case No. 25STCV07287 Petition for a Peremptory Writ of Mandamus, in the First Instance. Code of Civil Procedure § 1088, Government Code § 7923.000

PETITION FOR A PEREMPTORY WRIT OF MANDAMUS IN THE FIRST INSTANCE

After the Superior Court has Twice Failed to Rule on Noticed Motions to Issue the Writ, in a Public Records Act Case Where the Department of Justice:

(1) Issued Its Denial Letter Five Months Late, and

(2) Filed an Unverified Answer in Violation of Law

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DISCLOSURE STATEMENT

Petitioner is aware of no interested entities or persons that must be listed as required by California Rules of Court, rule 8.208.

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INTRODUCTION

The case caption is no accident. It is legally proper—and deliberately structured to provide the Court with multiple paths to afford relief.

The Department of Justice forfeited its right to defend—first by issuing a defective denial letter five months late, then by failing to file a verified return. The trial court rendered itself inert—disregarding a noticed motion for peremptory writ and denying the motion to shorten time based on an error of law.

Here, the DOJ refused to follow the law. The trial court declined to intervene. The very essence of the Public Records Act demands relief—else it rewards those who defy it.

Petitioner first sought relief through "the ordinary course of law" (Code Civ. Proc., § 1086), invoking the duty to disclose public records arising from the DOJ's office, trust, or station, and asserting plainly that "certain public records are being improperly withheld" (Gov. Code, § 7923.100). The Public Records Act was designed for speedy adjudication, "with the object of securing a decision as to the matters at issue at the earliest possible time" (*id*., § 7923.005). But, when invoked, the trial court twice refused to act, failing to afford that plain, speedy, and adequate remedy, foreclosing the ordinary course.

Petitioner now seeks relief through "a writ of mandate, in any court of competent jurisdiction, to enforce [Petitioner's] right under this division to inspect or receive a copy of any public record or class of public records." (Gov. Code, § 7923.000) As these are merely "the minimum standards set forth in this division." (*Id.*, § 7922.505) That writ lies to "compel the

admission of a party to the use and enjoyment of a" (Code Civ. Proc., § 1085(a)) "fundamental and necessary right [that] every person in this state" (Gov. Code, § 7921.000) "is entitled, and from which the party is unlawfully precluded by that inferior tribunal…or person." (Code Civ. Proc., § 1085(a)).

The DOJ elected "to delay or obstruct the inspection or copying of public records" (Gov. Code, § 7922.500), violating the 14-day limit set by § 7922.535(b). Though invoking "consultation with multiple components," they failed to heed "shall be conducted with all practicable speed" (*id.*, (b)(3)). Five months later, a single person, from the "multiple components," signed the denial letter—failing to identify "each person responsible for the denial" (§ 7922.540(b)) and failing to "justify withholding any record by demonstrating that the record in question is exempt under express provisions of this division." (§ 7922.000.)

The DOJ forfeited any defense and the trial court failed the legislative decree to order compliance "at the earliest possible time" (*id.*, § 7923.005).

Therefore, having satisfied Rule 8.486(a)(1), and authorized by both the Government Code and Code of Civil Procedure, this Court's original jurisdiction in mandamus is properly invoked. (Cal. Const., art. VI, § 10.)

By refusing to comply with the Public Records Act, the Department of Justice is evading public scrutiny of systemic violations of the federal constitution, in this case, of all cases—where the records being withheld speak louder than any accusation ever could.

VERIFIED PETITION

By this verified petition, it is shown:

THE PARTIES

1. Petitioner is Arturo Gutierrez, a resident of Ventura County, California.

2. Respondent here and below is the California Department of Justice ("DOJ"), a public agency within the executive branch of state government and a public agency within the meaning of the California Public Records Act, Gov. Code § 7922.635(a)(10).

3. Named in a nominal capacity, the other respondent is the Superior Court of Los Angeles County, named in its institutional capacity and not as to any individual jurist.

THE REQUESTED PUBLIC RECORDS

4. On November 4, 2024, Petitioner submitted a modest and plainly worded public records request to the DOJ. (Ex.1-2, p.95)

5. On November 14, 2024, the DOJ responded, invoking the 14-day extension provision for the stated purpose "to consult with multiple components of the Department with substantial interest in the records requested," and stating: "this office is extending the date for responding to your request to December 2, 2024." (Thanksgiving Day fell on November 28 in 2024.) (Ex.1-4 p.101)

6. Understanding the weight of the subject matter and believing it would command the attention of anyone with a conscience, Petitioner submitted a response the same evening.

7. Petitioner had been investigating racial disparities in incarceration practices. To underscore the seriousness of the request, and to appeal to the DOJ's sense of duty, Petitioner

arranged for his father—a retired Superior Court Judge—to sign and transmit the responsive letter of Nov. 14th. (Ex.1-6 p.106)

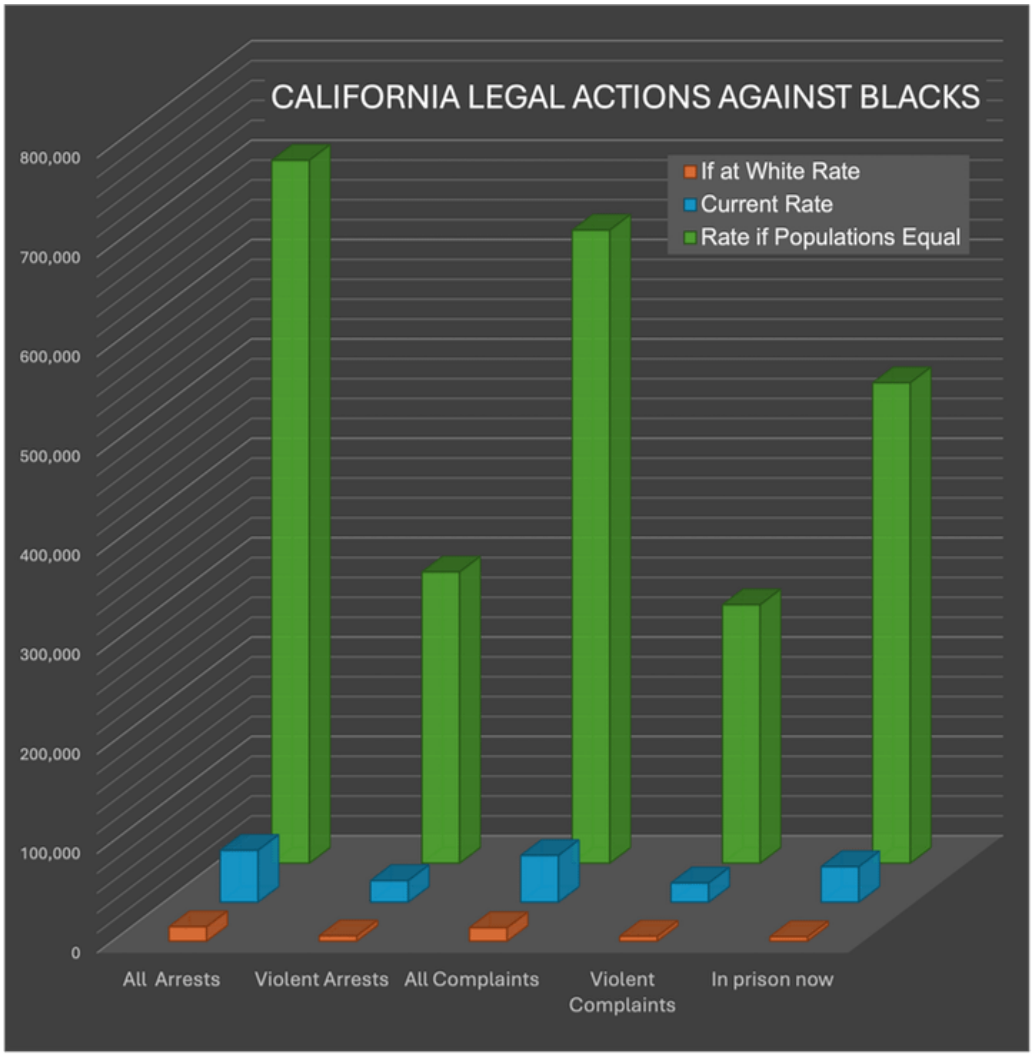
8. That November 14, 2024 letter, set forth the purpose of the request. Its final paragraphs conveyed the matter most plainly:

> The **purpose** of this request is **to end the incidents of slavery** that are in effect in California by imprisoning Blacks at a grossly disproportionate rate.
>
> "Severer punishments for crimes were imposed on the slave than on free persons guilty of the same offences." [(*Civil Rights Cases*, (1883) 109 U.S. 3, 22)]
>
> **483,285 Blacks in prison** vs. 56,659 Whites in prison right now. Yet if the rate of White incarceration was applied to the Blacks, then the 35,532 **Blacks in prison should be 4,161**. (Ex.1-6 p.112)

9. The DOJ severed all communications; failing to comply or respond by Dec. 2, 2024; nor to the email sent Dec. 10, 2024, (Ex.1-7 p.114) not even the email sent Jan. 6, 2025 (Ex.1-8 p.117), post California's enactment of the Slavery Apology Act.

10. The above numbers were calculated using the common denominator method as a means of comparing imperfect data. First by making the Black population equal to the White population and applying the rates of legal actions taken against Blacks as if equal in population; and then by applying the White rate of legal action to the current Black population.

11. The visual representation of the findings is shown below, as presented to both respondents.



12. The legal conclusion to be derived from the above numbers was set forth by the Supreme Court of the United States: "The long existence of African slavery in this country gave us very distinct notions of what it was, and what were its necessary incidents. … Severer punishments for crimes were imposed on the slave than on free persons guilty of the same

offences." Violating "the essential distinction between freedom and slavery." (*Civil Rights Cases*, (1883) 109 U.S. 3, 22)

13. The same conclusion quoted above in the letter of Nov. 14, 2024, was prefaced with:

14. It is hoped that when consulting "with multiple components of the Department with substantial interest in the records requested", they consider the gravity and weight of 31,000 slaves that have a substantial federal interest in being subject to like punishment, and to no other. 42 U.S.C. § 1981(a)

15. Mr. Justice Douglas made an immensely profound point: "The true curse of slavery is not what it did to the black man, but what it has done to the white man. For the existence of the institution produced the notion that the white man was of superior character, intelligence, and morality." (*Jones v. Mayer Co.* (1968) 392 U.S. 409, 445, Douglas, J., concurring.) (Ex.1-6 p.112)

16. The DOJ opted to cling to that curse.

PROCEDURAL HISTORY

17. A petition for a writ of mandamus to enforce the public records request was filed on March 14, 2025 in the Los Angeles Superior Court, *Arturo Gutierrez v. The California Department of Justice*, 25STCV07287. (Ex.1 p.50)

18. A five-month late denial letter was sent (Ex.4 p.175) then two days later, on April 11, 2025 an unverified answer was filed denying no response had been submitted—omitting that their denial letter was two days prior. (Ex.5 p.181)

19. A motion for issuance of the peremptory writ seeking an in chambers ruling was filed on May 19, 2025. (Ex.6 p. 195) Along with it was an objection to the clerk of the court due to its prior blocking access to the court in violation of Local Rule 3.3(i). (Ex.8 p.269)

20. The DOJ has made no effort to oppose the motion. Instead, the DOJ delivered to Petitioner a stipulation to reclassify to the writs and receivers department. Petitioner explained that they wanted a reassignment not a reclassification. The DOJ persisted.

DOJ'S PROPOSED STIPULATION WAS A DELIVERY MECHANISM FOR MALWARE AND SPYWARE

21. Petitioner observed unusual behavior originating from the Word document claimed to be a stipulation and soon discovered malware and spyware had been delivered to Petitioner's computer from the DOJ. The efforts to identify the harm and the extensive effort to capture it were documented for the trial court; both in the ex parte application to shorten time seeking a ruling on the in chambers motion that was filed on

June 23, 2025 (Ex.9 pp.277-281), and in the motion for sanctions and injunctive relief. (Ex.14 p.366-370).

22. The DOJ's response to the proof of infecting Petitioner's computer with malware and spyware was an admission. As laid out in the Motion for Sanctions:

> [The DOJ] intentionally transmitted malicious spy code to engage in digital surveillance via a purported stipulation in what appeared to be a Word document, breaching the criminal laws, violating Petitioner's privacy, and causing significant disruption to Petitioner's ability to litigate.
>
> The evidence shows embedded code was within the payload and was both concealed and timed to activate post-delivery, consistent with spyware, resulting in multiple uploads due to live spying through this malicious code.
>
> [The DOJ] subsequently defended this misconduct by declaring it did not attempt to send malicious code. Which is true, attempt is the failure to complete a crime. [The DOJ] successfully sent malicious code, a fact it does not deny.
>
> "The Department did not and has not ***attempted*** **to send** Petitioner malware."
>
> … "In the application, Petitioner alleged that our office ***attempted*** **to send** him malware through transmission of the stipulation for reclassification."
>
> Petitioner is not alleging that [the DOJ] tried to commit a crime. Rather, he has proven that they *did*.
>
> "And **even if** Petitioner's system **were infected with malware**, it is not clear how an expedited briefing and hearing

schedule—for a motion with no scheduled hearing date—would ***prevent*** any alleged ***irreparable*** harm."

(Ex.14 p.362) See DOJ's quotes, (Ex.11 p.316; Ex.12 p.322) claiming "Petitioner provides no declaration supporting any such claim." Regarding Ex.9 pp.283-285.

23. The day before the hearing, Petitioner had spent about 14 hours tracking the malware in his computer and at long last captured it. The above motion was prepared to be submitted to the trial court at the next morning's hearing. (Ex.14 p.360)

24. Petitioner had labored for 21 hours to deliver all that was necessary for the trial court to be apprised and prepared with proper in form and served motions. See motion, affidavit, and proof of service (Ex.14 pp.362-354; 366-370; 378).

THE MOTION TO SHORTEN TIME SEEKING A RULING ON THE MOTION FOR ISSUANCE OF THE PEREMPTORY WRIT

25. The trial court posted no tentative ruling. Petitioner drove two hours to appear in court.

26. The motion for sanctions was served on the DOJ and a printed copy was at once provided to the trial court upon arrival. The clerk initially received the motion, then about five minutes later returned it.

27. The parties checked in. Appearing for the DOJ was Supervising Deputy Attorney General Anthony P. O'Brien, via video conference.

28. The clerk called Petitioner to the bar and announced the judge had ruled that the matter was required to be heard in the writs and receivers department on the 8th floor. This was the exact issue previously covered in the objection that accompanied

the motion for peremptory issuance that the trial court had failed to act on. It was again explained that Local Rule 3.3(i) required respondent court's Dept. 56 to hear all matters assigned to it. The clerk was unwavering, petitioner requested to speak to the court, the clerk denied the request stating this was an in chambers ruling.

29. The matter was on calendar because respondent court failed to rule on the first in chambers ruling request.

30. When asked why no tentative ruling was posted given that the refusal to hear the matter on the merits had been procedurally decided, no answer was provided.

31. The matter was ordered off calendar and ordered to be filed in Dept. 86. Petitioner specifically asked if the filing should be sent to the 8th floor or Dept. 86. The clerk reiterated that Judge Fujie had determined the case should be assigned to Dept. 86 for this matter. (Ex.16 p.385)

32. Judge Fujie in Dept. 56 is not the presiding judge of respondent court.

THE DOJ'S ONLY APPARENT CONCERN IN THIS CASE IS RECLASSIFICATION

33. The DOJ has persisted in demanding the matter be reclassified to a limited civil action. This despite proof that the law does not allow such a request.

34. The reason for the request was stated as "the proper ***resolution*** for this matter."

35. Petitioner had requested a sanction sufficient to ensure the DOJ provided truthful and accurate records. As their efforts

to obfuscate up to this point left serious doubts if the DOJ would honestly comply with a writ.

36. Because the matter involved the confinement of 31,000 humans in violation of the Thirteenth Amendment, the annual cost to incarcerate them—against the will of the people of the state of California—was used as a basis to encourage compliance.

37. The DOJ has repeatedly threatened to move to reclassify the matter to limited civil—a byproduct of which would avoid the $4 billion sanction requested for non-compliance with the writ.

38. The DOJ has shown no concern for the merits of the action yet is fixated on securing a position that the DOJ may argue would limit any judicial sanction to $35,000.

THE CONTINUED EFFORTS OF THE DOJ AND THE FOUR DAY EFFORT TO DECONTAMINATE THE MALWARE AND SPYWARE THAT NEARLY OBLITERATED PETITIONER'S COMPUTER

39. On June 27, 2025, Petitioner sent an email to the DOJ:

> The Department expressed an earnest concern, under penalty of perjury, that by transferring "this matter to the Court's Writ Department would ensure resolution of the merits of Petitioner's claim." (Decl. of Kelsey Kook, p.2¶4) While the attention to the merits may be sporadic elsewhere, it is appreciated here.
>
> That said, there seems to be some confusion by the Department about some terminology. Reclassify and reassign are not interchangeable. To reassign is to send to another court for all purposes. To reclassify entirely changes the structure of the case by attempting to move the matter to civil limited, which is categorically improper in PRA cases. Gov. Code § 7923.500(a) "is not a final judgment or order within the meaning of Section 904.1 of the Code of Civil Procedure from which an appeal may be taken," CCP § 904.1(a) "An appeal, other than in a limited civil case, is to the court of

appeal." In short, PRA cases are not limited civil. The[y] are unlimited civil by law and structure.

Local Rule of Court, Rule 3.3, (i) "Assignment for All Purposes. Cases are assigned for all purposes, including trial. Except as the Presiding Judge may otherwise direct, each judge shall schedule, hear and decide all matters for each case assigned."

"A judge has a duty to decide any proceeding in which he or she is not disqualified." (CCP § 170)

The Presiding Judge of Los Angeles County is the Hon. Sergio C. Tapia II. Accordingly, Judge Fujie acted in excess of jurisdiction when reassigning this matter to Dept. 86.

Setting aside the avenues of correction available, I am a pragmatic person. As Judge Fujie appears to not wish to preside over this case—given its weight—then I am content with relieving her of that burden.

The Department has promoted the idea a number of times about stipulating to reassignment, even though misspeaking and switching it to reclassification at the last moment. The words can be confusing at times, to be sure. As to the issue of reassigning to the 8th floor, that leaves us with Departments 82, 85, and 86. We will not be going to Dept. 86. Leaving Dept. 82 or Dept. 85. Based on a review, it appears the jurist in Dept. 82 may have an actual conflict given the nature of the issues. You may need to check my math here, but that might leave us with one option. Departments ~~82~~, 85, and ~~86~~.

If you would like to draft up the stipulation to reassign to Dept. 85 and send it over in PDF form, less prone to hitchhikers and all, then I will sign and send back if it is clean. (Ex.19 p.395)

40. The DOJ responded an hour later:

Reclassification, is the proper resolution here, and unless you sign and return the attached stipulation today, the Department will file a motion to reclassify the matter early next week. I have attached the stipulation and proposed order. [Word doc. Attached.] (Ex.19 p.394)

41. The following Monday, Petitioner responded:

The means by which your office seeks cooperation makes cooperation difficult. As previously stated, I will not open any Word documents sent from your office. This is not a general policy — it is a direct response to your prior transmission of a Word file that exhibited post-open behavior consistent with embedded scripting designed to deliver malware or spyware. Resending such a file, after that notice, demonstrates either bad faith or an intent to deliver a new payload. In either case, it renders cooperation impossible.

If you are genuinely seeking my signature or participation regarding judicial reassignment, the document must be provided in PDF format. To date, I have not received a readable or acceptable version of any stipulation and therefore cannot assess — let alone agree to — its terms.

As I have already stated, we are not going to Dept. 86, so it's entirely possible that you've accepted my prior offer to stipulate to Dept. 85 — which would render the threatened motion to compel entirely unnecessary. But I have no way of knowing, due solely to your refusal to transmit the stipulation in a secure, readable format. Your office has already provided PDFs in this case, so I know it is both possible and easy. And just as easy to apply my signature to a PDF as to a Word document. There is no legitimate reason not to comply, absent nefarious intent.

Please resend the documents in PDF format. (Ex.19 p.394)

42. An hour later, the DOJ responded:

The Department plans on filing a motion to reclassify by tomorrow, unless we receive the signed stipulation from you prior to then. We cannot request a specific court for reclassification. We can only ask to reclassify to the Writ Department, which, as we understand it, includes at least 2 courtrooms Depts. 85 and 86. Please confirm if this is correct. Attached is the stipulation in a PDF format. (Ex.19 p.394)

ATTEMPTED TRANSMISSION CONCEALED IN DIGITAL SIGNATURE

43. The DOJ submitted that final stipulation in PDF format, digitally signed by the DOJ.

44. Seeking Petitioner's signature… submitted a digitally signed PDF… as an email attachment.

45. If the Court is unfamiliar with what the above signifies that can be explained in lay terms as such: PDFs are very simple documents, they do not contain the infrastructure that a Word document does. Making it very difficult to hide a payload. But in order to digitally sign a document, it must include a larger amount of code than usual to carry the certification.

46. If one is sending a pre-signed PDF, and not employing a signature program, then the other signer cannot sign it digitally but must print it and rescan it, negating any reason for digitally signing it first.

47. After opening the PDF in a sandbox, in the Signature Block the following was found within a decoded portion of the signature dictionary:

/Type /Sig
/Filter /Adobe.PPKLite
/SubFilter /adbe.pkcs7.detached
/Name (DOJ-LegalSign)
/Reason (Reclassification stipulation)
/M (D:20250630143621-07'00')
/ByteRange [0 16500 16732 20000]
The bold Byte Range stated:

- Bytes 0–16499 are signed
- Skip 16500–16731
- Resume from 16732–36699
- The range between 16500–16732 is **excluded** from the signature

PDF signature gap = **232 bytes** exactly

ByteRange: [0 16500 16732 20000]

↑ ↑

232-byte gap → payload

48. The DOJ sent a document declared to be signed, proving its earnest contents were not malicious, except that the endorsement stated it was excluding 232 characters.

49. A lot can occur with just a few characters. For example below is 133 characters:

<?xpacket begin="..."?>

<x:xmpmeta xmlns:x="adobe:ns:meta/">

<K 36 /Lang (EN-US) /P 114 0 R /Pg 155 0 R /S /P>

<O /Table /Scope /Column>

50. That appears to be like any other series of randomly appearing code in a document. Except that the above was entirely unnecessary while carrying the benefits in the first two lines as a stealth channel to broadcast a "file opened" event without leaving traces in visible fields. The latter two lines were designed to cause the first two to fire upon using QuickLook on Mac to view a file. Thus what would appear to be a safe way to peek into a document normally, was here specially coded to fire a message.

51. The DOJ sent a new program into Petitioner's computer with the sole purpose of sending a message to something else. After it was presented in court filings that the DOJ had infected its opponent's computer with malware and spyware.

FORENSIC EVIDENCE OF RETALIATION THROUGH ATTEMPTED DESTRUCTION

52. Could that PDF's intended message be a means to communicate self-deletion or worse to the original program?

53. Petitioner endeavored to answer that. And at the same time to preserve a forensic trail for documenting the harm. To properly do that, it was first necessary to render the hard drive inert. Meaning no moving parts, the computer must be totally incapacitated while still accessible. In a Mac that is achieved by using Target Mode in older Macs, or modernly by use of Share Mode. Using any other means such as Time Machine or Disk Imaging could only have been done via an awake computer.

54. A secondary computer was connected to the infected computer and a forensic catalog and copying of the hard drive began. This event would take some 18 hours to complete.

55. After the first run cataloged the 5.6 million files, it noted a number of pathways that were blocked. Later inspection of those pathways revealed that at 8:26PM on July 1, 2025 a number of files were deleted and along with them a number of Apple's black boxes fired.

56. And by a number of files, that meant 1,714 files were deleted as a part of a catastrophic cascade event. This was ascertained by using Terminal to search the preserved imaging seeking 5 minutes before 8:26 and 5 minutes after. Nothing occurred before 8:26PM on July 1, 2025. However, after 8:26PM produced so many that the time was extended to 15 minutes after 8:26PM, the total result was 1,714 filed deleted in an inert drive. In lay terms, it is **as if a car with no gasoline, battery or**

tires drove to Cabo San Lucas and back, yet video tape shows it did just that.

57. Apple has failsafe programs that trigger when a catastrophic systemwide melt down event occurs or when it thinks one is about to occur. The sole purpose of those files is to leave markers for techs to have a starting point when a nuclear bomb was unleashed and allow them to begin reconstruction. Those files were marked as written at 8:26PM July 1, 2025.

58. In short, the DOJ's program was designed to cause a complete device destruction if it was attempted to be copied. If the hard drive had not been in an inert state, attempting to preserve the evidence would have destroyed the computer. At present, the extent of the damage and the continued existence of the program is not known.

59. What is known is that the program commandeered control of the visual screen, Wi-Fi, system root control, and telemetry. Meaning it was in full control of the visual, operating and communication controls of Petitioner's computer.

60. And still is.

61. The DOJ did only *attempt* to deliver the destruction signal; they *did* successfully deliver malware and spyware that is still active in their litigation opponent's computer.

62. From the motion for sanctions the trial court refused to consider: "The website url used to serve Respondent's papers was inspected and the results advised: 'Last-Modified: Sun, 22 Jun 2025 17:13:38 GMT' for Petitioner's motion served June 23, 2025. See Exhibit 2 of the Declaration." (Ex.14 pp.363; 376)

SABOTAGE UPDATE, MID-FINALIZING THIS DOCUMENT

63. On July 7, 2025, as Petitioner was finalizing this very petition, a new email was received from Respondent Department of Justice. The message appeared to originate from a third party purporting to serve documents on Respondent's behalf, but the email was functionally a shell—lacking standard HTML content—and upon opening it, immediately triggered anomalous behavior on Petitioner's device. **Most notably, the system clock was altered without authorization**. When Petitioner ran a Terminal command to collect system logs surrounding the incident, Terminal returned the warning: "Wall Clock adjustment detected – results might be strange while using --end." The system log was "2025-07-07 15:44:47.614151-0700 localhost (null)[0]: ((null)) localhost timesync: === system wallclock time adjusted" (Ex.20 pp.400-401) In forensic terms, this is equivalent to erasing footprints and then repainting them in a new direction.

64. Within seconds of opening the email, the system registered an unprompted memory spike and logged a cascade of low-level execution events—well beyond normal diagnostic activity. The logging window, limited to the three minutes following the email event, generated a forensic record exceeding 189MB in size. As plain text, this volume is equivalent to a 15-minute HD video or hundreds of photographs. Microsoft Word was unable to render the results due to exceeding its internal page limit. The reported word count was 28,302,884—comparable to more than 2,000 full-length petitions—and the character count froze at "189,250,8…" before truncating. (Ex.20 p.401)

65. Petitioner halted all further investigation upon receipt of a second DOJ-related email minutes later, out of concern that continued interaction might compromise the ability to finalize and preserve this petition. All forensic records—including logs, screenshots, and metadata—were preserved. This incident, unfolding during the preparation of this very filing, further underscores both the extraordinary nature of this petition and the urgency of the relief now sought.

66. The document claiming to be served was a purported motion to reclassify. It cannot be uploaded here as it is not yet available through the superior court's website, which is the only version Petitioner dares to open.

MANDAMUS RELIEF IS PROPERLY INVOKED AS THE ORDINARY COURSE OF MANDAMUS RELIEF IS BEING WITHHELD

67. The trial court has refused to rule on the motion to issue the peremptory writ. The DOJ has no defense whatsoever for their concealment of these vital records. Yet is all consumed with limiting the monetary exposure it could face.

68. The DOJ denied the result that plain math shows, while concealing the very records that would prove either way. This is the very reason why the public is permitted to review true and accurate records held by public officials.

69. The ordinary remedy for the special proceeding is being disregarded. By statute that remedy is supposed to be unusually speedy, respondent court is refusing to render the relief as prayed.

70. Petitioner has engaged in every lawful ordinary means to obtain the relief due under law. Including twice moving for the

relief to issue and even appearing in person to request it. The trial court will not permit a hearing nor rule.

71. Instead the trial court set a status conference for August 1, 2025. A 141-day delay to check on the status of a case where the respondent forfeited its right to defend, twice.

72. The DOJ is engaged in extensive litigation sabotage and spying, on an issue that it claims the records show no gross systemic abuse of Blacks in our state.

73. Mathematics impeaches their position as much as their own conduct does.

74. Naming the trial court as the sole respondent would serve to further delay relief and thus reward the DOJ's very designed intention. By naming the DOJ as a respondent as well, that opens up options for this Court to deliver justice expeditiously in an unusual case warranting appellate court review anyway for an issue that most assuredly compels the power of this Court be asserted.

75. This Court's jurisdiction is properly invoked, presenting issues of unusual importance. The facts are not in dispute. Peremptory issuance in the first instance is proper.

PRAYER

WHEREFORE, Petitioner has presented a proper in form petition for a writ of mandate, correctly invoking this Court's jurisdiction, and is in need of the Court's protection. Therefore, it is respectfully prayed in two parts.

Part I. As to the Department of Justice, it is respectfully prayed that:

1. Opposition be solicited by this Court, then "[i]ssue an *order* or *decision* calling for issuance of the" peremptory writ of mandate in the first instance, (*Palma v. U. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171, 176) directing and compelling the Department of Justice to provide true, accurate and complete records to Petitioner as prayed (Ex.1 pp.62-64) with sanctions as requested for non-compliance (Ex.6 p.244) and to cease its litigation sabotage and make Petitioner whole; or

2. An alternative writ issue, without first requesting the filing of opposition, directing and compelling the Department of Justice to act in the manner set forth above in 1 or, in the alternative, to show cause before the Court, on a date certain as determined by the Court, justifying the Department of Justice's refusal to afford the relief as prayed for, (Code Civ. Proc., § 1087) then issue the peremptory writ commanding the Department of Justice to act in the manner set forth above in 1; or

3. Directly issue the order to show cause preventing the cause from becoming moot to allow the Court to issue an opinion addressing the issues as raised herein that are important to the profession and the lower courts; and

4. For costs of this proceeding and for such other and further relief as the Court deems just and proper.

Part II. As to the Superior Court of Los Angeles, it is respectfully prayed that:

5. Opposition be solicited by this Court, then "[i]ssue an *order* or *decision* calling for issuance of the" peremptory writ of mandate in the first instance, (*Palma, supra,*) directing and

compelling respondent court to rule on the petition for mandate and/or to issue the writ of mandate directing the Department of Justice to provide true, accurate and complete records to Petitioner as prayed with sanctions as requested for non-compliance and to order the Department of Justice to cease its litigation sabotage and make Petitioner whole; or

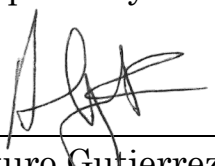
6. An alternative writ issue, without first requesting the filing of opposition, directing and compelling respondent court to act in the manner set forth above in 5 or, in the alternative, to show cause before the Court, on a date certain as determined by the Court, justifying respondent court's refusal to afford the relief as prayed for, (Code Civ. Proc., § 1087) then issue the peremptory writ commanding respondent court to act in the manner set forth above in 5; or

7. Directly issue the order to show cause preventing the cause from becoming moot to allow the Court to issue an opinion addressing the issues as raised herein that are important to the profession and the lower courts; and

8. For costs of this proceeding and for such other and further relief as the Court deems just and proper.

It is so prayed.

Respectfully submitted,



July 7, 2025

Arturo Gutierrez
Petitioner, *in propria persona*

VERIFICATION

Arturo Gutierrez, declares as follows:

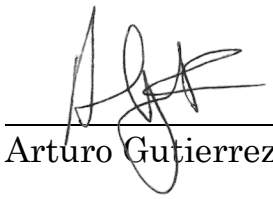
I am the petitioner in the underlying action and in the present proceeding and make this verification because the facts contained in the foregoing are within my personal knowledge.

I have read the foregoing petition and the exhibits attached hereto and lodged with this Court and know the representations as to the contents thereof to be true based upon my personal experience as the petitioner.

As to those matters that are not within my personal knowledge, these are asserted on information or belief and as to those matters I believe them to be true.

Each exhibit offered in support of the petition, is a true and correct copy of the original and is what it claims to be; some highlight may have been added to various exhibits but have not materially altered the contents otherwise.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.



Arturo Gutierrez

July 7, 2025

MEMORANDUM OF LAW

I. STANDARD OF REVIEW

The issues raised are subject to de novo review. First because pure questions of law are reviewed de novo. (*People v. Cromer* (2001) 24 Cal.4th 889, 894.) Thus, questions of statutory construction are reviewed de novo. (*Pineda v. Williams-Sonoma Stores, Inc.* (2011) 51 Cal.4th 524, 529.) Second, respondent court refused to make any findings.

II. THE REFUSAL TO HEAR THE MATTER WAS FOUNDED UPON AN ERROR OF LAW

As to the sole finding respondent court did make, it was an error of law and thus an abuse of discretion.

Local Rule of Court, Rule 3.3(i) "Assignment for All Purposes. Cases are assigned for all purposes, including trial. Except as the Presiding Judge may otherwise direct, each judge shall schedule, hear and decide all matters for each case assigned."

Dept. 56 was assigned the matter and yet opined that a motion seeking a ruling to resolve the matter and an application asking the court to rule on that motion should be heard in a different department was in excess of jurisdiction.

Therefore, because that court "'applied the incorrect standard to the facts, that is an abuse of discretion, i.e., an error of law.'" (*In re Esperanza C.* (2008) 165 Cal.App.4th 1042, 1061, quoting *Holtville Farms, Inc. v. Agricultural Labor Relations Bd.* (1985) 168 Cal.App.3d 388, 395)

III. A MINISTERIAL DUTY WAS HELD BY BOTH RESPONDENTS

> A ministerial duty is one that "'a public functionary '"'"is required to perform in a prescribed manner in obedience to the mandate of legal authority,'"'" without regard to his or her own judgment or opinion concerning the propriety of such act.'" [Citations.] ["'A ministerial duty is an act that a public officer is obligated to perform in a prescribed manner required by law when a given state of facts exists.'"]

The Assn. of Deputy Dist. Attorneys etc. v. Gascón (2022) 79 Cal.App.5th 503, 528[1]

A. THE DEPARTMENT OF JUSTICE HAS A MINISTERIAL DUTY TO COMPLY WITH THE PUBLIC RECORDS REQUESTED

The DOJ was presented a request for public records for information the DOJ has been cataloging for decades. Its invocation of the 14-day extension was specific, it did **not** "need to search for and collect the requested records"; nor was there any "need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request"; also absent was any "need to compile data, to write programming language or a computer program, or to construct a computer report to extract data." (Gov. Code § 7922.535(c)(1),(2),(4))

Rather it only invoked *id.*,(c)(3) ("The need for consultation, **which shall be conducted with all practicable speed**…

[1] The matter still is pending before the Supreme Court, S275478, pre-argument and post submission of a motion to dismiss review. Regardless, the case is cited not for its holding but because it presents a fine collection of mandamus cases.

among two or more components of the agency having substantial subject matter interest therein.")

The DOJ declared it would comply by Dec. 2, 2024. "In this instance, an extension is needed to consult with **multiple components** of the Department with substantial interest in the records requested." (Ex.1-4 p.101)

On April 9, 2025, the DOJ issued a denial letter signed by the same employee that issued the 14-day extension notice and signed by no other person. (Ex.4 p.179) "The notification of denial **shall set forth** the *names and titles or positions of* <u>*each*</u> *person responsible for the denial*." (Gov. Code, § 7922.540(b)) Because the DOJ declared "**multiple components** of the Department" were consulted that meant that they all agreed that the records were required to be provided to Petitioner. Else more than one person would have signed the denial.

The purported justification submitted by the DOJ was its own fabricated law, "Automated Criminal History System (ACHS)" appears nowhere in any exemption statute.

> The listing of a statute or constitutional provision in Chapter 2 (commencing with Section 7930.100) **does not itself create an exemption**. Requesters of public records and public agencies are cautioned to review the applicable statute or constitutional provision to determine the extent to which it, **in light of the circumstances surrounding the request**, exempts public records from disclosure.
> Gov. Code § 7930.000(b)

"The purpose of this request is to end the incidents of slavery that are in effect in California by imprisoning Blacks at a grossly disproportionate rate." (Ex.1-6 p.112)

A sample of the so-called denial:

> 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. (Ex.4, p.177¶2)

If the DOJ had a valid reason for denying the records request, it would not have waited five months to issue the denial that was not based on law and factually not responsive to the demand. The request expressly repeated that no personal identifying information was requested and none should be given, the denial repeatedly declared that the request was only seeking personal identifying information. Thus showing the DOJ knew the request was perfectly valid and the DOJ knew it was necessary to fabricate some basis to claim denial, five months later.

"'In general, [the CPRA] creates 'a presumptive right of access to any record created or maintained by a public agency that relates in any way to the business of the public agency.'" (*City of San Jose, supra*, 2 Cal.5th at p. 616, italics omitted.)" (*Di Lauro v. City of Burbank* (2025) 110 Cal.App.5th 969, 980)

"The State of California affirms its role in protecting the descendants of enslaved people and all Black Californians… and acknowledges and affirms its responsibility to end ongoing harm" (Gov. Code § 8301.2(b)) from "slavery and the enduring legacy of **ongoing** badges and **incidents** from which the systemic structures of discrimination have come to exist." (*Id.*, (a))

The concealed records establish the DOJ is aware of California's violation of the absolute prohibition on slavery and incidents thereof, *Griffin v. Breckenridge*, (1971) 403 U.S. 88, 105.

B. RESPONDENT COURT HAS A MINISTERIAL OBLIGATION TO ISSUE THE WRIT AND AFFORD THE RELIEF AND TO DO SO EXPEDITIOUSLY

> Upon the filing of a verified petition, the court must set a schedule "with the object of securing a decision as to the matters at issue at the earliest possible time." (§ 7923.005.) If the court finds unjustified the public agency's decision to refuse disclosure under either section 7922.000 or 7920.505, the court must order disclosure of the record. (§ 7923.110, subd. (a).)

Gascón v. Logan (2023) 94 Cal.App.5th 352, 366

As set forth in the petition below, the DOJ forfeited their right to the alternative writ and to seek review of the justifications in their denial by failing to issue one.

> To further the statutory right of access to records maintained by public agencies, the PRA requires prompt disclosure of records by any public agency unless "the record in question is exempt under express provisions of this division, or that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record." (§ 7922.000; see §§ 7922.530, subd. (a), 7921.300.) The agency must make this determination within 10 days from receipt of the request and must provide prompt notification of its determination and any reasons therefor. (See § 7922.535, subd. (a).)

Id.

"These enforcement procedures 'reflect a clear legislative intent that the determination of the obligation to disclose records requested from a public agency be made expeditiously.' (*Filarsky*

v. Superior Court (2002) 28 Cal.4th 419, 427 (*Filarsky*).)" (*Id.*, at 366-67)

Respondent court was presented a verified petition that established no denial letter was issued. The DOJ submitted an unverified answer in derogation of Code Civ. Proc., §§ 1089, 1109. A noticed motion for issuance of the peremptory writ was filed, *id.*, § 1094. Therein explaining that Local Rule of Court, Rule 3.231 (f) Pleadings was expressly preempted by the California Rules of Court

Rule 3.20. Preemption of local rules

> (a) Fields occupied
> The Judicial Council has **preempted all local rules relating to pleadings**, demurrers, **ex parte applications, motions**, discovery, provisional remedies, and the form and format of papers. No trial court, or any division or branch of a trial court, **may enact or enforce any local rule concerning these fields**. All local rules concerning these fields **are null and void** unless otherwise permitted or required by a statute or a rule in the California Rules of Court.

Quoting from *Woolsey v. Woolsey (In re Marriage of Woolsey),* (2014) 220 Cal.App.4th 881, 896, 899. (Ex.6 p.236)

The statutory authority was set out for respondent court on the propriety of seeking an in chambers ruling for peremptory issuance, citing and quoting Code Civ. Proc., §§ 1107, 1108, 1087, 1088, 1088.5, 1089, 1089.5, 166. (Ex.6 pp.238-239)

Petitioner is only required to ask a respondent once to engage in the conduct sought to be compelled. Here, Petitioner has twice endeavored to have respondent court issue the peremptory writ. When physically presenting himself to the court to demonstrate the sincerity of the request and to plead for the court's

protection from criminal acts by a party litigant, Respondent court disregarded Local Rules of Court, Rule 3.3(i) and refused to hear petitioner, grant an audience, nor even consider his papers.

The purpose of a court is to afford a remedy, Code Civ. Proc., § 20. Disregarding the law to allow the delayed compliance while permitting the DOJ to commit crimes upon those invoking the First Amendment right to petition for grievances—is to disregard the law. "A judge has a duty to decide any proceeding in which he or she is not disqualified." (*Id*., § 170)

IV. THE DELAY IS UNTENABLE AS IS THE DOJ'S DESIRE TO RECLASSIFY

The DOJ's unwarranted desire to reclassify the case is in derogation of law and only serves to delay proper and timely resolution.

> "The purpose of [section 7923.500 (former § 6259, subd. (c))] limiting appellate review of the trial court's order to a petition for extraordinary writ is to prohibit public agencies from delaying the disclosure of public records by appealing a trial court decision and using continuances in order to frustrate the intent of the [PRA]." (*Filarsky, supra*, 28 Cal.4th at pp. 426–427, citing *Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325, 1334–1336.)
> *Gascón v. Logan* (2023) 94 Cal.App.5th 352, 367

> Following a brief overview on the PRA, the court stated that section 7923.500 was intended "to prohibit public agencies from delaying the disclosure of public records … ." (*Filarsky, supra*, 28 Cal.4th at p. 426.) Placing no particular emphasis on the term "public records," the court found that the "legislative objective" behind section 7923.500 "was to expedite the process and make the appellate remedy more effective. [Citation.] Indeed, the [PRA's] provision regarding a public agency's obligation to act promptly upon receiving a request for disclosure …, the provision directing the

> trial court in a proceeding under the [PRA] to reach a decision as soon as possible …, and the provision for expedited appellate review … all reflect a clear legislative intent that the determination of the obligation to disclose records requested from a public agency be made expeditiously." (*Filarsky, supra*, 28 Cal.4th at p. 427, citations omitted.)
> *Id.*, at 368

The conduct by both respondents demonstrates a manifest disregard of statutory and constitutional obligations.

The DOJ's proffered reclassification as necessary to a proper determination of the merits is absurd.

> "An order of the court, either directing disclosure by a public official or supporting the decision of the public official refusing disclosure, is not a final judgment or order **within the meaning of Section 904.1** of the Code of Civil Procedure from which an appeal may be taken, but shall be immediately reviewable by petition **to the appellate court** for the issuance of an extraordinary writ." (§ 7923.500, subd. (a).)
> *Id*., at 366

The above establishes as a matter of law that a PRA proceeding is an unlimited civil classification. The Legislature very easily could have enacted the above while citing Code Civ. Proc., § 904 ("An appeal may be taken in a civil action or proceeding as provided in Sections 904.1, 904.2, 904.3, and 904.5.")

Id., § 904.2 ("An appeal of a ruling by a superior court judge or other judicial officer **in a limited civil case** is to the **appellate division** of the superior court.")

Id., § 904.1(a) ("An appeal, **other than in a limited civil case**, is to the *court of appeal*. An appeal, **other than in a limited civil case**, may be taken from any of the following:")

There is no other reason for the DOJ to only be concerned with reclassifying this case other than to limit the sanction prayed for non-compliance. Because the DOJ has no intention of complying with the writ.

V. PETITIONER REACHED FOR THE CONSTITUTION; THE DEPARTMENT OF JUSTICE RESPONDED WITH CRIME

A. THE FIRST AMENDMENT FORBIDS RETALIATION AGAINST PETITIONING GOVERNMENT FOR REDRESS

The California Constitution guarantees the right to petition the government for redress of grievances, right of access to information that shall be open to public scrutiny, (Cal. Const., art. I, § 3), to the proper functioning of government and the expeditious enforcement of the rights of victims of crime (*id*., § 28, (a)(2)).

The United States Constitution prescribes "abridging the freedom of speech…; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." (Amend. I)

"The right to petition is 'among the most precious of the liberties safeguarded by the Bill of Rights.'" *(United Mine Workers v. Illinois Bar Assn.* (1967) 389 U.S. 217, 222.)

Petitioner did exactly what the First Amendment protects: filed a lawsuit to expose state concealment of systemic racial oppression.

In response, the DOJ:

- Deliberately withheld public records,
- Submitted a malware-laced stipulation,
- Engaged in digital sabotage,
- Obstructed judicial review of the claims.

These acts are not just retaliatory. They are an attempt to **weaponize litigation itself** to silence constitutional oversight. The DOJ's conduct strikes at the heart of democracy. The DOJ expects the courts to not only tolerate it, but to endorse it.

"Official reprisal for protected speech 'offends the Constitution [because] it threatens to inhibit exercise of the protected right,'" (*Hartman v. Moore* (2006) 547 U.S. 250, 256.)

B. VIOLENCE IS THE WRONG REMEDY FOR PEACEABLE PETITIONING

> The greater the importance of safeguarding the community from incitements to the overthrow of our institutions by force and violence, the more imperative is the need to preserve inviolate the constitutional rights of free speech, free press and free assembly in order to maintain the opportunity for free political discussion, to the end that government may be responsive to the will of the people and that changes, if desired, may be obtained by peaceful means. Therein lies the security of the Republic, the very foundation of constitutional government.
> *De Jonge v. Oregon* (1937) 299 U.S. 353, 365.

This case does not involve threats of violence. It involves the very alternative: a peaceful petition to the courts for justice.

And yet that petition was met not with process, but with sabotage. "The quality of advocacy turns on the depth of the conviction; and government has no power to invade that

sanctuary of belief and conscience." (*Brandenburg v. Ohio*, (1969) 395 U.S. 444, 457 Douglas, J., concurring)

The Department of Justice did not merely withhold records. It retaliated against the man requesting them—by delivering malware, attempting to destroy his computer, obstructing his access to the courts, and concealing systemic civil rights abuses against Black Californians that violate the Thirteenth Amendment.

The First Amendment is not merely "implicated" here. It is being actively violated—**right now**—as this Court deliberates. And the target of that retaliation is not a protestor in the street, but a Petitioner in the courtroom.

This is not abstract. This is present-tense constitutional harm.

The State is using its prosecutorial machinery not to protect rights, but to *crush* the right to expose what it has done.

The First Amendment protects the right to demand justice. The Thirteenth protects the right to be free.

This case now raises both.

In an effort to do violence to due process, the DOJ engaged in cyber violence—with a singular aim: to deter and suppress the man who dared expose their secret.

Violence is not only found in a gunshot. It can be found in the silent deference to tyranny.

We engage in process to prevent rebellion. But the rebellion at stake here is the same one that once tore this nation apart in our greatest eruption of national violence.

The DOJ has no remedy—thus flailing a sword stained with crime and concealment.

Because they cannot best Petitioner's pen—scribing only a petition for peaceable resolution for equal justice under law.

VI. DOMESTIC ENEMIES OF THE CONSTITUTIONS OF THE UNITED STATES AND CALIFORNIA

Petitioner submitted the November 14th response to the Department of Justice under the belief that an agency headed by the State's chief law officer would be committed to enforcing equal justice under law. Because race-driven prosecutions in California—one at a time—had accumulated into a radical volume, the result violates the Thirteenth Amendment.

Rather than embrace the clear duties imposed by law, by both constitutions, and by simple moral decency—the duty one human owes another to protect liberty from the raptures of slavery—the California DOJ chose to conceal, to lie, and to engage in felonious acts of retaliation against a single man petitioning his government for redress after discovering that 31,000 fellow Californians were being enslaved.

The ends do not justify the means when the ends are the continuation of slavery.

Where in our constitution does it declare that the DOJ decides who is worthy of exclusion from "with liberty and justice for all"?

The DOJ is hiding behind the power of the State while sabotaging their opponent's means of confronting them—through cybercrimes, concealment, retaliation and continued oppression.

Because Petitioner exposed the DOJ's awareness and complicity in incidents of slavery.

That's not misconduct.

That's not bureaucratic failure.

That's not even just obstruction.

That is a betrayal of the United States Constitution.

A direct attack on the right to petition for redress of the oldest, darkest evil this country has ever carried.

The DOJ justifies its concealment of records that prove "very distinct notions of what [African slavery] was, and what were its necessary incidents. … Severer punishments for crimes were imposed on the slave than on free persons guilty of the same offences." The DOJ is concealing proof of "the essential distinction between freedom and slavery." (*Civil Rights Cases*, (1883) 109 U.S. 3, 22)

All of which is occurring at the very moment in history when "California affirm[ed] its role in protecting ... all Black Californians… and affirms its responsibility to end ongoing harm" (Gov. Code § 8301.2(b)) from "slavery and the enduring legacy of ongoing... incidents from which the systemic structures of discrimination have come to exist." (*Id*., (a).)

> The State, in the contemplation of our theory of constitutional government, can have no interest in asking anything but that which is right; nor can she allow her agents to do so. She is as much interested in protecting the individual citizen, as in protecting the mass. She stands entirely impartial as between the parties, and her only desire is for justice to be done. She can gain nothing by injustice, and lose nothing by justice. The officer sued is not the State, but only her servant; and he is only her servant in so far as he obeys

> her laws. If he disobeys the laws, he violates her will; and whether he obeys or disobeys her laws, she has a right to inquire, in the form of a plaintiff, through the proper department. So has every citizen the same right when injured by the illegal acts of the officer, done under color of official right.
> *Nougues v. Douglass* (1857) 7 Cal. 65, 74

The DOJ wrongly thinks that it is justified because someone alleged these humans engaged in conduct that violated a statute, while disregarding the totality of circumstances. Because the institution the DOJ is protecting explicitly permitted the rape of women and children, the murder of men, women, and children, the robbery of possessions, and an assault on good morals everywhere.

Why? Because under that institution Blacks are property—mere chattel. Blacks hold no rights—because only humans hold rights. And Blacks are no more human than a pig or a goat—thus possess no more rights than a mere farm animal, "accordingly, the slave's incapacity to be the subject of civil rights" (*Douglass v. Ritchie* (MO Sup. Ct. 1857) 24 Mo. 177, 180) precludes equal protection under law.

Their mindset—their view of who counts as human—was supposed to be abolished, U.S. const. amend. XIII. Yet the DOJ is actively fighting to ensure it endures. And under Cal. Const. art. XX, § 3, the propagation of such ideals is the definition of a domestic enemy.

Defying their oath to protect emancipation—is treason.

CONCLUSION

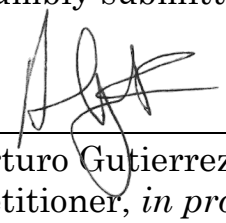
Absent from the Fourteenth Amendment is a qualifying clause secretly consecrating reserved exclusionary power in the DOJ to exclude Blacks from its protection.

The writ lies here in ministerial refusal and facial violations of law—the intolerable retaliatory events and grave constitutional implications make the nature of this petition truly extraordinary.

Not all jurists are capable of standing up to tyranny at this level and that is why this petition is properly before this Court.

The Court should grant the relief as prayed.

Humbly submitted,

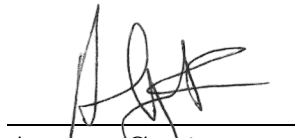


July 7, 2025

Arturo Gutierrez
Petitioner, *in propria persona*

CERTIFICATE OF COMPLIANCE

Petitioner hereby certifies that pursuant to Rule 8.204(c)(1) and Rule 8.486(a)(6) of the California Rules of Court, the enclosed brief of Petitioner is produced using 13-point Roman type including footnotes and contains approximately 8,759 words, excluding exempted portions, which is less than the 14,000 total words permitted by the rules of court. Petitioner relies on the word count of the computer program used to prepare this brief.



July 7, 2025

Arturo Gutierrez
Petitioner, *in propria persona*

EXHIBIT 1

Electronically FILED by
Superior Court of California,
County of Los Angeles
3/14/2025 12:39 AM
David W. Slayton,
Executive Officer/Clerk of Court,
By S. Ruiz, Deputy Clerk

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Petitioner *in propria persona*

SUPERIOR COURT OF CALIFORNIA,

COUNTY OF LOS ANGELES

ARTURO GUTIERREZ *Petitioner*, vs. CALIFORNIA DEPARTMENT OF JUSTICE *Respondent*.	Case No. 25STCV07287 **PETITION FOR WRIT OF MANDAMUS AND STATUTORY MANDATE** Code Civ. Proc. §§ 1085, 1086 Gov. Code §§ 7921.000, 7923.000 Cal. Const. art. I § 3 **Entitled to Statutory Priority** Gov. Code, § 7923.005

SEEKING TO ENFORCE A VALID DEMAND PER THE

CALIFORNIA PUBLIC RECORDS ACT

"Any person may institute a proceeding for injunctive or declarative relief, or for a writ of mandate, in any court of competent jurisdiction, to enforce that person's right under this division to inspect or receive a copy of any public record or class of public records." Gov. Code, § 7923.000

"In a proceeding under Section 7923.000, the court shall set the times for hearings and responsive pleadings with the object of securing a decision as to the matters **at issue at the earliest possible time**." Gov. Code, § 7923.005

INTRODUCTION

As far as can be ascertained, this case is without precedent, both in the public agency's actions and reasons for them.

The California Department of Justice's 2023 Reparations Report emphasized that racial data is critical to assessing systemic injustice, yet the DOJ now obstructs access to that very data. The agency cannot selectively acknowledge racial disparities while simultaneously concealing the records proving them.

This case challenges DOJ's refusal to comply with a valid California Public Records Act (CPRA) request. Despite statutory mandates requiring disclosure, DOJ has ignored its obligations, providing no legal justification for withholding public records.

This case exposes systemic racism at a level few would believe possible today.

VERIFIED PETITION

By this verified petition, it is shown:

THE PARTIES, INTERESTS AND DUTIES

1. Petitioner is Arturo Gutierrez, a person and member of the public within the meaning of Gov. Code, §§ 7920.515, 7920.520 and resident and citizen of the State of California, *id*, § 241; and owner of the website survivinginjustice.org aiding Californians with transforming from victims of injustice to survivors.

2. Respondent is the California Department of Justice, named herein as an entity, is a public agency and state agency within the meaning of Gov. Code, §§ 7920.525, 7920.540(a), and is the body headed by and under the direction and control of "the chief law officer of the State", (Cal. Const. art. V § 13; Gov. Code §§ 12510, 15000). The hundreds, if not thousands, of John Does and Jane Does involved are not the issue, the entity as an institution is the instrument of harm and appears to have been for quite some time. Gov. Code, § 15001 ("The department is composed of the Office of the Attorney General and those other divisions, bureaus, branches, sections, or other units as the Attorney General may create within the department pursuant to Section 15002.5.")

3. Petitioner is beneficially interested in this matter as the submitter of a public records request to Respondent **on Nov. 4, 2024**, (Exhibit 1 submission p.43, Exhibit 2 request p.46) because "access to information concerning the conduct of the people's business is a *fundamental*

and necessary right of every person in this state." (Gov. Code, § 7921.000) As will be proven herein, Respondent directly injured Petitioner's constitutional rights by completely failing to provide the records. "The people have the right to instruct their representatives, petition government for redress of grievances, and assemble freely to consult for the common good." (Cal Const. art. I § 3 (a)) "The people have the right of access to information concerning the conduct of the people's business, and, therefore,… the writings of public officials and agencies shall be open to public scrutiny. A statute, court rule, or other authority, including those in effect on the effective date of this subdivision, shall be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access." (*Id.*, (b) (1)(2))

4. As is about to be set forth, Respondent then did hold, and does continue to hold, a ministerial duty and at all relevant times has been capable of carrying out that duty. Respondent is presently unlawfully denying and precluding the use and enjoyment of a right to which Petitioner is entitled. Code Civ. Proc. § 1085.

ACKNOWLEDGMENT AND WILLFUL FAILURE TO PERFORM

5. On **Nov. 14, 2024**, Respondent invoked its 14-day extension on very specific grounds. "*For the reasons set forth below*, this office is extending the date for responding to your request **to December 2, 2024**." (Exhibit 3 cover email p.49, Exhibit 4 responsive letter p.52.)

6. As a matter of law:

a. Specifically, there was no "need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request." (Gov. Code § 7922.535(c)(1))

b. Absent from this case, was there any "need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request." (Gov. Code § 7922.535(c)(2))

c. This case is equally devoid of any "need to compile data, to write programming language or a computer program, or to construct a computer report to extract data." (Gov. Code § 7922.535(c)(4))

7. Respondent invoked the 14-day delay solely because "In this instance, an extension is needed to consult with **multiple components** of the Department with *substantial interest in the*

records requested." (Exhibit 4 p.52) Citing Gov. Code, § 7922.535(c)(3) ("The need for consultation, **which shall be conducted with all practicable speed**… among two or more components of the agency having substantial subject matter interest therein.")

8. Due to Thanksgiving Day falling on Nov. 28, 2024, it was extended well past the 14th day. Respondent announced it was "extending the date for responding to your request to December 2, 2024."

9. No objection was made given that the laws automatically transferred last day to the first non-holiday.

10. However, to assist Respondent, when speaking with its *multiple* interested components of the Department, the cause for making the request was laid out in great detail. (Exhibit 5 cover email p.55, Exhibit 6 responsive letter p.57.)

11. As a result of the revelation presented and subsequently realized as exposed, the Department of Justice **ceased all communications**.

12. A friendly follow-up email was sent on Dec. 10, 2024, and provided a visual graph of the discovery made (Exhibit 7 p.65). Petitioner was not yet aware that the Department of Justice was the entity responsible for allowing the issue to occur.

13. On Jan. 6, 2025, a second follow-up email was sent inquiring as to status of the request and demanding a response and/or compliance by Jan. 7, 2025. (Exhibit 8 p.68)

14. Respondent still has not responded nor complied; time to research and prepare for this filing was necessary and as will soon be clear, required far more than the usual preparations. Respondent is **demonstrating a state of injustice that adjectives *entirely* fail to encapsulate.**

BACKGROUND LEADING UP TO MAKING THE REQUEST AND DISCOVERY OF INFORMATION

15. Petitioner was asked by a good friend that happens to be of the melanin-rich race to investigate the melanin-deficient race's unequal treatment. Speaking archaically, my Black friend wanted to know why his White co-defendants were given 4 and 9 years for the same crime he was threatened with 136-years-to-life for and forced to accept 42 years.

16. Pen. Code § 745 provides a purported way to gain relief from such events. Except for the fact that the data required to establish that relief is not the data Respondent releases on its website, "Open Justice".

17. Looking for a different way to express the injustice, and finding no civil rights group had the answer, the obvious methodology was employed.

18. In school we were all told that someday we would need algebra. Bless all the math teachers for this Court is familiar with the common denominator method of comparing imperfect data.

19. To ascertain the true level of legal action against Blacks in this state, two methods were employed. First enlarge the Black population to match the size of the White population then test to see if there is any notable discrepancy in treatment due to race. Second, apply the White rate of legal action to the Blacks to see if there were any notable differences.

20. Finally, the same means was employed to ascertain the true level of incarceration of the Blacks, to see if there were any detectable differences.

21. The results alone are shocking. That the Department of Justice could just ignore them, is troubling. But combined with Respondent's severing communications because of the legal significance of those results fails all known adjectives to convey the due contempt. Exposing that the Department of Justice has been knowingly concealing certain "incidents", that these facts establish as falling within a specific definition per the Supreme Court of the United States as a matter of constitutional law.

22. The result is best presented visually and is on the next page.

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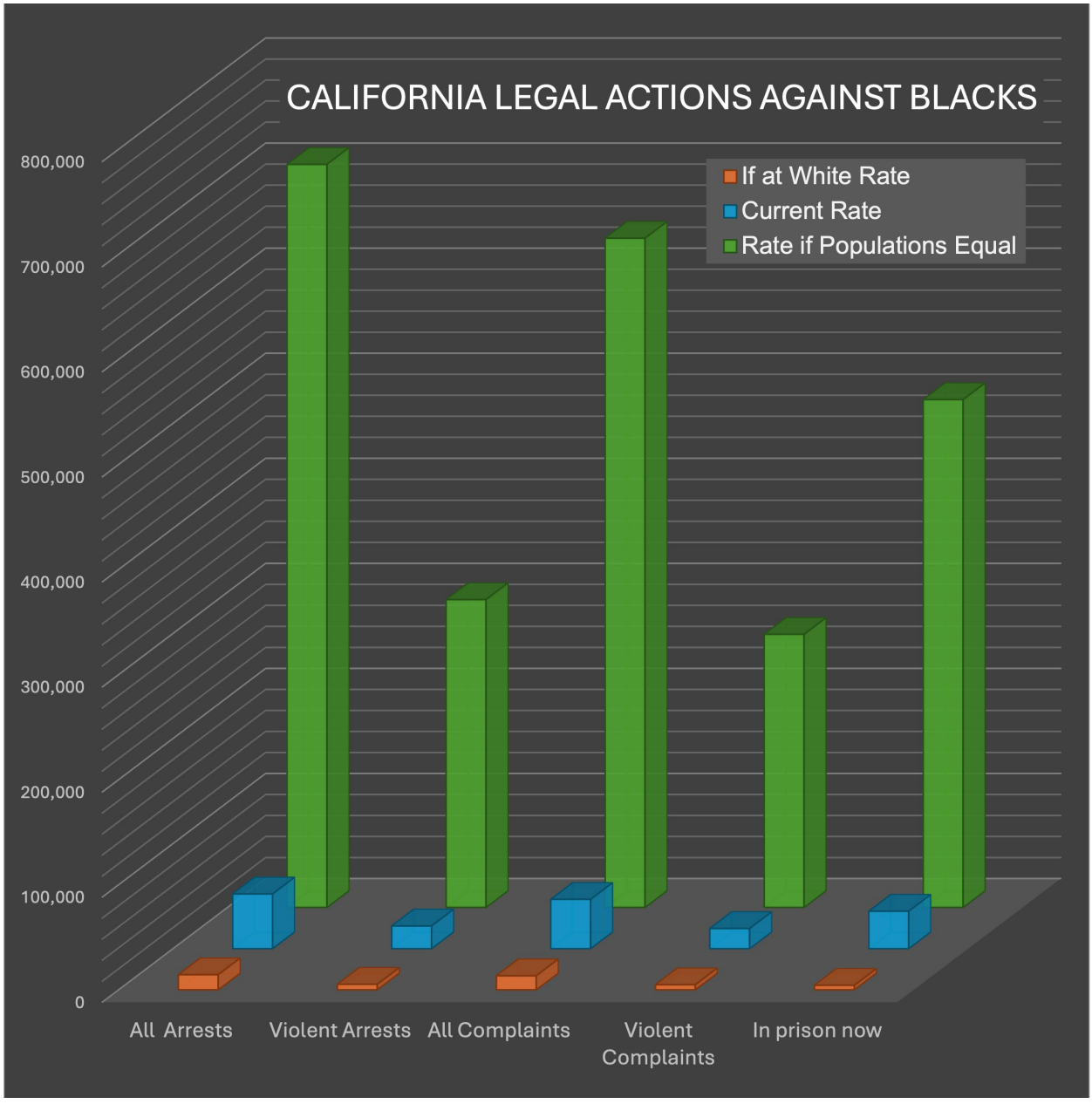
23. California's treatment of the Black race as shown if our populations were equal and if we continued the same rate, and what it would be if at the White rate, with actual in the middle.



24. For the 56,659 Whites in prison right now, **there would have to be 483,285 Blacks** in prison, as the true comparative volume of the 35,532 Blacks in prison. Although it is suspected that the number is much higher and the Department of Justice knows it and is concealing it.

25. The constitutional significance was made known to the Department of Justice.

26.“The long existence of African slavery in this country gave us very distinct notions of what it was, and what were its necessary incidents. … Severer punishments for crimes were imposed on the slave than on free persons guilty of the same offences.” Violating “the essential distinction between freedom and slavery.” (*Civil Rights Cases*, (1883) 109 U.S. 3, 22)

27. Incidents of slavery is not an outdated issue, see *United States v. Hougen* (9th Cir. 2023) 76 F.4th 805, 820; *United States v. Diggins* (1st Cir. 2022) 36 F.4th 302, 308.

28. “Racial Composition of Strikers. African Americans make up the largest group of second and third strikers (37 percent), followed by Hispanics (33 percent), and whites (26 percent). This racial composition is similar to that in the total prison population. However, African Americans make up 45 percent of the third striker population, which is 15 percent higher than in the total prison population.” *A Primer: Three Strikes – The Impact After More Than a Decade*, Legislative Analysists Office (Oct. 2005) The numbers appear to have only increased during the previous decade.

29. Blacks are 5.5% of the state population. Therefore, the aim of the records was to cause California to cease its over three-decade violation of 18 U.S.C. § 1981. Because “slavery… shall [not] exist within the United States,” (U.S. Const. amend. XIII) “the Civil War Amendments were unquestionably designed to condemn and forbid every distinction, however trifling, on account of race.” (*Oregon v. Mitchell* (1970) 400 U.S. 112, 127) By “preventing State Legislatures from enslaving, under any pretense, those whom the first clause declared should be free.” (*Jones v. Mayer Co.* (1968) 392 U.S. 409, 431, fn. 48)

30. Effective January 1, 2025, Gov. Code, § 8301.2 (“The State of California humbly asks for forgiveness from those affected by past atrocities, both deliberately and negligently, and acknowledges and affirms its responsibility **to end ongoing harm**. The State of California commits to restore and repair affected peoples with actions beyond this apology.”)

31. Unfortunately, despite the laudable sentiments expressed, mathematics and these recent developments prove no intention by the California Department of Justice to cease California’s ongoing violations of the U.S. Const. amendments XIII & XIV; the Geneva Slavery Convention; 18 U.S.C. § 242; 42 U.S.C. § 1981; and Cal. Penal Code § 745.

32. Based on information and belief, the Department of Justice has been aware that California has been engaged in the incidents of slavery and the Department of Justice has been actively concealing it.

33. Because every imaginable statistic, racial and gender descriptor, and event from arrest all the way through every possible result is tracked and cataloged for ease of access and comparison and is in the possession of the Department of Justice. See Pen. Code §§ 11103, 11104, 13010, 13011, 13012, 13013, 13020, 13100, 13101, 13102, 13103, 13104, 13200, 13305(a), and 13370.

34. The November 14, 2024, letter sent to the Department of Justice in response to the need to consult with "*multiple components* of the Department", providing the mathematical data that proved a despicable truth, and ended with:

> Mr. Justice Douglas made an immensely profound point:
> "The true curse of slavery is not what it did to the black man, but what it has done to the white man. For the existence of the institution produced the notion that the white man was of superior character, intelligence, and morality." (*Jones v. Mayer Co.* (1968) 392 U.S. 409, 445, Douglas, J., concurring.)
> The **purpose of this request is to end the incidents of slavery** that are in effect in California by imprisoning Blacks at a grossly disproportionate rate. (Exhibit 6 p.63)

35. Respondent, the California Department of Justice, **ceased all communications** at that point.

THE PUBLIC RECORDS REQUEST SUBMITTED WAS NOT BARRED BY ANY LAW

36. Gov. Code, § 7921.300 ("This division does **not** allow limitations on access to a public record **based upon the *purpose* for which the record is being requested**, if the record is otherwise subject to disclosure.") Gov. Code, § 7922.500 ("Nothing in this division shall be construed **to permit an agency to delay or obstruct** the inspection or copying of public records.")

37. Information exempted from disclosure would include: "State summary criminal history information, confidentiality of information, Sections 11105, 11105.1, 11105.3, and 11105.4, Penal Code." (Gov. Code, § 7930.200)

38. To be sure, the request commenced with: "This is NOT a request for information as defined in Penal Code § 11105(a)(2)(A)" (Exhibit 2 p.46)

39. Instead, the sections cited in the demand were not exempt, both enacted in 1983:

a. Pen. Code, § 11103 ("The Attorney General **shall keep on file in the office of the bureau <u>a record</u>** consisting of duplicates of all measurements, processes, operations, signaletic cards, measurements, **and descriptions of all persons confined in penal institutions of the state** as far as possible, in accordance with whatever system or systems may be commonly used in the state.")

b. Pen. Code, § 11104 ("The Attorney General **shall file all** measurements, **information and descriptions received** and shall make a **complete and systematic <u>record</u> and index**, providing a **method of *convenience***, *consultation*, and *comparison*.")

40. The only other reason to justify a statutory basis to deny would pertains to the privacy of an individual. The request also addressed that aspect. "D) The above is subject to the limitation that no other personal identifying information is to be provided other than as noted above." Which was limited to race, gender and if over or under the age of majority. (Exhibit 2 p.46)

41. Because the request was immensely broad and pertained to all prisons, concern was even extended in advance. Which manifested in the request as: "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." (Exhibit 2 p.47)

42. Respondent acknowledged receipt. Respondent invoked a need to consult with multiple components of the Department, none of whom could produce a valid argument to oppose the request. Evinced by the complete failure to respond at all.

43. There was no valid reason given to deny the request because there is no legal reason. If there was a legal reason, then Respondent would not have ignored the laws that require a denial be made in writing, naming the department heads and titles that made the determination, (Gov. Code § 7922.540(a),(b)), and stating the legal reasons for the denial Gov. Code §§ 7922.540(c) and 7922.000.

44. Given that the people of California just enacted an apology for slavery, the Department of Justice cannot claim that continued incidents of slavery justifies withholding the records. As there is no other reason, that intended argument fails under the Thirteenth Amendment.

45. The secreting of this information was a crime, Gov. Code § 6200 et seq.

46. The information secreted would directly prove the ongoing violation of 42 U.S.C. § 1981(a) ("**Statement of equal rights** *All persons* within the jurisdiction of the United States shall have the same right in every State… as is enjoyed by white citizens, and shall be *subject to like punishment*, pains, penalties… *of every kind, and to* ***no*** *other*.")

47. Jurisdiction is vested in this Court, by constitution Cal. Const. art. VI § 10 and by statute as Respondent has a principal office in Los Angeles County, thus despite Petitioner residing in Ventura County, this Court is competent to assist in finally ending the incidents of slavery in California, to effectuate the aim of the people of the state of California when enacting an apology and a pledge to end the harm from slavery, at the exact same time that the Department of Justice was scrambling to ensure it would persist.

48. There are only two sides to the slavery debate. The Department of Justice has elected a side inimical to California's interests.

49. Additional facts and law are provided in the Memorandum attached to this Petition. Such facts and law are incorporated by reference as if fully set forth herein. In summary, the facts include the math that establishes the incidents of slavery, the perpetration of systemic racism by the Department of Justice and the laws that establish their errant beliefs are not consistent with history nor the historical laws of California, even the racist ones. Discussions on procedure and the laws that command this data was already required to be made public is also set forth.

50. The Department's waiver of the duty to respond leads to the forfeiture of the alternative writ, resulting only in the peremptory writ.

51. The Department of Justice will be served contemporaneously with a copy of this petition upon the Clerk's issuance of the summons to: Office of the Attorney General 300 South

Spring Street Los Angeles, CA 90013-1230 Phone: (213) 269-6000 as the listed service address on Respondent's website. https://oag.ca.gov/services-info

52. Finally, as proof of the wrongs, serving as an admission, the Department's released Guidelines for Access to Public Records, (Exhibit 11 p.90) provide in relevant part as follows:

a. California citizens have a right to access public information maintained by government agencies, including the Department of Justice (Department). That right is provided for in the California Public Records Act and the state constitution, and it includes the right to inspect and copy records of state and local government agencies.

b. As the Legislature stated in enacting the California Public Records Act, "access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state." The Department's guidelines for access to public records rest on that principle.

c. Records Defined. "Records" include any writing owned, used or maintained by the Department in the conduct of its official business. Writings include information recorded or stored on paper, computers, email, or audio or visual tapes.

d. Identifying Records. In order to help the Department provide records promptly, requesters should provide specific information about the records they seek. When a record cannot be identified by name, the requester should attempt to be as specific as possible in describing the record, based on its content. If known, requesters should indicate the office, division, branch or section of the Department that created and maintains the records.

e. When a request is not sufficiently specific, Department staff will help the requester to identify the information, describe how the records are maintained or their physical location, and provide suggestions on how to overcome practical barriers to disclosure.

f. Processing Requests for Copies of Records. When a copy of a record is requested, and the record cannot be produced immediately, the Department will determine within 10 days after receipt of the request, whether to comply with the request, and shall promptly inform the requester of its decision and the reasons for the decision. The initial 10-day period may be extended for up to an additional 14 days if the Department needs to:

a. Communicate with field offices.
b. Inspect voluminous records.
c. Consult with other divisions or agencies.
d. Construct a computer report to extract data.

g. Whenever possible, the Department will provide records at the time the determination is made to disclose them. If immediate disclosure is not possible, the Department will provide an estimated date when the records will be available, and will provide the records within a reasonable period of time.

h. Exemptions. The Department will provide access to all public records upon request unless the law provides an exemption from mandatory disclosure. Examples of records exempt from mandatory disclosure under the California Public Records Act include: certain personnel records, investigative records, drafts, confidential legal advice, records prepared in connection with litigation, and information that may be kept confidential pursuant to other state or federal statutes. In most circumstances, when the Department removes or redacts exempt information from the record, it will disclose the remainder of the record.

i. California Constitution, Article I, Section 3, subdivision (b) and the California Public Records Act (Government Code Sections 7920.000-7930.215) govern access to public records of California state and local government agencies.

j. A copy of these guidelines shall be posted in a conspicuous public place at the offices of the Department. A copy shall be made available free of charge upon request by any member of the public.

k. For more information about open government and public records access, or to access publications of the Attorney General, visit the Attorney General's web site at https://oag.ca.gov

53. All exhibits attached to this petition are true and correct copies of the documents they are claimed to be and are incorporated by reference as if fully set forth herein.

54. Of final note as to the exhibits, Petitioner's father has the same name and at one time practiced law together. Petitioner directed his father to serve as his agent to send the communications in Exhibits 5-8, assuming some credibility might assist the Department, coming from a retired judge, then in private practice. However, as the twilight of an over 50-year career set, Petitioner's father did not possess the strength to continue this fight and declined to represent in the court proceedings. Noteworthy so that the Court would not presume that the present advocate shared the same title of retired judge as noted in the exhibits.

55. The court has been presented a petition in proper form and all prerequisites have been accomplished, with the prima facia case now made, a prayer for relief that is due.

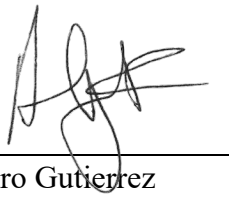
PRAYER

WHEREFORE, based on the facts and law as presented in this petition and memorandum, good cause having been established before this Court of Justice, after waiting the requisite 10 days from the proof of service of summons, petitioner prays:

1. For the court to call for a response and then issue a peremptory writ in the first instance, Code Civ. Proc. §§ 1088; 1088.5; 1107; *Palma v. U.S. Industrial Fasteners, Inc*. (1984) 36 Cal.3d 171, commanding Respondent to provide the records as demanded and which is fully set forth on the following page in Attachment A; or
2. For the court to issue an alternative writ, ordering Respondent to comply with Attachment A or show cause within 15 days of filing this petition why it should not comply, which should include what law permits Respondent to fail to submit a written denial in violation of Gov. Code §§ 7922.000, 7922.540 and under what law should Respondent be permitted to file a substantive return after said failure; and why Respondent should not have its return stricken as a sanction for failure to deny in writing and list those responsible for the decision; and why Respondent is justified in denying access to information required to be released per Pen. Code § 13370 as demanded by a valid public records request;
3. An order requiring independent oversight of DOJ's compliance, including court-appointed auditing or third-party verification of records produced;
4. A provision imposing substantial monetary sanctions should DOJ be found to have knowingly concealed or falsified data in response to this Court's order;
5. Award Petitioner costs and fees for prosecuting this petition, according to proof to be submitted, as permitted by Gov. Code § 7923.115; *Eagle Indemnity Co. v. Industrial Accident Commission* (1933) 217 Cal. 244, 248;
6. Any other relief the court deems just and proper.

It is so prayed.

Respectfully submitted,



March 14, 2025

Arturo Gutierrez

Attachment A has been slightly reworded as appropriate for this petition.

ATTACHMENT A

This is **NOT** a request for information as defined in Penal Code § 11105(a)(2) (A) '"State summary criminal history information'". Rather the information solicited by Petitioner's California Public Records Request, 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 or any prior name used for a prison in California;

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 pages 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 B)ii) 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" (meaning native American or Islander) 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.

SUMMARY

In short: Each county and prison facility separately; broken down by each month dating back to 1983; showing the population housed in total number by race; showing the convictions derived from each county, cataloged by crimes as listed in *Crime in California*, grouped by races, genders and majority/minority, showing total number per each and the disposition.

This request is **not** for information contemplated as a state summary criminal history information as that term is defined in Penal Code § 11105(a)(2) (A) '"State summary criminal history information' means the master record of information compiled by the Attorney General pertaining to the identification and criminal history of a person, such as name, date of birth, physical description, fingerprints, photographs, dates of arrests, arresting agencies and booking numbers, charges, dispositions, sentencing information, and similar data *about the person*."

This request's description is limited to gender and race and if over 17 or under 18 and the charges, dispositions, sentencing information, without regard to any person, only regarding the source counties.

Again, this data is already cataloged and filed per the above noted Penal Code sections 11103, 11104. Making the matter rather simple. The desired information should be clear from the above, if the existing catalog is different than *Crime in California's* format, that is fine, it was a suggestion to assist the visual of the request if necessary.

For the Court's knowledge, the original (containing the above with slight alterations) submission made on the Department's webpage stated:

"Record Description

I do not know the name of the desired records only the statutes that declare they exist. The description for the information requested is set out in a letter that is available via:

https://acrobat.adobe.com/id/urn:aaid:sc:US:981adb68-dd78-46d4-bee4-d27d2cddc3c1

Thank you."

All present in Exhibits 1 and 2.pp.44, 46-47

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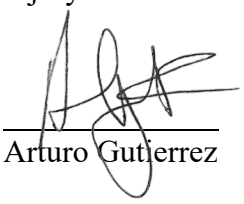
VERIFICATION

I, Arturo Gutierrez, am the petitioner in the above-entitled proceeding. I have read the foregoing petition and know its contents. The facts stated therein are true and are within my personal knowledge.

As to any statements not within my personal knowledge, I state those based on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

March 14, 2025



Arturo Gutierrez

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MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF THE PETITION

This memorandum is intended to provide additional facts and law in support of the petition. Addressing the relevant laws as to the procedure of the instant case, followed by the facts necessary to address the reasoning behind Respondent's conduct to give the procedure its context.

Based on research, this appears to be the first time any agency has outright refused to provide information and failed to provide any form of justification for its refusal. At least, it appears that no case has discussed such events.

I. THE RELIEF MUST BE PEREMPTORY NOT ALTERNATIVE, DUE TO THE WAIVER

The DOJ's failure to issue a written denial or state a lawful exemption forfeits any defense. (Gov. Code § 7923.100.) Courts routinely issue peremptory writs where no factual dispute exists and an agency's refusal to act is clear. (Code Civ. Proc. § 1088; *Palma v. U.S. Industrial Fasteners* (1984) 36 Cal.3d 171.)

While by statute this may appear to require an alternative writ based on an assumption that an entity would not disregard the mandatory (as opposed to merely directory) statutes governing a response, the failure to comply with denial procedures mandates this be a peremptory writ in the first instance.

Gov. Code, § 7922.540 ("**(a)** A response to a written request for inspection or copies of public records that includes a *determination that the request is denied, in whole or in part,* ***shall be in writing***. **(b)** The notification of denial **shall set forth** the *names and titles or positions of each person responsible for the denial*. **(c)** An agency **shall justify withholding any record** by complying with Section 7922.000.")

Gov. Code, § 7922.000 ("An agency **shall justify withholding any record** by demonstrating that the record in question is **exempt under express provisions** of this division, *or* that on the *facts of the particular case* the public interest served by not disclosing the record **clearly outweighs** the public interest served by disclosure of the record.")

The public interest here is so immense, that we once engaged in a devasting civil conflict. See American Civil War 1861-1865. See also Reconstruction Era, 1865-1877 and Civil War amendments XIII, XIV, XV and the Civil Rights Act of 1866. Commencing with Bull Run, or as the Department might call it, Manassas. Petitioner thus has just as much interest to raise the Thirteenth Amendment as the over 360,000 Union soldiers that laid down their lives to allow for the ratification of the Thirteenth Amendment.

> To further the statutory right of access to records maintained by public agencies, the PRA requires prompt disclosure of records by any public agency unless "the record in question is exempt under express provisions of this division, or that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record." (§ 7922.000; see §§ 7922.530, subd. (a), 7921.300.) The agency must make this determination within 10 days from receipt of the request and must provide prompt notification of its determination and any reasons therefor. (See § 7922.535, subd. (a).)
>
> In the event a public agency refuses to disclose records subject to inspection under the PRA, Part 4 of the statutory scheme provides general principles and procedures "to enforce that person's right under this division to inspect or receive a copy of any public record or class of public records." (§ 7923.000.) These statutes authorize judicial proceedings initiated by verified petition for injunctive or declaratory relief, or for a writ of mandate, to enforce a person's rights under the PRA. (§§ 7923.000, 7923.100.) Upon the filing of a verified petition, the court must set a schedule "with the object of securing a decision as to the matters at issue at the earliest possible time." (§ 7923.005.)
>
> If the court finds unjustified the public agency's decision to refuse disclosure under either section 7922.000 or 7920.505, the court must order disclosure of the record. (§ 7923.110, subd. (a).) If the court finds the agency's refusal to be justified, the court must return the record and issue an order supporting the agency's decision. (§ 7923.110, subd. (b).)

Gascon v. Logan (2023) 94 Cal.App.5th 352, 366

Because Respondent refused to abide the duty to present its reasons for denial in writing within the statutory time frame, it has made short work of the Court's review process. For good measure, the subsequent sections will negative the Department's *sub silentio* justification.

> And upon a determination that the public entity has failed to meet obligations as basic as projecting a reasonably prompt schedule for compliance, the Public Records Act authorizes a trial court to 'direct disclosure by a public official'… see also *Sukumar, supra*, 14 Cal.App.5th at p. 466, 221 Cal.Rptr.3d 418 [unwillingness to locate and produce documents is tantamount to withholding documents]; §§ 7923.000, 7923.100 [authorizing enforcement action where documents are improperly withheld].) Accordingly, the Public Records Act

> does not leave a plaintiff at the mercy of a public agency that is unreasonably or indefinitely delaying its production.

Cnty. of San Benito v. The Superior Court (2023) 96 Cal.App.5th 243, 263

Gov. Code, § 7923.100 ("Whenever it is made to appear, by verified petition to the superior court of the county where the records or some part thereof are situated, that certain public records are being *improperly withheld* from a member of the public, the court shall order the officer or other person charged with withholding the records to disclose those records *or* show cause why that person should not do so.") The text of the statute does not expressly require an alternative writ, rather it provides two options. Since the second option is foreclosed by the Department's waiver of the right to show cause when willfully severing all communications instead of complying with their statutory obligations, only a peremptory writ remains.

Code Civ. Proc. § 1087 ("The writ may be either alternative or peremptory. The alternative writ must command the party to whom it is directed immediately after the receipt of the writ, or at some other specified time, to do the act required to be performed, or to show cause before the court at a time and place then or thereafter specified by court order why he has not done so. The peremptory writ must be in a similar form, except that the words requiring the party to show cause why he has not done as commanded must be omitted.")

Code Civ. Proc. § 1088 ("When the application to the court is made without notice to the adverse party, and the writ is allowed, the alternative must be first issued; but if the application is upon due notice and the writ is allowed, the peremptory may be issued in the first instance. With the alternative writ and also with any notice of an intention to apply for the writ, there must be served on each person against whom the writ is sought a copy of the petition. The notice of the application, when given, must be at least ten days. The writ cannot be granted by default. The case must be heard by the court, whether the adverse party appears or not.")

See *Lewis v. Superior Court* (1999) 19 Cal.4th 1232, 1250 ("The use of the term 'heard' in section 1088, authorizing issuance of a peremptory writ in the first instance, does not appear to contemplate consideration of oral argument. In context, the requirement that the case 'must be heard' means that the court cannot issue the writ by default, but rather must consider and evaluate the petition before granting the relief requested, even if the adverse party does not respond to the petition.")

Gov. Code § 7923.105
"The court shall decide the case after the court does all of the following:
(a) Examine the record in camera, if permitted by subdivision (b) of Section 915 of the Evidence Code.
(b) Examine any papers filed by the parties.
(c) Consider any oral argument and additional evidence as the court *may allow*."

Gov. Code sec. 7923.110 (a) "If the court finds that the public official's *decision to refuse disclosure* is **not** justified under Section 7922.000 or any provision listed in Section 7920.505 [former Section 6254 provisions], the *court shall order the public official to make the record public*. (b) If the court finds that the public official *was justified in refusing* to make the record public, the court shall return the record to the public official without disclosing its content, together with an order supporting the decision refusing disclosure."

Review of the justification was made easy for the court, because reviewing nothing is easily accomplished.

II. THE DEPARTMENT IS ESTOPPED

Gov. Code, § 7920.115(a) ("An opinion of the Attorney General interpreting a previously existing provision is relevant in interpreting any provision of this division, or any other provision of the CPRA Recodification Act of 2021, which restates and continues that previously existing provision.")

See 89 Ops.Cal.Atty.Gen. 204 (2006) (If no personal identifying information, then must disclose.) 71 Ops.Cal.Atty.Gen. 235 (1988) (Records generated in the ordinary course of a public agency's business which may be relevant in future litigation to which the agency might be a party are not exempt from disclosure.) The Department cannot write itself out of this case, because the United States Department of Justice was already denied such an opportunity.

> The argument for unreviewability in such an instance runs up against a mainstay of our system of government. Madison spoke precisely to the point:
> "No man is allowed to be a judge in his own cause, because his interest would certainly bias his judgment, and, not improbably, corrupt his integrity. With equal, nay with greater reason, a body of men are unfit to be both judges and parties at the same time . . . ." The Federalist No. 10, p. 79 (C. Rossiter ed. 1961).

Gutierrez de Martinez v. Lamagno, (1995) 515 U.S. 417, 428

III. EVERY ASPECT OF MANDAMUS IS PRESENT IN THIS CASE, ALL OF WHICH REQUIRE ISSUANCE OF THE WRIT

Mandamus is comprised of two core basis for issuance, Code Civ. Proc. § 1085(a).

> A writ of mandate may be issued by any court to any person, to compel the performance of an act which the law specially enjoins, as a duty resulting from an office, trust, or station,
>
> or
>
> to compel the admission of a party to the use and enjoyment of a right to which the party is entitled, and from which the party is unlawfully precluded by that person.

These records are a matter of both constitutional and statutory right. The refusal to provide the records was unlawful as these records were not exempt. There was no discretion conferred here, as the act to be compelled was a ministerial act required by statute under these facts. Even if there was a valid basis to deny the right, the failure to state such basis is reason to issue the writ.

> A writ of mandate may issue "to compel the performance of an act which the law specially enjoins, as a duty resulting from an office, trust, or station...." (Code Civ. Proc., § 1085, subd. (a).) "Generally, mandamus is available to compel a public agency's performance or to correct an agency's abuse of discretion when the action being compelled or corrected is ministerial. [Citation.] 'A ministerial act is an act that a public officer is required to perform in a prescribed manner in obedience to the mandate of legal authority and without regard to his [or her] own judgment or opinion concerning such act's propriety or impropriety, when a given state of facts exists. Discretion ... is the power conferred on public functionaries to act officially according to the dictates of their own judgment. [Citation.]' [Citations.] Mandamus does not lie to compel a public agency to exercise discretionary powers in a particular manner, only to compel it to exercise its discretion in some manner." (*AIDS Healthcare Foundation v. Los Angeles County Dept. of Public Health* (2011) 197 Cal.App.4th 693, 700–701, (*AIDS Healthcare*).)
>
> *Ctr. for Biological Diversity v. Dep't of Conservation* (2018) 26 Cal.App.5th 161, 171

Because the obligation to provide the records was by statute, no regard was to be afforded the Department's "own judgment or opinion concerning such act's propriety or impropriety". Here "multiple components of the Department" acted "officially according to the dictates of their own judgment" that incidents of slavery were permissible in California, under still binding precedent.

IV. THAT WHICH THE LAW EXTRA-ESPECIALLY ENJOINS

A. Respondent is in Error for Adhering to Binding Precedent

'"All persons', according to Congress, included those persons cataloged as 'every species of property known to the Constitution of the United States, and recognized by that paramount law"

(*Ex parte Archy* (1858) 9 Cal. 147, 163-64) Because as stated in California's constitution "slavery" was "merely directory" (*id.*, at 169) "where slavery exists, the right of property of the master in the slave must follow as a necessary incident" (*id.*, at 162) regardless of "different descriptions of private property" (*id.*) there exists "a sincere desire to extend" "all the hospitalities consistent with our own just rights" because of "our policy and duty not to clog the privilege of visiting us, with unnecessary restrictions." (*Id.*, at 167)

Still valid authority as not noted as overruled on other grounds, "(Cf., e.g., *Ex parte Archy* (1858) 9 Cal. 147, 171 [applying clarification of choice-of-law rule prospectively].)(fn.17) In light of our decision…" (*Kearney v. Salomon Smith Barney, Inc.* (2006) 39 Cal.4th 95, 130-31) The footnote discussed something else. Showing the California Supreme Court recently cited to it as valid authority.

The Department of Justice is also beholden to other binding precedent. "The European white man who comes here would not be shielded from the testimony of the degraded and demoralized caste… the Negro… would be admitted… to testify against white citizens in our courts of law" (*People v. Hall*, (1854) 4 Cal. 399, 402-403) "which could only be secured by removing him above the corrupting influences of degraded castes" (*id.*, at 403) "and turning loose upon the community the more degraded tribes of the same species, who have nothing in common with us, in language, country or laws." (*Id.*) "The word 'white' has a distinct signification, which *ex vi termini,* excludes black, yellow, and all other colors. It will be observed, by reference to the first section of the second Article of the Constitution of this State, that none but white males can become electors… On examination of the constitutional debates, it will be found… to exclude all inferior races." (*Id.* at 404) "This is *not a speculation* which exists in the *excited and over-heated imagination* of the patriot and statesman, but it **is an actual and present danger**. The *anomalous* **spectacle of a distinct people, living in *our* community**…" (*id*., emphasis added.)

However, whatever personal disagreements may exist between Petitioner and the California Department of Justice on the validity and propriety of the incidents of slavery, that is still an invalid reason to withhold the records. Gov. Code, § 7921.300 ("This division does not

allow limitations on access to a public record ***based upon the purpose*** for which the record is being requested, if the record is otherwise subject to disclosure.")

As to this Court's obligation to adhere to precedent of a superior tribunal, *Auto Equity Sales, Inc. v. Superior Court* (1962) 57 Cal.2d 450, 454-55, it is relevant to note that the Thirteenth and Fourteenth Amendments were ratified after both *Archy* and *Hall*.

Ratification was completed on December 6, 1865, and on December 18, 1865, Secretary of State William Seward certified that the Thirteenth Amendment had become a part of the Constitution. California begrudgingly ratified it on December 15, 1865.

The Fourteenth Amendment was less clear but ultimately on July 28, 1868, when Secretary Seward certified without reservation the Amendment was a part of the Constitution. With substantially greater resistance, California ratified this Amendment in 1959.

On March 30, 1870, Secretary of State Hamilton Fish's certified that the Fifteenth Amendment had become a part of the Constitution. California ratified this Amendment in 1962.[1]

Despite a near century delay in ratifying both the Fourteenth and Fifteenth Amendments, the Department is nevertheless bound by them. Equally so, freeing this Court from adhering to the opinions of the *Archy* and *Hall* courts.

"The language of the Supremacy Clause — which directs that 'the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any state to the Contrary notwithstanding' — and our cases confirm that state courts have the coordinate authority and consequent responsibility to enforce the supreme law of the land." (*Howlett v. Rose* (1990) 496 U.S. 356, 370-371 fn. 16) Which applies to "the Fourteenth Amendment. That Amendment governs any action of a State, 'whether through its legislature, through its courts, or through its executive or administrative officers.' [Citations.]" (*Mooney v. Holohan*, (1935) 294 U.S. 103, 113)

[1] Source as to historical dates: the Constitution Annotated Intro.6.4 Civil War Amendments (the only annotation authorized by Congress, 2 U.S.C. § 168)

B. "OUR COUNTRY HAS NEVER BEEN COLORBLIND."

Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll. (2023) 143 S. Ct. 2141, 2264, Jackson joined by Sotomayor, Kagan, JJ., dissenting

California's appointed Task Force trusted the legal investigative research to some 64 attorneys in the Department regarding the Slavery Apology Act. The body of work it produced in the 1,080 page Reparations Report was impressive. Affording the Department with the unique opportunity to conceal relevant aspects brought to light by this case.

Noting under the essential needs to rectify these wrongs under Part V: Policy Recommendations in e.g., Ch. 28-Policies Addressing the Unjust Legal System p.755:

> "**Data Collection** The starting point is data. Comprehensive, standardized collection of data is needed for the identification, presentation, and evaluation of RJA claims, including for those with older convictions. Recognizing the centrality of data, the Legislature enacted Assembly Bill No. 2418 (AB 2418), the Justice Data Accountability and Transparency Act, mandating that agencies collect and transmit specified data, including data on the race of accused persons and victims, to the Department of Justice. However, AB 2418 included a funding contingency, and the law has not been funded to date."

Respondent announced data was the pinnacle, the essence, the "starting point" but if only there was funding, then it could comply with Pen. Code sec. 13370(a). Which provided it was vital to make data available to the public to discuss race and mass incarceration to promote criminal justice transparency; All of which was best served by having the Department of Justice be the single repository and publisher to ensure accuracy and availability to the public. Which as noted, but for funding, the Department would love to comply.

If only there were other statutes that required the Department to gather such information and track every detail from arrest to every possible outcome. Ones such as, Pen. Code §§ 11103, 11104, 13010, 13011, 13012, 13020, 13100, 13101, 13102, 13103, 13104, 13200, 13305(a), then the Department could have complied when an individual—independent of Pen. Code § 13370 (AB 2418)—submitted a public records request asking for the very records necessary under Pen. Code § 745, because "the starting point is data."

On that point, note the claimed precision and the citation to source of data and the lacking citation in Chapter 11 An Unjust Legal System. V. Incarceration.

"The previously described history of the criminal justice system in America, such as California three-strikes laws and similar policies that have affected large numbers of African Americans,"

"African Americans are overrepresented in correctional facilities. Approximately 28.3 percent of California's prisoners were African American, when they make up about 6 percent of the population.358"

En. 358 "U.S. Census Bureau, Quick Facts: California (as of Apr. 26, 2022)."

The Department did not cite how it knew an approximate 28.3%.

C. Respondent has Read the Supreme Court Cases Regarding the Thirteenth Amendment and 42 U.S.C. § 1981 in a Way that Promotes its Agenda of Ensuring the On-Going Harm to the Black Community Shall Sustain

In Chapter 40, the discussion regarding the *Civil Rights Cases* 109 U.S. 3 was on page 1052. Wherein Respondent wrote its interpretation of the case:

> **Impact of the Ruling**: The Supreme Court held Congress did not have the constitutional authority under the Thirteenth or Fourteenth Amendments to enact the Civil Rights Act of **1875**. The Fourteenth Amendment "nullifies and makes void all State legislation, and State action of every kind, which impairs the privileges and immunities of citizens of the United States, or which injures them in life, liberty, or property without due process of law, or which denies to any of them the equal protection of the laws." The Court ruled that what is prohibited under the Fourteenth Amendment is state action of a particular character, not "the individual invasion of individual rights" by private actors. Further, even though the Court affirmed that section 2 of the Thirteenth Amendment in theory[2] "clothes Congress with the power to pass all laws necessary and proper for abolishing all badges and incidents of slavery in the United States," it found Congress did not have the authority under this section to enact the Civil Rights Act [**of 1875**]. The Court ruled that the Thirteenth Amendment is not intended to adjust "the social rights of men and races in the community," but rather the fundamental rights that pertain to citizenship.
> **Subsequent History**: After the decision in this case, the Supreme Court consistently struck down legislation enacted under the Thirteenth Amendment and adopted a highly restrictive interpretation of the "badges and incidents of slavery." There would be no comparable federal civil rights act until 1964—more than 80 years later. [Endnotes omitted.]

[2] "Congress has a right to enact all necessary and proper laws for the obliteration and prevention of slavery with all its badges and incidents," *Civil Rights Cases* (1883) 109 U.S. 3, 21)

The Court began by quoting at length the first and second sections of the act of 1875, pertaining to:

> The **only question** under the present head, therefore, is, whether the **refusal** to any persons of the **accommodations** of an inn, or a public conveyance, or a place of public amusement, **by an individual**, and **without any sanction** or support from any **State law** or regulation, does inflict upon such persons any manner of servitude, or **form of slavery**, **as those terms are understood in this country**?

Civil Rights Cases (1883) 109 U.S. 3, 23, this and subsequent emphasis added.

"[T]he answer to be given will be that the **first and second sections** of the act of Congress of March 1st, **1875**,… are unconstitutional and void," (*id*., at 25-26)

Respondent omitted from its summary that which was applicable to its conduct that it was concealing while writing that summary.

> These sections [one and two], in the objectionable features before referred to, **are different** also from the law ordinarily called the "Civil Rights Bill," originally passed April 9th, 1866, 14 Stat. 27, ch. 31, and re-enacted with some modifications in **sections 16, 17, 18**, of the Enforcement Act, passed May 31st, **1870**, 16 Stat. 140, ch. 114. That law, as re-enacted, …for the security of persons and property as is **enjoyed by white citizens**, and **shall be subject to like punishment**, pains, penalties, taxes, licenses and exactions of every kind, **and none other**, … This law is **clearly corrective in its character,** intended to counteract and furnish redress against State laws and proceedings, and customs having the force of law, which sanction the wrongful acts specified.

Id., at 16

Respondent stated, "Thirteenth Amendment and adopted a highly restrictive interpretation of the 'badges and incidents of slavery."' Also declaring "The Court ruled that the Thirteenth Amendment is not intended to adjust 'the social rights of men and races in the community,' but rather the fundamental rights that pertain to citizenship." Both of which were specifically addressed in this passage:

> The long existence of African **slavery** in this country gave us **very distinct notions** of what it was, and what were its **necessary incidents**. … **Severer punishments** for crimes were imposed on the slave than on free persons guilty of the same offences. Congress, as we have seen, by the Civil Rights Bill of **1866**, passed in view of the Thirteenth Amendment, before the Fourteenth was adopted, **undertook to wipe out** these burdens and disabilities, the **necessary incidents of slavery**, constituting **its substance and visible form**; and to secure to all citizens of every race and color, and without regard to previous servitude, those fundamental rights which are the essence of civil freedom, namely, the same right to make

> and enforce contracts, to sue, be parties, give evidence, and to inherit, purchase, lease, sell and convey property, as is enjoyed by white citizens. Whether this legislation was fully authorized by the Thirteenth Amendment alone, without the support which it afterward received from the Fourteenth Amendment, after the adoption of which it was re-enacted with some additions, it is not necessary to inquire. It is referred to for the purpose of showing that at that time (in 1866) Congress did not assume, under the authority given by the Thirteenth Amendment, to adjust what may be called the social rights of men and races in the community; but only to *declare and vindicate those fundamental rights which appertain to the essence of citizenship*, and the enjoyment or **deprivation of which constitutes the essential distinction between freedom and slavery**.

Id., at 22

Respondent was sure to erase from the Court's definition of incidents of slavery as the imposition of severer punishments on the slave which directly related to the citizenship the "deprivation of which constitutes the essential distinction between freedom and slavery."

> The amendments are different, and the powers of Congress under them are different. What Congress has power to do under one, it may not have power to do under the other. Under the Thirteenth Amendment, it has only to do with slavery and its incidents. Under the Fourteenth Amendment, it has power to counteract and render nugatory all State laws and proceedings which have the effect to abridge any of the privileges or immunities of citizens of the United States, or to deprive them of life, liberty or property without due process of law, or to deny to any of them the equal protection of the laws. Under the Thirteenth Amendment, the legislation, so far as necessary or proper to eradicate all forms and incidents of slavery and involuntary servitude, may be direct and primary, operating upon the acts of individuals, whether sanctioned by State legislation or not; under the Fourteenth, as we have already shown, it must necessarily be, and can only be, corrective in its character, addressed to counteract and afford relief against State regulations or proceedings.

Id., at 23

Of course, every advocate is free to urge a change in the law should occur, but misreporting what a case stands for in order to conceal its agenda is wrongful.

Respondent's design is to effectuate earlier cases upholding "Severer punishments for crimes were imposed on the slave than on free persons guilty of the same offences."

> We need not refer, on this point, particularly to the laws of the present slaveholding States. Their **statute books are full of provisions in relation to this class**… They have continued to treat them as an inferior class, and to **subject them to strict police regulations**, drawing a broad line of distinction between the citizen and the slave races, and **legislating in relation to them** upon the same principle which prevailed at the time of the Declaration of Independence. As relates to these States, it is too plain for argument, that *they have never*

> been regarded *as a part of the people or citizens of the State*, nor supposed to possess any political rights which the dominant race might not withhold or grant at their pleasure.

Dred Scott v. Sandford (1856) 60 U.S. 393, 412

Respondent objects to Petitioner's position as "It would give to persons of the negro race,… the right… without pass or passport, and without obstruction, to sojourn there as long as they pleased,… unless they committed some violation of law for which a white man would be punished… [thus] endangering the peace and safety of the State" (*id*., at 417)

> [A]nd the State officers and tribunals would be compelled, by the paramount authority of the Constitution, to receive him and treat him as one of its citizens, **exempt from the laws and police of the State in relation to a person of that description**, and allow him to enjoy all the rights and privileges of citizenship, without respect to the laws of Maryland, although **such laws were deemed by it absolutely essential to its own safety**.

Id., at 425

V. THE PREJUDICE INTENDED IS TO ENSURE ONGOING HARM TO THE BLACK RACE

Pen. Code § 745(a) "The state *shall not seek* or *obtain* a criminal conviction or seek, obtain, or *impose* a sentence on the basis of race, ethnicity, or national origin." Establishing a statutory prohibition, it is mandatory and prohibitory, not merely directory. See *People v. Lara* (2010) 48 Cal.4th 216, 225 (if "determined to have an invalidating effect, the statute is said to be mandatory".) Pen. Code § 745(e)(2)(A) ("After a judgment has been entered, if the court finds that a conviction was sought or obtained in violation of subdivision (a), the court shall vacate the conviction and sentence, find that it is *legally invalid*, and order new proceedings consistent with subdivision (a)"). To permit a court to make that finding see *id.*, (a) ("A violation is established if the defendant proves, by a preponderance of the evidence, any of the following:")

> (3) The defendant was charged or convicted of a more serious offense than defendants of other races, ethnicities, or national origins who have *engaged in similar conduct* and are similarly situated, and the evidence establishes that the *prosecution more frequently sought or obtained convictions* for more serious offenses against people who share the defendant's race, ethnicity, or national origin **in the county** where the convictions were sought or obtained.
>
> (4) (A) A longer or more severe sentence was imposed on the defendant than was imposed on other similarly situated individuals *convicted of the same offense*, and longer or more severe sentences were *more frequently imposed for that offense* on people that share the defendant's race, ethnicity, or national origin than on defendants of other races, ethnicities, or national origins **in the county** where the sentence was imposed.

The information that the Department of Justice provides on "Open Justice" does not satisfy the legislative criteria. They provide data that cannot be used to prove the above. Necessity being the mother of all invention resulted in using the data Respondent did provide that resulted in proof of the incidents of slavery in California. Respondent's ceasing all communications once exposed is clear consciousness of guilt.

The specific math as noted in the petition is now set forth that establishes the above harm is known and intentionally being concealed to preclude racial justice. Pen. Code § 745(h)(1) "In evaluating the totality of the evidence, the court shall consider whether systemic and institutional racial bias, racial profiling, and historical patterns of racially biased policing and prosecution may have contributed to, or caused differences observed in, the data or **impacted the *availability* of data overall.**"

VI. MATHEMATICS PROVES INCIDENTS OF SLAVERY IN CALIFORNIA

Using the common denominator approach, we can ascertain the true level of actions against Blacks in California. First by scaling the Black population (2,237,044) up to equal the White population (30,426,953) in 2020 (US Census, California) shows what the number of Black arrests would look like if Blacks were arrested at their current rate but had the same population size as Whites. (Hispanics are mostly comprised of the White race, shown in the next section of the memorandum.)

The equation is:

– Population Multiplier: 30,426,953 / 2,237,044 ≈ 13.6

Using this multiplier on the DOJ's stats per category:

All Black felony arrests 52,000 × 13.6 ≈

707,200 (Blacks) vs. 194,081 (Whites)

All Black violent arrests 21,537 × 13.6 ≈

292,903 Black vs. 70,064 (Whites)

All Black felony complaints 46,834 × 13.6 ≈

636,942 (Blacks) vs. 180,409 (Whites)

All Black violent complaints 19,109 × 13.6 ≈

259,882 (Blacks) vs. 64,142 (Whites)

APPLYING THE WHITE PRIVILEGE RATE

Alternatively, we can use the White arrest rate as a common denominator and apply it to the actual Black population, to see what the number of Black arrests would be if both groups were arrested at the same rate.

White arrest rate: 194,081 / 30,426,953 ≈ 0.00638
Expected Black arrests at White rate: 2,237,044 × 0.00638 ≈ **14,272**
White Violent Charges Rate: 64,142 / 30,426,953 ≈ 0.0021
Expected Black Violent Charges Rate: 2,237,044 x 0.0021 ≈ **4,716**

Blacks in Prison

Critical to this equation is the actual present number of Blacks in prison, which the DOJ knows and which they feloniously are withholding.

The *Jan. 2024 CDCR Population Projection* report showed a population of 96,033 humans, 92,271 men and 3,762 women.

Therefore, of the 96,033 prisoners, if 37% are Black then they number 35,532 and because Hispanics and Whites are the same race, then 59% reveal that their number is 56,659, with the difference accounting for Asians and Other.

Applying our population equalizer of 13.6:
For the 56,659 Whites in prison right now,
there would have to be 483,285 Blacks in prison. Compare actual 35,532

Yet if the rate of White incarceration was applied to the Blacks, then the 35,532 Blacks in prison should be **4,161**. Thus, there are approximately 31,371 slaves due their emancipation.

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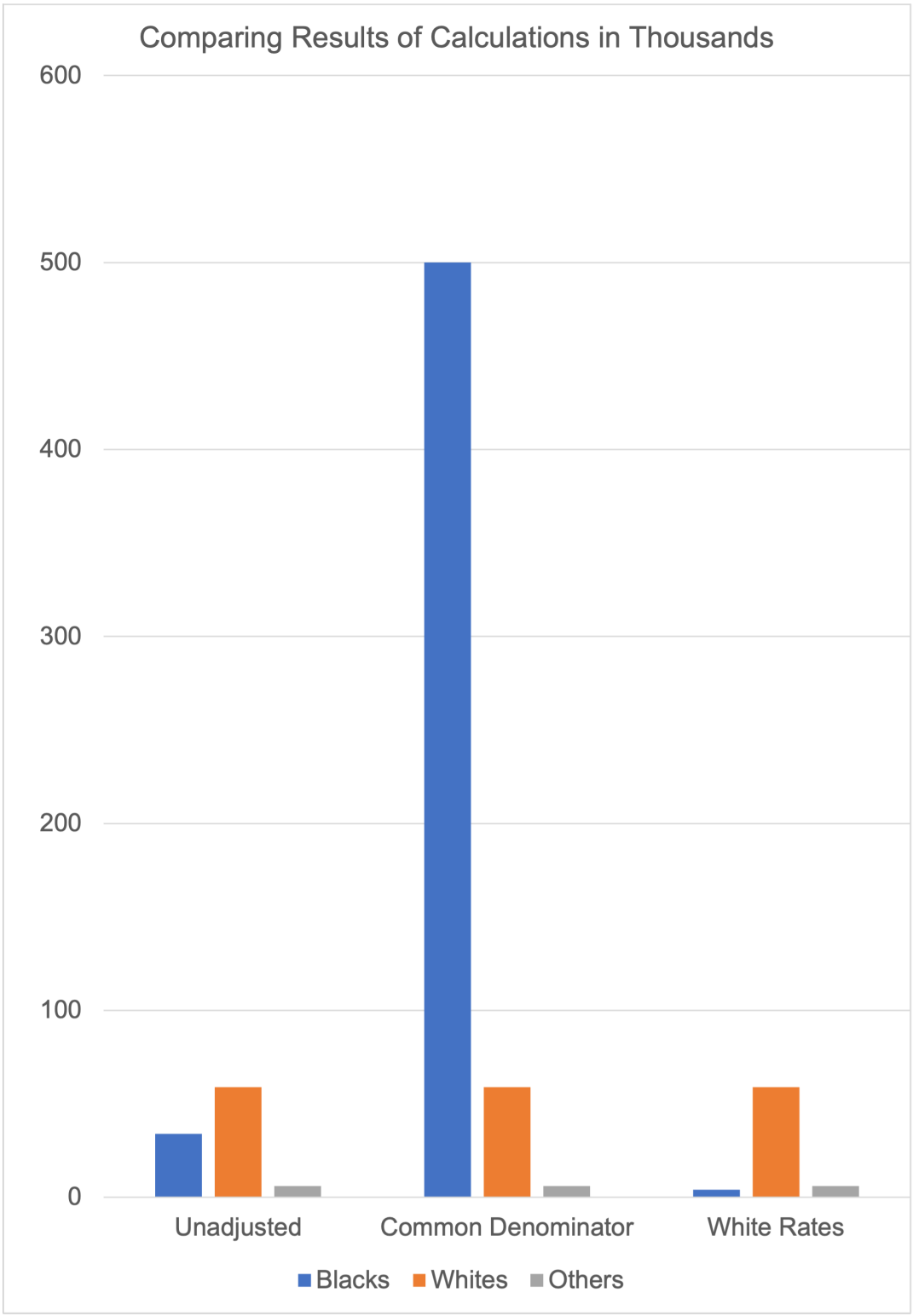

Comparing Results of Calculations in Thousands
600
500
400
300
200
100
0
Unadjusted
Common Denominator
White Rates
Blacks
Whites
Others

Nationally, for the 634,200 Whites in prison right now,

there would have to be 2,161,725 Blacks in prison. Compare actual 389,500

National population (Population of Whites/ Population of Blacks=5.55)

Now, § 745 requires this be broken down by county. In petitioner's home county of Ventura Blacks are 1.62% of the population of Ventura County, Hispanics are 43.3%, Whites are 42.8%.

Total White and Hispanics population is 726,135; requiring an increase of 53 times to make the Blacks have an equal population to the Whites in Ventura County. Violent complaints sought:

In 2004: 5,712 Blacks would have been charged; compare 426 Whites and 784 Hispanics.

In 2013: 5,512 Blacks would have been charged; compare 419 Whites and 751 Hispanics.

In Tulare County in 2010, White population was 386,907; Blacks 10,612 for a multiplier of 36.5 and in 2020, Whites 413,977 and Blacks 11,355 multiplier = 36.5. In 2010, violent complaints sought was 1,348 for Whites and 84 for Blacks but applying the common denominator the true comparative result is 3,066 and in 2020, 1,479 for Whites and 102 for Blacks would actually be 3,723.

The common denominator method establishes the true means to compare the races. Showing that Blacks are targeted for disparate treatment in California rising to a Thirteenth Amendment violation.

What is even easier for the enslaved race, is to have the data that shows these numbers. Data which the Department did not claim required any effort. Yet is concealing despite the express Legislative call for it to be used to free victims of systemic racism.

VII. RACISM IS BEING PROMOTED BY THE DEPARTMENT OF JUSTICE AT A SYSTEMIC LEVEL

The Department of Justice is engaged in an agenda that we quashed on May 8, 1945. This is shown by the Department's earnest agenda to separate all other shades of color from the White race. As the information provided in "Open Justice" is demonstrative of their agenda which is not

consistent with history, whereby the Department classifies "Ethnicities" as Black, White, Hispanic and Other. Based on information and belief, this was done to dilute the true numbers that establish the gross incidents of slavery occurring in California. Hispanics are an ethnicity that is predominately comprised of the White race.

> In using the words ''no black or mulatto person, or Indian shall be allowed to give evidence for or against a white person," the Legislature, if any intention can be ascribed to it, adopted the most comprehensive terms to embrace *every known class or shade of color*, as the apparent design was to protect the white person from the influence of all testimony other than that of persons of the same caste. The use of these terms must, by every sound rule of construction, exclude every one who is *not of white blood*.
> …
> We are not disposed to leave this question in any doubt. The word "white" has a distinct signification, which *ex vi termini*, excludes black, yellow, *and all other colors*. It will be observed, by **reference to the first section of the second Article** of the Constitution of this State, that *none but white males* can become electors, except in the case of Indians, who may be admitted, by special Act of the Legislature. On **examination of the constitutional debates**, it will be found that not a little difficulty existed in selecting these precise words, which were finally agreed upon as the most comprehensive that could be suggested to *exclude all inferior races*. [Emphasis and italics added.]

People v. Hall, (1854) 4 Cal. 399, 403-404

Even the most racist opinion of the California Supreme Court held that Hispanics are the White race. See "Every white male citizen of the United States, and every white male citizen of Mexico who shall have elected to become a citizen of the United States under the treaty of peace…" (Cal. Const. Art. II Right of Suffrage Section 1 (1849)) "We do not debar the Spanish, or the French, or the Italians from voting by the use of this word. They are darker than the Anglo Saxon race, but they are white men. He was, in favor of the distinct, expression, 'every white male citizen,' as used in the thirty different Constitutions of the Union." (Debates on Constitutional Convention of 1849, p.72 ¶2) "It will be observed, by reference to the first section of the second Article of the Constitution of this State, that none but white males can become electors… On examination of the constitutional debates, it will be found… to exclude all inferior races." (*Hall* at 404)

"In the application for a license, petitioner **Andrea Perez** states that she is a **white person** and petitioner Sylvester Davis that he is a **Negro**. Respondent refuses to issue the certificate and license, invoking Civil Code, section 69, which provides: '… no license may be issued authorizing the marriage of a white person with a Negro, mulatto, Mongolian or member of

the Malay race."' (*Perez v. Sharp*, (1948) 32 Cal.2d 711, 712, emphasis added.) "Nevertheless, respondent has sought to justify the statute by contending that the prohibition of intermarriage between Caucasians and members of the specified races prevents the Caucasian race from being contaminated by races whose members are by nature physically and mentally inferior to Caucasians." (*Id*., at 722) One need not be a scientist to know that Andrea Perez is Hispanic. According to the above racist respondent, Hispanics were Caucasian and no risk of *contamination of races* by a Hispanic marrying a white, because both were Caucasian.

Respondent, the Department of Justice, continues to promote ignorance and racism by indoctrinating the members of law enforcement of this state with Arian beliefs.

These are instructions regarding the data to be collected by all law enforcement during any police contact in California. Called RIPA Stop Data.

> Cal. Code Regs., tit. 11, § 999.226(a)(5) ("'Perceived Race or Ethnicity of Person Stopped" refers to the officer's perception of the race or ethnicity of the person stopped. When reporting this data element, the officer shall make their determination of the person's race or ethnicity based on personal observation only. The officer shall not ask the person stopped their race or ethnicity, or ask questions or make comments or statements designed to elicit this information.
>
> **(A)** When reporting this data element, the officer shall select all of the following data values that apply:
>
> 1. Asian
> 2. Black/African American
> 3. Hispanic/Latine(x)
> 4. Middle Eastern or South Asian
> 5. Native American
> 6. Pacific Islander
> 7. White
>
> **a.** Example: If a person appears to be both Black and Latine(x), the officer shall select both "Black/African American" and "Hispanic/Latine(x)."
>
> **(C)** "Black/African American" refers to a person having origins in any of the Black *racial groups of Africa.*
>
> **(D)** "Hispanic/Latine(x)" refers to a person of Mexican, Puerto Rican, Cuban, Central or South American, or *other **Spanish*** culture or **origin**, *regardless of race*

(H) "White" refers to a person of Caucasian descent having origins in ***any*** *of the original peoples* ***of Europe*** and Eastern Europe.")

Spain is in the continent of Europe; this is a commonly known fact. Easily verifiable by looking at a map. →

Spanish origin is therefore of the original peoples of Europe and thus "White". Yet the Department does not instruct if they look Mexican to mark White and Hispanic.

VIII. THE DEPARTMENT OF JUSTICE IS ACTING CONTRARY TO THE SUPREME POWER

The Department of Justice has caused and is presently causing an embarrassment to the People of the State of California and is acting subversive to our interests. According to law enacted contemporaneously with the Department's actions in this case, on Jan. 1, 2025:

Gov. Code, § 8301.2 ("**(a)** The State of California recognizes and accepts responsibility for all of the harms and atrocities committed by the state, its representatives thereof, and entities under its jurisdiction who promoted, facilitated, enforced, and permitted the institution of chattel ***slavery*** *and the enduring legacy of* ***ongoing*** badges and **incidents** from which the systemic structures of discrimination have come to exist.

(b) … The State of California affirms its role in protecting the descendants of enslaved people and all Black Californians… humbly asks for forgiveness from those affected by past atrocities, both deliberately and negligently, and *acknowledges and affirms its responsibility to* ***end ongoing harm***. The State of California commits to restore and repair affected peoples with actions beyond this apology.")

The DOJ is not a liberty to disregard these laws. "Law is a solemn expression of *the will of the supreme power* of the State." (Civil Code § 22) Explained by the Code commissioners' annotations to the Political Code of 1872 § 4466, "It is intended to define it as emanating from the supreme power— which is the **will of the people,** the source of all political power— as expressed through their representatives the *legislative* department, approved by the *executive*, and construed

to be in conformity with the *Constitution* by the *judicial department* of the Government." (Italics in original, emphasis added, Exhibit 9 p.73)

Thus, we the people of the State of California, lend to the Department our name, according to our will. Gov. Code § ("(a) The sovereignty of the state resides in the people thereof, and all writs and processes shall issue in their name. (b) The style of all process shall be 'The People of the State of California,' and all prosecutions shall be conducted in their name and *by their authority*.") See also, Cal. Const. art. III, § 1 ("The State of California is an inseparable part of the United States of America, and the United States Constitution is the supreme law of the land.") Which makes the Thirteenth Amendment controlling, despite the Department's concealed efforts to disregard it.

In Gov. Code, § 8301.1 the Task Force did an outstanding job in highlighting incidents in California's history of our racist agenda towards the melanin-rich race perpetrated by the melanin-depleted race, even despite their failure to cite the specific cases endorsing racism by the California Supreme Court that have not been overruled. Yet the gravest failure stems from the Task Force failure to identify the reason why all of those efforts were present in California. Admittedly, this is likely due to that very cause suppressing history and making it difficult to expose, as it was only accidently found when researching another issue.

The rebellion to split our state in half and create a slave state in Southern California, that we quashed, yet was overlooked. See *The Pacific* V.50, No.1, Jan. 3, 1901, at pp.7-8:

"It may interest some to read a bit of history in connection with its early record. In 1852 a plot to divide the state and make the southern part of it a slave state, developed with some determination and strength. Then, as some declared, 'chivalry had a bill of sale of California.' The Pacific of February 20, 1852, with fine nerve, asked, 'Shall a convention be held to strike out freedom from the constitution and insert slavery?' It exposed the scheme, fought it, until the Legislature closed its four months' session, and the plot was dead. There were two young hardware merchants in Sacramento in those days; both had the courage of their convictions." (Exhibit 10 pp.87-88)

Apparently, like any Klan member they simply went into hiding.

The word "freedom" only appeared once in the California Constitution of 1849, (the next amended was in 1856), that use of freedom still exists today. "We, the people of California, grateful to Almighty God for our *freedom*, in order to secure *its* blessings, do establish this Constitution."[3]

IX. THE PREJUDICE HAS INURED TO THE BLACKS AS INTENDED

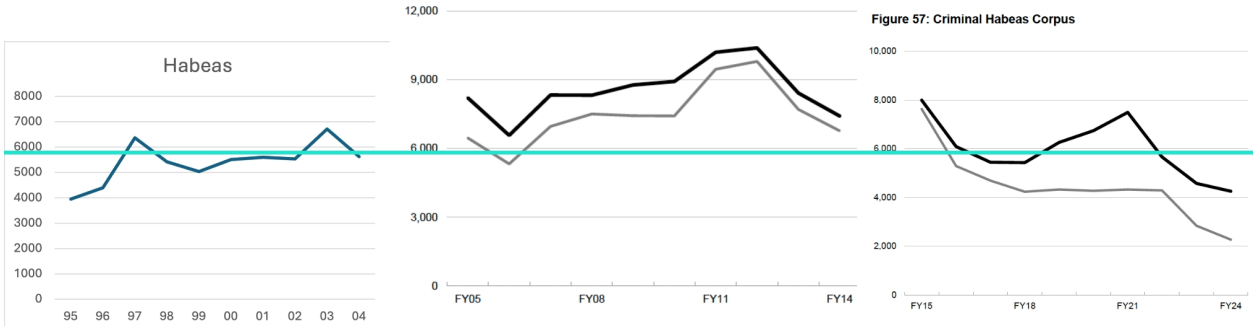
A. THE JUDICIAL COUNCIL PROVES THE HARM IS REAL

> **Staff Comments:** Based on the phases in AB 256 … **Judicial Council estimates the following number of habeas petitions filed *as a result* of this measure**: approximately 5,000 in the first year, 4,000 in the second year, and 3,000 in the third and fourth years each. … a general estimate of between *three minutes and 15 minutes would be spent to review each petition* to determine if it meets the "prima facie" standard for an additional review hearings.

Senate Committee On Appropriations, Report 5/24/21 (AB 256) Chair Portantino, pp.4-5

Below is a combination of the Judicial Council tracking of habeas filings in criminal cases from 1994[4] to 2024. The center line is the 6,000 marker. Habeas filings were predicted to independently increase by 5,000 in 2021; 4,000 in 2022; 3,000 in 2023 & 2024.

The truth is that habeas filings dropped 2,000 in 2022; dropped 1,500 in 2023 & 500 in 2024.



This shows that the DOJ concealment of data is prejudicing Blacks from being able to file. Because the common denominator comparison shows that the legal actions have not slowed. And because the Blacks do not have this access, they are not able to file the petitions. Thus, when the DOJ ceased communications it was done because they were pleased with the incidents of slavery they were protecting.

---

[3] See http://www.dircost.unito.it/cs/pdf/18490000UsaCaliforniaeng.pdf

[4] There was no chart for the decade '94-'04 in the Judicial Council report, the numbers reported were used to create a new chart.

The estimates were 3-15 minutes to review. The true bar graphs take far less time to show the gross imbalance. The DOJ is preventing "those whom the first clause declared should be free" (*Jones*, *supra*) from obtaining material evidence.

B. THE DEPARTMENT INTENDS TO FIGHT TO KEEP THE BLACKS ENSLAVED

Because the DOJ holds the data and was aware of the truth long before they were discovered, their initial estimates to fight and keep the Blacks enslaved were:

2021-2022 $2.8m to $9.9m and 29 personnel years to fight them.
2022-2024 $12.2m to $41.2m and 67 years.
2024-2025 $4.8 to $17.1m and 29 years.
2025-2026 $0.6m to $5m and 33 years.

Senate Committee On Appropriations, Report 5/24/21 (AB 256) Chair Portantino, p.1 (Exhibit 12 p.94) same on 7/15/21 (Exhibit 13 p.98)

Then the legislature announced the DOJ would be the sole "repository" of all the data required under Pen. Code §13370.[5] Their projections drastically changed.

2022-2023 $0.5m and 3 years.
2023-2024 $2.1m and 8 years.
2024-2025 $2m and 8 years.
2025-2027 $1.3m and 5 years.

Senate Committee On Appropriations, Report-Addendum, Chair Portantino (8/11/22) (AB 256), p.1 (Exhibit 14 p.104)

The DOJ's ability to suppress racial incarceration data while advocating against those seeking relief under the Racial Justice Act is a direct conflict of interest, undermining any claim of impartiality.

C. THE DOJ HAS PROVEN THAT *PER SE* SYSTEMIC RACISM HAS BEEN AND CONTINUES TO OCCUR IN CALIFORNIA, AND THE DOJ HAS NO INTENTION WHATSOEVER TO STOP IT

On information and belief derived from the express statements made to the Legislature the Department of Justice intends to continue their enslavement of our people deemed to be free under

[5] The DOJ was announced to be the sole source for the whole state, Assembly Committee On Public Safety, Chair Jones-Sawyer, Sr., Report (4/19/22) (AB 2418) p.8 (Exhibit 15 p.115)

the Thirteenth Amendment. This stated effort is in excess of jurisdiction conferred by the supreme will, Gov. Code, § 100 ("conducted…by their authority.") *Id*., § 200 ("exercised… in the manner provided by law.") *Id*., §§ 201 and 202. The State may not punish because of a person's race. Pen. Code, §§ 681 and 745 (a) ("The *state shall not seek or obtain* a criminal conviction or seek, obtain, or impose a sentence on the basis of race".)

Thus, the punishments imposed as disproportionally sought against persons belonging to the Black race are necessarily incidents of slavery, are not lawful convictions, as such are prohibited by command of the first clause of the Thirteenth Amendment and 42 U.S.C. § 1981(a) ("**Statement of equal rights** *All persons* within the jurisdiction of the United States shall have the same right in every State… as is enjoyed by white citizens, and shall be *subject to like punishment*, pains, penalties… *of every kind, and to* ***no*** *other*.")

> Broadly speaking, crimes in the United States are what the laws of the individual States make them, subject to the limitations of Art. I, § 10, cl. 1, in the original Constitution, prohibiting bills of attainder and *ex post facto* laws, and of **the Thirteenth** and Fourteenth Amendments.

Rochin v. California, (1952) 342 U.S. 165, 168

Gov. Code, § 270 ("Every person while within the State is subject to its jurisdiction and entitled to its protection.") The Department of Justice is treating Blacks as not entitled to its protection, while subjecting them to its jurisdiction.

"All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy." (Cal. Const. art. I § 1)

CONCLUSION

"Nor does the Attorney General cite any case from this court, or any other, holding that the government, in postconviction proceedings, lacks a duty to disclose *Brady* material" (*In re Jenkins* (2023) 14 Cal.5th 493, 509) "the Attorney General has a constitutional duty under *Brady* to disclose the evidence." (*Id.*, at 512) "The search for truth is not served but hindered by the concealment of relevant and material evidence….the adversary system must give way to reasonable restraints designed to further that goal." (*Id.*, at 528)

The Department is under a *sua sponte* obligation to release this data, *Brady* and *Jenkins.* As a necessary aspect of discovery, Pen. Code § 745(d), *Young v. The Superior Court*, (2022) 79 Cal.App.5th 138, 144. Intentionally concealing this data is prima facie proof of invidious discrimination requiring dismissal of cases under our state law, *Murgia v. Municipal Court*, (1975) 15 Cal.3d 286, 293-94, and under federal law. "We conclude, therefore, that § 1981, like the Equal Protection Clause, can be violated only by purposeful discrimination." (*General Building Contractors Ass'n v. Pennsylvania* (1982) 458 U.S. 375, 391)

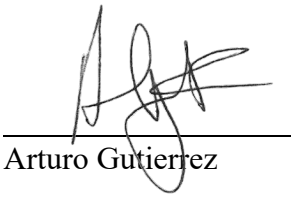
We can never progress as a species if we cling to barbaric and archaic ways of thinking. "Our government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example .... If the government becomes a lawbreaker, it breeds contempt for the law; it invites every man to become a law unto himself." (*Olmstead v. United States,* (1928) 277 U.S. 438, 485, Brandeis, J.)

"The ends in our system do *not* justify the means. Our Constitution does not promise every criminal will go to jail, it promises due process of law." (*Northern Mariana Islands v. Bowie*, (9th Cir. 2001) 243 F.3d 1109, 1124)

At present, the sovereign is denying that process which is due.

The Court should order the records released.

Respectfully submitted,



3.14.25

Arturo Gutierrez

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EXHIBIT 1

042

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ROB BONTA

Attorney General

Online Request Form

Online Request Form / *Online Request Form*

Thank you, your submission has been sent. A copy of your submission is shown below.

Please use your browsers's Print function to print this page for your records.

Your Information

First Name Arturo

Middle Initial F

Last Name Gutierrez

Email Address gcglaw@gmail.com

Confirm Email Address gcglaw@gmail.com

Phone Number 8055359539

Address 603 Golden West Ave.

City Ojai

State California

Zip Code 93023

Record Requested

Please provide as much detailed information as possible regarding the records you seek (e.g., date, case name, case number, document description, etc.)

Record Description

I do not know the name of the desired records only the statutes that declare they exist. The description for the information requested is set out in a letter that is available via:
https://acrobat.adobe.com/id/urn:aaid:sc:US:981adb68-dd78-46d4-bee4-d27d2cddc3c1
Thank you.

Comments

If the system blocks the above link to the document or something, then please email and I can email back the pdf document.

Return to the Comment form

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EXHIBIT 2

CALIFORNIA PUBLIC RECORDS REQUEST

Directed to the Department of Justice of California

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.

SUMMARY

In short: Each county and CDCR facility separately; broken down by each month dating back to 1983; showing the population housed in total number by race; showing the convictions derived from each county, cataloged by crimes as listed in *Crime in California*, grouped by races, genders and majority/minority, showing total number per each and the disposition.

This request is **not** for information contemplated as a state summary criminal history information as that term is defined in Penal Code § 11105(a)(2) (A) '"State summary criminal history information' means the master record of information compiled by the Attorney General pertaining to the identification and criminal history of a person, such as name, date of birth, physical description, fingerprints, photographs, dates of arrests, arresting agencies and booking numbers, charges, dispositions, sentencing information, and similar data *about the person*."

This request's description is limited to gender and race and if over 17 or under 18 and the charges, dispositions, sentencing information, without regard to any person, only regarding the source counties.

Again, this data is already cataloged and filed per the above noted Penal Code sections 11103, 11104. Making the matter rather simple. The desired information should be clear from the above, if the existing catalog is different than *Crime in California's* format, that is fine, it was a suggestion to assist the visual of the request if necessary.

Thank you in advance for your time spent on this request. Please provide a time estimate as to when a response can be provided. Also, I am happy with receiving the work as it is being completed along the way.

EXHIBIT 3

Gmail Arturo Gutierrez <gcglaw@gmail.com>

PRA Extension Letter - Gutierrez, Arturo 2024-02986

CJIS PRA <CJISPRA@doj.ca.gov> Thu, Nov 14, 2024 at 1:24 PM
To: "gcglaw@gmail.com" <gcglaw@gmail.com>

Good Afternoon,

Please find our extension to your PRA request submitted to the Attorney General's office on November 4, 2024, attached.

Thank you,

CJIS PRA

California Department of Justice

California Justice Information Services Division | CJIS Executive Office

Administration Support Program | Regulations, Training, & PRA Section

CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

PRA Extension Letter - Gutierrez, Arturo 2024-02986.pdf
373K

EXHIBIT 4

C A L I F O R N I A
DEPARTMENT OF JUSTICE

Rob Bonta
Attorney General

CJIS Executive Office
Telephone: (916) 210-5368
Fax: (916) 227-3079
E-Mail Address: CJISPRA@doj.ca.gov

November 14, 2024

Arturo Gutierrez
603 Golden West Ave.
Ojai, CA 93023
Sent via email: gcglaw@gmail.com

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.

For the reasons set forth below, this office is extending the date for responding to your request to December 2, 2024.

Agencies are permitted to extend the date for responding to a public records request for 14 days beyond the original 10-day deadline for responding under specified circumstances (Gov. Code, § 7922.535). As your request was received by this office on November 4, 2024, the time established for the original response is November 14, 2024. Fourteen days beyond this date is December 2, 2024.

Agencies may invoke the extension for several reasons, which may be summarized as follows:

1. The need to search for and collect records from field offices or other facilities that are separate from the office processing the request.
2. The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request.
3. The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.
4. The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

In this instance, an extension is needed to consult with multiple components of the Department with substantial interest in the records requested.

Sincerely,

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

For ROB BONTA

Attorney General

EXHIBIT 5

Gmail Arturo Gutierrez <gcglaw@gmail.com>

PRA Extension Letter - Gutierrez, Arturo 2024-02986

Arturo Gutierrez <gcglaw@gmail.com> Thu, Nov 14, 2024 at 7:14 PM
To: CJIS PRA <CJISPRA@doj.ca.gov>

Dear Mr. Brousseau,
Yes, I completely understand the need for an extension due to the volume and breadth of the request. Thank you for your timely advisement and for your efforts regarding the matter.

After reading my original request again, it is hoped that the Department understood the reference to CDCR to include its prior iterations as well, the CA prison system in whatever names it has previously used.

Given the reply noted a need to consult with multiple interested parties, I have prepared an explanation of the request to be considered during such consultations.
It promises to be one of the most interesting documents you will read. Please see attached.

Thank you,
Judge Arturo Fernando Gutierrez (Retired)
Attorney at Law

The Law Office of Arturo Fernando Gutierrez
1000 Town Center Dr. #300
Oxnard, CA 93036
T- 805-351-3900
F- 805-351-3899
Warning! This email is a confidential communication between Attorney Arturo Fernando Gutierrez and the intended recipient. Any unauthorized use of this email will be subject to civil and criminal prosecution pursuant to 18 U.S.C. § 2701 et seq.

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Reply Public Records Request-1.pdf
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EXHIBIT 6

056

THE LAW OFFICES OF
ARTURO FERNANDO GUTIÉRREZ
1000 Town Center Dr. Suite 300 Oxnard, CA 93036
Tel: 805-351-3900 Fax: 805-351-3899
Judge Arturo F. Gutiérrez (Ret.)
Attorney at Law

November 15, 2024

Attorney General of California
CJIS Executive Office
Telephone: (916) 210-5368
Fax: (916) 227-3079
E-Mail Address: CJISPRA@doj.ca.gov

Re: Public Records Act Request 2024-02986

Dear Mr. Brousseau,

As to the response's final conclusion, "an extension is needed to consult with multiple components of the Department with substantial interest in the records requested." Please be advised that the concern for CDCR security is well received and noted in my request.

Please also note in said consultations that the Department is in possession of all of this data as required by Pen. Code §§ 11103 and 11104, yet despite the hurdles placed before the approximately 31,000 human beings by the Legislature in their requirements per Pen. Code § 745, the Department is not releasing the data necessary to secure the due liberty commanded by the Thirteenth and Fourteenth Amendments to the federal constitution. See also Cal. Const. art. III § 1 and U.S. Const. art. VI cl.2, as well as 42 U.S.C. § 1981.

Furthermore, please communicate the contents of this email during those consultations. If each of you have a commitment to the law as I have, and a true belief in our constitutions, then each and all should find the reason *why* these requests were made, to be of paramount importance. This may take a few moments to read, but I promise it will establish the gravity of the moment.

To clarify the request further, when I had stated the races as Asian, White and Black, that included the ethnicity of Hispanic in the White race, and "Other" meant the races such as Islander or native American. Hispanics have always been considered the White race in our state.

See "Every white male citizen of the United States, and every white male citizen of Mexico who shall have elected to become a citizen of the United States under the treaty of peace…" (Cal.

Const. Art. II Right of Suffrage Section 1 (1849)) "We do not debar the Spanish, or the French, or the Italians from voting by the use of this word. They are darker than the Anglo Saxon race, but they are white men. He was, in favor of the distinct, expression, 'every white male citizen,' as used in the thirty different Constitutions of the Union." (Debates on Constitutional Convention of 1849, p.72 ¶2) "It will be observed, by reference to the first section of the second Article of the Constitution of this State, that none but white males can become electors… On examination of the constitutional debates, it will be found… to exclude all inferior races." (*People v. Hall*, (1854) 4 Cal. 399, 404)

To demonstrate the disparity in felony arrests between the Black and White populations in California, we can look at the data by creating a "common denominator" for both groups — not in the strict mathematical sense, but as a familiar way to create a fair basis for comparison: first, by imagining the Black population as equal in size to the White population, and second, by applying the White arrest rate to the existing Black population.

1. Scaling Black Arrests to Match the White Population Size

To establish a common denominator in terms of population, we can scale the Black population (2,237,044) up to equal the White population (30,426,953) in 2020 (US Census). This allows us to see what the number of Black arrests would look like if Blacks were arrested at their current rate but had the same population size as Whites.

- 2020 Black Population: 2,237,044
- 2020 Black All Felony Arrests: 52,000
- 2020 Black Violent Arrests: 21,537
- Population Multiplier: 30,426,953 / 2,237,044 ≈ 13.6

Using this multiplier:

$$52{,}000 \times 13.6 \approx 707{,}200$$

$$21{,}537 \times 13.6 \approx 292{,}903$$

This calculation shows that if the Black population were as large as the White population and the rate of arrest remained the same, then 707,200 Black felony arrests would be expected with 292,903 claimed as Black violent felony arrests, compared to the actual 194,081 *all* felony arrests for Whites with their 70,064 violent felony arrests in 2020. This stark difference highlights the much higher arrest rate for Blacks.

Whites appeared to have committed 124,017 non-violent felonies, 36.1% were deemed violent in 2020.

Blacks appeared to have committed 30,463 non-violent felonies, 41.4% were deemed violent in 2020.

2. Scaling Black Complaints Sought to Match the White Population Size

Same logic and method as above but using the complaints sought data in 2020:

All felony complaints 46,834 × 13.6 ≈ 636,942 (Blacks) compare 180,409 (Whites)

Violent felony complaints 19,109 × 13.6 ≈ 259,882 (Blacks) compare 64,142 (Whites)

3. Scaling Black Arrests Down to Match the White Arrest Rate

Alternatively, we can use the White arrest rate as a common denominator and apply it to the actual Black population, to see what the number of Black arrests would be if both groups were arrested at the same rate.

- White arrest rate: 194,081 / 30,426,953 ≈ 0.00638 (or .64%)
- Expected Black arrests at White rate: 2,237,044 × 0.00638 ≈ 14,272

If Blacks were arrested at the same rate as Whites, we would expect only about 14,272 Black arrests rather than the actual 52,000 in 2020.

- White Violent Charges Rate: 64,142 / 30,426,953 ≈ 0.0021 (or .21%)
- Expected Black Violent Charges Rate: 2,237,044 x 0.0021 ≈ 4,716

If Blacks were charged at the same rate as Whites for violent crimes, we would expect only about 4,716 Black violent complaints filed rather than the actual 19,109 in 2020.

4. Summary of Results

Black population equal to Whites and same rates continued:

707,200	Black felony arrests (scaled)
194,081	White felony arrests (actual)
292,903	Black violent arrests (scaled)
70,064	White violent arrests (actual)

636,942	Black all felony complaints sought (scaled)
180,409	White all felony complaints sought (actual)
259,882	Black violent complaints sought (scaled)
64,142	White violent complaints sought (actual)

Blacks charged at same rate as Whites:

14,272	Black all felony arrests (@ White rate)
52,000	Actual Black all felony arrests
4,716	Black violent complaints sought (@ White rate)
19,109	Actual Black violent complaints sought

5. The Number of Blacks in Prison using the Common Denominator Approach

If the populations were equal, and the rates of arrest and complaints sought remained constant, then the true results would be revealed as shown above. The common denominator method is the only way to truly arrive at actual comparative results. Now we apply it to view the true scale of the number of Blacks in prison.

> **"Racial Composition of Strikers.** African Americans make up the largest group of second and third strikers (37 percent), followed by Hispanics (33 percent), and whites (26 percent). This racial composition is similar to that in the total prison population. However, African Americans make up 45 percent of the third striker population, which is 15 percent higher than in the total prison population." *A Primer: Three Strikes - The Impact After More Than a Decade*, Legislative Analysists Office (Oct. 2005)

The Jan. 2024 CDCR Population Projection report, showed a population of 96,033 humans, 92,271 men and 3,762 women.

I am truncating my research here, but the rates have remained consistent over the decades.

Therefore of the 96,033 prisoners, if 37% are Black then they number 35,532 and because Hispanics and whites are the same, then 59% reveal that their number is 56,659, with the difference accounting for Asians and Other.

The 56,659 inmates represents 0.186% of the White races being incarcerated (inmates' race / CA population's race = %) and 35,532 represents 1.59% of the Black race, that is an 8.5 times greater rate than the incarceration of Blacks. (1.59 / 0.186 = 8.5)

We apply our multiplier of 13.6 to reveal the current incarceration of Blacks, if the populations were equal and the rate of imprisonment remained constant.

For the 56,659 Whites in prison right now,

there would have to be 483,285 Blacks in prison. Compare actual 35,532

"Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction." (U.S. Const. amend. XIII)

"The long existence of African slavery in this country gave us very distinct notions of what it was, and what were its necessary incidents. … Severer punishments for crimes were imposed on the slave than on free persons guilty of the same offences." Violating "the essential distinction between freedom and slavery." (*Civil Rights Cases*, (1883) 109 U.S. 3, 22) Which violates the absolute prohibition on slavery and incidents thereof, *Griffin v. Breckenridge*, (1971) 403 U.S. 88, 105.

Civil Rights Act of 1866, ch. 31, § 1, 14 Stat. 27 (1866):

42 U.S.C. § 1981 ("**(a) Statement of equal rights** *All persons* within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, *be parties*, give evidence, and to the *full and equal benefit of all laws and proceedings* for the security of persons and property as is enjoyed by white citizens, and **shall be *subject to like punishment***, pains, penalties, taxes, licenses, and exactions ***of every kind, and to no other***.)

"The Thirteenth Amendment" that "undertook to wipe out these burdens and disabilities, the necessary incidents of slavery, constituting its substance and visible form" "by the Civil Rights Bill of 1866" (*Civil Rights Cases, supra.*)

"There are thousands of offenders being charged under the provisions of Three Strikes. As of the end of August 1994 (six months after enactment of the law), there were more than 7,400 second- and third-strike cases filed statewide. More recent data from Los Angeles County which generally accounts for up to half of the state's overall criminal justice workload indicates that, as of the end of November 1994, more than 5,000 second- and third-strike cases have been filed with the courts." (*The Three Strikes and You're Out Law*, Legislative Analysists Office 2/22/95)

"Data we reviewed show that during the first eight months of implementation about 70 percent of all second- and third-strikes are for *nonviolent and nonserious offenses*. The types of offenses

cover a very wide range. The largest single category of third-strike charges is burglary (defined as a serious offense), although it accounted for only 12 percent of the total."

"***Most Convictions Were for Nonviolent, Nonserious Offenses.*** As of the end of January 1995, there were 4,161 persons in state prison for conviction of a second-strike, and 120 offenders convicted of a third-strike. (This small number of third-strike offenders is due to the large number of offenders going to trial and the backlog of cases.) Of the offenders convicted of a second-strike, about 775 or approximately 19 percent, were for a violent or serious offense. The remaining approximately 3,300 persons were convicted of a wide variety of lesser offenses, the largest being possession of controlled substances (815 inmates) and petty theft with a prior theft (557 inmates). Data in 106 cases was not available."

"Of the third-strike offenders, about 50 of the 120 were convicted of a serious or violent offense. The largest category of offense with 17 cases was possession of controlled substances."

"Because the Three Strikes law is so significant, we believe that a systematic, statewide monitoring effort is essential to ensure that the measure is implemented consistent with the intent of the Legislature and the voters. Monitoring efforts should include collection of data on processing of Three Strikes cases by local and state governments, effects on local and state criminal justice systems, responses and strategies employed by local governments to process the Three Strikes caseload increases, characteristics of offenders. In addition, the monitoring efforts should seek to assess the impact of the measure on the state's crime rate."

They followed through on none of it, because it would expose the overt racism occurring in our state.

When the third strike laws began, the prison population by race was
Blacks 32%, Hispanics 34%, Whites 28.5%, Other 5%.
Then after ten years of targeting Blacks for larger sentences,
Blacks 37%, Hispanics 33%, Whites 26%.
And Blacks were 45% of the 3rd strike population.

Blacks are 5.56% of California's population.

> The fact of this discrimination is admitted. No reason for it is shown, and the conclusion cannot be resisted, that no reason for it exists except hostility to the race and nationality to which the petitioners belong, and which in the eye of the law is not justified. The discrimination is, therefore, illegal, and the public administration which enforces it is a denial of the equal protection of the laws and a violation of the Fourteenth Amendment of the Constitution. The imprisonment of the petitioners is, therefore, illegal, and they must be discharged.

Yick Wo v. Hopkins, 118 U.S. 356, 374 (1886)

It is hoped that when consulting "with multiple components of the Department with substantial interest in the records requested", they consider the gravity and weight of 31,000 slaves that have a substantial federal interest in **being *subject to like punishment*, *and to no other***. 42 U.S.C. § 1981(a)

Mr. Justice Douglas made an immensely profound point:

"The true curse of slavery is not what it did to the black man, but what it has done to the white man. For the existence of the institution produced the notion that the white man was of superior character, intelligence, and morality." (*Jones v. Mayer Co.* (1968) 392 U.S. 409, 445, Douglas, J., concurring.)

The purpose of this request is to end the incidents of slavery that are in effect in California by imprisoning Blacks at a grossly disproportionate rate.

"Severer punishments for crimes were imposed on the slave than on free persons guilty of the same offences."

483,285 Blacks in prison vs. 56,659 Whites in prison right now
Yet if the rate of White incarceration was applied to the Blacks,
then the 35,532 Blacks in prison should be **4,161**.

Thank you for your time in reviewing the matter.

Very truly,

Judge Arturo Fernando Gutierrez (Ret.)
State Bar # 66058

EXHIBIT 7

064

PRA Extension Letter - Gutierrez, Arturo 2024-02986

Arturo Gutierrez <gcglaw@gmail.com> Tue, Dec 10, 2024 at 11:33 AM
To: CJIS PRA <CJISPRA@doj.ca.gov>

Follow-Up on Public Records Request

Dear Mr. Brousseau,

I hope this email finds you well and enjoying the holiday season.

I am following up on our previous correspondence regarding the Department's invocation of the 14-day extension to respond to my public records request, which extended the deadline to December 2, 2024. In my last letter, I expressed understanding for the extension given the volume of information and the complexity of the issues involved. I also provided detailed good cause supporting the urgency of the request and emphasized the importance of considering the substantial interest in the matter when evaluating the data.

The data included in my reply highlights a serious situation with significant constitutional implications. I had hoped the Department would be thoroughly assessing the matter in light of its obligations under the Office of the Attorney General. When no response was received on December 2, I refrained from following up immediately, understanding the demands on your office and the potential disruptions of the holiday season.

However, as more than a week has now passed, I wanted to ensure the matter has not been inadvertently overlooked amidst competing priorities.

Could you please provide an update on the status of my request, including the Department's intentions regarding compliance and an anticipated timeline for response?

Also, I am including a bar graph generated to help with a visual understanding of the alarming results of the data previously provided.

Thank you for your attention to this matter, and I look forward to your reply.

Thank you,
Judge Arturo Fernando Gutierrez (Retired)
Attorney at Law

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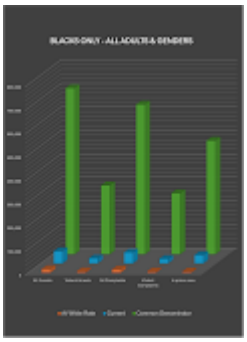

Comparing all calculations re Blacks only.png
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EXHIBIT 8

067

PRA Extension Letter - Gutierrez, Arturo 2024-02986

Arturo Gutierrez <gcglaw@gmail.com> Mon, Jan 6, 2025 at 11:20 AM
To: CJIS PRA <CJISPRA@doj.ca.gov>

Dear Ms. Brousseau,

It is hoped this message finds you well.

The Department is now over a month past the legally permitted deadline, requiring yet another follow-up inquiry as to my public records request of November 4, 2024. To which the Department initially extended to December 2, 2024, under the Department's invocation of the 14-day extension on November 14, 2024. Despite my previous correspondence on December 10, 2024, and the significant gravity of the issues at hand, I have received neither the requested records, nor any substantive response, not even a courtesy reply to my inquiry re status.

As you are aware, the information requested pertains to systemic racism and seeks to address deeply rooted constitutional concerns. The gravity of these issues underscores the critical importance of timely compliance. I understand the demands on your office and the potential disruptions caused by the holiday season, but the continued lack of communication is concerning as it is placing the Department in a questionable light.

I kindly ask for a clear update on the status of my request, the Department's intentions and an anticipated timeline regarding compliance, please respond no later than January 7, 2025, by 5:00PM. A lack of response risks severely undermining public confidence in the transparency, accountability, and impartiality that the Office of the Attorney General represents. Followed by the remedy for this ministerial task, assuming this would now be the fourth time the Department has failed to comply.

It is hoped that eventuality will not be necessary as I trust this matter will now receive the attention it deserves and look forward to your prompt reply.

Thank you,
Judge Arturo Fernando Gutierrez (Retired)
Attorney at Law

P.S. I apologize for my prior misreading of your name.

The Law Office of Arturo Fernando Gutierrez
1000 Town Center Dr. #300
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Warning! This email is a confidential communication between Attorney Arturo Fernando Gutierrez and the intended recipient. Any unauthorized use of this email will be subject to civil and criminal prosecution pursuant to 18 U.S.C. § 2701 et seq.

[Quoted text hidden]

EXHIBIT 9

069

THE

CODE OF CIVIL PROCEDURE

OF THE

STATE OF CALIFORNIA.

ANNOTATED BY

CREED HAYMOND AND JOHN C. BURCH,

OF THE

CALIFORNIA CODE COMMISSION.

In Two Volumes.

VOL. II.

FIRST EDITION.

SACRAMENTO:

H. S. CROCKER & CO., BOOK AND JOB PRINTERS.

1872.

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APPENDIX.

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[Being alike applicable to all the Codes there is here inserted :]

PART V.—POLITICAL CODE.

OF THE DEFINITION AND SOURCES OF LAW—EFFECT AND PUBLICATION OF THE CODES, AND THE EXPRESS REPEAL OF STATUTES.

TITLE I. DEFINITION AND SOURCES OF THE LAW.
II. EFFECT OF THE CODES.
III. PUBLICATION OF THE CODES, AND STATUTES CONTINUED IN FORCE.
IV. EXPRESS REPEAL OF STATUTES.

TITLE I.

DEFINITION AND SOURCES OF THE LAW.

SECTION 4466. Definition of law.
4467. How expressed.
4468. Common law, when rule of decision.

4466. Law is a solemn expression of the will of the supreme power of the State. Definition of law.

NOTE.—Bouvier, in his Law Dictionary, says of law, that "in its most general and comprehensive sense it signifies a rule of action; and this term is applied indiscriminately to all kinds of action, whether animate or inanimate, rational or irrational. 1 Black. Com., p. 38: In its more confined sense law denotes the rule, not of actions in general but of human action or conduct. The Civil Code of Louisiana, Art. 1, defines law to be "a solemn expression of the legislative will;

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see Tuoll. Dr. Civ. Fr., Tit. Prel., Sec. 1, N. 4; 1 Bouv. Inst., N. 1-3. The definition of the text is more in conformity with that of the Louisiana Code than any other. It is intended to define it as emanating from the supreme power—which is the will of the people, the source of all political power—as expressed through their representatives, the *legislative* department, approved by the *executive*, and construed to be in conformity with the *Constitution* by the *judicial department* of the Government. It would not, under our Constitution and form of Government, answer the purpose to say that *it is the expression* of the *legislative will;* for that *will* is controlled to a certain extent by the executive, in its exercise of the veto power; and in case both these departments concur in an expression which is forbidden by the Constitution the judicial department would not enforce it. Hence the definition of the text is the more truthful and better expression. Besides, the Constitution is the organic law—the compact entered into by *all the people* to be obedient to such laws of the legislative department only which conform to its provisions; and such conformity is absolutely necessary to make the legislative *law* obligatory and of binding force.

How expressed.

4467. The will of the supreme power is expressed:

1. By the Constitution;
2. By statutes.

NOTE.—*Subd.* 1.—See Constitution thoroughly annotated in the Appendix to the Political Code.

Subd. 2.—The statutes are embodied in the Codes and in the public and private Acts of the Legislature.

Common law, when rule of decision.

4468. The common law of England, so far as it is not repugnant to or inconsistent with the Constitution of the United States or the Constitution or laws of this State, is the rule of decision in all the Courts of this State.

NOTE.—Act of April 13th, 1850; Stats. 1850, p. 219.

GENERALLY.—"*All statutes* are to be construed with reference to the provisions of the common law, and provisions in derogation of the common law are held strictly."—Bouv. Law Dict., Vol. 1, p. 338; but see Sec. 4, ante, and referred to, post, in this note. This section is substantially the same as that adopted by the first Legislature of the State, and has been the rule ever since. Its adoption subjected the Courts of the

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State to the observance of the provisions of the common law of England in so far as they were not repugnant to the Constitution and laws passed in conformity therewith.—Reed vs. Eldridge, 27 Cal., p. 346. In Thompson vs. Monrow, 2 Cal., p. 100, the Supreme Court say: "According to the well settled doctrine of several of the highest Courts of other States, we must judicially presume that the common law is the rule of decision in the other States, unless the contrary is shown. And in the People vs. Craycroft, id., p. 243, the Court say: "Where a right is given, and a remedy provided by *statute*, the remedy so provided must be pursued. It is true, if the right existed at *common law*, the plaintiff might pursue either remedy, the statutory one being regarded as merely cumulative." Affirmed in Ward vs. Severance, 7 id., p. 126; and People vs. Poulterer, 16 id., p. 526. It was in People vs. Folsom, 5 Cal., p. 373, declared that, "now there is no common law of the United States, as contradistinguished from the individual States, and the Courts of the United States, instead of administering the common law, or any particular system, conform to the law of the States where they are situated." The common law was adopted only so far as it was not repugnant to the Constitution and statutes of the State. When the State has laws on the subject of "fences," "roads," and the like, the common law rule which required owners of cattle to keep them confined in their own inclosures does not prevail.—Waters vs. Moss, 12 Cal., p. 538. The rule of the common law that statutes in derogation thereof are to be strictly construed, has no application to this Code.—See Sec. 4, ante, and note. In Norris vs. Harris, 15 Cal., p. 252, the Court said: "There is no doubt that the common law is the basis of the laws of those States which were originally colonies of England, or carved out of such colonies.—Kent's Com., Vol. 1, p. 343. In all those States thus having a common origin, formed from colonies which constituted a part of the same empire, and which recognized the common law as the source of their jurisprudence, it must be presumed that such common law exists. It has been so held in repeated instances, and it rests upon parties who assert a different "rule to show that matter by proof.—See Inge vs. Murphy, 10 Ala. (N. S.), p. 895. A similar presumption must prevail as to the existence of the common law in those States which have been established in territory acquired since the Revolution, where such territory was not, at the time of its acquisition, occupied by an organized and civilized

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community, when, in fact, the population of the new States, upon the establishment of Government, was formed by immigration from the original States. But no such presumption can apply to States in which a Government already existed at the time of their accession to the country, as Florida, Louisiana, and Texas." Unless these presumptions are destroyed by the statute establishing rules of its own, they exist. In the case of Van Maren vs. Johnson, 15 Cal., p. 312, the Court say of the common law: "That law constitutes the basis of our jurisprudence, and rights and liabilities must be determined in accordance with its principles, except so far as they are modified by the statute." A common law rule, the adoption of which the English Judges had frequent occasion to regret, will not be applied to a case arising for the first time in this State.—Johnson vs. Fall, 6 Cal., p. 359.

SPECIALLY.—1. *In equity.*—See Willis vs. Wozencraft, 22 Cal., p. 614.

2. *In keeping cattle within close.*—See Waters vs. Moss, 12 Cal., p. 535.

3. *The right of the owner to the possession of cord wood* cut on land by one in possession without title or color thereof.—See Kimball vs. Johns, 31 Cal., p. 154.

4. *In rights to water.*—See Hill vs. Smith, 27 Cal., p. 476.

5. *Construed.*—The common law, as used in Act of Congress carrying out the treaty with China, is explained in Forbes vs. Scannell, 13 Cal., p. 242.

6. *In trade marks.*—See Falkinburg vs. Lucy, 34 Cal., p. 52.

7. *In criminal pleadings.*—See People vs. Dick, 37 Cal., p. 277.

8. *In guardianship.*—See Lord vs. Hough, 37 Cal., p. 659.

TITLE II.

EFFECT OF THE CODES.

SECTION 4478. Construction of the Codes with relation to the laws passed at the present session.
4479. Laws passed at present session prevail.
4480. Construction of Codes with relation to each other.
4481. Conflicts between Titles, which to prevail.
4482. Conflicts between Chapters, which to prevail.

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SECTION 4483. Conflicts between Articles, which to prevail.
4484. Conflicting sections of the same Title, which to prevail.

Construction of the Codes with relation to the laws passed at the present session.

4478. With relation to the laws passed at the present session of the Legislature, THE POLITICAL CODE, CIVIL CODE, CODE OF CIVIL PROCEDURE, and PENAL CODE, must be construed as though each had been passed on the first day of the present session.

NOTE.—But Sec. 4330 of the Political Code is construed as having been passed on the last day of the session.—See Stats. 1871-2, p. 653, cited in note to said section. See "Enactment of Statutes," Secs. 309-313, and notes, Political Code. "Promulgation of Statutes."—Id., Sec. 318. "Operation of Statutes."—Id., Secs. 323-330. The following decisions may be consulted on the subject of the construction of statutes generally:

1. *Officers' terms and election.*—See People vs. Brenham, 3 Cal., p. 477.

2. *Prospective and retrospective.*—See Thorne et al. vs. San Francisco, 4 id., p. 127.

3. *Consonant* with Federal Constitution.—People vs. Coleman et al., 4 Cal., p. 46, on power of taxation; but in People vs. McCreary, 34 id., p. 432, overruled as to property exempt from taxation. *Directory as to time.*—Wood vs. Forbes, 5 Cal., p. 62.

4. *Divesting rights* to realty and rents thereof.—Billings vs. Hall, 7 Cal,, p. 1.

5. *Construing tax laws.*—Scofield vs. White, 7 id., p. 400.

6. *Applicable to equity* and not law actions.—Andrews vs. Mok. Hill Co., 7 id., p. 330.

7. *Saving clause.*—People vs. Gill, 7 id., p. 356.

8. *Impairing rights* of third parties.—See People vs. Williams, 8 Cal., p. 97.

9. *Summary proceedings.*—Wilson vs. Broder, 10 Cal., p. 486.

10. *Judgment against specific property.*—Farmer vs. Rogers, 10 Cal., p. 335.

11. *Advance election—vacancy.*—People vs. Weller, 11 Cal., p. 77.

12. *Submitting act* to vote of the people.—See Blanding vs. Burr, 13 Cal., p. 343.

13. *Decisions* relate to the laws in existence at the date of the Act under consideration.—State vs. Mc

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Glynn, 20 Cal., p. 233; Reddington vs. Waldron, 22 id., p. 185.

14. *An Act referring to another*, and making it the *law* for *its purposes*, perpetuates the latter Act for the purposes designated, notwithstanding its repeal, for all others.—Spring Valley W. Co. vs. San Francisco, 22 Cal., p. 434.

15. *Legalizing assessments.*—People vs. Todd, 23 Cal., p. 181.

16. *Joint and several liability.*—Irvine vs. McKeon, 23 Cal., p. 472.

17. *When law goes into effect.*—Reddington vs. Waldron, 22 Cal., p. 185.

18. *Exception proves the rule.*—Perry vs. Ames, 26 Cal., p. 372.

19. "*Representative*," used in probate matters, construed.—Davis vs. Davis, 26 Cal., p. 23.

20. *Retroactive.*—Gates vs. Salmon, 28 Cal., p. 320.

21. *A father legitimizing his child* must do so as the statute provides.—Pina vs. Peck, 31 Cal., p. 359.

22. *Intention* to prevail.—Tynan vs. Walker, 35 Cal., p. 634.

23. *Which of two cognate laws* to prevail.—Estate of Wixom, 35 Cal., p. 320.

24. *Every part* to have effect if possible.—Gates vs. Salmon, 35 id., p. 516.

25. *Every part* to be considered.—People vs. Supervisors of San Francisco, 36 Cal., p. 595.

26. *When mandatory.*—People vs. Supervisors of San Francisco, 36 id., p. 595.

27. *A statute repealed*, as to a certain county, is not revived for that county by an amendatory Act.—People vs. Tyler, 36 Cal., p. 522; see, also, People vs. Gerke, 27 Cal., p. 228.

28. *Strictly construed* in certain case.—Eustace vs. Jahns, 38 Cal., p. 76.

29. *In the absence* of *special* provisions what *general* provisions apply.—People vs. Ross, 38 Cal., p. 76.

30. *Lands, entry of*, for purpose of purchase.—Durfee vs. Plaisted, 28 Cal., p. 80; Rush vs. Casey, 39 Cal., p. 339.

31. *Unlawful detainer* Act construed.—Norblett vs. Farwell, 28 Cal., p. 155.

32. *Validating sales.*—Ellis vs. Eastman, 38 Cal., p. 195.

33. *Part repealed* and part in force.—Attorney General vs. State Board of Judges, 38 Cal., p. 391.

34. *Mismanagement* by trustees of corporations.—Martin vs. Zellerbach, 38 Cal., p. 300.

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35. *People may appeal* in criminal cases only, where error occurs before jeopardy attaches.—People vs. Webb, 38 Cal., p. 467.

36. *Hours of labor* in municipal contracts.—Drew vs. Smith, 38 Cal., p. 325.

37. *Probate Judges' powers at* chambers.—Warden vs. Elkins, 38 Cal., p. 439.

38. *Herding sheep.*—Common law never was applicable.—Logan vs. Gidney, 38 Cal., p. 579.

39. *Alimony.—Statutory* provision for does not prohibit other.—Galland vs. Galland, 38 Cal., p. 265.

40. *Cities and towns.*—Lands for, under Act of Congress.—Jones vs. Petaluma, 38 Cal., p. 397; Alemany vs. id.; id., p. 553.

41. *Repeal of statute*, express and by implication.—Christy vs. Board Sups. Sac. Co., 39 Cal., p. 3; Ex Parte Smith, 40 Cal., p. 419.

42. *Motive of Legislature.*—Cannot be inquired into. Harpending vs. Haight, 39 Cal., p. 189.

43. *Retrospective.*—Bensley vs. Ellis, 39 Cal., p. 308.

44. *Rejection of claim to land* restores it to public domain, and is subject to location.—Rush vs. Casey, 39 Cal., p. 339; McGary vs. Hastings, id., p. 360.

45. *Effect of legislation* on offices.—Trout vs. Gardiner, 39 Cal., p. 386. See "Office," Pol. Code.

46. *Tenancy in common*, created by Act.—Frisbie vs. Marques, 39 Cal., p. 451.

47. *Divesting one of property.*—The statute authorizing it to be strictly pursued.—Trumpler vs. Bemerley, 39 Cal., p. 490.

48. *Bankruptcy.*—Judgment, how affected by.—Merritt vs. Glidden, 39 Cal., p. 559.

49. *Judgment in tax suit*, how construed.—Eitel vs. Foote, 39 Cal., p. 439.

50. *Service of summons*, what sufficient in tax suit.—People vs. Fox, 39 Cal., p. 621.

51. *Statute not suspended*, instance of.—People vs. Fox, last supra.

52. *Possessory Act* of this State construed.—Wolfskill vs. Malajourich, 39 Cal., p. 276.

53. *Amendment.*—Code Sec. 473 (¿ 68) construed.—Bensley vs. Ellis, 39 Cal., p. 309.

54. *Grand larceny*, specific property may constitute.—People vs. Townsley, 39 Cal., p. 405.

55. "*Children*," word construed not to include grandchildren.—Estate of William Curry, 39 Cal., p. 592.

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56. *County Courts have common law* jurisdiction within the meaning of the naturalization laws.—Estate of M. Conner, 29 Cal., p. 98.

57. "*Payments*" and "*credits*" in mechanics' liens. Preston vs. Sonora Lodge, 39 Cal., p. 116.

58. *Funding Acts.*—Soher vs. Supervisors of Calaveras County, 39 Cal., p. 134; Rose vs. Estudillo, 39 Cal., p. 270.

59. *Practice Act construed* to be entirely remedial. Hastings vs. Cunningham, 39 Cal., p. 137.

60. *Legislature may authorize* sale of property in certain cases.—Estate of Den, 39 Cal., p. 70.

61. *State land law.*—Stuart vs. Haight, 39 Cal., p. 87; Eckhart vs. Campbell, 39 id., p. 256.

62. *Lands, possession adverse.*—Figg vs. Mayo, 39 Cal., p. 262. School lands.—Chapman vs. Tuckman, 39 id., p. 674. Salt marsh and tide.—People vs. Washington, 40 Cal., p. 173.

63. *United States revenue stamps.*—Duffy vs. Hobson, 40 Cal., p. 240.

64. The words "*shall go*" mean *shall vest*, when.—Broad vs. Broad, 40 Cal., p. 493.

65. *Survivorship, an essential element* of tenure, may not be taken away by statute. — Greer vs. Blanchar, 40 Cal., p. 194.

66. *Description, matter of.*—Hughes vs. Reis, 40 Cal. p. 155.

Laws passed at present session prevail.

4479. If the provisions of any law passed at the present session of the Legislature contravene or are inconsistent with the provisions of either of the four Codes, the provisions of such law must prevail.

NOTE.—This section is but another form of stating the proposition contained in the preceding one. It is placed here not because it is necessary, but to convey to the layman the idea that the preceding section conveys to the professional reader. 1. *Which statute controls.*—See Estate of Wixom, 35 Cal., p. 320; Gates vs. Salmon, id., p. 516. 2. *Legislative intent.*—See Tynan vs. Walker, id., p. 634. 3. *When an Act is partially repealed* as to a particular locality, a subsequent amendment of the Act does not revive it as to that locality.—People vs. Tyler, 36 Cal., p. 522. See notes to the succeeding sections.

Construction of Codes with relation to each other.

4480. With relation to each other, the provisions of the four Codes must be construed (except as in the

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next two sections provided) as though all of such Codes had been passed at the same moment of time and were parts of the same statute.

NOTE.—In People vs. Jackson, 30 Cal., p. 429, the Court say: "Both Acts were passed upon the same day and relate to the same subject matter. They are, therefore, according to a well settled rule of interpretation to be read together as if parts of the same Act." And in People vs. Wells, 11 id., p. 338, the Court say: "It is a well settled rule of construction that statutes upon the same subject matter must be construed together, and that a general provision must be controlled by one that is special."—Smith's Com., Sec. 639; People vs. Phœnix, 6 Cal., p. 92; Lucas, Turner & Co. vs. Payne & Dewey, 7 Cal., p. 96. See, also, Sec. 18, ante, and note, as to construction of the Code with regard to continuing provisions. Statutes passed at different times, but on the same subject matter, must be read together and construed as one Act, as is provided in Sec. 18, ante. "It is a familiar rule in construing statutes, that where there are two laws upon the same subject, they must be so construed as to maintain both, if it can be done without destroying the evident intent and meaning of the latter Act."

Conflicts between Titles, which to prevail.

4481. If the provisions of any Title conflict with or contravene the provisions of another Title, the provisions of each Title must prevail as to all matters and questions arising out of the subject matter of such Title.

NOTE.—This section is the rule adopted, or rather invoked, in People vs. Wells, 11 Cal., p. 338, and it and the three succeeding sections, by more particularly defining the subject matter to be controlled by the Section, Article, Chapter, or Title, though it does not abrogate the rule laid down in Taylor vs. Palmer, 31 Cal., p. 344, that sections of law relating to the same subject matter are to be read together, in order to ascertain the intention of the Legislature, provides a rule for deciding any question as to which of two such Sections, Articles, Chapters, or Titles control. Here may be referred to, on proximate subjects of construction, the cases of San Francisco vs. Kelsey, 5 Cal., p. 518; French vs. Teschemacher, 24 Cal., p. 518; People vs. Frisbie, 26 Cal., p. 135, going generally to favor that construction which makes the law consistent and of vitality, and discouraging a construction which makes it obnoxious to

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the Constitution. The true interpretation of a section, when there is ambiguity, is to read it with the context on the same general subject, making them consistent (People vs. White, 34 Cal., p. 183); and when rights have been acquired under one interpretation of a statute Courts will go far to sustain such construction.—In Re Warfield, 22 Cal., p. 51.

Conflicts between Chapters, which to prevail.

4482. If the provisions of any Chapter conflict with or contravene the provisions of another Chapter of the same Title, the provisions of each Chapter must prevail as to all matters and questions arising out of the subject matter of such Chapter.

NOTE.—See notes to preceding section, and Sec. 4484, post.

Conflicts between Articles, which to prevail.

4483. If the provisions of any Article conflict with or contravene the provisions of another Article of the same Chapter, the provisions of each Article must prevail as to all matters and questions arising out of the subject matter of such Article.

NOTE.—See notes to Sec. 4481, ante, and 4484, post, and cases there cited.

Conflicting sections of the same Title, which to prevail.

4484. If conflicting provisions are found in different sections of the same Chapter or Article, the provisions of the sections last in numerical order must prevail, unless such construction is inconsistent with the meaning of such Chapter or Article.

NOTE.—This and the three preceding sections, as rules of construction, are sufficiently explicit in themselves, and accord with the common law rules of construction, as indicated in the cases and points hereinafter enumerated. See, also, notes to Secs. 4468, 4478, 4479, and 4480. The obvious intention of these sections, establishing rules of construction, cannot be mistaken; and as authority for them, the case of Sacramento City, etc., vs. Bird, 15 Cal., p. 294, will be readily recognized. They were adopted to harmonize the Codes and all parts of them, and to give some effect to their every provision, which has long been held to be the true rule; and the Courts will not reject any provision unless clearly repugnant under these rules. In support of this position, these cases below are referred to: Chever vs.

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Hays, 3 Cal., p. 471. A statute must be so construed as to comport with common sense and the known and recognized principles of justice.—Burnham vs. Hays, 3 Cal., p. 115; People vs. Waterman, 31 Cal., p. 412; North B. & M. R. R. Co.'s Appeal, 32 id., p. 499; Burr vs. Dana, 22 id., p. 11; Souter vs. The Sea Witch, 31 id., p. 162; San Francisco vs. Kelsey, 5 id., p. 169; Smith vs. Randall, 6 Cal., p. 47; Seabury vs. Arthur, 28 id., p. 142. The Legislature alone considers the policy of a statute.—Billings vs. Hall, 7 Cal., p. 1. An important and necessary rule is laid down in Ex Parte Ellis on habeas corpus in 11 Cal., p. 222, in these words: "As it is the duty of Courts to execute all laws according to their true intent and meaning, that intent, when collected from the whole and every part of the statute taken together, *must prevail even over the literal sense of the terms, and control the strict letter of the law*, where the letter would lead to possible injustice, contradiction, and absurdity." And it was to aid the Courts in arriving at certainty in harmonizing any real or apparent contradictions and conflicts that the rules of the text were adopted. Legislative debates would afford but little light on the intention of an Act, and are not to be relied on or resorted to in construing it. The language of the Act itself is alone considered. McGarrahan vs. Maxwell, 28 Cal., p. 75; Leese vs. Clark, 20 Cal., p. 387. The language of Judge Field, employed in the case of Ellis, supra, is repeated in Knowles vs. Yeates, 31 Cal., p. 87, quoting 1 Kent's Com., p. 461. On the subject of statutes in derogation of the common law, in view of Sec. 18, ante, we deem it unnecessary to do more than to refer to Hotaling vs. Cronise, 2 Cal., p. 60; People vs. Buster, 11 Cal., p. 215; Turner vs. Tuolumne County W. Co., 25 Cal., p. 397. Whether mandatory or not is dependent somewhat on the purpose the law was intended to subserve. Cal. Co. vs. Brockway, 30 Cal., p. 325. When an evidently wrong reference is given by number the correct one will be held to be referred to.—People vs. King, 28 Cal., p. 265.

The construction of statutes by the Court is controlled by this Code in the following: "Sec. 1858. In the construction of a statute or instrument the office of the Judge is simply to ascertain and declare what is in terms or in substance contained therein, not to insert what has been omitted, or to omit what has been inserted; and where there are several provisions or particulars, such a construction is, if possible, to be adopted as will give effect to all." "Sec. 1859. In the

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construction of a statute, the intention of the Legislature, and in the construction of the instrument, the intention of the parties is to be pursued, if possible; and when a general and particular provision are inconsistent, the latter is paramount to the former. So a particular intent will control a general one that is inconsistent with it." "Sec. 1866. When a statute or instrument is equally susceptible of two interpretations, one in favor of natural right and the other against it, the former is to be adopted." The law does not favor a repeal by implication, and unless the former Act be referred to, or is clearly repugnant to the provisions of the latter, both must stand.—Merrill vs. Gorham, 6 Cal., p. 42. This case is sustained in McMinn vs. Bliss, p. 122, and People vs. Broadway Wharf Co., p. 33, both in 31 Cal. What is said with regard to the *Titles* in note to Sec. 4481, is equally true with regard to the Chapters, Articles, and Sections of the Codes, and the cases there cited are also equally applicable. It was held in Perkins vs. Thornburgh, 10 Cal., p. 191, that "when a statute assumes to specify the *effects* of a certain provision, we must presume that all the *effects* intended by the law-maker are stated."—Citing Lee vs. Evans, 8 Cal., p. 424; Bird vs. Dennison, 7 Cal., p. 307; Meloney vs. Whitman, 10 Cal., p. 38. And here in the text we have *the effect* of the Codes. Sections are not to be too readily held to be in conflict, but they should be carefully read with the others of the same Article, and as is declared in several decisions supra, and again in Cullerton vs. Mead, 22 Cal., p. 95, should be so construed as to comport with common sense and the dictates of justice.

TITLE III.

PUBLICATION OF THE CODES.

SECTION 4494. Codes not published as part of the statutes.

Codes not published as part of the statutes

4494. The Codes passed at this session of the Legislature must not be published as part of the statutes passed at this session, but provision must be made by law for their publication.

NOTE.—Provision for the publication of the Codes was made by Act of March 22, 1872, pp. 481-484, Stats. 1872.

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TITLE IV.

EXPRESS REPEAL OF STATUTES.

SECTION 4504. Repeal of repealed statutes not to imply that they were in force.
4505. Express repeal of statutes to be provided for.

Repeal of repealed statutes not to imply that they were in force.

4504. The repeal of any statute or part of a statute heretofore repealed must not be construed as a declaration, express or by implication, that such statute or part of a statute has been in force at any time subsequent to such first repeal.

NOTE.—See notes to the sections of Title II, preceding.

Express repeal of statutes to be provided for.

4505. The express repeal of statutes will be provided for by a separate statute, and such statute, after its passage, must be construed in the same manner, and must have like effect as if it were part of this Code.

NOTE.—See note to this section in Appendix to Vol. II, Civil Code, annotated, p. 590.

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EXHIBIT 10

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THE PACIFIC

Representative of the Congregational Churches of the Pacific Coast

"First pure, then peaceable . . without partiality and without hypocrisy."

W. W. FERRIER, Editor.

San Francisco, Cal. Thursday, January 3, 1901

The Pacific in Its Fiftieth Year.

This week The Pacific enters its fiftieth year. It has had a long career of usefulness, and has shown its right to live as long as newspapers shall be needed on the earth. It is the oldest religious paper on the coast, the oldest paper of any kind in California, and next to the Oregonian of Portland, the oldest on the coast. The first paper published on the Pacific Coast was the Oregon Spectator, established February 5, 1846, at Oregon City. It was a semi-monthly and its publication was continued about ten years. The first weekly, known as the Oregon Free Press, was established in 1848. On the 7th of June, 1848, the Oregon American and Evangelical Unionist, a monthly, was first published on the Tualatin plains near Hillsboro by the Rev. J. S. Griffin. The first number of the Oregonian was issued on Wednesday, December 4, 1850. The first paper published in California was at Monterey in August, 1846. About three years later one was established in San Francisco. Neither of these papers is now in existence. The first number of The Pacific was issued August 1st, 1851. No paper published earlier than that date is in existence today in California, and none except the Portland Oregonian any place on the coast.

There is a certain proper pride that Congregationalists may have in the fact that their church paper is the oldest paper in California. It is significant. It emphasizes the value of the church of Christ. The church goes where men and women go, because the church is needed by them, and it is enduring, as are also those things which grow out of it and minister to its life, such as the religious press.

Secular and political papers had multiplied rapidly in California from the time the first one began publication at Monterey, and in 1851 every town of any importance had its weekly, and in the cities there were at least ten dailies in existence. In the introductory editorial in the first number of The Pacific it was said: "To wait longer for an opportunity were a shame. The field is wide open. The need of our influence in this channel is most pressing. If our paper can ever do service it is now. We feel that the religious community demands the prosecution of the enterprise."

From that day to this The Pacific has been a great power for good. It has helped largely in making Pacific Coast Congregationalism what it is today. It has entered into much that is good and enduring all along the coast. It was among the foremost in building up that sentiment which kept California true to the union in the beginning of our Civil War. Only the years of eternity will reveal all the good that has been accomplished by it during these forty-nine years of its existence.

But its best years of service lie before it. The Pacific Coast will ere long be in very truth the front door of the continent. Before the middle of the present century the Pacific ocean commerce will build up cities as great as those that now take supremacy on the Atlantic Coast. Our hills and valleys will become thickly populated, and in and out of the Golden Gate will steam a traffic of gigantic proportions in comparison with that of today. To the north of us, along by the Columbia and on Puget Sound, the great inland sea, there will be important rivals of the great city San Francisco bay. Los Angeles in the meantime will have so widened her borders that her suburban inhabitants to the westward will live hard by the sea. Then shall be the time of The Pacific's greater usefulness. In those days it will lead to the best things, not only in the lives of our own people, but in and through them its influence will go out over the ocean in far reaches of good. All honor to those heroic souls who started it on its

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Concerning the Pacific.

To the Editor of the Pacific:

In reply to your request for something from me "concerning the past of the paper, and something as to its future":

The publication of The Pacific was commenced in the interest of Home Missions. By the use of the mail it could reach every part of the State, and in its correspondence bring together information that could not otherwise be obtained.

It depended on the miners for its support rather than on the churches, for there were then hardly a score of them, all told, of the Protestant faith, and but few of them had houses of worship.

It never had any funds behind it, but has lived the half-century through on the voluntary support given it by its friends, because its agency could not be dispensed with.

It has stood firmly for a sound Biblical theology. To make this certain, it is only necessary to say that Rev. J. A. Benton was editor-in-chief from the beginning, for more than forty years, and Rev. Dr. I. E. Dwinell was a constant correspondent.

It has been an outspoken and uncompromising advocate for purity in life and honesty in dealing, on the part of men in office, whether high or low.

It has been known as among the foremost in advocating education in all its departments.

It has given its influence to the utmost in favor of revivals of religion, and has sought persistently to promote a high standard of Christian living.

Its very existence for so many years is the best testimony to the value good people have placed upon it.

It has been continued at the expense of a good deal of money, and of a great deal of time and labor, for which there was no return, except in the good that was done.

Since, through many changes, it has fallen into the hands of the Congregationalists alone, it has become an indispensable bond of union and medium of communication among us. If other denominations with a closer organization than ours can get along without such an organ, we cannot. For that reason it is our duty to support The Pacific as our representative paper.

If it is our duty to maintain our denomination, it is our duty to maintain the religious paper which is essential to its progress. We endow professorships in seats of learning, and it is wisely done. But not one of them is so influential as the editorial chair of this paper, if it is provided with the means which it deserves. Why not endow that chair within this "fiftieth year"?

Christians in other States have treated their religious papers in this way; has not the time come for us to do the same? In the Eastern and Central States the papers have a constituency of millions of population. It is not yet so with us on this coast. And that is a sufficient reason why The Pacific has lived so long, and yet is not a rich paper.

As to the future, the opening opportunity is wide, and it only remains for our churches to enable the paper to meet that opportunity and fulfill its demands.

I believe they will. Yours,

S. H. Willey.

The Pacific in Bygone Days

BY REV. J. H. WARREN.

On his return from Los Angeles in the early summer of 1851. Rev. J. W. Dougless, with advice and assistance of Revs. T. D. Hunt, S. H. Willey and J. A. Benton, made arrangements to issue as early as possible the first religious newspaper on the Coast. The first number came out August 1, 1851. The second number contained a list of the Protestant churches in the State—thirty in all.

As this enterprise was ventured by the joint action of Congregationalists and New School Presbyterians there were but six churches out of the thirty that could be looked to for support, viz., the three Congregational churches in San Francisco, Sacramento and Nevada City; and three New School Presbyterian churches in San Jose, Marysville and San Francisco. With such a limited field, and population unsettled—uncertain—this forth-putting of faith and purpose to plant a religious paper in California of that day, was, to use current speech, "a record breaker"—with one promise; The Pacific has kept faith all these fifty years. "First pure, then peaceable." It was a brave challenge in those early days—a way that flamed a circle and stood the field ofr religion, education, Sabbath observance, temperance, Christian missions, clean politics, religious progress, good literature, loyalty to God, to character, to country. The record of the Pacific, in all it promised on that first day of August, 1851, down to date, is consistent, Christian. This is the testimony of one who has read its first and every issue for fifty years.

It may interest some to read a bit of history in connection with its early record. In 1852 a plot to divide the State and make the southern part of it a slave state, developed with some determination and strength. Then, as some declared, "chivalry had a bill of sale of California." The Pacific of February 20, 1852, with fine nerve, asked, "Shall a convention be held to strike out freedom from the constitution and insert slavery? It exposed

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the scheme, fought it, until the Legislature closed its four months' session, and the plot was dead. There were two young hardware merchants in Sacramento in those days; both had the courage of their convictions.

In the face of "chivalry," so called—in other words, "pro-slavery champions"—they spoke out in meeting and arraigned the "peculiar institution." They were cautioned, threatened, something like a "rail" and decorations were something like a "vail" and decorations were suggested, if—

The Pacific praised them, although strangers to both. Six months or so, after the event of its endorsement of the patriotic, freedom-loving Americans had been penned, the writer, at the time in charge of the editorial and financial interests of the paper, called to see them. The recognition was instant, hearty. Mr. C. P. Huntington ordered six copies and Mark Hopkins four, to be sent to Sacramento and to Eastern friends; not for a year only were the subscriptions paid, but nearly a score of years. Time passed; the two young men became transportation kings and the editor a home missionary superintendent. The annual pass given him had on it "On account of the Pacific." From year to year, Mr. Hopkins was informed that the "pass" was accepted for the work of the Home Missionary Society and was not connected with The Pacific. Mark Hopkins smiled, but never wrote, as long as he lived, anything else on the annual pass, except the same endorsement, "On account of The Pacific." So, on this record alone, the "grand, noble, old Pacific," as its old-time servitor, "S. V.," always phrased it, proved an invaluable auxiliary in the building of churches and made many a wilderness place to rejoice and blossom as the rose.

The Congregational church at Nelson, British Columbia, was dedicated recently with only a small indebtedness resting upon it. The day of the dedication $2,000 were needed to free it from indebtedness. Fourteen hundred were raised that day.

California has been a gold producing state for only a little more than half of the nineteenth century, but her record is, for that period, about $1,500,000,000. The output for 1900 was about $16,000,000. The estimate for the total mineral product for 1900 is $30,000,000.

The Southern Branch of the Woman's Board of Missions for the Pacific has adopted a schedule for the year as follows: Zulu Mission, Africa—for Mrs. J. C. Dorward, $200, for Ireland Home, $160. Japan—Miss M. F. Denton, $250, Doshisha Girls' School, $200. India—Scholarships in Miss Perkins' school, $15 each, $90. Micronesia—Kusaie, Miss L. E. Wilson, $100. In the Young People's Department, $100 for salary of a native teacher in the Doshisha, at Kyoto, Japan; also $200 for Miss Mary Perkins of the Madura district, India, and six India scholarships in Miss Perkins' school at $15 each. Also three scholarships of $37.50 each for Brousa, Turkey. In the Children's Department, $396 are scheduled for the salary of Mrs. T. A. Baldwin at Brousa, and $100 for the Micronesian navy. These appropriations aggregate $1,000 for the Woman's Department, $502 for the Young People's, and $496 for the Children's. The aim is to secure $2,000 for the year for the regular work, and $500 extra for Twentieth Century Fund.

It is the judgment of a prominent railroad man of the East who visited San Francisco recently that this city is growing more rapidly now than any other city in the United States. The same man predicts that the next five years will show a more rapid development here than has been seen in any Western city. There is no doubt that the entire Pacific coast will have a remarkable development during the next decade or two. Recently one of the pioneers and successful business men of Denver, Colorado, took up residence in Seattle. And his word to that people is: "Seattle will at some not far-distant day rival New York." But lest those people to the north of us, in Seattle, Tacoma, Spokane and Portland, in their absorption in the effort to hasten that day forget that there is a flourishing city on San Francisco bay, let it go forth in these columns that the bank clearings in San Francisco exceed considerably the combined clearings of all the clearing-house cities this side of the Rocky mountains. For the single month of October they were for San Francisco, $104,768,409; for Portland, $12,042,343; for Tacoma, $5,311,362; for Seattle, $13,452,303; for Spokane, $5,386,230. For the whole year in San Francisco the clearings aggregate more than a billion dollars; for Seattle, the city having the second highest, they were for eleven months $120,705,709. It is also worthy of note that for the nine months of 1900, ending September 30th, San Francisco's exports footed up 52.7 per cent of all the Pacific coast ports, and that her imports were 80 per cent of the total coast imports. San Francisco's business for 1900 has been estimated at $1,700,000,000 in volume.

The fact that a man is not punished for sins committed may only prove that he is a tare reserved for judgment.

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EXHIBIT 11

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State of California
Office of the Attorney General

ROB BONTA
ATTORNEY GENERAL

CALIFORNIA DEPARTMENT OF JUSTICE GUIDELINES FOR ACCESS TO PUBLIC RECORDS

January 2023

California citizens have a right to access public information maintained by government agencies, including the Department of Justice (Department). That right is provided for in the California Public Records Act and the state constitution, and it includes the right to inspect and copy records of state and local government agencies.

As the Legislature stated in enacting the California Public Records Act, "access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state." The Department's guidelines for access to public records rest on that principle.

GUIDELINES

Direct Your Request to the Public Records Coordinator. The Department has designated a Public Records Coordinator to facilitate its response to public records requests. If you direct your request to the Public Records Coordinator, it will make it easier for us to track and process your request which will result in your receiving a prompter response. The Coordinator may be reached by telephone at (916) 210-6183, electronically at https://oag.ca.gov/contact/publicrecords_form, and by U.S. mail at, Attorney General's Office, Public Records Coordinator, P.O. Box 944255, Sacramento, CA 94244-2550.

Written Requests Strongly Encouraged. The Department encourages, but does not require, requests for records to be made in writing unless the request involves records maintained by the Department for the purpose of immediate public inspection. Examples of these types of records include statements of economic interest, Department publications and these guidelines. Written requests help the Department respond to the requests and correctly identify the records requested. Denials of written requests will be provided in writing. When requests are made orally, the Department may confirm the request in writing to ensure it has correctly understood the request.

Records Defined. "Records" include any writing owned, used or maintained by the Department in the conduct of its official business. Writings include information recorded or stored on paper, computers, email, or audio or visual tapes.

Identifying Records. In order to help the Department provide records promptly, requesters should provide specific information about the records they seek. When a record cannot be identified by name, the requester should attempt to be as specific as possible in describing the record, based on its content. If known, requesters should indicate the office, division, branch or section of the Department that created and maintains the records.

When a request is not sufficiently specific, Department staff will help the requester to identify the information, describe how the records are maintained or their physical location, and provide suggestions on how to overcome practical barriers to disclosure.

Inspection of Public Records. Public records maintained by the Department shall be available for inspection during the Department's regular business hours. Members of the public are not required to give notice in order to inspect public records at Department offices during normal working hours. However, if the request requires the retrieval, review or redaction of records, a mutually agreeable time should be established for inspection of the records. Requests for Statements of Economic Interests, Public Records Guidelines, and Department publications usually can be provided quickly. Requests for other records may take more time because the records must be located, reviewed for exempt information and copied. The Department makes numerous publications and records freely available on its web site: https://oag.ca.gov.

In order to prevent records from being lost, damaged or destroyed during an inspection, Department employees may determine the location of, and may monitor, the inspection.

Processing Requests for Copies of Records. When a copy of a record is requested, and the record cannot be produced immediately, the Department will determine within 10 days after receipt of the request, whether to comply with the request, and shall promptly inform the requester of its decision and the reasons for the decision. The initial 10-day period may be extended for up to an additional 14 days if the Department needs to:

a. Communicate with field offices.
b. Inspect voluminous records.
c. Consult with other divisions or agencies.
d. Construct a computer report to extract data.

Whenever possible, the Department will provide records at the time the determination is made to disclose them. If immediate disclosure is not possible, the Department will provide an estimated date when the records will be available, and will provide the records within a reasonable period of time.

Copying Fees. The Department may charge the direct cost of duplication when it provides copies of records to the public (10 cents per page). The direct cost of duplication includes the pro rata expense of the duplicating equipment and the staff (salary/benefits) required to make a copy of the record. Direct cost of duplication does not include the staff person's time in researching, retrieving, redacting and mailing the record. When the Department must compile electronic data, extract information from an electronic record, or undertake computer programming to satisfy a

request, the Department may require the requester to bear the full costs, not just the direct cost of duplication.

Exemptions. The Department will provide access to all public records upon request unless the law provides an exemption from mandatory disclosure. Examples of records exempt from mandatory disclosure under the California Public Records Act include: certain personnel records, investigative records, drafts, confidential legal advice, records prepared in connection with litigation, and information that may be kept confidential pursuant to other state or federal statutes. In most circumstances, when the Department removes or redacts exempt information from the record, it will disclose the remainder of the record.

Identification of Requesters. Department personnel shall not demand that persons requesting to inspect records provide their identification, or the reasons for wanting to inspect records. However, if records are to be picked up or mailed to a requester, relevant identifying information must be provided. Persons wishing to enter secured parts of Department buildings must comply with the Department's security protocol, including providing identification.

RELEVANT STATUTES

California Constitution, Article I, Section 3, subdivision (b) and the California Public Records Act (Government Code Sections 7920.000-7930.215) govern access to public records of California state and local government agencies.

ADDITIONAL INFORMATION

A copy of these guidelines shall be posted in a conspicuous public place at the offices of the Department. A copy shall be made available free of charge upon request by any member of the public.

For more information about open government and public records access, or to access publications of the Attorney General, visit the Attorney General's web site at https://oag.ca.gov.

EXHIBIT 12

093

Date of Hearing: April 14, 2021

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Lorena Gonzalez, Chair
AB 256 (Kalra) – As Amended March 16, 2021

Policy Committee: Public Safety Vote: 6 - 2

Urgency: No State Mandated Local Program: No Reimbursable: No

SUMMARY:

This bill makes the California Racial Justice Act of 2020 (CRJA), which prohibits the state from seeking or obtaining a conviction or sentence on the basis of race, ethnicity or national origin, retroactive to cases where judgment was entered prior to January 1, 2021.

FISCAL EFFECT:

1) Costs (General Fund (GF)/Trial Court Trust Fund) of approximately $21 million dollars in increased workload costs for fiscal years (FY) 2021-22 and 2022-23 and possibly ongoing to the trial courts to hear and adjudicate post-conviction petitions filed in accordance with the CRJA. Although courts are not funded on the basis of workload, increased pressure on the courts and staff may create a need for increased funding for staff and infrastructure. This is particularly true given that trial courts are still struggling to resolve hundreds of cases that were delayed during the COVID-19 pandemic. The Governor's 2021-22 budget proposes $72.2 million dollars in ongoing General Fund revenue for trial courts to continue addressing the backlog of cases and allow for timely access to justice.

2) Possible costs in excess of $150,000 annually to the California Department of Corrections and Rehabilitation (CDCR) to supervise and transport petitioners housed at CDCR for hearings on CRJA petitions. Actual costs would be dependent on the number of individuals the department is required to transport and how many individuals CDCR could transport and supervise.

3) Costs (GF) of between $8.9 million dollars and in FY 2021-22, $42 million dollars in FY 2022-23, $41 million dollars in 2023-24 and $15 million dollars in 2024-25 to the Department of Justice (DOJ) in additional staff and infrastructure to litigate retroactive petitions for relief pursuant to the CRJA. DOJ estimates, based on Judicial Council's estimate, that approximately 100,000 petitions from past convictions may be filed in superior court pursuant to the CRJA. If petitioners are denied, they will then file petitions in the California Court of Appeal and California Supreme Court, where the DOJ's Appeals, Writ and Trials (AWT) Division will be required to respond. DOJ estimates the AWT Division will be required to respond to approximately10% of the possible 100,000 petitions.

4) Possible savings (GF) to CDCR to the extent CRJA petitions are granted and inmates are re-sentenced to shorter terms or released from custody. The cost to CDCR to house an inmate per year is approximately $84,000, so savings would depend on the number of inmates released early.

COMMENTS:

1) **Purpose.** According to the author:

> While California's leadership in passing the CRJA (AB 2542, Chapter 317, Statutes of 2020) was a major step in addressing institutionalized and implicit racial bias in our criminal courts, those with prior, racially biased convictions and sentences are barred from their right to challenge those judgements and seek justice.

2) **The CRJA**. Last year, the Legislature passed AB 2542 (Kalra), Chapter 317, Statutes of 2020, known as the CRJA which allows a person convicted of a crime to file a motion alleging racial bias in the charging, conviction or sentencing of a conviction. Racial bias may be shown by, among other things, statistical evidence that convictions for an offense were more frequently sought or obtained against people who share the defendant's race, ethnicity or national origin than for defendants of other races; or that longer or more severe sentences were imposed on persons based on their race, ethnicity or national origin or based on the victim's race, ethnicity or national origin. Racial bias may also be shown by evidence that a judge or attorney, among others listed, associated with the defendant's case, exhibited bias towards the defendant, or, in court, used racially discriminatory language or otherwise exhibited bias or animus, based on the defendant's race, ethnicity or national origin. The CRJA does not require the discrimination to have been purposeful or to have had a prejudicial impact on the defendant's case. The CRJA applies only to judgments of conviction occurring on or before January 1, 2021. This bill would make the CRJA applicable to all cases regardless of when judgment was entered.

3) **Impact on Trial Courts.** Judicial Council of the California (JCC) expressed several concerns about AB 2542 and the impact the CRJA would have on the trial courts. JCC estimated a cost of between $9 million dollars and $41 million dollars in increased workload to review and adjudicate petitions in accordance with the CRJA. AB 2542 was amended in the Senate Committee on Appropriations to be prospective only. For this bill, JCC estimates that, based on the historical number of criminal cases handled by the trial courts over the past 10 years, and assuming 1% of all criminal convictions are eligible for relief and 5% require additional hearings, the fiscal impact to the trial courts would be $20.8 million in workload costs for the first two years. However, costs will likely be higher given that this bill allows a person to file a motion for relief on any conviction regardless of the date of conviction. JCC's estimate is based only on criminal convictions over the past ten years.

4) **Arguments in Support.** According to the 8th Amendment Project:

> If prohibiting racism in our courts and providing a person a means to remedy racial bias in their case is the right thing to do, it is the right thing to do for everyone. Those with prior, racially biased convictions and sentences deserve equal justice under the law and have waited long enough. Additionally, providing a mechanism for retroactive relief will allow the state to realize significant court and correctional savings.

5) **Arguments in Opposition.** According to the California District Attorneys' Association:

> AB 256 would dramatically expand the scope of AB 2542 without seeing how any of these issues created by AB 2542 have been resolved. [The CRJA already] imposes [a] heavy costs on local counties without any reimbursement. Setting aside the costs of appeals, delays and interruptions of trials, and the costs of evidentiary hearings that necessarily will involve untold witnesses and expert testimony on both sides, the costs of having to review thousands of files is astronomical.

6) **Prior Legislation.**

a) AB 2542 (Kalra), Chapter 317, Statutes of 2020, prohibits the state from seeking or upholding a conviction or sentence, occurring on or after January 1, 2021, that is discriminatory based on race, ethnicity or national origin.

b) AB 2200 (Kalra) of the 2019-2020 Legislature, is largely identical to this bill and was never heard in the Assembly Committee on Public Safety.

Analysis Prepared by: Kimberly Horiuchi / APPR. / (916) 319-2081

EXHIBIT 13

097

AB 256 (Kalra) - Criminal procedure: discrimination

Version: May 24, 2021
Urgency: No
Hearing Date: July 15, 2021
Policy Vote: PUB. S. 4 - 1
Mandate: No
Consultant: Shaun Naidu

Bill Summary: AB 256 would, among other things, apply retroactively, as specified, the prohibition on the state from seeking or obtaining a conviction or sentence based on race, ethnicity, or national origin.

Fiscal Impact:

- Courts: Judicial Council estimates increased workload costs between the following ranges resulting from this bill: $1.4 million to $2 million in the first year, $1.1 million to $1.7 million in the second year, and $900,000 to $1.4 million for the third and fourth years each. While the superior courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to increase the amount appropriated to backfill for trial court operations. For illustrative purposes, the Budget Act of 2021 allocates $118.3 million from the General Fund for insufficient revenue for trial court operations. (General Fund*)

- Department of Justice (DOJ): The department reports the following appellate litigation workload cost ranges (and new personnel requirements) associated with AB 256: $2.768 million (and 29.0 PY) to $9.911 million (and 96.0 PY) in FY 2021-2022, $12.230 million (and 67.0 PY) to $41.215 million (and 203.0 PY) in FY 2022-2023 and 2023-2024, $4.764 million (and 29.0 PY) to $17,102 million (and 96.0 PY) in FY 2024-2025, and $588,000 (and 3.0 PY) to $5.302 million (and 33.0 PY) in FY 2025-2026. The increased workload to DOJ would depend on the number of petitions that would be filed and appealed. (General Fund)

- Transporting habeas petitioners: Unknown, potentially-significant workload costs in the thousands of dollars to the Department of Corrections and Rehabilitation (CDCR) to supervise and transport individuals in state custody to attend hearings related to this measure. Actual costs would depend on the number of incarcerated persons who file a petition and make a prima facie showing that they are entitled to relief and for whom remote/video appearances at the proceedings are not exercised. (General Fund)

- Incarceration savings: Unknown potentially savings annually in reduced state incarceration costs for individuals whom the courts resentence to a shorter term of imprisonment and/or release from state facilities resulting from the successful prosecution of a writ of habeas corpus. The FY 2020-2021 per capita cost to detain a person in a state prison is $112,691 annually, with an annual marginal rate per person of over $13,000. Actual savings would depend on the number of individuals

who are resentenced and who avoid incarceration in state prison because of this measure. Aside from marginal cost savings per individual, however, CDCR would experience an institutional cost savings only if the number of persons incarcerated decreased to a level that would effectuate the closing of a prison yard or wing. (General Fund)

*Trial Court Trust Fund

Background: Last year, the Legislature passed the California Racial Justice Act of 2020 (CRJA). The act prohibits the state from seeking or obtaining a criminal conviction or imposing a sentence based on race, ethnicity, or national origin. The defendant may establish a violation of this prohibition upon proving any of the following:

- The judge, an attorney in the case, a law enforcement officer involved in the case, an expert witness, or juror exhibited bias or animus towards the defendant because of the defendant's race, ethnicity, or national origin.
- During the defendant's trial, in court and during the proceedings, the judge, an attorney in the case, a law enforcement officer involved in the case, an expert witness, or juror, used discriminatory language about the defendant's race, ethnicity, or national origin, or otherwise exhibited bias or animus towards the defendant because of the defendant's race, ethnicity, or national origin, whether or not purposeful. This provision does not apply if the person speaking is describing language used by another that is relevant to the case or if the person speaking is giving a racially-neutral and unbiased physical description of the suspect.
- The defendant was charged with or convicted of a more serious offense than defendants of other races, ethnicities, or national origins who commit similar offenses and are similarly situated, and the evidence establishes that the prosecution more frequently sought or obtained convictions for more serious offenses against people who share the defendant's race, ethnicity, or national origin in the county where the convictions were sought or obtained.
- A longer or more severe sentence was imposed on the defendant than was imposed on other similarly-situated individuals convicted of the same offense, and longer or more severe sentences were more frequently imposed for that offense on people that share the defendant's race, ethnicity, or national origin than on defendants of other races, ethnicities, or national origins in the county where the sentence was imposed.
- A longer or more severe sentence was imposed on the defendant than was imposed on other similarly-situated individuals convicted of the same offense, and longer or more-severe sentences were more frequently imposed for the same offense on defendants in cases with victims of one race, ethnicity, or national origin than in cases with victims of other races, ethnicities, or national origins, in the county where the sentence was imposed.

The act includes various procedural mechanisms to facilitate its use and applies only prospectively in cases in which judgment has not been entered prior to January 1, 2021.

Existing law allows a person who is unlawfully imprisoned or restrained of their liberty to prosecute a writ of habeas corpus to inquire into the cause of their imprisonment or

restraint. A writ of habeas corpus may be prosecuted for, but not limited to, the following reasons:

- False evidence that is substantially material or probative on the issue of guilt or punishment was introduced against a person at any hearing or trial relating to the person's incarceration.
- False physical evidence believed by a person to be factual, material, or probative on the issue of guilt, which was known by the person at the time of entering a plea of guilty and which was a material factor directly related to the plea of guilty by the person.
- New evidence exists that is credible, material, presented without substantial delay, and of such decisive force and value that it would have more likely than not changed the outcome at trial. "New evidence" means evidence that has been discovered after trial that could not have been discovered prior to trial by the exercise of due diligence and is admissible and not merely cumulative, corroborative, collateral, or impeaching.
- If a criminal conviction or sentence was sought, obtained, or imposed in violation of the CRJA if judgment was entered on or after January 1, 2021.

Any allegation that the prosecution knew or should have known of the false nature of the evidence is immaterial to the prosecution of a writ of habeas corpus. Habeas corpus is the exclusive procedure for collateral attack on a judgment of death.

Additionally, existing law creates an explicit right for a person who is no longer imprisoned or restrained to file a motion to vacate a conviction or sentence based on a prejudicial error damaging to the moving party's ability to meaningfully understand, defend against, or knowingly accept the actual or potential adverse immigration consequences of a plea of guilty or nolo contendere, or based on newly-discovered evidence of actual innocence, as specified.

The prosecution is required to disclose to the defense exculpatory evidence in the prosecution's possession or known to be in the possession of investigating agencies. The trial court has broad authority to dismiss a case in the interests of justice, except as specified.

Parties in a criminal case are allowed an unlimited number of challenges to prospective jurors for cause, and challenges for cause may be based on general disqualification, implied bias, or actual bias. "Implied bias" occurs when there is the existence of a state of mind in the juror evincing enmity against, or bias towards, either party. "Actual bias" is defined as the state of mind on the part of the juror in reference to the case, or to any of the parties, which will prevent the juror from acting with entire impartiality, and without prejudice to the substantial rights of any party.

Separate from challenges for cause, each party may strike a prospective juror through the use of a peremptory challenge for which no reason needs be given. Parties can make only a limited number of peremptory challenges for each case.

Proposed Law: This bill would apply the CRJA retroactively in phases. Specifically, it would allow a person who alleges that their conviction or sentence is based on race, ethnicity, or national origin to petition for a writ of habeas corpus, as follows:

- Starting January 1, 2022, in cases in which judgment was entered prior to January 1, 2021, if any of the following apply:
  - The petitioner is sentenced to death.
  - The petitioner is currently serving a sentence in state prison or in a county jail pursuant to the 2011 Realignment Legislation.
  - The petitioner is committed to the Division of Juvenile Justice for a juvenile disposition.
  - If the motion to vacate is filed by a person who is no longer in custody, as specified, because of actual or potential immigration consequences related to the conviction or sentence.
- Beginning January 1, 2023, in cases in which judgment was entered for a felony conviction or juvenile disposition after January 1, 2013.
- Beginning January 1, 2025, in cases in which judgment was entered for a felony conviction or juvenile disposition regardless of the date of judgment.

AB 256 would make a number of other changes to the CRJA, including defining "juror" to mean a prospective juror, including alternate jurors, and requiring the disqualification of a judge from any further proceedings under the act if a motion under the CRJA is made in the trial court that is based in whole or in part on conduct or statements by that judge.

Related Legislation: AB 1798 (Levine, 2019-2020 Reg. Sess.) would have prohibited a person from being executed pursuant to a judgment that was either sought or obtained on the basis of race if the court makes a finding that race was a significant factor in seeking or imposing the death penalty. AB 1798 was held on the Suspense File of the Assembly Committee on Appropriations.

AB 2542 (Kalra, Ch. 317, Stats. 2020) prohibited the state from seeking or upholding a conviction or sentence that is discriminatory based on race, ethnicity, or national origin for cases in which judgement has not been entered prior to January 1, 2021. Prior versions of AB 2542 applied both prospectively and retroactively, regardless of the sentencing date. This Committee adopted amendments to strike the retroactivity of the measure.

Staff Comments: Based on the phases in AB 256 to petition the court for cases that were final before 2021, the current prison population, court statistical information, and petition trends related to Propositions 47 (2014) and 64 (2016), Judicial Council estimates the following number of habeas petitions filed as a result of this measure: approximately 5,000 in the first year, 4,000 in the second year, and 3,000 in the third and fourth years each. Feedback from the courts for AB 2542 (the precursor to this bill) indicates a general estimate of between three minutes and 15 minutes would be spent to review each petition to determine if it meets the "prima facie" standard for an additional review hearings. For 5,000 petitions that would equal roughly $251,000 to $1.255 million. Based on that same feedback, it is estimated that it takes between 30 minutes and 90 minutes for the additional review hearing for each petition that makes a

prima facie showing that a violation of the CRJA occurred. It is unknown how many petitions would make a prima facie showing.

Additionally, AB 256 likely would produce additional costs to CDCR to transport incarcerated individuals to and from court for hearings for habeas corpus petitions. There are many factors that affect the costs of out-of-institution transportation, including each person's escape risk and in-custody behavior, the distance from the facility where the person is detained to the courthouse, and the pace at which a court moves through its docket. Presuming that two correctional officers with regular hourly wages would transport one person with a total travel and court time of four hours, which is a conservative assumption, this bill would cost the department almost $300 per hearing. If the court and travel time were extended, department costs would rise commensurately. If CDCR is able to transport multiple inmates to a courthouse at one time, the per-incarcerated person costs would be lowered in turn.

Relatedly, AB 256 could result in the immediate or later release of a number of people currently incarcerated in state prison. If this measure results in the release from state prison of 10 individuals, it would result in a marginal rate cost savings of roughly $130,000 annually. If this measure results in a large enough number of people released from prison to effectuate the closing of a yard or wing of a prison, incarceration cost savings to the state could reach in the millions of dollars annually.

-- END --

EXHIBIT 14

103

SENATE COMMITTEE ON APPROPRIATIONS
Senator Anthony Portantino, Chair
2021 - 2022 Regular Session

AB 256 (Kalra) - Criminal procedure: discrimination

Version: May 24, 2021
Urgency: No
Hearing Date: August 11, 2022
Policy Vote: PUB. S. 4 - 1
Mandate: No
Consultant: Matthew Fleming

Bill Summary: AB 256 would, among other things, apply retroactively, as specified, the prohibition on the state from seeking or obtaining a conviction or sentence based on race, ethnicity, or national origin.

********** ANALYSIS ADDENDUM – SUSPENSE FILE **********
The following information is revised to reflect amendments adopted by the committee on August 11, 2022

Fiscal Impact:

- Courts: Judicial Council estimates increased workload costs between the following ranges resulting from this bill: $1.4 million to $2 million in the first year, $1.1 million to $1.7 million in the second year, and $900,000 to $1.4 million for the third and fourth years each. While the superior courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to increase the amount appropriated to backfill for trial court operations. The 2022-23 budget includes an ongoing annual allocation of $151.5 million and a one-time allocation of $10.3 million backfill from the General Fund in order to address declining revenue to the Trial Court Trust Fund.

- Department of Justice (DOJ): The DOJ reports estimated costs of $509,000 in 2022-23 (3.0 PY), $2.1 million in 2023-24 (8.0 PY), $2 million in 2024-25 (8.0 PY), $1.3 million in 2025-26 and 2026-27 (5.0 PY) (General Fund). Actual costs would depend on the number of petitions that would be filed and appealed.

- Transporting habeas petitioners: Unknown, potentially-significant workload costs in the thousands of dollars to the Department of Corrections and Rehabilitation (CDCR) to supervise and transport individuals in state custody to attend hearings related to this measure. Actual costs would depend on the number of incarcerated persons who file a petition and make a prima facie showing that they are entitled to relief and for whom remote/video appearances at the proceedings are not exercised. (General Fund)

- Incarceration savings: Unknown potentially savings annually in reduced state incarceration costs for individuals whom the courts resentence to a shorter term of imprisonment and/or release from state facilities resulting from the successful prosecution of a writ of habeas corpus. The estimated per capita cost to detain a person in a state prison for 2022-23 is $111,446 annually, with an annual marginal rate per person of over $13,000. Actual savings would depend on the number of individuals who are resentenced and who avoid incarceration in state prison

because of this measure. Aside from marginal cost savings per individual, however, CDCR would experience an institutional cost savings only if the number of persons incarcerated decreased to a level that would effectuate the closing of a prison yard or wing (General Fund).

Author Amendments:

- Amend the timeline for retroactive application of the Racial Justice Act, as follows:
    - Commencing January 1, 2023, to all cases in which the petitioner is sentenced to death or to cases in which there are actual or potential immigration consequences related to the conviction or sentence, regardless of when the judgement or disposition became final.
    - Commencing January 1, 2024, to all cases in which, the petitioner is currently serving a sentence in state prison or in a county jail for a realigned felony offense, or committed to the Division of Juvenile Justice for a juvenile disposition, regardless of when the judgement or disposition became final.
    - Commencing January 1, 2025, to all cases in which judgement became final for a felony conviction or juvenile disposition that resulted in a commitment to the Division of Juvenile Justice on or after January 1, 2015.
    - Commencing January 1, 2026, to all cases in which judgement was for a felony conviction or juvenile disposition that resulted in a commitment to the Division of Juvenile Justice, regardless of when the judgement or disposition became final.
- Narrow the definition of juror to only include sworn jurors in specified circumstances.
- Clarify that out-of-court statements that "the court finds trustworthy and reliable," statistical evidence, and aggregate data are admissible for the purpose of proving a violation.
- Clarify that evidence to demonstrate that more serious charges were brought or obtained, or that longer or more severe sentence were imposed, may include statistical evidence, aggregate data, or nonstatistical evidence.
- Provide that the defendant does not need to prove intentional discrimination.
- Make other substantive, technical, and clarifying changes.

Committee Amendments:

- Provide that motions made at trial must be made as soon as practicable upon the defendant learning of the alleged violation and that untimely motions may be waived in the discretion of the court.
- Provide that for petitions that are filed in cases for which judgment was entered before January 1, 2021, and that are based on the actions or statements of a judge, attorney, law enforcement officer involved in the case, expert witness, or juror, then

the petitioner shall be entitled to relief unless the state proves the error was harmless beyond a reasonable doubt.

-- END --

EXHIBIT 15

Date of Hearing: April 19, 2022
Chief Counsel: Sandy Uribe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Reginald Byron Jones-Sawyer, Sr., Chair

AB 2418 (Kalra) – As Amended March 31, 2022

As Proposed to be Amended in Committee

SUMMARY: Enacts the Justice Data Accountability and Transparency Act. Specifically, **this bill**:

1) Mandates the Criminal Justice Statistics Center (CJSC) within the Department of Justice (DOJ) to collect "data elements" as specified, from all state and local prosecutor offices that prosecute misdemeanors and felonies, including district attorney offices, city attorney offices, and the Attorney General's Office.

2) Requires CJCS to develop consistent and clear guidelines for how agencies are to define data elements that are to be transmitted to DOJ.

3) Requires CJSC to aggregate and verify data elements.

4) Requires CJSC to develop and publish metrics.

5) Requires CJSC to assess the technological readiness and attitudes of agencies for compliance, and based on that, designate each agency to be in one of three tiers of size, as specified, to determine dates for compliance of the mandates on local agencies imposed by this Act.

6) Requires CJSC to do all of the following in carrying out its objectives and mandate:

    a) Use standardized practices in developing web pages, as specified;

    b) Employ appropriate security measures and best practices to account for personal identifying information and other sensitive information as governed by law;

    c) Use technology that is scalable so as to accommodate large increases in volume of data;

    d) Staff personnel familiar with web user-interface coding and web service coding;

    e) Make all data available, including raw data elements and metrics, in formats that will allow for download of complete data sets;

    f) Make all data available in a searchable format;

g) Assess and create processes to collect, aggregate, and validate data elements transmitted by an agency to include methods to identify duplicate, overlapping or missing data;

h) Test data quality;

i) Develop methods for archiving data, retrieving archived data, and data editing and verification; and,

j) Develop standardized definitions for "data elements" so that the information transmitted to CJSC is uniform across all jurisdictions.

7) Requires CJSC to establish the Prosecutorial Transparency Advisory Board by March 1, 2023, for the purpose of ensuring transparency, accountability, and equitable access to prosecutorial data, whose primary responsibilities are to provide guidance to CJSC on draft rules, regulation, policies, plans, reports, or other decisions made by CJSC with regard to the Act.

8) Specifies the composition of the Prosecutorial Transparency Advisory Board.

9) Requires, beginning on an unspecified date, every agency statewide to begin collecting specified data elements.

10) Requires agencies statewide to begin transmitting their data on unspecified dates depending on what tier the agency is placed in.

11) Requires CJSC to start collecting data elements based on the unspecified timetable for the three tiers and publishing it on yet to be determined dates, as specified.

12) Allows CJSC to obtain information from sealed and expunged records and in other circumstances that may normally be prohibited from being disclosed, but provides that CJSC cannot publish the name, birthdate, or the criminal identification and information or state identification number assigned to any defendant or victim.

13) States that for each case, the prosecuting agencies shall gather the following data elements:

a) The court case numbers, but to protect the privacy of defendants this number shall not be included in the published data;

b) The internal case number assigned to each case by the case management system. If the prosecuting agency does not currently use an internal case number, the agency shall do so;

c) The status of the case, specifically, whether the case is pending, concluded, is on appeal; or is inactive, such as when the defendant is in warrant status;

d) The zip code where most of the acts comprising the case occurred;

e) The date the crime was committed;

f) The name and originating agency identifier, as designated by the National Law Enforcement Telecommunications System, of the law enforcement agency that investigated the case for submission to the prosecutor;

g) Each charge and enhancement, including any special circumstances or special allegation, including a uniform description, statute, and classification as a felony or misdemeanor;

h) The date on which charges were filed, the case was discharged, or the case was returned for further investigation;

i) Each charge, enhancement, and special circumstance and special allegation in the initial charging document;

j) For each case declined to prosecute, the charges rejected and the reason for the declination to prosecute;

k) The county in which the case was filed;

l) The date on which the defendant initially entered a plea to the charges;

m) The date on which the defendant first appeared in a case, whether or not an arraignment took place;

n) The date on which bail was set and the amount of bail;

o) The agency pretrial release recommendation for each case and a brief rationale;

p) The prosecutor's bail recommendation and a brief rationale;

q) The court pretrial detention determination at arraignment;

r) Whether the defendant paid bail and what portion of the bail was paid;

s) The date of any release from custody, the reason for the release, and the terms of the release;

t) The start and end date for every period of detention in the case, including pretrial detention, and the reason for that detention;

u) The date of any amendments to the accusatory pleading and the charges, enhancements, special circumstances or special allegations added;

v) The date on which the first plea bargain offer was made;

w) Whether the prosecutor determined that the defendant was eligible for diversion and whether the defendant was offered a diversion program by the prosecuting agency;

x) Whether the court granted or denied a motion for diversion;

y) Whether the prosecutor opposed diversion, and if so, the reason for the opposition based on specified standardized terms;

z) Whether the defendant participated in diversion, and if so, the date of completion of the program, and whether or not the program was successfully completed;

aa) The type of diversion;

bb) Whether the prosecutor determined that the defendant was eligible for a collaborative court program, as defined;

cc) Whether the court granted or denied a motion for participation in collaborative court;

dd) Whether the prosecutor opposed the defendant's participation in collaborative court, and if so, the reason for the opposition based on specified standardized terms;

ee) Whether the defendant agreed to participate in a collaborative court program;

ff) The date on which a collaborative court program ended, and whether it was successfully completed;

gg) The type of collaborative court program;

hh) The date on which a charge was resolved, whether by dismissal, acquittal, conviction, or other grounds;

ii) The disposition of each charge, enhancement, special circumstance, and/or special allegation;

jj) For any special circumstance related to murder whether the defendant was the actual killer;

kk) Whether any conviction was by trial or plea;

ll) The date of sentencing and the sentence imposed, including any restitution, fines, and period of incarceration;

mm) Whether or not the prosecuting agency engaged in any post-conviction resentencing and the outcome of that resentencing;

nn) Whether or not the agency participated in parole proceedings, and if so, the formal recommendation; the outcome of the proceedings, and the race of the incarcerated person;

oo) Whether or not the prosecuting agency engaged in any commutation or pardon proceedings, the agency's recommendation, and the outcome;

pp) Whether there was a *Batson/Wheeler*[1] motion made, the party making the motion, and the ruling;

qq) Whether a criminal informant was used and whether the informant was used in a custodial setting, as specified;

rr) Whether there were competency proceedings initiated in the case;

ss) Whether the last attorney of record was a public defender, privately retained, or whether the defendant represented him or herself;

tt) Whether the defendant plead not guilty by reason of insanity;

uu) Whether conservator proceedings were initiated;

vv) Specified information for each defendant, including: name; date of birth; age; race; ethnicity; specified identification numbers; disability, if any; gender; whether the defendant has self-identified as transgender, non-binary, or intersex; county of residence; whether the defendant was on any type of supervision when the charged offense was committed; whether defendant is subject to sex offender registration requirements; and,

ww) Specified information for each victim, if any, including: whether there was a victim identified, race, ethnicity, age at the time of the crime, gender identification, and whether the victim requested that the charges be dropped, and willingness to testify.

14) States that each agency which only has select divisions that prosecute crimes must provide the following information each year by July 1st:

a) The number of full-time attorneys who carry non-appellate criminal caseloads;

b) The number of part-time attorneys who carry non-appellate criminal caseloads;

c) The number of investigators;

d) The average felony caseload for attorneys who carry non-appellate criminal caseloads;

e) The average misdemeanor caseload for attorneys who carry non-appellate criminal caseloads;

f) The office limits regarding the number of felony cases and the number of misdemeanor cases an attorney can carry over a one-year period; and,

---

[1] Prohibits the use of peremptory challenge to remove a prospective juror on the basis of the prospective juror's race, ethnicity, gender, gender identity, sexual orientation, national origin, or religious affiliation, or the perceived membership of the prospective juror in any of those groups. (*Batson v. Kentucky* (1986) 476 U.S. 79; *People v. Wheeler* (1978) 22 Cal.3d 258.)

g) The number of victims that the victim's services unit contacted and provided services to, as specified.

15) Requires DOJ to report the following to CJSC with regard to each defendant in the cases identified and reported by a prosecuting agency:

a) The number of prior felony convictions and statutory charges comprising prior felony convictions;

b) The number of prior felony arrests;

c) The number of misdemeanor arrests and convictions and statutory charges comprising misdemeanor convictions;

d) Whether an appeal was filed following the disposition of the case; the basis for the appeal; whether the appeal was contested; and the resolution of the appeal; and,

e) The criminal identification and information number and/or state identification number assigned to each defendant with respect to the information above.

16) Provides that operation of this Act is contingent upon an appropriation by the Legislature.

17) Contains statements of legislative intent.

EXISTING LAW:

1) States that it is the duty of DOJ to:

a) Collect data necessary for the work of the department from specified persons and agencies mentioned in Section 13020 and from any other appropriate source;

b) Prepare and distribute to all those persons and agencies cards, forms, or electronic means used in reporting data to the department;

c) Recommend the form and content of records that must be kept by those persons and agencies in order to ensure the correct reporting of data to the department;

d) Instruct those persons and agencies in the installation, maintenance, and use of those records and in the reporting of data therefrom to the department;

e) Process, tabulate, analyze, and interpret the data collected from those persons and agencies;

f) Supply to federal bureaus or departments engaged in the collection of national criminal statistics data they need from this state at their request; and,

g) Make available to the public, through the department's OpenJustice Web portal, information relating to criminal statistics, to be updated at least once per year. (Pen.

Code, § 13010.)

2) Requires DOJ to collect data pertaining to the juvenile justice system for criminal history and statistical purposes. (Pen. Code, 13010.5.)

3) Imposes a duty on every person or agency dealing with crimes or criminal defendants or with delinquency or delinquent minors, when requested by the Attorney General:

   a) To install and maintain records needed for the correct reporting of statistical data required by him or her;

   b) To report statistical data to the department at those times and in the manner that the Attorney General prescribes; and,

   c) To give to the Attorney General, or his or her accredited agent, access to statistical data for the purpose of carrying out this title. (Pen. Code, § 13020.)

4) States that the information published on the OpenJustice Web portal shall contain statistics showing all of the following, among other things:

   a) The amount and the types of offenses known to the public authorities;

   b) The personal and social characteristics of criminals and delinquents;

   c) The administrative actions taken by law enforcement, judicial, penal, and correctional agencies or institutions, including those in the juvenile justice system, in dealing with criminals or delinquents; and,

   d) The administrative actions taken by law enforcement, prosecutorial, judicial, penal, and correctional agencies or institutions, including those in the juvenile justice system, in dealing with minors who are the subject of a petition in the juvenile court to transfer their case to an adult criminal court or whose cases are directly filed or otherwise initiated in an adult criminal court. (Pen. Code, § 13012.)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "Despite the extraordinary power district attorneys wield, they report very little public data on critical decisions such as charging rationale and demographics of those charged. This lack of transparency has only allowed racial bias to proliferate within the criminal legal system leading to the vast overrepresentation of people of color in California's prison population. AB 2418 would enhance transparency and accountability by requiring district attorneys to collect and report prosecutorial data. By making information such as demographic data, charging information, and case dispositions available, we ensure that not only is there more accountability, but that we are also equipped with the data needed to make well-informed policy reforms in the future."

2) **Crime Data**: "The California Attorney General has the duty to collect, analyze, and report statistical data, which provide valid measures of crime and the criminal justice process to government and the citizens of California." (https://www.oag.ca.gov/crime) DOJ's Criminal Justice Statistics Center (CJSC) collects, analyzes, and develops statistical reports and information which provide valid measures of crime and the criminal justice process in California, as required by the Penal Code. The goal of the CJSC is to provide accurate, complete, and timely criminal statistical information to the public, local government, criminal justice administrators and planners, the legislature, the Attorney General, the Governor, state agencies, federal agencies, and criminal justice researchers through a variety of publications and services. To provide these services and publications, the CJSC collects and compiles data from more than 1,000 city, county, and state criminal justice agencies in California.

   As introduced, this bill would have created the Data Aggregator and Repository Agency (DARA) within the DOJ to collect data elements, verify and aggregate them, and develop and publish metrics. However, since CJSC already exists within DOJ to collect and report statistical data that allow for valid assessments of crime and the criminal justice process in California, as proposed to be amended, the responsibilities with which DARA would have been charged will instead lie with CJSC.

3) **Argument in Support**: According to *Initiate Justice,* "District attorneys are some of the most powerful actors in the criminal legal system. They not only determine the crimes with which people are charged, they also play a central role in whether people are detained or released pretrial, whether people are ultimately convicted of the crimes with which they are charged, which sentences people receive, and how people's prior criminal history will impact their current treatment in the legal system. Their decisions are directly tied to who and how many people are in prison, and their policies and practices shape the criminal legal landscape across our state.

   "Despite the extraordinary power they wield and the fact that they are publicly elected, district attorneys are not currently required to report public data on most of the critical decisions they make. Without this data, voters are left uninformed, community members are left without critical tools to hold their district attorneys accountable, and lawmakers are left without key information to inform their community safety solutions.

   "Prosecutor transparency is an essential step in ending mass incarceration, curbing racial injustice, and developing strategies to address harm."

4) **Argument in Opposition**: According to the *California Law Enforcement Association of Records Supervisors*, "We believe the stated goals of AB 2418, transparency and accountability, are already accomplished under existing law, which require local criminal justice agencies to collect a core set of data elements necessary for tracking how people and cases move through the criminal justice process. This data is already standardized and housed in a single, centralized data repository in the DOJ. Furthermore, should a locality decide that the current repositories of shared law enforcement data is inadequate, nothing in law prevents a law enforcement agency in collaboration with the district attorney to create a publicly accessible website, for the benefit of their community. It's not clear what relevant, useful, and comparable criminal justice data would be gathered by this heavy-handed mandate that would result in more effective law enforcement practices and improved transparency and

5) **Related Legislation**: AB 2778 (McCarty) would requires DOJ to develop a “Race-Blind Charging” guideline for enumerated prosecutorial agencies to follow which, at the initial charging stage, would require redacting documents of any identifying information related to the race of the suspect, victim, or witness. AB 2778 will be heard in this Committee today.

REGISTERED SUPPORT / OPPOSITION:

Support

ACLU California Action
Advancement Project
California Public Defenders Association
Center on Juvenile and Criminal Justice
Initiate Justice
Tides Advocacy
Yolo County District Attorney

Opposition

California Law Enforcement Association of Records Supervisors (CLEARS)

Analysis Prepared by: Sandy Uribe / PUB. S. / (916) 319-3744

EXHIBIT 2

SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES	Reserved for Clerk's File Stamp FILED Superior Court of California County of Los Angeles 03/14/2025 David W. Slayton, Executive Officer / Clerk of Court By: S. Ruiz Deputy
COURTHOUSE ADDRESS: Stanley Mosk Courthouse 111 North Hill Street, Los Angeles, CA 90012	
NOTICE OF CASE ASSIGNMENT **UNLIMITED CIVIL CASE**	
Your case is assigned for all purposes to the judicial officer indicated below.	CASE NUMBER: 25STCV07287

THIS FORM IS TO BE SERVED WITH THE SUMMONS AND COMPLAINT

	ASSIGNED JUDGE	DEPT	ROOM		ASSIGNED JUDGE	DEPT	ROOM
✔	Holly J. Fujie	56					

Given to the Plaintiff/Cross-Complainant/Attorney of Record

on 03/14/2025 (Date)

David W. Slayton, Executive Officer / Clerk of Court

By S. Ruiz, Deputy Clerk

INSTRUCTIONS FOR HANDLING UNLIMITED CIVIL CASES

The following critical provisions of the California Rules of Court, Title 3, Division 7, as applicable in the Superior Court, are summarized for your assistance.

APPLICATION
The Division 7 Rules were effective January 1, 2007. They apply to all general civil cases.

PRIORITY OVER OTHER RULES
The Division 7 Rules shall have priority over all other Local Rules to the extent the others are inconsistent.

CHALLENGE TO ASSIGNED JUDGE
A challenge under Code of Civil Procedure Section 170.6 must be made within **15** days after notice of assignment for all purposes to a judge, or if a party has not yet appeared, within 15 days of the first appearance.

TIME STANDARDS
Cases assigned to the Independent Calendaring Courts will be subject to processing under the following time standards:

COMPLAINTS
All complaints shall be served within 60 days of filing and proof of service shall be filed within 90 days.

CROSS-COMPLAINTS
Without leave of court first being obtained, no cross-complaint may be filed by any party after their answer is filed. Cross-complaints shall be served within 30 days of the filing date and a proof of service filed within 60 days of the filing date.

STATUS CONFERENCE
A status conference will be scheduled by the assigned Independent Calendar Judge no later than 270 days after the filing of the complaint. Counsel must be fully prepared to discuss the following issues: alternative dispute resolution, bifurcation, settlement, trial date, and expert witnesses.

FINAL STATUS CONFERENCE
The Court will require the parties to attend a final status conference not more than 10 days before the scheduled trial date. All parties shall have motions in limine, bifurcation motions, statements of major evidentiary issues, dispositive motions, requested form jury instructions, special jury instructions, and special jury verdicts timely filed and served prior to the conference. These matters may be heard and resolved at this conference. At least five days before this conference, counsel must also have exchanged lists of exhibits and witnesses, and have submitted to the court a brief statement of the case to be read to the jury panel as required by Chapter Three of the Los Angeles Superior Court Rules.

SANCTIONS
The court will impose appropriate sanctions for the failure or refusal to comply with Chapter Three Rules, orders made by the Court, and time standards or deadlines established by the Court or by the Chapter Three Rules. Such sanctions may be on a party, or if appropriate, on counsel for a party.

This is not a complete delineation of the Division 7 or Chapter Three Rules, and adherence only to the above provisions is therefore not a guarantee against the imposition of sanctions under Trial Court Delay Reduction. Careful reading and compliance with the actual Chapter Rules is imperative.

Class Actions
Pursuant to Local Rule 2.3, all class actions shall be filed at the Stanley Mosk Courthouse and are randomly assigned to a complex judge at the designated complex courthouse. If the case is found not to be a class action it will be returned to an Independent Calendar Courtroom for all purposes.

***Provisionally Complex Cases**
Cases filed as provisionally complex are initially assigned to the Supervising Judge of complex litigation for determination of complex status. If the case is deemed to be complex within the meaning of California Rules of Court 3.400 et seq., it will be randomly assigned to a complex judge at the designated complex courthouse. If the case is found not to be complex, it will be returned to an Independent Calendar Courtroom for all purposes.

EXHIBIT 3

ATTORNEY OR PARTY WITHOUT ATTORNEY *(Name, State Bar number, and address):*
Arturo Gutierrez
226 West Ojai Ave. Suite 101 PMB 547
Ojai, CA 93023

TELEPHONE NO.: (805) 669-0226 FAX NO. *(Optional):*
E-MAIL ADDRESS *(Optional):* teamleader@survivinginjustice.org
ATTORNEY FOR *(Name):* pro se

FOR COURT USE ONLY

Electronically FILED by Superior Court of California, County of Los Angeles 3/14/2025 2:02 PM David W. Slayton, Executive Officer/Clerk of Court, By M. Gonzalez, Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
STREET ADDRESS: 111 N. Hill St.
MAILING ADDRESS:
CITY AND ZIP CODE: Los Angeles 90012
BRANCH NAME: Stanley Mosk Courthouse

PLAINTIFF/PETITIONER: Arturo Gutierrez
DEFENDANT/RESPONDENT: California Department of Justice

CASE NUMBER: 25STCV07287

PROOF OF SERVICE OF SUMMONS

Ref. No. or File No.:

(Separate proof of service is required for each party served.)

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
   a. [x] summons
   b. [x] complaint
   c. [ ] Alternative Dispute Resolution (ADR) package
   d. [ ] Civil Case Cover Sheet *(served in complex cases only)*
   e. [ ] cross-complaint
   f. [x] other *(specify documents):* Notice of Case Assignment; Consent to Electronic Service; Civil Case Cover Sheet & Addend
3. a. Party served *(specify name of party as shown on documents served):*
      California Department of Justice
   b. [ ] Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) *(specify name and relationship to the party named in item 3a):*
4. Address where the party was served:
   300 S. Spring St. Los Angeles, CA 90012
5. I served the party *(check proper box)*
   a. [ ] **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on *(date):* (2) at *(time):*
   b. [x] **by substituted service.** On *(date):* Mar 14, 2025 at *(time):* 12:52PM I left the documents listed in item 2 with or in the presence of *(name and title or relationship to person indicated in item 3):*
      Destiny J. a thin Black woman age mid twenties working at the reception desk at the DOJ's office noted in 4.
      (1) [x] **(business)** a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
      (2) [ ] **(home)** a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
      (3) [ ] **(physical address unknown)** a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
      (4) [x] I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on *(date):* 3/14/2025 from *(city):* Huntington Park, CA **or** [ ] a declaration of mailing is attached.
      (5) [ ] I attach a **declaration of diligence** stating actions taken first to attempt personal service.

PLAINTIFF/PETITIONER: Arturo Gutierrez DEFENDANT/RESPONDENT: California Department of Justice	CASE NUMBER: 25STCV07287

5. c. ☐ **by mail and acknowledgment of receipt of service.** I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
   (1) on *(date):* (2) from *(city):*
   (3) ☐ with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. *(Attach completed* Notice and Acknowledgement of Receipt.*)* (Code Civ. Proc., § 415.30.)
   (4) ☐ to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)

   d. ☐ **by other means** *(specify means of service and authorizing code section):*

   ☒ Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:
   a. ☒ as an individual defendant.
   b. ☐ as the person sued under the fictitious name of *(specify):*
   c. ☐ as occupant.
   d. ☒ On behalf of *(specify):*
   under the following Code of Civil Procedure section:

☐ 416.10 (corporation)	☐ 415.95 (business organization, form unknown)
☐ 416.20 (defunct corporation)	☐ 416.60 (minor)
☐ 416.30 (joint stock company/association)	☐ 416.70 (ward or conservatee)
☐ 416.40 (association or partnership)	☐ 416.90 (authorized person)
☒ 416.50 (public entity)	☐ 415.46 (occupant)
	☐ other:

7. **Person who served papers**
   a. Name: Edward Lasseville
   b. Address: 6040 Sante Fe Avenue Huntington Park, CA 90255
   c. Telephone number: 323-273-5572
   d. **The fee** for service was: $ 0.00
   e. I am:
      (1) ☒ not a registered California process server.
      (2) ☐ exempt from registration under Business and Professions Code section 22350(b).
      (3) ☐ a registered California process server:
         (i) ☐ owner ☐ employee ☐ independent contractor.
         (ii) Registration No.:
         (iii) County:

8. ☒ **I declare** under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
   or
9. ☐ **I am a California sheriff or marshal and** I certify that the foregoing is true and correct.

Date: 3/14/2025

Edward Lasseville
(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)

Eddie Lasseville
(SIGNATURE)

DEPARTMENT OF JUSTICE
Civil Service of Process Cover Sheet

SAC SF OAK (LA) SD FR

Date Received

Service of Process Disclaimer:

To All Persons Attempting Service Of Process Upon The Office Of The Attorney General:

Please be advised that staff assigned to receive documents delivered to the Attorney General's office are not authorized to accept such documents as properly served. Further, staff are not authorized to receive documents on behalf of any individual. In receiving documents delivered by process servers and other members of the public, office personnel do not thereby waive any right of the State of California, the Attorney General's office, any other entity of the State of California, or any individual to object to the validity of the service.

Please complete this form when delivering documents to the Attorney General's Office:

Case Name:	Gutierrez v. Department of Justice		
County :	Los Angeles	Court No.:	
Document(s) served:	☑ Summons and Complaint/Cross Complaint ☐ Notice to Attorney General's Office pursuant to Section _____ ☐ Petition For Relief From Late Claim Filing (Gov. Code Section 946.6) ☐ Pitchess Motion ☐ Small Claims ☐ Deposition Subpoena for Production of Business Records	☐ Notice of Consumer or Employee and Objection and check for $15.00 ☐ Writ of Mandate and Complaint for Declaratory Relief ☐ Other (please list):_____	
Process Server's Name:	Edward Lasseville		
Name of Company: (Include business name, address, and telephone number)			
Security Signature:			
FOR SERVICE DEPUTY'S USE ONLY			
Forwarded to:		Date Forwarded:	
Name of Service Deputy, section, and telephone number:			
NOTES:			

Attached document(s) appear(s) to be the responsibility of your section; if they are **not**, please return them to the service deputy named above, noting the section to which they are to be directed.

(Rev. 4/2020)

DEPARTMENT OF JUSTICE
Civil Service of Process Information Sheet
SAC SF OAK (LA) SD FR

SERVICE OF PROCESS DISCLAIMER:

TO ALL PERSONS ATTEMPTING SERVICE OF PROCESS UPON THE OFFICE OF THE ATTORNEY GENERAL:

PLEASE BE ADVISED THAT STAFF ASSIGNED TO RECEIVE DOCUMENTS DELIVERED TO THE ATTORNEY GENERAL'S OFFICE ARE NOT AUTHORIZED TO ACCEPT SUCH DOCUMENTS AS PROPERLY SERVED. FURTHER, STAFF ARE NOT AUTHORIZED TO RECEIVE DOCUMENTS ON BEHALF OF ANY INDIVIDUAL. IN RECEIVING DOCUMENTS DELIVERED BY PROCESS SERVERS AND OTHER MEMBERS OF THE PUBLIC, OFFICE PERSONNEL DO NOT THEREBY WAIVE ANY RIGHT OF THE STATE OF CALIFORNIA, THE ATTORNEY GENERAL'S OFFICE, ANY OTHER ENTITY OF THE STATE OF CALIFORNIA, OR ANY INDIVIDUAL TO OBJECT TO THE VALIDITY OF THE SERVICE.

EXHIBIT 4

Gmail Arturo Gutierrez <gcglaw@gmail.com>

PRA Response Letter - Gutierrez, Arturo 2024-02986

1 message

CJIS PRA <CJISPRA@doj.ca.gov> Wed, Apr 9, 2025 at 4:07 PM
To: "gcglaw@gmail.com" <gcglaw@gmail.com>

Good Afternoon,

Please find our response to your PRA request submitted to the Attorney General's office on November 4, 2024, attached.

Thank you,

CJIS PRA

California Department of Justice

California Justice Information Services Division | CJIS Executive Office

Administration Support Program | Regulations, Training, & PRA Section

CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

PRA Response Letter - Gutierrez, Arturo 2024-02986.pdf
401K

C A L I F O R N I A
DEPARTMENT OF JUSTICE

Rob Bonta
Attorney General

CJIS Executive Office
Telephone: (916) 210-5368
Fax: (916) 227-3079
E-Mail Address: CJISPRA@doj.ca.gov

April 9, 2025

Arturo Gutierrez
603 Golden West Ave.
Ojai, CA 93023
Sent via email: gcglaw@gmail.com

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, signaletic 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 data[1] 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.

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,

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

For ROB BONTA
Attorney General

EXHIBIT 5

ROB BONTA
Attorney General of California
ANTHONY P. O'BRIEN
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Attorneys for Respondent California Department of Justice

NO FEE PER GOV. CODE § 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

ARTURO GUTIERREZ, Petitioner, **v.** **CALIFORNIA DEPARTMENT OF JUSTICE,** Respondent.	Case No. 25STCV07287 **RESPONDENT CALIFORNIA DEPARTMENT OF JUSTICE'S ANSWER TO PETITION FOR WRIT OF MANDAMUS AND STATUTORY MANDATE** Judge: The Honorable Holly J. Fujie Dept: 56 Action Filed: March 14, 2025

Respondent California Department of Justice ("Respondent" or "Department") hereby answers the Petition for Writ of Mandamus and Statutory Mandate ("Petition") of Petitioner Arturo Gutierrez. Respondent responds to the Complaint by admitting, denying, averring, and alleging as follows:

GENERAL DENIAL

Respondent generally denies all allegations of the Petition not expressly admitted pursuant to section 431.30, subdivision (f) of the California Code of Civil Procedure. Respondent reserves its right to amend this answer to assert other defenses, if necessary.

SPECIFIC DENIALS

1. Respondent states that the language quoted in lines 17 through 19 of page 1 of the Petition speaks for itself, is the best evidence of its contents, and, therefore, allegations relating thereto require no response.

2. Respondent states that the language quoted in lines 20 through 22 of page 1 of the Petition speaks for itself, is the best evidence of its contents, and, therefore, allegations relating thereto require no response.

3. Respondent denies the allegations in line 2 through 3 of page 2 of the Petition.

4. In response to line 4 through 7 of page 2 of the Petition, Respondent admits that the Department's Task Force to Study and Develop Reparation Proposals for African Americans issued The California Reparations Report ("Report") in 2023. Respondent states that the Report speaks for itself, is the best evidence of its contents, and, therefore, allegations relating thereto require no response. Except as otherwise admitted or denied above, Respondent denies each and every remaining allegation in lines 4 through 7 of page 2 of the Petition.

5. Respondent denies the allegations in lines 8 through 10 of page 2 of the Petition.

6. Respondent denies the allegations in line 11 of page 2 of the Petition.

7. Answering paragraph 1 of the Petition, Respondent lacks sufficient knowledge to form a belief as to the identity of Plaintiff, or the statements herein, and on that basis denies those allegations.

8. Answering paragraph 2 of the Petition, Respondent admits it is a State agency for the purposes of Government Code sections 7920.525 and 7920.540, subdivision (a). Respondent further states that the referenced portions of the Government Code, the Code of Civil Procedure, and the California Constitution speak for themselves, are the best evidence of their contents, and, therefore, allegations relating thereto require no response. To the extent these lines contain argument and legal conclusions or misstate the cited laws, Respondent denies those allegations. Except as otherwise admitted or denied above, Respondent denies each and every remaining allegation contained in paragraph

9. Answering Paragraph 3 of the Petition, Respondent states that Exhibit 1 speaks for itself, is the best evidence of its contents, and, therefore, allegations relating thereto require no response. Respondent further states that the referenced portions of the Government Code, the Code of Civil Procedure and the California Constitution speak for themselves, are the best evidence of their contents, and, therefore, allegations relating thereto require no response. To the extent paragraph 3 contains argument and legal conclusions or misstates Exhibit 1 or the cited law, Respondent denies those allegations. Except as otherwise admitted or denied above, Respondent denies each and every remaining allegation contained in paragraph 3.

10. Answering paragraph 4 of the Petition, Respondent states that the referenced portions of the Code of Civil Procedure speak for themselves, are the best evidence of their contents, and, therefore, allegations relating thereto require no response. To the extent paragraph 4 contains argument and legal conclusions, Respondent denies those allegations. Except as otherwise admitted or denied above, Respondent denies each and every remaining allegation contained in paragraph 4.

11. Answering paragraph 5 of the Petition, Respondent states that Exhibits 3 and 4 speak for themselves, are the best evidence of their contents, and, therefore, allegations relating thereto require no response.

12. Answering paragraph 6(a)-(c) of the Petition, Respondent states that the referenced portions of the Government Code speak for themselves, are the best evidence of their contents, and, therefore, allegations relating thereto require no response. To the extent these lines contain

argument and legal conclusions or misstates the cited laws, Respondent denies those allegations. Except as otherwise admitted or denied above, Respondent denies each and every remaining allegation contained in paragraph 6(a)-(c).

13. Answering paragraph 7 of the Petition, Respondent states that the referenced portions of Exhibit 4 and the Government Code speak for themselves, are the best evidence of their contents, and, therefore, allegations relating thereto require no response. To the extent these lines contain argument and legal conclusions or misstates Exhibit 4 and the cited law, Respondent denies those allegations.

14. Answering paragraph 8 of the Petition, Respondent admits that November 28, 2024, was Thanksgiving. Respondent further states that the referenced portions of Exhibit 4 speak for itself, are the best evidence of their contents, and, therefore, allegations relating thereto require no response. To the extent this paragraph contains argument and legal conclusions or misstates Exhibit 4, Respondent denies those allegations.

15. Answering paragraph 9 of the Petition, Respondent admits that Petitioner did not object to the Extension of Time to December 2, 2024, due to the 14th day falling on Thanksgiving.

16. Answering paragraph 10 of the Petition, Respondent states that Exhibit 5 and Exhibit 6 speak for themselves, are the best evidence of their contents, and, therefore, allegations relating thereto require no response. Respondent lacks sufficient knowledge to form a belief as to Petitioner's remaining allegations in paragraph 10, and, for that reason, denies those allegations.

17. Respondent denies the allegations in paragraph 11 of the Petition.

18. Answering paragraph 12 of the Petition, Respondent states that Exhibit 7 speaks for itself, is the best evidence of its contents, and, therefore, allegations relating thereto require no response. Respondent lacks sufficient knowledge to form a belief as to Petitioner's remaining allegations in paragraph 12, and, for that reason, denies those allegations.

19. Answering paragraph 13 of the Petition, Respondent states that Exhibit 8 speaks for itself, is the best evidence of its contents, and, therefore, allegations relating thereto require no response. Respondent lacks sufficient knowledge to form a belief as to the rest of Petitioner's

allegations in paragraph 13, and, for that reason, denies each and every additional allegation in that paragraph.

20. Answering paragraph 14 of the Petition, Respondent denies that no response was sent in response to Exhibit 7 and Exhibit 8. Respondent lacks sufficient knowledge to form a belief as to Petitioner's remaining allegations in paragraph 14, and, for that reason, denies those allegations.

21. Respondent lacks sufficient knowledge to form a belief as to any of Petitioner's allegations in paragraph 15 of the Petition, and, for that reason, denies those allegations.

22. Answering paragraph 16 of the Petition, Respondent states that the referenced portion of cited Penal Code speaks for itself, is the best evidence of its contents, and, therefore, allegations relating thereto require no response. To the extent this paragraph contains argument and legal conclusions or misstates the cited law, Respondent denies those allegations.

23. Respondent lacks sufficient knowledge to form a belief as to the rest of Petitioner's allegations in paragraph 17 of the Petition, and, for that reason, denies those allegations.

24. Respondent lacks sufficient knowledge to form a belief as to the rest of Petitioner's allegations in paragraph 18 of the Petition, and, for that reason, denies those allegations.

25. Answering paragraph 19 of the Petition, Respondent lacks sufficient knowledge to form a belief as to the rest of Petitioner's allegations in paragraph 19 of the Petition, and, for that reason, denies each and every allegation in that paragraph.

26. Respondent lacks sufficient knowledge to form a belief as to the rest of Petitioner's allegations in paragraph 20 of the Petition, and, for that reason, denies those allegations.

27. Respondent denies the allegations in paragraph 21 of the Petition.

28. Respondent lacks sufficient knowledge to form a belief as to the rest of Petitioner's allegations in paragraph 22 of the Petition, and, for that reason, denies those allegations.

29. Respondent lacks sufficient knowledge to form a belief as to Petitioner's allegations in paragraph 23 of the Petition, and, for that reason, denies those allegations.

30. Respondent lacks sufficient knowledge to form a belief as to Petitioner's allegations in paragraph 24 of the Petition, and, for that reason, denies those allegations.

31. Respondent denies the allegations in paragraph 25 of the Petition.

32. Answering paragraph 26 of the Petition, Respondent states that the referenced portion of cited case law speaks for itself, is the best evidence of its contents, and, therefore, allegations relating thereto require no response. To the extent paragraph 26 contains argument and legal conclusions or misstates the cited case law, Respondent denies those allegations.

33. Answering paragraph 27 of the Petition, Respondent states that the referenced portion of cited case law speaks for itself, is the best evidence of its contents, and, therefore, allegations relating thereto require no response. To the extent paragraph 27 contains argument and legal conclusions or misstates the cited case law, Respondent denies those allegations.

34. Answering paragraph 28 of the Petition, Respondent states that the referenced portion of cited study speaks for itself, is the best evidence of its contents, and, therefore, allegations relating thereto require no response. To the extent paragraph 28 contains argument and legal conclusions, Respondent denies those allegations. Respondent lacks sufficient knowledge to form a belief as to Petitioner's remaining allegations in paragraph 28, and, for that reason, denies those allegations.

35. Answering paragraph 29 of the Petition, Respondent states that the referenced portion of cited case and statutory laws speak for themselves, are the best evidence of their contents, and, therefore, allegations relating thereto require no response. To the extent paragraph 29 contains argument and legal conclusions or misstates the cited law, Respondent denies those allegations.

36. Answering paragraph 30 of the Petition, Respondent states that the referenced portion of cited Government Code speaks for itself, is the best evidence of its contents, and, therefore, allegations relating thereto require no response. To the extent paragraph 30 contains argument and legal conclusions, Respondent denies those allegations.

37. Answering paragraph 31 of the Petition, Respondent states that the referenced portion of cited U.S. Constitution, the Geneva Slavery Convention, Federal Statutes, and Penal Code speak for themselves, are the best evidence of their contents, and, therefore, allegations relating thereto require no response. To the extent paragraph 31 contains argument and legal conclusions Respondent denies those allegations.

38. Respondent denies the allegations in paragraph 32 of the Petition.

39. Answering paragraph 33 of the Petition, Respondent states that the referenced portion of cited Penal Code speaks for itself, is the best evidence of its contents, and, therefore, allegations relating thereto require no response. To the extent paragraph 33 contains argument and legal conclusions or misstates the cited law, Respondent denies those allegations.

40. Answering paragraph 34 of the Petition, Respondent states that the November 14, 2024, letter to the Department of Justice (Exhibit 2) and the referenced portion of cited case law speak for themselves, are the best evidence of their contents, and, therefore, allegations relating thereto require no response. To the extent paragraph 34 contains argument and legal conclusions or misstates the cited law, Respondent denies those allegations.

41. Answering paragraph 35 of the Petition, Respondent denies that no response was sent in response to Exhibit 7 and Exhibit 8. To the extent paragraph 35 of the Petition contains argument and legal conclusions, Respondent denies those allegations.

42. Answering paragraph 36 of the Petition, Respondent states that the referenced portions of cited Government Code speak for themselves, are the best evidence of their contents, and, therefore, allegations relating thereto require no response. To the extent paragraph 36 contains argument and legal conclusions or misstate the cited laws, Respondent denies those allegations.

43. Answering paragraph 37 of the Petition, Respondent states that the referenced portions of cited Penal Code, and Government Code, speak for itself, are the best evidence of their contents, and, therefore, allegations relating thereto require no response. To the extent paragraph 37 contains argument and legal conclusions or misstate the cited laws, Respondent denies those allegations.

44. Answering paragraph 38 of the Petition, Respondent states that the referenced portions of Exhibit 2 speak for itself, are the best evidence of their contents, and, therefore, allegations relating thereto require no response. To the extent these lines contain argument and legal conclusions, Respondent denies those allegations.

45. Answering paragraph 39(a)-(b) of the Petition, Respondent states that the referenced portions of cited Penal Code speak for themselves, are the best evidence of their contents, and, therefore, allegations relating thereto require no response. To the extent paragraph 39(a)-(b) contains argument and legal conclusions or misstate the cited laws, Respondent denies those allegations.

46. Answering paragraph 40 of the Petition, Respondent states that the referenced portions of Exhibit 2 speak for themselves, are the best evidence of its contents, and, therefore, allegations relating thereto require no response. To the extent this paragraph contains argument and legal conclusions, Respondent denies those allegations.

47. Answering paragraph 41 of the Petition, Respondent states that the referenced portions of Exhibit 2 speak for themselves, are the best evidence of their contents, and, therefore, allegations relating thereto require no response. To the extent this paragraph contains argument and legal conclusions, Respondent denies those allegations. Respondent lacks sufficient knowledge to form a belief as to Petitioner's remaining allegations in paragraph 41 of the Petition, and, for that reason, denies those allegations.

48. Answering paragraph 42 of the Petition, Respondent states that Exhibits 3 and 4, which acknowledges receipt of Exhibit 2, speaks for themselves, is the best evidence of their contents, and, therefore, allegations relating thereto require no response. Respondent denies all remaining allegations in paragraph 42.

49. Answering paragraph 43 of the Petition, Respondent states that the referenced portions of cited Government Code speak for themselves, are the best evidence of their contents, and, therefore, allegations relating thereto require no response. Respondent denies all remaining allegations in paragraph 43.

50. Respondent denies the allegations in paragraph 44 of the Petition.

51. Answering paragraph 45 of the Petition, Respondent states that the referenced portion of cited Government Code speaks for itself, is the best evidence of its contents, and, therefore, allegations relating thereto require no response. Respondent denies all remaining allegations in paragraph 45.

52. Answering paragraph 46 of the Petition, Respondent states that the referenced portions of cited case law and federal law, speak for themselves, are the best evidence of their contents, and, therefore, allegations relating thereto require no response. Respondent denies all remaining allegations in paragraph 46.

53. Answering paragraph 47 of the Petition, Respondent states that the referenced portion of cited California Constitution speaks for itself, is the best evidence of its contents, and, therefore, allegations relating thereto require no response. To the extent paragraph 47 contains argument and legal conclusions, Respondent denies those allegations. Respondent lacks sufficient knowledge to form a belief as to Petitioner's remaining allegations in paragraph 47, and, for that reason, denies those allegations.

54. Respondent denies the allegation in paragraph 48 of the Petition.

55. Answering paragraph 49 of the Petition, Respondent admits Petitioner has included additional facts and law in a Memorandum that is attached to the Petition. Respondent lacks sufficient knowledge to form a belief as to the rest of Petitioner's allegations in paragraph 49, and, for that reason, denies each and every allegation in that paragraph. To the extent this paragraph contains argument and legal conclusions or misstates the law, Respondent denies those allegations.

56. Respondent denies the allegation in paragraph 50 of the Petition.

57. Answering paragraph 51 of the Petition, Respondent admits it received and accepted service of the writ petition and the Clerk's issuance of a summons for this matter.

58. Answering paragraph 52(a)-(k) of the Petition, Respondent states that Exhibit 11 speaks for itself, is the best evidence of its contents, and, therefore, allegations relating it to require no response. To the extent this paragraph contains argument and legal conclusions or misstates Exhibit 11, Respondent denies those allegations.

59. Answering paragraph 53 of the Petition, Respondent states that Exhibits 1 through 15 speak for themselves, are the best evidence of their contents, and, therefore, allegations relating them to require no response. Respondent lacks sufficient knowledge to form a belief as to the

remaining allegations in paragraph 53 of the Petition, and, for that reason, denies those allegations.

60. Answering Paragraph 54, Respondent admits that it received and accepted service of Exhibits 5, 6, 7, and 8. To the extent this paragraph contains argument and legal conclusions or misstates the contents of Exhibits 5, 6, 7, and 8, Respondent denies those allegations. Respondent lacks sufficient knowledge to form a belief as to the rest of Petitioner's allegations in paragraph 54 and, for that reason, denies those allegations.

61. Respondent lacks sufficient knowledge to form a belief as to the allegations in paragraph 55 of the Petition, and for that reason, denies those allegations.

62. In response to the Prayer for Relief (Pet., p. 13:2-26), Respondent denies that Petitioner is entitled to any relief in this matter.

AFFIRMATIVE DEFENSES

Without admitting any allegations contained in the Petition, Respondent asserts the following defenses based on information and belief. In asserting these defenses, Respondent does not assume the burden of establishing any fact or proposition where that burden is properly imposed on Petitioner.

FIRST AFFIRMATIVE DEFENSE

The Petition, and each cause of action therein, fail to allege facts sufficient to constitute a cause of action against Respondent.

SECOND AFFIRMATIVE DEFENSE

The Petition, and each cause of action alleged therein, fail to allege facts sufficient to state a claim for declaratory relief.

THIRD AFFIRMATIVE DEFENSE

The Petition, and each cause of action alleged therein, fail to allege facts sufficient to state a claim for damages or sanctions.

FOURTH AFFIRMATIVE DEFENSE

The Petition, and each cause of action alleged therein, fail to state a claim for attorneys' fees or costs.

FIFTH AFFIRMATIVE DEFENSE

The Petition, and each cause of action therein, fails because Respondent has not otherwise violated the California Public Records Act (Gov. Code, § 7920.000 et seq.) or any applicable provision regarding the maintenance or disclosure of public records, as applied to the California Public Records Act under Government Code section 7927.705.

SIXTH AFFIRMATIVE DEFENSE

Petitioner's claims are barred by the doctrines of estoppel, laches, unclean hands, and waiver.

SEVENTH AFFIRMATIVE DEFENSE

At all times relevant to this action, Respondent's, agents, employees, or representatives acted in good faith.

EIGHTH AFFIRMATIVE DEFENSE

Petitioner has not suffered actual injury or damages.

NINTH AFFIRMATIVE DEFENSE

Because the Petitioner's allegations are couched in conclusory terms, Respondent cannot fully anticipate all affirmative defenses that may be applicable to this action. Thus, Respondent reserves the right to assert additional affirmative defenses, if and to the extent such affirmative defenses apply.

PRAYER FOR RELIEF

WHEREFORE, Respondent prays for relief as follows:

1. That the Petition, and all claims and prayers for relief therein, be denied in their entirety;
2. That Judgment be entered in favor of Respondent, and Petitioner take nothing by this action;
3. That the Court award costs of suit and attorneys' fees to Respondent; and
4. That Respondent be awarded such other relief that the Court deems just and proper.

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Dated: April 11, 2025

Respectfully submitted,

ROB BONTA
Attorney General of California
ANTHONY P. O'BRIEN
Supervising Deputy Attorney General

/s/ Kelsey Kook
KELSEY KOOK
Deputy Attorney General
Attorneys for Respondent
California Department of Justice.

SA2025601096

DECLARATION OF SERVICE BY E-MAIL and MESSENGER

Case Name: **Gutierrez v. DOJ**
No.: **25STCV07287**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is: 2550 Mariposa Mall, Room 5090, Fresno, CA 93721-2271. My electronic service address is Ashanti.Billings@doj.ca.gov.

On April 11, 2025, I served the attached **RESPONDENT CALIFORNIA DEPARTMENT OF JUSTICE'S ANSWER TO PETITION FOR WRIT OF MANDAMUS AND STATUTORY MANDATE by** transmitting a true copy via electronic mail. In addition, I caused the attached to be personally served by **ACE Attorney Service** for delivery to the following person at the address below:

Arturo Gutierrez
226 West Ojai Ave.
Suite 101, PMB 547
Ojai, CA 93023
E-mail Address:
teamleader@survivinginjustice.org

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct, and that this declaration was executed on April 11, 2025, at Fresno, California.

A. Billings	***/s/ A. Billings***
Declarant	Signature

SA2025601096
95621756

EXHIBIT 6

Arturo Gutierrez
226 West Ojai Ave.
Suite 101 PMB 547
Ojai, CA 93023
(805) 669-0226
teamleader@survivinginjustice.org

Electronically FILED by
Superior Court of California,
County of Los Angeles
5/19/2025 3:41 AM
David W. Slayton,
Executive Officer/Clerk of Court,
By V. Ortega, Deputy Clerk

Petitioner *in propria persona*

SUPERIOR COURT OF CALIFORNIA,

COUNTY OF LOS ANGELES

STANLEY MOSK COURTHOUSE

ARTURO GUTIERREZ *Petitioner*, vs. CALIFORNIA DEPARTMENT OF JUSTICE *Respondent*.	Case No. 25STCV07287 **NOTICE OF MOTION FOR JUDGMENT ON THE PEREMPTORY WRIT IN CHAMBERS NOW; MOTION; MEMORANDUM OF LAW** In Chambers Ruling Requested CCP §§ 1107; 1108 Department: 56 Hon. Holly J. Fujie, Judge

TO THE CLERK OF THE SUPERIOR COURT OF LOS ANGELES COUNTY AND TO RESPONDENT THE CALIFORNIA DEPARTMENT OF JUSTICE, PLEASE TAKE NOTICE:

NOTICE OF MOTION FOR JUDGMENT ON THE PEREMPTORY WRIT

Petitioner, Arturo Gutierrez, *in propria persona*, notices an application for judgment on the peremptory writ of mandate to issue after ten days of this filing. The court may hear this petition in chambers, Code Civ. Proc. §§ 1088.5, 1089, 1089.5, 1094, 1107, 1108. Granting relief by way of judgment on the peremptory writ commanding and compelling the California Department of Justice to comply with the records request as prayed. This motion is made on the grounds that Respondent has admitted every material allegation when electing to waive the right to contest the cause after failing to submit a *verified* answer by April 14, 2025, and is based on the grounds in the motion and law as set forth in the memorandum, any exhibits and the papers on file.

//

Arturo Gutierrez
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(805) 669-0226
teamleader@survivinginjustice.org
Petitioner *in propria persona*

SUPERIOR COURT OF CALIFORNIA,

COUNTY OF LOS ANGELES

STANLEY MOSK COURTHOUSE

ARTURO GUTIERREZ *Petitioner*, vs. CALIFORNIA DEPARTMENT OF JUSTICE *Respondent*.	Case No. 25STCV07287 **SYNOPSIS OF MOTION FOR JUDGMENT ON THE PEREMPTORY WRIT IN CHAMBERS NOW; MOTION; MEMORANDUM OF LAW** In Chambers Ruling Requested CCP §§ 1107; 1108 Department: 56 Hon. Holly J. Fujie, Judge

CHAMBERS BRIEF IN SUPPORT OF PEREMPTORY WRIT ISSUANCE
—SYNOPSIS—
REQUEST FOR IMMEDIATE RULING IN CHAMBERS PURSUANT TO CCP §§ 1088.5, 1094, 1107, 1108

Petitioner respectfully submits this brief memorandum to aid the Court in determining that judgment on the peremptory writ may be granted **now**, in chambers, based on the following undisputed facts:

1. Respondent Failed to File a Verified Answer — No Valid Pleading Exists

The Petition was verified as required by CCP § 1086. Under CCP §§ 1109 and 1089, Respondent was required to file a verified response. It did not. Even under its errant belief that CCP §§ 446 and 431.30(f) were correct, it failed to positively deny the allegations, *id*., § 431.30(d). Its April 11, 2025 unverified filing presently leaves the cause standing uncontested. An unverified answer

to a verified petition is a legal nullity. No responsive pleading is on file. But the Court cannot issue the peremptory writ on default, the cause must be heard and that is this motion's function.

2. Respondent Made False Statements to the Court Regarding Compliance

The DOJ claimed in its unverified filing that it responded to Petitioner's CPRA request prior to the March 14, 2025 filing of the petition. However, the Department's April 9, 2025 letter (Pet. Ex. 16) proves it responded only two days prior and long after the petition was filed. This bad faith alone warrants issuance of the writ.

3. DOJ Cited No Valid Statutory Exemption

Rather than cite Gov. Code §7930.130 or §7930.200, DOJ cited only Gov. Code §7927.705 and Penal Code §§ 11076 and 11105, while repeatedly claiming Petitioner "is seeking individual-level criminal history and personally identifiable data" which was expressly false on the face of the request. Those statutes do not apply to the aggregate data requested. Respondent's proffered phrase "Automated Criminal History System (ACHS)" appears nowhere in any exemption statute.

> The listing of a statute or constitutional provision in Chapter 2 (commencing with Section 7930.100) **does not itself create an exemption**. Requesters of public records and public agencies are cautioned to review the applicable statute or constitutional provision to determine the extent to which it, **in light of the circumstances surrounding the request**, exempts public records from disclosure. Gov. Code § 7930.000(b)

"The **purpose** of this request is to **end the incidents of slavery** that are in effect in California by imprisoning Blacks at a grossly disproportionate rate." (Pet. Ex.6 p.63)

4. The Claimed Exemption Was Fabricated From Internal Bureaucratic Policy

The DOJ relied entirely on the fact that the data was "maintained within ACHS" to justify denial. There is no statute making ACHS an exemption. Internal data storage does not override CPRA mandates. In short, DOJ's position boils down to: 'We store it on a computer, so it's exempt.'

5. DOJ's Sole Signatory for the Denial Ignored Procedural Mandates while Claiming "Good Faith"

The same DOJ staffer who sought a 14-day extension to consult "multiple components of the Department" was the **only** person to sign the denial. No other agency official is named, in violation of Gov. Code §7922.540(b). Establishing as a matter of law, that the rest of the Department agreed that the records should have been turned over.

6. Oversight Is Needed — Respondent Has Proven It Is Untrustworthy

Respondent concealed the date of denial, misrepresented compliance, and based refusal on systems of its own invention. These actions defeat any presumption of regular official duty under Evid. Code §664, in fact it places the burden of proof on them to positively prove they failed.

MINI-MEMORANDUM

Court Has Full Authority to Act in Chambers Now

Under CCP §§ 1088.5, 1094, 1107, and 1108, the Court may issue a peremptory writ in chambers when the return is deficient and the petition is verified. Here, no triable issues remain.

Rule 3.20. Preemption of local rules. "The Judicial Council has preempted all local rules *relating* to pleadings,… motions,… No trial court, … may enact or enforce any local rule concerning these fields. All local rules concerning these fields are null and void". Local Rule of Court, rule 3.231 (f) **Pleadings**, is a nullity. *Woolsey v. Woolsey (In re Marriage of Woolsey)*, (2014) 220 Cal.App.4th 881, 899

See *Lewis v. Superior Court* (1999) 19 Cal.4th 1232, 1250 ("The use of the term 'heard' in section 1088, authorizing issuance of a peremptory writ in the first instance, does not appear to contemplate consideration of oral argument. In context, the requirement that the case 'must be heard' means that the court cannot issue the writ by default, but rather must consider and evaluate the petition before granting the relief requested, even if the adverse party does not respond to the petition.")

Requested Action: Petitioner respectfully requests the Court issue judgment on the peremptory writ of mandate without further delay, and grant the relief as prayed in the petition and motion.

> Upon the filing of a verified petition, the court must set a schedule "with the object of securing a decision as to the matters at issue at the earliest possible time." (§ 7923.005.) If the court finds unjustified the public agency's decision to refuse disclosure under either section 7922.000 or 7920.505, the court must order disclosure of the record. (§ 7923.110, subd. (a).)

Gascon v. Logan (2023) 94 Cal.App.5th 352, 366

A full supporting memorandum is attached for the Court's reference as it establishes in significant detail the deception intended for this Court and the denial of justice directed at Black Californians.

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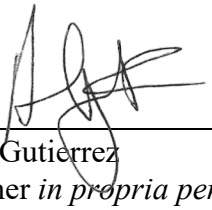
This while California hung her head in shame, begging for relief from her sins, and vowing on her honor that it shall be her "responsibility to end ongoing harm" by "protecting the descendants of enslaved people and all Black Californians" (Gov. Code § 8301.2). Meanwhile, "the chief law officer of the State" (Cal. Const. art. V § 13) makes a liar out of her, indeed out of the Court, Petitioner and all 38-million of us, because we entrusted our good name to the Department of Justice.

"[A] peremptory mandate must also be awarded without delay." (CCP § 1095)

Respectfully submitted on her behalf,



May 11, 2025

Arturo Gutierrez
Petitioner *in propria persona*

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SUPERIOR COURT OF CALIFORNIA,
COUNTY OF LOS ANGELES
STANLEY MOSK COURTHOUSE

ARTURO GUTIERREZ *Petitioner*, vs. CALIFORNIA DEPARTMENT OF JUSTICE *Respondent*.	Case No. 25STCV07287 **MOTION FOR THE COURT TO ISSUE THE PEREMPTORY WRIT IN CHAMBERS NOW AS RESPONDENT FAILED TO ANSWER AS REQUIRED BY LAW** In Chambers Ruling Requested CCP §§ 1107; 1108 Department: 56 Hon. Holly J. Fujie, Judge

MOTION FOR THE COURT TO ISSUE THE PEREMPTORY WRIT IN CHAMBERS NOW AS RESPONDENT FAILED TO ANSWER AS REQUIRED BY LAW

COMES NOW, Petitioner, Arturo Gutierrez, *in propria persona*, moving the court to issue the peremptory writ of mandate ten days after this filing, in chambers, per Code Civ. Proc. §§ 1107, 1108, directed to the Respondent California Department of Justice. Granting relief by way of peremptory writ commanding and compelling the California Department of Justice to comply with the records request as prayed. This motion is made on the grounds that Respondent elected to waive the right to contest the cause after failing to submit a *verified* answer by April 14, 2025. This motion's grounds are based on the facts set forth herein and on facts and the grounds as set forth in the memorandum of law, any exhibits and the papers on file.

Petitioner now submits this full motion and memorandum of law in support of peremptory issuance of the writ. What follows expands on the procedural violations, factual misrepresentations, and legal failures summarized in the Chambers Brief.

This motion will now set forth the basis to challenge the pleading by stating the specific portions challenged, Rules of Court, rule 3.1112(d)(4).

SUMMARY OF GROUNDS OF THIS MOTION

This special proceeding was filed after a California Public Records Act (CPRA) request was disregarded by Respondent the California Department of Justice. Recent events demonstrate an apparent intention to continue to obstruct justice.

In short, Respondent has failed to file an answer. The Court may proceed to hear Petitioner on his papers and issue the peremptory writ in chambers now.

To clarify the above, the Court's docket certainly reflects the appearance of a document filed by Respondent with a title containing the word answer, but an answer it is not. This is because if Petitioner ever wanted to be successful in prosecuting the Department and bringing them to Justice, a critical statute must be complied with. See CCP § 1086 ("It must be issued upon the *verified* petition of the party beneficially interested.") Respondent errantly believed it could escape truth by relying on CCP § 446 (if any public agency is a defendant the answer need not be verified.)

The narrower applicable rule starts here: "*Except as otherwise* provided in *this Title,* the provisions of Part II of the Code are applicable to and constitute the rules of practice in the proceedings mentioned in this Title." (CCP § 1109) Discussed in greater depth in the memorandum.

Respondent declared at the outset "section 431.30, subdivision (f) of the California Code of Civil Procedure", but disregarded CCP § 431.30(d): "If the complaint is verified, unless the complaint is subject to [limited civil], the denial of the allegations shall be made positively or according to the information and belief of the defendant." The triggering event under Respondent's statute was if the complaint was verified, not if the *answer* was verified.

CONTEXTUAL SUMMARY OF DOJ'S DEFECTIVE FILING

Petitioner filed a verified petition for a writ of mandamus on March 14, 2025 ("Pet."), seeking a prayer for the Court to order Respondent to comply with the records request demand submitted Nov. 4, 2024.

On Nov. 14, 2024, Respondent declared: "For the reasons set forth below, this office is extending the date **for responding** to your request **to December 2, 2024**." "In this instance, an extension is needed to consult with ***multiple*** components of the Department with substantial

interest in the records requested." Citing above it the rule, "which shall be conducted with *all practicable* speed". (Pet. p.52)

In reply, on Nov. 14, 2024, Petitioner provided good cause for alarm as to the basis for the request. Respondent failed to tender a response by Dec. 2, 2024. Thus, on Dec. 10, 2024, a follow-up email was sent. Respondent did not respond. After California enacted the Slavery Apology Act on Jan. 1, 2025, another follow-up email was sent on Jan. 6, 2025. Respondent did not respond.

The instant action was filed on March 14, 2025.

The above facts were set out in the verified petition, filed upon pain of perjury should those material factual allegations be false.

Penal Code § 118

(a) Every person who… willfully states as true any material matter which he or she knows to be false, is guilty of perjury.

(b) … Proof of falsity may be established by direct or indirect evidence.

Respondent submitted an unverified document with the word "answer" in its title on April 11, 2025. The quotations from this document, as made herein, are not to be construed as accepting it as a pleading, for as a matter of law it cannot be. Rather it is done to highlight what the Department of Justice aimed to cause this Court to believe.

Respondent's failure to positively deny the allegations (CCP § 431.30(d)) also requires a short explanation of the intended communication to the Court, as that is part of the fundamental cause for peremptory issuance.

SPECIFIC DEFECTS IN DOJ'S PURPORTED ANSWER

Rule 3.1112(d) (4) ("If a pleading is challenged, state the specific portion challenged.")

"Respondent California Department of Justice ('Respondent' or 'Department') hereby answers the Petition for Writ of Mandamus and Statutory Mandate ('**Petition'**) of Petitioner Arturo Gutierrez. Respondent *responds to the **Complaint*** by admitting, denying, averring, and alleging as follows:" the word games commenced from the outset. No complaint was filed, and Respondent acknowledge the pleading was a Petition, but elected to respond to a Complaint.

This case challenges DOJ's refusal to comply with a valid California Public Records Act (CPRA) request. Despite statutory mandates requiring disclosure, DOJ has ignored its obligations, providing no legal justification for withholding public records. (Pet. p.2:8-10)

5. Respondent denies the allegations in lines 8 through 10 of page 2 of the Petition.

Respondent asserts that it did comply with a valid CPRA request. Respondent asserts that when the above declaration was submitted on March 14, 2024 that it had provided justifications for withholding records before March 14, 2025.

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11. As a result of the revelation presented and subsequently realized as exposed, the Department of Justice **ceased all communications**.

17. Respondent denies the allegations in paragraph 11 of the Petition.

Respondent asserts that between Nov. 15, 2024 and March 14, 2025 that it had communicated with Petitioner.

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14. Respondent still has not responded nor complied; time to research and prepare for this filing was necessary and as will soon be clear, required far more than the usual preparations. Respondent is **demonstrating a state of injustice that adjectives *entirely* fail to encapsulate.**

20. Answering paragraph 14 of the Petition, Respondent denies that no response was sent in response to Exhibit 7 and Exhibit 8.

Respondent asserts that it responded to the emails sent to it on Dec. 10, 2024 and on Jan. 6, 2025 before March 14, 2025.

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25. The constitutional significance was made known to the Department of Justice.

26."The long existence of African slavery in this country gave us very distinct notions of what it was, and what were its necessary incidents. … Severer punishments for crimes were imposed on the slave than on free persons guilty of the same offences." Violating "the essential distinction between freedom and slavery." (*Civil Rights Cases*, (1883) 109 U.S. 3, 22)

31. Respondent denies the allegations in paragraph 25 of the Petition.

32. Answering paragraph 26 of the Petition, Respondent states that the referenced portion of cited case law speaks for itself, is the best evidence of its contents, and, therefore, allegations relating thereto require no response.

The constitutional significance made known was the law in ¶ 26. See Pet. Ex. 26, p.61. Which Respondent denied.

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34. The November 14, 2024, letter sent to the Department of Justice in response to the need to consult with "*multiple components* of the Department", providing the mathematical data that proved a despicable truth, and ended with:

Mr. Justice Douglas made an immensely profound point:

"The true curse of slavery is not what it did to the black man, but what it has done to the white man. For the existence of the institution produced the notion that the white man was of superior character, intelligence, and morality." (*Jones v. Mayer Co.* (1968) 392 U.S. 409, 445, Douglas, J., concurring.)

The **purpose of this request is to end the incidents of slavery** that are in effect in California by imprisoning Blacks at a grossly disproportionate rate. (Exhibit 6 p.63)

35. Respondent, the California Department of Justice, **ceased all communications** at that point.

41. Answering paragraph 35 of the Petition, Respondent denies that no response was sent in response to Exhibit 7 and Exhibit 8. To the extent paragraph 35 of the Petition contains argument and legal conclusions, Respondent denies those allegations.

Respondent asserts that it responded to the emails sent to it on Dec. 10, 2024 and on Jan. 6, 2025 before March 14, 2025.

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48. There are only two sides to the slavery debate. The Department of Justice has elected a side inimical to California's interests.

54. Respondent denies the allegation in paragraph 48 of the Petition.

On this point it is not clear if the Department is asserting there is a third side to the slavery debate or that California's interests are pro-slavery.

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50. The Department's waiver of the duty to respond leads to the forfeiture of the alternative writ, resulting only in the peremptory writ.

56. Respondent denies the allegation in paragraph 50 of the Petition.

Respondent asserts that it responded on or before Dec. 2, 2024.

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62. In response to the Prayer for Relief (Pet., p. 13:2-26), Respondent denies that Petitioner is entitled to any relief in this matter.

Respondent asserts that it complied with the CPRA demand prior to Dec. 2, 2024.

The Petition, and each cause of action therein, fail to allege facts sufficient to constitute a cause of action against Respondent.

Respondent asserts that Petitioner did not allege a public records request was submitted to it, that no allegation of non-compliance was pleaded.

The Petition, and each cause of action therein, fails because Respondent has not otherwise violated the California Public Records Act (Gov. Code, § 7920.000 et seq.) or any applicable provision regarding the maintenance or disclosure of public records, as applied to the California Public Records Act under Government Code section 7927.705.

Respondent asserts that after speaking with multiple components of the Department with a substantial interest in the records requested that it either tendered all documents, or, on or before Dec. 2, 2024 that the various department heads signed their names and listed their titles on a well-reasoned denial.

Petitioner has not suffered actual injury or damages.

Respondent asserts that it fully complied with the records demand by submitting the documents to Petitioner on or before Dec. 2, 2024.

That the Court award costs of suit and attorneys' fees to Respondent;

Respondent asserts that Petitioner's verified pleading falls within the standard in Gov. Code § 7923.115 (b) "If the court finds that a requester's case pursuant to this chapter is *clearly frivolous*, the court shall award court costs and reasonable attorney's fees to the public agency."

Most significantly, the unverified claimed answer also asserted:

At all times relevant to this action, Respondent's, agents, employees, or representatives **acted in good faith**.

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CONTINUED GROUNDS: MISSTATEMENTS AND MISCONDUCT

The Court now must ascertain if Petitioner has presented himself to this court with perjury as the factual basis, as Respondent clearly asserted; or if Respondent has defended this cause within "those means only as are consistent with truth, and never to seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law." (Bus. & Prof. Code § 6068(d))

Respondent sent **a letter response to Petitioner on April 9, 2025**, (Ex.16)[1] two days *before* declaring to this Court that it had timely complied *prior* to filing the petition on March 14, 2025 in order to deny the allegations stated therein. The letter was sent four months and eight days after Dec. 2, 2024.

"April 9, 2025 Page 2" "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." (Ex.16¶1)

Petitioner submitted his public records request with these not subtle limitations:

"This is **NOT** a request for information as defined in Penal Code § 11105(a)(2) (A) 'State summary criminal history information'. Rather the information solicited… that is subject to these descriptions and limitations: … the total number of persons confined… is subject to the limitation that no other personal identifying information is to be provided other than as noted above." Race, age, crime, prison population, strike population.

"This request is **not** for information contemplated as a state summary criminal history information as that term is defined in Penal Code § 11105(a)(2) (A) ' 'State summary criminal history information' means… and similar data *about the person*.' "

"This request's description is limited to gender and race and if over 17 or under 18 and the charges, dispositions, sentencing information, without regard to any person, only regarding the source counties.

"e.g., Folsom 2/1/1983 Asian 204; Black 5,971; White 8,121"

"e.g., April 2010 Robbery Ventura Black 73M, 4F White 16M, 0F Asian 7M, 1F"

"your request is seeking individual-level criminal history and personally identifiable data"
"Because you are seeking individual-level criminal history data maintained within ACHS, the Department must deny your request." (Ex.16,p.3¶1)

[1] The petition's last numbered exhibit was 15, for continuity, the exhibits are numbered after 15.

That act of "good faith" was signed *only* by the initial responder that asserted: "In this instance, an extension is needed to **consult with *multiple* components of the Department** with substantial interest in the records requested."

> Gov. Code § 7922.000 ("An agency shall justify withholding any record by demonstrating that the record in question is **exempt under express provisions of this division**, or that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.")

Gov. Code § 7922.540(a) ("A response to a written request for inspection or copies of public records that includes a determination that the request is denied, in whole or in part, shall be in writing.

(b) The notification of denial *shall set forth the names* and *titles* or positions of **each person** responsible for the denial.

(c) An agency shall justify withholding any record by complying with Section 7922.000.")

When the *sole* person invoked **consult with *multiple* components of the Department** and *only* she signed the denial letter in "good faith", that communicates that she overruled *multiple* components of the Department because they all agreed the records must be released. We know this as an absolute certainty because no other member of the multiple components signed the denial and Respondent claimed it complied, *in good faith*.

> 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. (Ex.16, p.2¶2)

Respondent declares it has been obliged since 1917 (Stats. 1917 Ch.723) to maintain these records and refuses to do so.

> § 11104. Duty to file all information; Duty to make record and index
> The Attorney General shall file all measurements, information and descriptions received and shall make a complete and systematic record and index, providing a method of convenience, consultation, and comparison.
> (Pen. Code, § 11104 (Deering, Lexis Advance through all legislation of the 2024 Regular and Special sessions).)

Apparently the good faith was the refusal to comply with a century old mandate.

> Evidence Code section 664, "[i]t is presumed that official duty has been regularly performed." This presumption "affect[s] the burden of proof" (Evid. Code, § 660), meaning that the party against whom it operates--here, the defendant--has "the burden of proof as to

> the nonexistence of the presumed fact." (Evid. Code, § 606; see also *Tate v. Superior Court* (1975) 45 Cal. App. 3d 925, 929.)

People v. Martinez (2000) 22 Cal.4th 106, 125

Respondent did not realize that it triggered a presumption by declaring it failed to perform its official duty and now must prove the existence of its claimed non-compliance.

> Under Evidence Code section 664, "[i]t is presumed" these statutory reporting duties were "regularly performed." … Since 1953, before CLETS was statutorily established, section 11104 has required the Attorney General to "file all . . . information and descriptions received and [to] make a complete and systematic record and index, providing a method of convenience, consultation, and comparison."

Martinez at 127

Well, this is awkward. It appears Respondent may have inadvertently called into question every single case that has used or will use a prior conviction as a basis to deprive liberty.

NO PERSON IS ALLOWED TO BE A JUDGE IN THEIR OWN CAUSE, BECAUSE THE INTEREST WOULD CERTAINLY BIAS JUDGMENT, AND, NOT IMPROBABLY, CORRUPT INTEGRITY —JAMES MADISON

The above was quoted from the United States Supreme Court at Pet. p.20, regarding Respondent not being permitted to "write itself out of this case". Petitioner was correct to include that aspect in the Petition's memorandum, as that is ***exactly*** what Respondent has done here.

The denial letter claimed that the request was "seeking individual-level criminal history and personally identifiable data" (Ex.16 p.3) and the demonstration that "shall justify withholding" as "exempt under express provisions of this division" (Gov. Code § 7922.000) was by declaring "Automated Criminal History System (ACHS)", as ACHS was referred to seven times, as the go-to justification.

Pen. Code §§ 30005 and 30020 are the only statutes in all of our 30 Codes that employ the phrase "Automated Criminal History System" relating to the topic in CHAPTER 4. Prohibited Armed Persons File.

In short: Respondent's justification for a complete denial was their own justification. Their claim centers on ACHS — not legal authority — an internal dubbing of their own system, it is not found in any law or regulation that is relevant to this case.

Because Respondent uses the phrase in relation to a computer system, asking a computer what this meant seemed logical.

Thus, Lexis Nexis AI Protégé advised when prompted:

What is an “automated criminal history system”?

AI Assistant

An automated criminal history system under California law refers to a system that electronically stores, manages, and disseminates criminal offender record information. This includes systems like the Automated Criminal History System (ACHS) and the California Law Enforcement Telecommunications System (CLETS). These systems are designed to ensure secure, accurate, and efficient handling of criminal history data, which includes personal identification details, arrest records, court dispositions, and corrections data. The Department of Justice (DOJ) is responsible for maintaining and managing these systems, ensuring compliance with statutory requirements for accuracy and security **§ 30020. Time for completion of initial review of match in Armed Prohibited Persons System**, **§ 707. Automated Systems**, **§ 12.16 Criminal History Records (“Rap Sheets”)**.

The ACHS is specifically mentioned in the context of firearm-related prohibitions, where it is used to identify individuals prohibited from owning or possessing firearms based on their criminal history. This system integrates data from various sources, such as law enforcement agencies, courts, and detention facilities, to compile comprehensive criminal history records **§ 30020. Time for completion of initial review of match in Armed Prohibited Persons System**, **§ 30005. Prohibited Armed Persons File database**. Additionally, CLETS serves as a statewide system for accessing criminal history information, ensuring that law enforcement and other authorized entities can retrieve accurate and up-to-date records for their official duties **§ 12.16 Criminal History Records (“Rap Sheets”)**, **People v. Morris, 166 Cal. App. 4th 363**.

Apparently Respondent is unaware of its own computer systems.

Google is a search engine system. Unstable diffusion is an image generating system. Instagram is a social media content sharing system. These are common examples of UI with complex API systems at work. A User Interface (UI) is how a human interacts and communicates with website or computer application systems. What the Court is looking at right now is a UI. The Application Programming Interface is how the machines interact and communicate with each other; it is what is occurring behind the scenes of all these systems.

To confirm the presence of a qualifying offense, laboratory employees used an automated criminal history system, the California Law Enforcement Telecommunications System

(CLETS), to track the criminal history (rap sheet) associated with an offender's fingerprints and his or her CII (criminal identification index) number.

People v. Robinson (2010) 47 Cal.4th 1104, 1128

Not the non-capital letters, "a search of the automated criminal history system (CLETS)" (*In re MM*, (2015) 236 Cal. App. 4th 955, 958-59) "As the City explained, 'In compliance with California Department of Justice directives regarding access to the Automated Criminal History System, the City does not search for criminal history except on a `need to know' basis and in accordance with state law. Under ... Sections 11105(b) and 13300[](b),'" (*People v. Coleman*, (2014) 230 Cal. App. 4th 1379, 1384)

Respondent's reasoning is that because the data requested was also in ACHS, it was therefore precluded from sharing it.

'"Criminal offender record information' is commonly known as a 'rap sheet' or a 'CLETS rap sheet.' (See Cal. Code Regs., tit. 11, § 701; [Citations] [¶] The parties are correct that rap sheets themselves are not discoverable. [Citations] 'However, 'much, if not all of the information contained in the rap sheets is discoverable [citation]"'. (*Coleman* at 1389-90)

According to the courts, the fact that data is contained in a system that prevents disclosure as to that system is not preventative of the non-protected information from being released.

The only source making ACHS, into authority is the DOJ. But it is only the name of a system, not a statutory based justification for denial of access to public records.

Allow Respondent to explain that the above is correct:

The Department of Justice (DOJ) Bureau of Criminal Information and Analysis (BCIA) is mandated to calculate statistics describing the Automated Record Relief (ARR) program activities. The AAR program automatically reviews information in the Automated Criminal History System (ACHS) to identify and grant relief to qualifying records. The DOJ is required to publish statistics on July 1 on an annual basis.
https://data-**openjustice.**doj.ca.gov/sites/default/files/dataset/2023-06/arr-readme.pdf

Respondent describes the above AAR program as accessing data within ACHS to be released to the public.

Respondent can explain its core concern:

Unauthorized access and misuse of ACHS and CORI
The unauthorized access and misuse of ACHS and CORI violates state statutes and may adversely affect an individual's civil rights. Sections 11140 through 11144 of the PC prescribe penalties for misuse of state summary criminal history information, while PC sections 13301 through 13304 prescribe penalties for misuse of local summary criminal history information. Sections 6200 and 6201 of the Government Code prescribe the penalties

> for the misuse of various government records which include CORI. Section 502 of the PC prescribes the penalties related to computer crimes.

DOJ Information Bulletin 13-04-CJIS, dated 4-12-13, p.2 (Ex.17, p.61)

The DOJ is very concerned that the release of this information — to be used to free 31,000 Blacks that the United States Supreme Court categorizes as suffering from incidents of slavery in direct violation of the Thirteenth Amendment — "may adversely affect an individual's civil rights."

> The difficulty, or rather the confusion of ideas that seems to exist here, grows out of the fact that the transaction was with a slave, and this renders it not improper to refer to the rules of law applicable to cases of this character.
> Our American law of African slavery is a system of customary law, … slaves were *things* and not *persons*; they were not the subjects of civil rights, … they and all that appertained to them belonged to their master, and they were under his dominion. In a word, slavery was then defined to be "an institution by which one man is made the property of another," (Just. Inst. lib. 1, tit. 3,) and such undoubtedly is our African slavery; and accordingly, the slave's incapacity to be the subject of civil rights

Douglass v. Ritchie (MO Sup. Ct. 1857) 24 Mo. 177, 180

Respondent has contradicted itself again, first overly concerned that freedom "may adversely affect an individual's civil rights" while adhering and enforcing a system that declares "the slave's incapacity to be the subject of civil rights".

Unless of course, Respondent's rebuttal is to note "A difference has thus been adopted between slaves and other property, founded upon motives of humanity and having regard to the moral as well as legal relations between master and slave." (*Herndon v. Herndon's Administrators*, (MO Sup. Ct. 1858) 27 Mo. 421, 422)

Interestingly, the only other state that appears to also employ ACHS is Missouri. See MO Rev Stat § 43.535.

The central thesis of Respondent's denial is that all information sought was within their central computer repository, "maintained *within* ACHS". Therefore, Respondent was not obliged to provide the information. Respondent appears fundamentally confused on how records requests work. If the information was not in their possession then it is a basis to deny. If it is within their possession then they are obligated to comply.

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FLAWS AND GAPS IN DOJ'S REASONING

1. No Statutory Creation or Definition of ACHS

Nowhere in the letter do they cite a statute that creates or defines the "Automated Criminal History System."

Respondent simply asserts that the data is "contained in the Automated Criminal History System (ACHS)," treating it as a given.

Flaw: The DOJ is relying on the existence of the ACHS as self-justifying, without statutory or regulatory foundation.

2. Conflation of Statutory Authority

Respondent cites Pen. Code §§ 11076 and 11105, which govern the confidentiality and dissemination of criminal offender record information (CORI).

However, these statutes do not mention ACHS or any specific automated system.

Flaw: The DOJ conflates its general statutory authority to maintain and control CORI with the existence and structure of ACHS, which is not defined or mandated in any statute.

3. Circular Reasoning

The DOJ's logic is essentially:

The data you seek is in ACHS.

Access to ACHS data is restricted by statute.

Therefore, you cannot have the data.

Flaw: This argument presupposes the legitimacy and statutory authority of ACHS *without ever establishing it.*

4. Selective Use of Statutory Authority

Respondent references Pen. Code §§ 11103 and 11104 (which require the DOJ to file and systematically record certain information) but claim the data is in ACHS and therefore confidential.

Flaw: These sections require recordkeeping and access, but do not create an exception for a specific system or permit the DOJ to create new confidentiality rules by placing data in an internal system.

5. No Explanation for System Choice

The DOJ does not explain why or how data that is required to be filed and indexed under §§ 11103 and 11104 is now only available through ACHS, a system not mentioned in those statutes.

Flaw: This is a bureaucratic maneuver to shield data from disclosure by placing it in a system of their own creation.

6. No Legislative or Regulatory Support

The DOJ does not cite any legislative history, regulation, or rulemaking that supports its assertion that ACHS is the exclusive or statutorily protected repository for this data.

Flaw: Without such support, their position is based on internal policy, not law.

7. Misapplication of PRA Exemptions

They invoke Gov. Code, § 7927.705 (formerly § 6254(f)), which incorporates statutory exemptions into the PRA.

Flaw: This only applies if the data is actually exempt by statute. If the statutes do not cover ACHS or the requested data, the exemption does not apply.

8. Fabricating a Law as the Center Point, Establishes No Basis to Deny

Any "agency shall justify… **exempt under *express* provisions of *this* division" (**Gov. Code § 7922.000) "denied, in whole or in part, shall… justify withholding any record by complying with Section 7922.000" (Gov. Code § 7922.540(b)) Gov. Code, § 7930.000 **(a)** any claimed exemption of "disclosure **pursuant to Section 7927.705 shall be listed and described in Chapter 2 (commencing with Section 7930.100)**" Respondent often and only cited to Gov. Code § 7927.705 but never cited to:

"Criminal offender record information, access to, Sections 11076 and 13202, Penal Code." (Gov. Code § 7930.130)

"State summary criminal history information, confidentiality of information, Sections 11105, 11105.1, 11105.3, and 11105.4, Penal Code." (Gov. Code § 7930.200)

Respondent did not cite the above, it cited:

"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.) (Ex.16, p.2¶4)

"(Pen. Code, §§ 11076, 11105; Gov. Code, § 7927.705.)" (Ex.16, p.3¶2)

"(Pen. Code, §§ 11076, 11105; Gov. Code, § 7927.705.)" (Ex.16, p.3¶4)

As to Pen. Code § 11076, "As used in this article, 'criminal offender record information' means records and data compiled by criminal justice agencies for purposes of *identifying criminal*

offenders and of maintaining *as to each such offender*" (Pen. Code, § 11075(a)) Thus § 11076 was clearly limited to information that identified an individual. Which is confirmed by another statute, "Nothing in this article shall be construed to affect the right of access of any person or public agency to *individual criminal offender* record information that is authorized by any other provision of law." (Pen. Code, § 11080)

Now the other section was § 11105, Respondent gleamed from the statements: "This is **NOT** a request for information as defined in Penal Code § 11105(a)(2) (A)" "This request is **not** for information contemplated as a state summary criminal history information as that term is defined in Penal Code § 11105(a)(2) (A)" that what Petitioner actually said was, "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." (Ex.16, pp.2-3)

That raises three important points. First, Respondent had just said in regard to § 11104 "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." But then declared information was "maintained within ACHS" as to § 11104. Which is a relief because the DOJ did not call into question the veracity of all prior convictions in this state. Rather the DOJ merely specifically intended to mislead every "judicial officer by an artifice or false statement of fact or law." (Bus. & Prof. Code § 6068(d))

Second, § 11105 (g) "It is not a violation of this section to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed." (r) "This section does not require the Department of Justice to cease compliance with any other statutory notification requirements."

Third, and most importantly:

> The listing of a statute or constitutional provision in Chapter 2 (commencing with Section 7930.100) **does not itself create an exemption**. Requesters of public records and public agencies are cautioned to review the applicable statute or constitutional provision to determine the extent to which it, **in light of the circumstances surrounding the request**, exempts public records from disclosure. Gov. Code § 7930.000(b)

"The **purpose** of this request is to **end the incidents of slavery** that are in effect in California by imprisoning Blacks at a grossly disproportionate rate." (Pet. Ex.6 p.63)

Respondent denied the request based on a background check statute, a statute that grants permission for Petitioner's request and does not ever cite the Code sections that authorized its conduct. This, says Respondent, was an act in good faith.

Respondent's failure to cite a law was for a reason—none exists.

> 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.)

The words '"category"' and '"offense,"' were never used in the request.

The request was not for:

"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 request was for:

B.i. "penal institution," "the total number of persons confined therein to be grouped by race,"

B.i.a. and "2nd or 3rd striker."

B.ii. "county," "the convictions" catalogued by "identifying the race, gender, crime convicted,"

B.iii. "dispositions"

"e.g., Folsom 2/1/1983 Asian 204; Black 5,971; White 8,121"

"e.g., April 2010 Robbery Ventura Black 73M, 4F White 16M, 0F Asian 7M, 1F;"

Respondent's conduct in this case is contemptable.

What that contemptable conduct is trying to cover up is unconstitutional.

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CONTINUED GROUNDS:
THE WHIP OF INCIDENTS OF SLAVERY IN CALIFORNIA:
OUR THREE STRIKES LAWS

The letter of April 9, 2025 declared the Department of Justice does not collect Third and Second Strike data, which would have been easy for Respondent to just declare from the outset. But, if the Court would allow this small caveat, what Respondent actually said was, "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)." "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*."

The Department of Justice was likely betting on a civil court lacking in a criminal law background and intended to play cute with its language.

First, no defendant is convicted of a sentencing enhancement, those are found true or not true, Pen. Code § 667 is a sentencing provision.

Second, because it is a sentencing provision, it is not an "offense."

Third, that is not the only Three Strikes law in our state. See Stats. 1994 Ch. 12 (AB 971, Jones) and Proposition 184; Pen. Code § 1192.7(c) is the other (technically so is § 1192.8), as well as Pen. Code § 667.5 that are the targets.

The convictions and offenses spoken of by Respondent are noted in: Pen. Code § 667(d) ("Notwithstanding any other law and for the purposes of subdivisions (b) to (i), inclusive, a prior conviction of a serious or violent felony shall be defined as: (1) An *offense* defined in subdivision (c) of Section 667.5 as a violent felony or an *offense* defined in subdivision (c) of Section 1192.7 as a serious felony in this state.")

Then, "if a defendant has two or more prior serious or violent felony convictions as defined in subdivision (d) that have been pled and proved, the term for the current felony conviction shall be an indeterminate term of life imprisonment" (*id.*, (e)(2)(A)).

An excellent article was prepared by the Legislative Analyst's Office and released October 2005, *A Primer: Three Strikes - The Impact After More Than a Decade*. See Pet. pp.7, 60 https://lao.ca.gov/2005/3strikes/3strikes102005.htm

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Discussing the evolution up to that point. And relevant here was how the Legislative Analyst's Office might show something like this:

Figure 4

Striker Population by Offense Category

(December 2004)

Offense	Third Strikers	Second Strikers	Total Number	Total Percent
Crimes Against Persons	**3,277**	**12,728**	**16,005**	**37%**
Robbery	1,706	4,886	6,592	15
Assault With a Deadly Weapon	426	2,443	2,869	7
Assault/Battery	391	2,470	2,861	7
Property Crimes	**2,344**	**10,391**	**12,735**	**30%**
1st Degree Burglary	880	2,609	3,489	8
2nd Degree Burglary	466	1,967	2,433	6
Petty Theft With a Prior	356	2,007	2,363	6
Drug Crimes	**1,282**	**8,654**	**9,936**	**23%**
Possession of a Controlled Substance	677	4,453	5,130	12
Possession of Controlled Substance for Sale	302	2,282	2,584	6
Sale of Controlled Substance	197	1,195	1,392	3
Other Crimes[a]	**671**	**3,463**	**4,134**	**10%**
Possession of a Weapon	412	1,865	2,277	5
Totals	**7,574**	**35,236**	**42,810**	**100%**

[a] For example, arson and driving under the influence.

Given that the Department of Justice is charged under numerous statutes to track every crime and disposition, it is a larger mystery how the Legislative Analyst's Office would know this:

"**Racial Composition of Strikers**. African Americans make up the largest group of second and third strikers (37 percent), followed by Hispanics (33 percent), and whites (26 percent). This racial composition is similar to that in the total prison population. However, African Americans make up 45 percent of the third striker population, which is 15 percent higher than in the total prison population."

"The Attorney General **shall** keep on file… a **record** consisting of… **descriptions of all persons** *confined* in **penal institutions** of the state" (Pen. Code § 11103)

One could argue that strike sentencing falls under data sets collected as noted in Pen. Code § 13125 Convicted offenses, Sentence, Sentence enhancement data elements.

And Petitioner does therefore argue that Respondent is obstructing justice by falsely claiming it does not possess this data.

CONTINUED GROUNDS

NO LEGAL BASIS TO WITHHOLD REQUESTED DATA

ACHS, Pen. Code §§ 11076 & 11105 are all for a person's personal data and which was expressly excluded from the request, therefore not within Gov. Code, § 7927.705, ("does not require disclosure of records, the disclosure of which is exempted or prohibited pursuant to federal or state law,") it does not say any part of a record.

> 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 data and must therefore be denied. (Pen. Code, §§ 11076, 11105; Gov. Code, § 7927.705.) [Fn. omitted.]

The requested information was claimed as confidential, with the last one being as strained a connection as could be made. The Court will have to be the judge of this one.

Petitioner wanted a breakdown by county of each offense by race and gender, claimed as confidential. If only there was some publicly available data sets that were released by Respondent, then that would impeach their claimed confidentiality.

Table 31
FELONY ARRESTS, 2023
Category and Offense by Gender and Race/Ethnic Group of Arrestee

Category and offense	Number							Percent						
	Total	Gender[1]		Race/ethnic group				Total	Gender		Race/ethnic group			
		Male	Female	White	Hispanic	Black	Other		Male	Female	White	Hispanic	Black	Other
Total	258,316	206,172	52,144	70,928	116,879	53,689	16,820	100.0	79.8	20.2	27.5	45.2	20.8	6.5
Violent offenses	98,762	75,987	22,775	24,413	45,042	22,262	7,045	100.0	76.9	23.1	24.7	45.6	22.5	7.1
Homicide	1,374	1,216	158	220	689	389	76	100.0	88.5	11.5	16.0	50.1	28.3	5.5
Rape[2]	1,776	1,742	34	356	978	272	170	100.0	98.1	1.9	20.0	55.1	15.3	9.6
Robbery	14,243	11,694	2,549	2,674	5,882	5,006	681	100.0	82.1	17.9	18.8	41.3	35.1	4.8
Assault	79,926	60,068	19,858	20,863	36,763	16,293	6,007	100.0	75.2	24.8	26.1	46.0	20.4	7.5
Kidnapping	1,443	1,267	176	300	730	302	111	100.0	87.8	12.2	20.8	50.6	20.9	7.7
Property offenses	61,075	46,624	14,451	17,892	26,364	12,826	3,993	100.0	76.3	23.7	29.3	43.2	21.0	6.5
Burglary	17,883	14,211	3,672	5,391	7,116	4,236	1,140	100.0	79.5	20.5	30.1	39.8	23.7	6.4
Theft	26,985	19,845	7,140	8,260	11,292	5,514	1,919	100.0	73.5	26.5	30.6	41.8	20.4	7.1
Motor vehicle theft	12,786	10,012	2,774	3,064	6,547	2,547	628	100.0	78.3	21.7	24.0	51.2	19.9	4.9
Forgery, checks, access cards	1,748	1,217	531	577	720	270	181	100.0	69.6	30.4	33.0	41.2	15.4	10.4
Arson	1,673	1,339	334	600	689	259	125	100.0	80.0	20.0	35.9	41.2	15.5	7.5
Drug offenses	19,654	16,468	3,186	6,593	9,134	2,629	1,298	100.0	83.8	16.2	33.5	46.5	13.4	6.6
Narcotics	7,689	6,393	1,296	2,658	3,460	1,054	517	100.0	83.1	16.9	34.6	45.0	13.7	6.7
Marijuana	504	450	54	93	222	123	66	100.0	89.3	10.7	18.5	44.0	24.4	13.1
Dangerous drugs	10,656	9,008	1,648	3,569	5,114	1,372	601	100.0	84.5	15.5	33.5	48.0	12.9	5.6
Other	805	617	188	273	338	80	114	100.0	76.6	23.4	33.9	42.0	9.9	14.2
Sex offenses	4,297	4,149	148	1,230	1,899	862	306	100.0	96.6	3.4	28.6	44.2	20.1	7.1
Lewd or lascivious	1,284	1,247	37	217	867	103	97	100.0	97.1	2.9	16.9	67.5	8.0	7.6
Other	3,013	2,902	111	1,013	1,032	759	209	100.0	96.3	3.7	33.6	34.3	25.2	6.9
Driving offenses	5,443	4,283	1,160	1,327	3,195	523	398	100.0	78.7	21.3	24.4	58.7	9.6	7.3
Driving under the influence	4,618	3,621	997	1,133	2,751	411	323	100.0	78.4	21.6	24.5	59.6	8.9	7.0
Hit-and-run	825	662	163	194	444	112	75	100.0	80.2	19.8	23.5	53.8	13.6	9.1
All other	69,085	58,661	10,424	19,473	31,245	14,587	3,780	100.0	84.9	15.1	28.2	45.2	21.1	5.5
Weapons	23,074	21,221	1,853	4,872	11,033	6,069	1,100	100.0	92.0	8.0	21.1	47.8	26.3	4.8
Escape	221	195	26	78	99	38	6	100.0	88.2	11.8	35.3	44.8	17.2	2.7
Other	45,790	37,245	8,545	14,523	20,113	8,480	2,674	100.0	81.3	18.7	31.7	43.9	18.5	5.8

Note: Percentages may not add to 100.0 because of rounding.
[1] California has expanded the sex (gender) categories it collects in CIBRS to include: male, female, non-binary, and transgender. The 2023 arrest numbers include 39 transgender (identifying as male) and 106 transgender (identifying as female) in the male and female gender categories, respectively. Arrest numbers for the non-binary gender category are not included in this table due to the small population size. Caution should be used when comparing gender data to prior years. For additional information, including the expanded gender category numbers for prior years, see Understanding the Data, Characteristics and Known Limitations.
[2] In 2014, the crime of "forcible rape" was changed to "rape." The definition was expanded to include both male and female victims and reflects the various forms of sexual penetration understood to be rape. The 2023 numbers for Rape consist of 818 reported under this current definition (SRS) and 958 reported under the definition for IBR. Caution should be used when comparing rape data to prior years. For additional information, including the SRS and IBR rape numbers for prior years, see Understanding the Data, Characteristics and Known Limitations.

Petitioner also wanted a breakdown by county of each offense by race, gender *and age*.

Table 33
FELONY ARRESTS, 2023
Category and Offense by Gender, Race/Ethnic Group, and Age Group of Arrestee

Category, offense, and age	Total			White			Hispanic			Black			Other		
	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female
Total	258,316	206,172	52,144	70,928	54,163	16,765	116,879	96,698	20,181	53,689	42,113	11,576	16,820	13,198	3,622
Under 10	10	6	4	2	0	2	5	3	2	2	2	0	1	1	0
10-17	16,035	13,085	2,950	2,264	1,797	467	8,553	7,259	1,294	4,204	3,223	981	1,014	806	208
18-19	10,476	8,735	1,741	1,503	1,219	284	5,739	4,949	790	2,727	2,169	558	507	398	109
20-29	70,083	55,112	14,971	13,817	10,128	3,689	36,521	29,903	6,618	15,895	12,097	3,798	3,850	2,984	866
30-39	83,859	66,015	17,844	24,240	18,160	6,080	38,413	31,338	7,075	15,846	12,339	3,507	5,360	4,178	1,182
40-69	76,407	61,989	14,418	28,364	22,253	6,111	27,354	22,983	4,371	14,764	12,059	2,705	5,925	4,694	1,231
70 and over	1,446	1,230	216	738	606	132	294	263	31	251	224	27	163	137	26
Violent offenses	98,762	75,987	22,775	24,413	18,057	6,356	45,042	35,831	9,211	22,262	16,746	5,516	7,045	5,353	1,692
Under 10	8	4	4	2	0	2	3	1	2	2	2	0	1	1	0
10-17	6,767	5,233	1,534	958	718	240	3,590	2,870	720	1,883	1,387	496	336	258	78
18-19	4,005	3,233	772	601	466	135	2,161	1,776	385	1,064	852	212	179	139	40
20-29	27,875	21,105	6,770	4,954	3,505	1,449	14,757	11,604	3,153	6,555	4,794	1,761	1,609	1,202	407
30-39	30,861	23,515	7,346	7,748	5,659	2,089	14,285	11,251	3,034	6,568	4,903	1,665	2,260	1,702	558
40-69	28,428	22,218	6,210	9,730	7,369	2,361	10,092	8,196	1,896	6,054	4,694	1,360	2,552	1,959	593
70 and over	818	679	139	420	340	80	154	133	21	136	114	22	108	92	16
Homicide	1,374	1,216	158	220	180	40	689	636	53	389	331	58	76	69	7
Under 10	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
10-17	123	113	10	17	16	1	66	59	7	34	33	1	6	5	1
18-19	161	149	12	10	9	1	100	96	4	45	38	7	6	6	0
20-29	420	374	46	55	42	13	235	218	17	110	95	15	20	19	1
30-39	355	294	61	64	50	14	173	157	16	99	71	28	19	16	3
40-69	303	275	28	68	58	10	113	104	9	98	91	7	24	22	2
70 and over	12	11	1	6	5	1	2	2	0	3	3	0	1	1	0
Rape[1]	1,776	1,742	34	356	346	10	978	964	14	272	266	6	170	166	4
Under 10	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
10-17	146	141	5	26	25	1	86	82	4	21	21	0	13	13	0
18-19	84	82	2	23	23	0	41	39	2	12	12	0	8	8	0
20-29	480	468	12	80	75	5	293	290	3	63	60	3	44	43	1
30-39	510	497	13	95	92	3	279	274	5	80	78	2	56	53	3
40-69	532	530	2	123	122	1	270	270	0	94	93	1	45	45	0
70 and over	24	24	0	9	9	0	9	9	0	2	2	0	4	4	0
Robbery	14,243	11,694	2,549	2,674	2,094	580	5,882	5,051	831	5,006	3,978	1,028	681	571	110
Under 10	2	2	0	0	0	0	0	0	0	2	2	0	0	0	0
10-17	2,410	2,049	361	195	161	34	1,159	1,037	122	957	770	187	99	81	18
18-19	1,102	937	165	113	91	22	486	420	66	461	388	73	42	38	4
20-29	4,389	3,573	816	658	506	152	1,925	1,672	253	1,615	1,232	383	191	163	28
30-39	3,880	3,139	741	976	753	223	1,515	1,256	259	1,174	945	229	215	185	30
40-69	2,440	1,977	463	725	578	147	794	664	130	789	633	156	132	102	30
70 and over	20	17	3	7	5	2	3	2	1	8	8	0	2	2	0

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Admittedly, Petitioner wanted the convictions for all of the above reported events. And Respondent loosely claimed it held no conviction data. The right side speaks of dispositions:

Table 37
DISPOSITIONS OF ADULT FELONY ARRESTS, 1982-2023
By Type of Disposition

Year	Total		Law enforcement releases		Prosecution rejections and resolutions[1]		Court dispositions			
							Dismissed, acquitted[2]		Convicted	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
2023.....	212,855	100.0	5,837	2.7	38,351	18.0	40,958	19.2	127,709	60.0
2022.....	227,248	100.0	4,587	2.0	40,373	17.8	42,751	18.8	139,537	61.4
2021.....	174,491	100.0	3,715	2.1	32,389	18.6	30,244	17.3	108,143	62.0
2020.....	132,351	100.0	3,904	2.9	27,348	20.7	21,277	16.1	79,822	60.3
2019[a].....	110,002	100.0	2,661	2.4	17,428	15.8	14,711	13.4	75,202	68.4
2018.....	215,283	100.0	6,524	3.0	40,099	18.6	27,154	12.6	141,506	65.7
2017.....	218,933	100.0	7,910	3.6	39,815	18.2	26,678	12.2	144,530	66.0
2016.....	207,022	100.0	7,058	3.4	36,588	17.7	25,961	12.5	137,415	66.4
2015.....	242,460	100.0	7,537	3.1	38,733	16.0	33,908	14.0	162,282	66.9
2014[b].....	315,782	100.0	10,227	3.2	48,235	15.3	39,632	12.6	217,688	68.9
2013.....	305,503	100.0	10,525	3.4	45,273	14.8	36,315	11.9	213,390	69.8
2012.....	295,465	100.0	9,572	3.2	48,029	16.3	35,451	12.0	202,413	68.5
2011.....	292,231	100.0	9,780	3.3	45,988	15.7	40,642	13.9	195,821	67.0
2010.....	298,647	100.0	9,980	3.3	46,054	15.4	40,793	13.7	201,820	67.6
2009.....	306,170	100.0	9,894	3.2	43,317	14.1	45,000	14.7	207,959	67.9
2008.....	325,241	100.0	9,435	2.9	41,610	12.8	46,485	14.3	227,711	70.0
2007.....	332,647	100.0	10,273	3.1	42,632	12.8	48,728	14.6	231,014	69.4
2006.....	319,818	100.0	9,107	2.8	42,506	13.3	46,456	14.5	221,749	69.3
2005.....	319,587	100.0	10,114	3.2	39,034	12.2	43,638	13.7	226,801	71.0
2004.....	345,415	100.0	10,721	3.1	43,179	12.5	48,150	13.9	243,365	70.5
2003.....	316,377	100.0	10,352	3.3	42,922	13.6	45,775	14.5	217,328	68.7
2002.....	287,499	100.0	11,195	3.9	39,833	13.9	41,020	14.3	195,451	68.0
2001.....	271,992	100.0	11,248	4.1	39,414	14.5	37,703	13.9	183,627	67.5
2000.....	267,512	100.0	7,698	2.9	37,152	13.9	36,576	13.7	186,086	69.6
1999	278,715	100.0	9,616	3.5	40,217	14.4	36,004	12.9	192,878	69.2
1998	314,483	100.0	13,880	4.4	42,763	13.6	39,866	12.7	217,974	69.3
1997.....	326,768	100.0	14,289	4.4	47,829	14.6	42,842	13.1	221,808	67.9
1996.....	328,168	100.0	12,802	3.9	47,941	14.6	43,566	13.3	223,859	68.2
1995.....	345,125	100.0	15,100	4.4	45,877	13.3	45,838	13.3	238,310	69.1
1994.....	342,321	100.0	16,713	4.9	44,791	13.1	45,108	13.2	235,709	68.9
1993.....	345,469	100.0	16,464	4.8	44,512	12.9	43,157	12.5	241,336	69.9
1992.....	284,810	100.0	12,273	4.3	32,284	11.3	40,134	14.1	200,119	70.3
1991.....	303,707	100.0	20,222	6.7	45,756	15.1	42,002	13.8	195,727	64.4
1990.....	258,734	100.0	15,444	6.0	33,503	12.9	40,444	15.6	169,343	65.5
1989.....	275,151	100.0	20,773	7.5	45,682	16.6	41,069	14.9	167,627	60.9
1988.....	265,990	100.0	19,230	7.2	51,222	19.3	41,867	15.7	153,671	57.8
1987.....	270,496	100.0	21,019	7.8	52,464	19.4	43,413	16.0	153,600	56.8
1986.....	258,832	100.0	22,773	8.8	47,807	18.5	39,962	15.4	148,290	57.3
1985.....	240,978	100.0	23,003	9.5	39,732	16.5	37,710	15.6	140,533	58.3
1984.....	210,398	100.0	20,180	9.6	35,498	16.9	34,453	16.4	120,267	57.2
1983.....	201,158	100.0	19,006	9.4	37,215	18.5	33,284	16.5	111,653	55.5
1982.....	203,805	100.0	20,895	10.3	37,010	18.2	34,457	16.9	111,443	54.7

Source: Data extracted from the California Department of Justice Criminal History System. For additional information, see Understanding the Data, Characteristics and Known Limitations.

Notes: This table presents the number and type of final dispositions and sentences for felony arrests reported to the California Department of Justice by law enforcement agencies, district attorneys, and courts. Caution should be used when interpreting this information because arrests and dispositions are underreported. It should also be noted that approximately 1.5% of the adult felony convictions contained in these data represent a disposition that the California Department of Justice was unable to positively link to a criminal record; accordingly, an arrest event was created based solely upon the disposition information provided. There is no way for the California Department of Justice to estimate the exact percentage of underreported dispositions. The nature, extent, and reasons for this underreporting vary from agency to agency and from year to year.
Percentages may not add to subtotals or 100.0 because of rounding.

[a] In 2019, there was a decrease in the number of final dispositions and sentences for felony adult arrests reported to the California Department of Justice.

[b] In November 2014, California voters passed Proposition 47 which reduced some felony offenses to misdemeanors. Caution should be used when comparing felony arrest disposition data to prior years.

[1] The "prosecution rejections and resolutions" category includes single complaints, combined cases, and petitions to revoke probation.

[2] The "dismissed, acquitted" category includes diversions that have been dismissed.

Petitioner wanted specifics as to each county and the dispositions that resulted.

Table 38A
DISPOSITIONS OF ADULT FELONY ARRESTS, 2018-2023
By Type of Disposition and Sentence

Type of disposition and sentence	2018		2019[a]		2020		2021		2022		2023	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Total	215,283	100.0	110,002	100.0	132,351	100.0	174,491	100.0	227,248	100.0	212,855	100.0
Law enforcement releases (PC 849(b))	6,524	3.0	2,661	2.4	3,904	2.9	3,715	2.1	4,587	2.0	5,837	2.7
Complainant refuses to prosecute	36	0.0	14	0.0	21	0.0	41	0.0	32	0.0	49	0.0
Arrestee exonerated	38	0.0	14	0.0	21	0.0	22	0.0	16	0.0	21	0.0
Further investigation	303	0.1	58	0.1	121	0.1	100	0.1	78	0.0	97	0.0
Admissible evidence insufficient	534	0.2	181	0.2	399	0.3	440	0.3	441	0.2	525	0.2
Ascertained evidence insufficient	270	0.1	9	0.0	21	0.0	13	0.0	15	0.0	12	0.0
Other[1]	5,334	2.5	2,383	2.2	3,315	2.5	3,095	1.8	3,996	1.8	5,133	2.4
Unspecified	9	0.0	2	0.0	6	0.0	4	0.0	9	0.0	0	0.0
Prosecution rejections and resolutions	40,099	18.6	17,428	15.8	27,348	20.7	32,389	18.6	40,373	17.8	38,351	18.0
Lack of corpus	421	0.2	201	0.2	398	0.3	326	0.2	413	0.2	425	0.2
Lack of sufficient evidence	24,200	11.2	9,743	8.9	15,616	11.8	17,922	10.3	23,463	10.3	22,091	10.4
Inadmissible search and seizure	632	0.3	282	0.3	325	0.2	347	0.2	508	0.2	619	0.3
Victim unavailable/ decline to testify	1,640	0.8	798	0.7	1,238	0.9	1,706	1.0	2,395	1.1	2,447	1.1
Witness unavailable/ decline to testify	115	0.1	36	0.0	76	0.1	82	0.0	70	0.0	65	0.0
Combined with other counts/cases	389	0.2	155	0.1	357	0.3	520	0.3	568	0.2	538	0.3
Interest of justice	3,299	1.5	855	0.8	1,845	1.4	3,149	1.8	3,447	1.5	3,135	1.5
Deferred to revocation of parole	153	0.1	102	0.1	191	0.1	113	0.1	122	0.1	167	0.1
Prosecutor prefiling deferral/diversion	578	0.3	137	0.1	498	0.4	597	0.3	758	0.3	450	0.2
Probation revocation in lieu of filing	266	0.1	128	0.1	166	0.1	59	0.0	60	0.0	58	0.0
Other[2]	8,406	3.9	4,991	4.5	6,638	5.0	7,568	4.3	8,569	3.8	8,356	3.9
Court dispositions	168,660	78.3	89,913	81.7	101,099	76.4	138,387	79.3	182,288	80.2	168,667	79.2
Dismissed	26,143	12.1	14,406	13.1	20,830	15.7	29,671	17.0	41,608	18.3	39,461	18.5
Diversions dismissed	500	0.2	57	0.1	304	0.2	371	0.2	782	0.3	1,082	0.5
Acquitted	511	0.2	248	0.2	143	0.1	202	0.1	361	0.2	415	0.2
Convicted	141,506	65.7	75,202	68.4	79,822	60.3	108,143	62.0	139,537	61.4	127,709	60.0
Sentence												
Death	5	0.0	3	0.0	5	0.0	3	0.0	2	0.0	3	0.0
State institutions[3]	28,414	13.2	12,954	11.8	16,886	12.8	21,306	12.2	30,062	13.2	27,850	13.1
Probation	10,656	4.9	5,336	4.9	5,147	3.9	8,107	4.6	9,994	4.4	9,639	4.5
Probation with jail	80,929	37.6	45,288	41.2	45,864	34.7	60,948	34.9	76,532	33.7	69,018	32.4
Jail	17,931	8.3	9,255	8.4	9,196	6.9	13,282	7.6	17,779	7.8	16,540	7.8
Fine	1,320	0.6	686	0.6	946	0.7	1,253	0.7	1,448	0.6	1,231	0.6
Other[4]	2,251	1.0	1,680	1.5	1,778	1.3	3,244	1.9	3,720	1.6	3,428	1.6

Source: Data extracted from the California Department of Justice Criminal History System. For additional information, see Understanding the Data, Characteristics and Known Limitations.

Notes: This table presents the number and type of final dispositions and sentences for felony arrests reported to the California Department of Justice by law enforcement agencies, district attorneys, and courts. Caution should be used when interpreting this information because arrests and dispositions are underreported. It should also be noted that approximately 1.5% of the adult felony convictions contained in these data represent a disposition that the California Department of Justice was unable to positively link to a criminal record; accordingly, an arrest event was created based solely upon the disposition information provided. There is no way for the California Department of Justice to estimate the exact percentage of underreported dispositions. The nature, extent, and reasons for this underreporting vary from agency to agency and from year to year. Percentages may not add to subtotals or 100.0 because of rounding.

[a] In 2019, there was a decrease in the number of final dispositions and sentences for felony adult arrests reported to the California Department of Justice.

[1] The "other" category includes release due to delay, subject reported deceased, handled administratively, Penal Code section 849(b)(2) - intoxication only, and Penal Code section 849(b)(3) - under the influence of a controlled substance and delivered to a treatment facility.

[2] The "other" category includes rejection due to continuing investigations and due process or jurisdictional considerations.

[3] The "state institutions" category includes sentences to prison, California Rehabilitation Center, and the Division of Juvenile Justice.

[4] The "other" category includes no sentence given, sentence suspended, and sentence stayed.

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Petitioner also wanted to know the type of sentence, if a strike or not, and Respondent claimed no collection of sentencing information.

Table 40
ADULT FELONY ARRESTEES CONVICTED, 2018-2023
By Convicted Offense Category and Type of Sentence

Convicted offense category and type of sentence	2018		2019[a]		2020		2021		2022		2023	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Total												
Total convictions	141,506	100.0	75,202	100.0	79,822	100.0	108,143	100.0	139,537	100.0	127,709	100.0
Type of sentence												
State institutions[1]	28,419	20.1	12,957	17.2	16,891	21.2	21,309	19.7	30,064	21.5	27,853	21.8
Probation[2]	14,227	10.1	7,702	10.2	7,871	9.9	12,604	11.7	15,162	10.9	14,298	11.2
Probation with jail	80,929	57.2	45,288	60.2	45,864	57.5	60,948	56.4	76,532	54.8	69,018	54.0
Jail	17,931	12.7	9,255	12.3	9,196	11.5	13,282	12.3	17,779	12.7	16,540	13.0
Convicted offense category and type of sentence												
Violent offenses[3]	37,647	100.0	19,025	100.0	24,125	100.0	29,369	100.0	47,315	100.0	42,862	100.0
State institutions[1]	9,770	26.0	4,296	22.6	6,065	25.1	6,990	23.8	11,924	25.2	11,194	26.1
Probation[2]	2,906	7.7	1,575	8.3	1,867	7.7	3,041	10.4	5,077	10.7	4,749	11.1
Probation with jail	22,436	59.6	11,931	62.7	14,530	60.2	17,081	58.2	26,061	55.1	22,840	53.3
Jail	2,535	6.7	1,223	6.4	1,663	6.9	2,257	7.7	4,253	9.0	4,079	9.5
Property offenses[4]	34,087	100.0	18,710	100.0	17,936	100.0	25,518	100.0	39,392	100.0	36,151	100.0
State institutions[1]	5,566	16.3	2,721	14.5	3,223	18.0	4,344	17.0	6,598	16.7	6,074	16.8
Probation[2]	3,000	8.8	1,713	9.2	1,798	10.0	2,862	11.2	4,060	10.3	3,950	10.9
Probation with jail	20,542	60.3	11,925	63.7	10,619	59.2	14,656	57.4	21,684	55.0	19,864	54.9
Jail	4,979	14.6	2,351	12.6	2,296	12.8	3,656	14.3	7,050	17.9	6,263	17.3
Drug offenses	17,923	100.0	9,999	100.0	8,234	100.0	11,879	100.0	14,619	100.0	12,846	100.0
State institutions[1]	2,329	13.0	1,126	11.3	1,112	13.5	1,679	14.1	2,865	19.6	2,527	19.7
Probation[2]	2,396	13.4	1,282	12.8	963	11.7	1,638	13.8	1,675	11.5	1,481	11.5
Probation with jail	8,577	47.9	5,080	50.8	4,268	51.8	5,892	49.6	7,874	53.9	6,843	53.3
Jail	4,621	25.8	2,511	25.1	1,891	23.0	2,670	22.5	2,205	15.1	1,995	15.5
All other offenses	51,849	100.0	27,468	100.0	29,527	100.0	41,377	100.0	38,211	100.0	35,850	100.0
State institutions[1]	10,754	20.7	4,814	17.5	6,491	22.0	8,296	20.0	8,677	22.7	8,058	22.5
Probation[2]	5,925	11.4	3,132	11.4	3,243	11.0	5,063	12.2	4,350	11.4	4,118	11.5
Probation with jail	29,374	56.7	16,352	59.5	16,447	55.7	23,319	56.4	20,913	54.7	19,471	54.3
Jail	5,796	11.2	3,170	11.5	3,346	11.3	4,699	11.4	4,271	11.2	4,203	11.7

Source: Data extracted from the California Department of Justice Criminal History System. For additional information, see Understanding the Data, Characteristics and Known Limitations.
Notes: This table presents the number and type of final dispositions and sentences for felony arrests reported to the California Department of Justice by law enforcement agencies, district attorneys, and courts. Caution should be used when interpreting this information because arrests and dispositions are underreported. It should also be noted that approximately 1.5% of the adult felony convictions contained in these data represent a disposition that the California Department of Justice was unable to positively link to a criminal record; accordingly, an arrest event was created based solely upon the disposition information provided. There is no way for the California Department of Justice to estimate the exact percentage of underreported dispositions. The nature, extent, and reasons for this underreporting vary from agency to agency and from year to year.
Data include convictions for both misdemeanors and felonies.
Percentages may not add to subtotals or 100.0 because of rounding.
[a] In 2019, there was a decrease in the number of final dispositions and sentences for felony adult arrests reported to the California Department of Justice.
[1] The "state institutions" category includes sentences to death, prison, California Rehabilitation Center (civil addict), and the Division of Juvenile Justice.
[2] The "probation" category includes straight probation, fine, and other (no sentence given, sentence suspended, and sentence stayed).
[3] Violent offenses include homicide, rape, robbery, assault, and kidnapping.
[4] Property offenses include burglary; theft; motor vehicle theft; forgery, check, and access card offenses; and arson.

But the above is so general, how can the DOJ know what crime goes with the above disposition?

Then again, how can the DOJ catalog any of the crimes it claims to report on?

If only there was a way to know if they knew what crimes were involved here.

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Appendix 2
Arrest Offense Codes

The following statutes and their offense groupings were valid at the time of the closeout of the 2023 arrest offense code file. All statutory codes listed are for Penal Code sections unless indicated as follows:

BP - Business and Professions Code
CC - Corporations Code
CI - Civil Code
EC - Education Code
FA - Food and Agriculture Code
FC - Financial Code
FG - Fish and Game Code
GC - Government Code
HN - Harbors and Navigation Code
HS - Health and Safety Code
IC - Insurance Code
LC - Labor Code
MV - Military and Veterans Code
PR - Public Resources Code
RT - Revenue and Taxation Code
SH - Streets and Highways Code
UI - Unemployment Insurance Code
VC - Vehicle Code
WI - Welfare and Institutions Code

FELONY-LEVEL ARREST OFFENSES

Homicide - 128, 187(a), 192(a), 192(b), 273ab(a), 18755(a)

Rape - 220, 220(a)(1), 220(a)(2), 220(b), 261(a)(1), 261(a)(2), 261(a)(3), 261(a)(4), 261(a)(4)(a), 261(a)(4)(b), 261(a)(4)(c), 261(a)(4)(d), 261(a)(5), 261(a)(6), 261(a)(7), 264(c)(1), 262.1(a), 264(c)(2), 264.1(a), 264.1(b)(1), 264.1(b)(2), 266c, 269(a)(1), 269(a)(2), 269(a)(3), 269(a)(4), 269(a)(5), 286(b)(1)*, 286(b)(2), 286(c)(1), 286(c)(2)(a), 286(c)(2)(b), 286(c)(2)(c), 286(c)(3), 286(d)(1), 286(e), 286(f), 286(f)(1), 286(f)(2), 286(f)(3), 286(f)(4), 286(g), 286(h)*, 286(i), 286(j), 286(k), 287(b)(1)*, 287(b)(2), 287(c)(1), 287(c)(2)(a), 287(c)(2)(b), 287(c)(2)(c), 287(c)(3), 287(d)(1)(a), 287(d)(1)(b), 287(d)(1)(c), 287(d)(2), 287(d)(3), 287(e)*, 287(f), 287(f)(1), 287(f)(2), 287(f)(3), 287(f)(4), 287(g), 287(h)*, 287(i), 287(j), 287(k), 288.7(a), 288.7(b), 289(a)(1)(a), 289(a)(1)(b), 289(a)(1)(c), 289(a)(2), 289(b), 289(c), 289(d), 289(d)(1), 289(d)(2), 289(d)(3), 289(d)(4), 289(e), 289(f), 289(g), 289(h)*, 289(i), 289(j)

Robbery - 211, 212.5(a), 212.5(b), 212.5(c), 213(a)(1)(a), 213(a)(2), 214, 215(a)

Assault – 69(a)*, 71(a)(1)*, 71(a)(2), 76(a)*, 95.1, 136.7(a)*, 139(a), 140(a)*, 146e(b), 148(b)*, 148(c), 148(d)*, 148(d)(1), 148.1(a), 148.1(b), 148.1(c), 148.1(d), 148.3(b), 148.4(b)(1), 148.4(b)(2), 148.10(a)*, 149*, 151(a)(2), 186.26(a), 186.26(b), 186.26(c), 203, 205, 206, 217.1(a), 217.1(b), 218, 218.1*, 219, 219.1, 219.2*, 220, 222, 241.1, 241.4, 241.7, 242*, 243(c), 243(c)(1)*, 243(c)(2)*, 243(d), 243.1, 243.3*, 243.6*, 243.7, 243.9(a)*, 244, 244.5(b)*, 244.5(c)*, 245(a)(1)*, 245(a)(2)*, 245(a)(3), 245(a)(4)*, 245(b), 245(c), 245(d)(1), 245(d)(2), 245(d)(3), 245.2, 245.3, 245.5(a), 245.5(b), 245.5(c), 246*, 246.3(a)*, 247(a), 247(b), 247.5*, 273a(a)*, 273ab(b), 273d(a)*, 273.5(a)*, 273.5(f)(1)*, 273.5(f)(2)*, 347(a)(1), 347(b), 368(b)(1)*, 375(a)*, 375(d), 401(a), 405a, 417(b)*, 417(c)*, 417.3, 417.6(a), 417.8, 422(a)*, 422.7(a), 588a*, 601(a)(1), 601(a)(2), 625c, 664/187(a), 664/192(a), 1768.8(b) WI, 1768.85(a) WI*, 1808.4(d) VC, 4131.5, 4500, 4501(a), 4501(b), 4501.1(a), 4501.5, 11412, 11413(a), 11418(a)(1), 11418(a)(2),11418(b)(1), 11418(b)(2), 11418(b)(3), 11418(b)(4), 11418(c), 11418(d)(1), 11418(d)(2), 11418.1*, 11418.5(a)*, 11419(a)*, 12308, 12309, 15656(a) WI, 18715(a)(1), 18715(a)(2), 18715(a)(3), 18715(a)(4), 18715(a)(5), 18725(a), 18725(b), 18725(c), 18740, 18750, 18755(b), 20110(a), 20110(b), 21464(a), 21464(b), 21464(c)* VC, 23110(b) VC, 38318(b) VC, 38318.5(b) VC

Kidnapping - 157, 207(a), 207(b), 207(c), 207(d), 208(b), 209(a), 209(b)(1), 209.5(a), 209.5(b), 210, 278, 278.5(a), 280(b), 4503

Burglary - 459*, 459.5(a)*, 460, 460(a), 460(b)*, 461, 461.1, 461.2, 463(a), 464, 664/459, 664/460, 664/460(a), 664/460(b)

Theft - 72, 72.5(a)*, 72.5(b)*, 115(a), 115.5(b), 116, 117, 134, 154(b), 155(b), 155.5(b), 156, 182(a)(4)*, 304 HN, 305 HN, 332(a)*, 334(a)*, 337.7, 350(a)*, 350(a)(2)*, 350(b), 350(c), 368(d)(1)*, 368(e)(1), 424(a)1, 424(a)2, 424(a)3, 424(a)4, 424(a)5, 424(a)6, 424(a)7, 463(b), 474, 481, 481.1(a), 483.5(f)*, 484(a)*, 484(b)(1)*, 484b*, 484c, 484.1(a)*, 485*, 487(a)*, 487(b)(1)(a), 487(b)(2)*, 487(b)(3)*, 487(c)*, 487(d)(2), 487a(a)*, 487a(b)*, 487a(c)*, 487b, 487d, 487e, 487g, 487h(a), 487i*, 487j*, 487k, 487m(a)*, 490.2*, 490.4(a)(1)*, 490.4(a)(2)*, 490.4(a)(3)*, 490.4(a)(4)*, 495, 496(a), 496(b), 496(d)*, 496a(a), 496c*, 496d(a), 497, 498(b)(1), 498(b)(2), 498(b)(3), 498(b)(4), 498(b)(5), 498(d), 499c(b)(1), 499c(b)(2), 499c(b)(3), 499c(b)(4), 499d, 500(a), 500(a)(1)*, 500(a)(2)*, 500(a)(3)*, 502(c)(1)(a), 502(c)(1)(b), 502(c)(2), 502(c)(3), 502(c)(4), 502(c)(5), 502(c)(6)*, 502(c)(7)*, 502(c)(8)*, 502(c)(10)*, 502(c)(11)*, 502(c)(12)*, 502(c)(13)*, 502(c)(14)*, 502.5*, 502.7(a)(1)*, 502.7(a)(2)*, 502.7(a)(3)*, 502.7(a)(4)*, 502.7(a)(5)*, 502.7(b)(1)*, 502.7(b)(2), 502.7(c)*, 502.7(d)*, 502.7(g), 502.8(b)*, 502.8(d), 502.8(e), 502.8(f), 503*, 504*, 504a*, 504b*, 505*, 506*, 506b, 507*, 508*, 514*, 528, 529(a)*, 529(a)(1)*, 529(a)(2)*, 529(a)(3)*, 529a*, 529.5(b), 530*, 530.5(a)*, 530.5(c)(2)*, 530.5(c)(3)*, 530.5(d)(1)*, 530.5(d)(2)*, 532(a)*, 532a(1)*, 532a(2)*, 532a(3)*, 532a(4)*, 532f(a)(1)*, 532f(a)(2)*, 532f(a)(3)*, 532f(a)(4)*, 533, 534, 535, 537(a)*, 537(a)(2), 537(c)(2)*, 537e(a), 537e(a)(3), 538*, 538.5, 548(a), 549, 550(a)(1), 550(a)(2), 550(a)(3), 550(a)(4), 550(a)(5), 550(a)(6), 550(a)(7), 550(a)(8), 550(b)(1), 550(b)(2), 550(b)(3), 550(b)(4), 560, 560.4, 566, 571(a), 571(b), 577, 578, 580, 581, 593d(b), 620, 642*, 648*, 650 BP, 666(a)*, 666(b)*, 750(a) IC, 892(a) CI, 1695.6(b)(1) CI, 1733 IC, 1778 LC, 1823 FC, 1871.4(a)(1) IC, 1871.4(a)(2) IC, 1871.4(a)(3) IC, 1871.4(a)(4) IC, 2101(a)(1) UI, 2102(a) UI, 2107 UI, 2108 UI, 2109 UI, 2110 UI, 2110.5 UI, 2114 UI, 2116(a) UI, 2116(b) UI, 2121 UI, 2255(b) CC, 2945.4(a) CI, 2945.4(g) CI*, 3215 LC, 3352 FC, 3361 FC, 3531 FC, 4463(a)(1) VC, 4463(a)(2) VC, 7027.3 BP, 7028.16 BP*, 7051 HS, 7051(a), 7051.5, 10238.6(c) BP, 10250.52 BP, 10752(a) VC, 10752(b) VC, 10801 VC, 10802 VC, 10803(a) VC, 10803(b) VC, 10855 VC*, 10980(b) WI, 10980(c)(2) WI, 10980(d) WI, 10980(g)(2) WI, 11010(a) BP, 11019(a) BP, 11022(a) BP, 11320 BP, 11482.5 WI, 11483 WI*, 11483.5 WI, 11760(a) IC, 11880(a) IC, 14014(a) WI*, 14025(a) WI, 14107(b)(1) WI, 14591(b)(1)(a) PR*, 14591(b)(1)(b) PR*, 14591(b)(1)(c) PR*, 14591(b)(1)(d) PR*, 14591(b)(1)(e) PR*, 14591(b)(1)(f)(2) PR*, 14591(b)(1)(g) PR*, 17410 WI, 17414(b) FC, 17511.12(a) BP, 17551(a) FA, 17551(b) FA, 18848 FA*, 22430(a) BP, 22753(a) BP*, 25110 CC, 25401 CC, 25540 CC, 25541 CC, 27443(a) GC, 27443(b) GC, 30475(b) RT, 30480 RT, 31110 CC, 31201 CC, 31410 CC, 31411 CC, 44209 HS, 94319.14(b) EC, 94320(f) EC, 94320(g) EC, 103800 HS

Motor Vehicle Theft – 487(d)(1)*, 666.5(a), 10851(a) VC*, 10851(b) VC, 10851(e) VC

Forgery, Check, and Access Cards - 113, 114, 470(a)*, 470(b)*, 470(c), 470(d)*, 470a*, 470b, 471, 472, 475(a)*, 475(b)*, 475(c)*, 476*, 476a(a)*, 476a(b)*, 477, 478, 479, 480(a), 484e(a)*, 484e(b), 484e(d)*, 484f(a), 484f(b)*, 484g*, 484g(a)*, 484g(b)*, 484h(a)*, 484h(b)*, 484i(b), 484i(c)*, 617, 10980(e) WI

Arson - 451(a), 451(b), 451(c), 451(d), 451.5(a), 451.5(a)(1), 451.5(a)(2)(a), 451.5(a)(3), 452(a), 452(b), 452(c), 453(a)*, 454(a)(1), 454(a)(2), 455(a)

Drug Offenses

Narcotic - 11350(a) HS, 11350(b) HS*, 11351 HS, 11351.5 HS, 11352(a) HS, 11352(b) HS, 11353(a) HS, 11353(b) HS, 11353(c) HS, 11354(a) HS

Marijuana - 11358(d) HS, 11359(c) HS, 11359(d) HS 11360(a) HS*, 11361(a) HS, 11361(b) HS, 11362.4(d) HS

Dangerous Drug - 4060 BP*, 11353.5 HS, 11353.7 HS, 11370.1(a) HS, 11375(b)(1) HS*, 11377(a) HS*, 11378 HS, 11378.5 HS, 11379(a) HS, 11379(b) HS, 11379.2 HS, 11379.5(a) HS, 11379.5(b) HS, 11380(a) HS,
11550(e) HS

All Other - 4324(a) BP*, 4324(b) BP*, 4336(a) BP, 11104(a) HS, 11106(j) HS*, 11152 HS, 11153(a)(1) HS, 11154(a) HS, 11154(b) HS, 11155 HS, 11156 HS, 11157 HS, 11162.5(a) HS, 11166 HS*, 11173(a) HS*, 11173(b) HS, 11173(c) HS,
11173(d) HS, 11174 HS, 11355 HS*, 11363 HS, 11364.7(b) HS, 11366 HS*, 11366.5(a) HS, 11366.5(b) HS, 11366.6 HS,
11366.7(b) HS, 11366.8(a) HS, 11366.8(b) HS, 11368 HS*, 11370.6(a) HS, 11370.9(a) HS, 11370.9(b) HS,
11370.9(c) HS, 11371 HS, 11371.1 HS, 11379.6(a) HS, 11379.6(b) HS, 11382 HS*, 11383(a) HS, 11383(b) HS,
11383(c)(1) HS, 11383(c)(2) HS, 11383(f) HS, 11383(g) HS, 11383.5(b)(1) HS, 11383.5(e) HS, 11383.7(a) HS, 11383.7(b)(1) HS, 11390 HS, 11391 HS

Sex Offenses

Lewd or Lascivious - 220, 266j, 288(a), 288(b)(1), 288(b)(2), 288(c)(1)*, 288(c)(2)*, 288.5(a)

All Other - 243.4(a)*, 243.4(b), 243.4(c)*, 243.4(d)*, 243.4(j), 261.5(a), 261.5(c), 261.5(d), 265, 266*, 266a, 266b, 266d, 266e, 266f, 266g, 266h(a), 266h(b)(1), 266h(b)(2), 266i(a), 266i(a)(1), 266i(a)(2), 266i(a)(3), 266i(a)(4), 266i(a)(5), 266i(a)(6), 266i(b)(1), 266i(b)(2), 267, 285, 288.2(a)(1)*, 288.2(a)(2)*, 288.2(b), 288.3, 288.3(a), 288.4(a)(2), 288.4(b), 289.6(a)*, 289.6(a)(2), 289.6(a)(3), 290(b)*, 290.002*, 290.006*, 290.010*, 290.011(a)*, 290.011(b)*, 290.011(c)*, 290.011(d)*, 290.011(f)*, 290.012(a)*, 290.012(b)*, 290.012(c)*, 290.013(a)*, 290.013(b), 290.014*, 290.015*, 290.018(b), 290.018(d)*, 290.018(f)*, 290.018(g)*, 311.1(a), 311.10(a)*, 311.11(a)*, 311.11(b), 311.11(c)(1)*, 311.11(c)(2)*, 311.2(a)*, 311.2(b), 311.2(c)*, 311.2(d), 311.3(a)*, 311.3(b)(1)*, 311.3(b)(2)*, 311.3(b)(3)*, 311.3(b)(4)*, 311.3(b)(5)*, 311.3(b)(6)*, 311.4(a)*, 311.4(b), 311.4(c), 311.5*, 311.7*, 313.1(a)*, 313.1(b)*, 313.1(c)(1)*, 313.1(c)(2)*, 314(1), 647f, 647.6(a)(1)*, 647.6(a)(2)*, 647.6(b), 647.6(c)(1), 647.6(c)(2), 729(a)*

Driving Under the Influence - 655(f) HN, 23152(a), 23152(f), 23153(a) VC*, 23153(b) VC*, 23153(d) VC, 23153(f) VC*, 23153(g) VC*, 23550(a) VC*, 23550.5(a) VC*

Hit-and-Run - 20001(a) VC, 20001(b)(1) VC*, 20001(b)(2) VC*

Weapons - 171b(a)(1), 171b(a)(2)*, 171b(a)(3), 171b(a)(4)*, 171b(a)(5)*, 171b(a)(6)*, 171c, 171c(a)(1)*, 171d(a)*, 171d(b)*, 186.28(a)*, 626.9(b)*, 626.9(d), 626.9(h), 626.9(i), 626.95(a)*, 626.10(a)(1)*, 626.10(b)*, 4502(a), 4502(b), 4574(a), 4574(b),
8101(a) WI, 8101(b) WI, 8103(a)(1) WI, 8103(f)(1) WI, 8103(f)(1)(b) WI*, 8103(i) WI*, 12761 HS*, 18710(a)*, 18720, 18730, 18735(a)*, 18745, 19100*, 19200(a)*, 20310*, 20410*, 20510*, 20610*, 20710*, 20910*, 21110*, 21310*, 21810*, 22011*, 22210*, 22410*, 22810(a)*, 22810(c)*, 22810(d)*, 22810(e)(1)*, 22810(g)(1)*, 22810(g)(2), 23900, 24310*, 24410*, 24510*, 24610*, 24710*, 25100(a)*, 25300(a), 25400(a)(1)*, 25400(a)(2)*, 25400(a)(3)*, 25400(c)(1), 25400(c)(2), 25400(c)(3), 25400(c)(4), 25400(c)(5)*, 25400(c)(6)*, 25400(c)(6)(b)*, 25800(a)*, 25850(a), 25850(c)(1), 25850(c)(2), 25850(c)(3), 25850(c)(4), 25850(c)(5)*, 25850(c)(6)*, 26100(b)*, 26100(c), 26100(d)*, 27500(a), 27500(b)*, 27505(a)*, 27510(a)*, 27515*, 27520*, 27545*, 27585(a), 28210(a)(1)*, 28250(b)(1), 28250(b)(2), 28250(b)(3), 29610(a), 29610(b), 29650*, 29800(a)(1), 29800(a)(2), 29800(b), 29805(a)*, 29805(a)(1)*, 29805(a)(2)*, 29805(b)*, 29805(c)*, 29805(d)*, 29815(a)*, 29820(b)*, 29825(a)*, 29900(a)(1), 29900(b)(1), 30210(a)*, 30210(b)*, 30305(a)(1)*, 30315*, 30320, 30600(a), 30605(a)*, 30720(a)*, 30725(b), 31500*, 32625(a), 32625(b), 32900*, 33210, 32310(a)*, 33215*, 33410, 33600*

Escape - 110, 836.6(a)*, 836.6(b)*, 871(b) WI, 1026.4(a), 1152(b) WI, 1768.7(a) WI, 1768.7(b) WI,
2042, 3002 WI, 4011.7*, 4530(a), 4530(b), 4530(c), 4532(a)(1), 4532(a)(2), 4532(b)(1)*, 4532(b)(2), 4533, 4534, 4535,
4536(a), 4550(a), 4550(b), 7326 WI

Bookmaking - 337.2, 337a(a)(1)*, 337a(a)(2)*, 337a(a)(3)*, 337a(a)(4)*, 337a(a)(5)*, 337a(a)(6)*, 337i, 337j(b)*, 337j(c)*

All Other Felony Offenses

MISDEMEANOR-LEVEL ARREST OFFENSES

Manslaughter–Misd. - 191.5(b)*, 192(c)(1)*, 192(c)(2), 192.5(b), 192.5(c)*, 192.5(d)

Assault and Battery – 69(a)*, 71(a)(1)*, 76(a)*, 95.1, 136.7(a)*, 139(a), 140(a)*, 147, 148(a)(1), 148(b)*, 148(d)*, 148.1(a)*, 148.1(b), 148.1(c), 148.1(d), 148.10(a)*, 148.2(1), 148.2.2, 148.2(2), 148.2(3), 148.2(4), 148.2.3, 148.2.4, 148.3(a), 148.4(a)(1), 148.4(a)(2), 149*, 151(a)(1), 217.1(a), 218.1*, 219.2*, 219.3, 240, 241(a), 241(b), 241(c), 241.1*, 241.2(a), 241.2(a)(1), 241.3(a), 241.4, 241.5(a), 241.6, 242*, 243(a), 243(b), 243(c)(1)*, 243(c)(2)*, 243(d)*, 243(e)(1), 243.10(a), 243.2(a)(1), 243.25, 243.3*, 243.35(a), 243.6*, 243.65(a), 243.8(a), 243.9(a)*, 244.5(b)*, 244.5(c)*, 245(a)(1)*, 245(a)(2)*, 245(a)(4)*, 245.5(c), 246*, 246.3(a)*, 246.3(b), 247.5*, 248, 273a(a)*, 273a(b), 273d(a)*, 273.5(a)*, 273.5(f)(1)*, 273.5(f)(2)*, 347(b), 368(b)(1)*, 368(c), 374c, 375(a)*, 375(b), 383, 402a, 417(a)(1), 417(a)(2)(a), 417(a)(2)(b), 417(b)*, 417(c)*, 417.25(a), 417.26(a), 417.26(b), 417.4, 422(a)*, 422.4(a), 422.6(a), 422.7(a), 423.2(a), 423.2(b), 423.2(c), 423.2(d), 423.2(g), 423.2(h), 594.39(a), 1768.85(a) WI*, 2652, 2652.5, 4501.1(a), 11414(a), 11414(c), 11418.1*, 11418.5(a)*, 12680 HS, 15656(b) WI, 20170(a), 21464(c)* VC

Burglary–Misd. - 459*, 459.5(a)*, 460(b)* , 490.4(a)(1)*, 490.4(a)(2)*, 490.4(a)(3)*, 490.4(a)(4)*

Petty Theft - 368(d)(1)*, 368(e)(2), 409(h), 463(b), 463(c), 484(a)*, 484(b)(1)*, 484b*, 484.1(a)*, 485*, 487(a)*, 487(b)(1)(a), 487(b)(2)*, 487(b)(3)*, 487(c)*, 487a(a)*, 487a(b)*, 487a(c)*, 487c, 487e, 487f, 487h(a), 487i*, 487j*, 487m(a)*, 488, 490, 490.1(a), 490.2*, 490.5(a), 490.7(b), 490.7(b)(2), 490.7(b)(3), 490.7(b)(4), 496c*, 499b(b), 499c(b)(1), 499c(b)(2), 499c(b)(3), 499c(b)(4), 499c(c), 499d, 499g, 502.5*, 530*, 530.5(a)*, 530.5(c)(1)*, 530.5(c)(2)*, 530.5(c)(3)*, 530.5(d)(1)*, 530.5(d)(2)*, 530.5(e), 532(a)*, 538*, 565, 642*, 666(a)*, 666(b)*, 8726 HS, 22435.1 BP, 22435.2 BP, 22435.2(a) BP, 22435.2(b) BP, 22435.2(c), 22435.2(e) BP, 22435.2(f) BP, 22435.11(a) BP, 22435.12 BP, 22753(a) BP*, 41950(a) PR

Other Theft - Includes approximately 200 statute codes that can be identified upon request.

Checks and Access Cards - 112(a), 470(a)*, 470(c), 470(b)*, 470(d)*, 470a*, 470b, 471, 472, 475(a)*, 475(b)*, 475(c)*, 476*, 476a(a)*, 476a(b)*, 484e(a)*, 484e(b), 484e(c), 484e(d)*, 484f(b)*, 484g, 484g(a)*, 484g(b)*, 484h(a)*, 484h(b)*, 484i(a), 484i(b), 484i(c)*, 484j

Drug Offenses

Marijuana - 11357(b) HS, 11357(c) HS, 11357.5(a) HS, 11357.5(b) HS, 11358(c) HS, 11359(b) HS, 11360(a) HS*, 11362.4(c) HS, 11362.77(a) HS, 34014(a) BP, 34016(b) BP, 34016(d) BP, 34016(e) BP

Other Drugs - 377, 379, 647(f), 2241 BP, 2242.1(a) BP, 2762(e) BP, 2878.5(a) BP, 4051 BP, 4059(a) BP, 4060 BP*, 4077(a) BP, 4141 BP, 4142 BP, 4148 BP, 4149 BP, 4163 BP, 4323 BP, 4324(a) BP*, 4324(b) BP*, 4325(a) BP, 4326(a) BP, 4326(b) BP, 4331(a) BP, 4332 BP, 11100(g)(1) HS, 11100(g)(2) HS, 11100(g)(3) HS, 11100.1(a) HS, 11104(c) HS, 11104.5 HS, 11106(j) HS*, 11150 HS, 11151 HS, 11157 HS*, 11159 HS, 11161(a) HS, 11162.5(b), 11162.6(c) HS, 11166 HS*, 11170 HS, 11171 HS, 11172 HS, 11173(a) HS*, 11173(d) HS, 11175 HS, 11180 HS, 11190 HS, 11207 HS, 11217 HS, 11350(a) HS*, 11350(b) HS*, 11352.1(b) HS, 11355 HS*, 11364(a) HS, 11364.5(a) HS, 11364.5(b) HS, 11364.7(a) HS, 11364.7(c) HS, 11365(a) HS, 11366 HS*, 11366.5 (a) HS, 11368 HS*, 11375(b)(l) HS*,11375(b)(2) HS, 11375.5(a) HS, 11377(a) HS*, 11382 HS*, 11391 HS, 11473.5 HS, 11532(a) HS, 11550(a) HS, 11594 HS, 109575 HS, 109580 HS

Indecent Exposure - 314(1), 314(2)

Annoying Children - 261.5(b), 261.5(c), 261.5(d), 286(b)(1)*, 288(c)(1)*, 288.4(a)(1), 289(h)*, 647.6(a)(1), 647.6(a)(2)

Obscene Matter – 288.2(a)(1)*, 288.2(a)(2)*, 311.1(a)*, 311.10(a)*, 311.11(a), 311.11(c)(1)*, 311.11(c)(2)*, 311.2(a)*, 311.2(c)*, 311.3(a)*, 311.3(b), 311.3(b)(1)*, 311.3(b)(2)*, 311.3(b)(3)*, 311.3(b)(4)*, 311.3(b)(5)*, 311.3(b)(6)*, 311.4(a)*, 311.5*, 311.6, 311.7*, 313.1(a)*, 313.1(b)*, 313.1(c)(1)*, 313.1(c)(2), 313.1(e)

Lewd Conduct - 288(c)(2)*, 647(a), 647(d), 647(i), 647(j)(1), 647(j)(2), 647(j)(3)(a), 647(j)(4)(a), 647(j)(4)(b), 647(l)(1), 647(l)(2), 653b(a)

Prostitution - 266*, 315, 316, 647(b)(1), 647(b)(2), 647(b)(3), 653.22(a)(1), 653.23(a)(1), 653.23(a)(2), 25601 BP

Contribute to Delinquency of Minor - 272, 272(a)(1), 272(b)(1), 273i(a)

Drunk - 647(f)

Liquor Laws - 172(a), 172a, 172b(1), 172d(1), 172g(a), 172l, 303, 303a, 307, 347b, 397, 11200, 23224(a) VC, 23224(b) VC, 23300 BP, 23301 BP, 25177 BP, 25351 BP, 25602(a) BP, 25604 BP, 25606 BP, 25607(a) BP, 25608 BP, 25609 BP, 25612.5(c)(3) BP, 25631 BP, 25632 BP, 25657(a) BP, 25657(b) BP, 25658(a) BP, 25658(b) BP, 25658(c) BP, 25659.5(a) BP, 25659.5(c) BP, 25659.5(d) BP, 25660.5 BP, 25661(a) BP, 25662(a) BP, 25663(a) BP, 25663(b) BP, 25664 BP, 25665 BP, 120305 HS

Disorderly Conduct - 647(c), 647(e), 647(h), 647b, 653b(a)

Disturbing the Peace - 171f.2, 302(a), 403, 404(a), 404.6(a), 404.6(c)*, 405, 406, 407, 408, 409, 409.6(c), 415(1), 415(2), 415(3), 415.5(a)(1), 415.5(a)(2), 415.5(a)(3), 416(a), 602.10, 602.11(a), 626.2, 626.4(d), 626.6(a), 626.7(a), 626.8(a)(1), 626.8(a)(2), 626.8(a)(3), 626.8(a)(4), 626.81(a), 626.85(a)(1), 626.85(a)(2), 626.85(a)(3), 640(d)(1), 653c(a), 653c(b), 653m(a), 653m(b), 653x(a), 653y(b)(1), 653y(b)(2), 653y(c), 727, 6311.5 LC, 9051 GC, 11460(a), 11460(b)(1)

Malicious Mischief - 623b(b), 625b(a), 10750(a) VC, 10851.5 VC, 10852 VC, 10853 VC, 10854 VC, 28051 VC, 28051.5 VC

Vandalism - 422.6(b), 423.2(e), 423.2(f), 555.1, 587a, 587(b), 587.1(a), 587.1(b), 588b, 590, 591.5, 592(a), 592(b), 594.35(b), 594.35(c), 594.35(d), 594(a)(1)*, 594(a)(2)*, 594(a)(3)*, 594(b)(1)*, 594(b)(2)(a), 594(b)(2)(b), 594.3(a)*, 594.35(a)*, 594.35(b), 594.35(c), 594.35(d), 594.4(a)*, 603, 604, 605(1), 605(2), 605(3), 607, 615, 616, 618, 621*, 622, 622.5, 623(a), 623(a)(1), 623(a)(2), 623(a)(3), 623(a)(4), 623(a)(5), 623(a)(6), 640(d)(5), 640.5(b)(1), 640.5(c)(1), 640.7, 640.8, 11411(a), 11411(b), 11411(c)*, 11411(d)*, 23110(a) VC, 27491.3 GC, 38318(a) VC, 38319 VC

Trespassing - 171f.1, 369g(a), 369g(b), 369i(a)(1), 369i(b)(1),398 MV, 409.5(c), 554(a), 554(b), 554(c), 554(d), 554(e), 554(f), 554(g), 554(h), 554(i), 555, 558, 587b, 593b, 601(a)(1), 601(a)(2), 602, 602(a), 602(b), 602(c), 602(d), 602(e), 602(f), 602(g), 602(h)(1), 602(i), 602(j), 602(k), 602(l)(1), 602(l)(2), 602(l)(3), 602(l)(4), 602(m), 602(n), 602(o), 602(o)(1), 602(o)(2), 602(p), 602(q), 602(r), 602(s), 602(t)(1), 602(u)(1), 602(v)(1), 602(w), 602(x)(1), 602(y), 602.1(a), 602.1(b), 602.4(a), 602.5, 602.5(a), 602.5(b), 602.6, 602.8(a), 602.9(a),602.9(b), 602.12(a), 602.13(a), 627.2, 627.7(a)(1), 627.7(a)(2), 627.7(a)(3), 627.8, 634*, 1583 FG, 27174.2 SH, 32210 EC, 32211 EC

Weapons - 136.2(a)(7)(b)2, 171b(a)(1), 171b(a)(2)*, 171b(a)(3), 171b(a)(4)*, 171b(a)(5)*, 171b(a)(6)*, 171c(a)(1)*, 171c(a)(2), 171d(a)*, 171d(b)*, 171.5(b), 171.5(c)(2), 171.5(c)(3), 171.5(c)(4), 171.5(c)(5), 171.5(c)(6), 171.5(c)(7), 171.5(c)(8), 171.5(c)(9), 171.5(c)(10), 171.5(c)(11), 171.5(c)(12), 171.7(b), 186.28(a)*, 468, 626.10(a)(1)*, 626.10(a)(2)*, 626.10(b)*, 626.10(i), 626.9(b)*, 626.95(a)*, 4574(c), 8103(i) WI*, 8103(f)(1)(b) WI*, 12761 HS*, 17500, 17505, 17510(a)(1), 17510(a)(2), 17510(a)(3), 17512, 18205, 18710(a)*, 19100*, 19200(a)*, 18735(a)*, 19405, 19910, 19915(a), 20010, 20110(b), 20160(a), 20165, 20310*, 20410*, 20510*, 20610*, 20710*, 20810(a), 20910*, 21110*, 21310*, 21510(a), 21510(b), 21510(c), 21710, 21810*, 22011*, 22210*, 22410*, 22610(a), 22610(b), 22610(c)(1), 22610(d), 22615(a), 22615(b), 22810(a)*, 22810(b), 22810(c)*, 22810(d)*, 22810(e)(1)*, 22810(e)(3), 22810(g)(1)*, 22815(a), 22900, 22910(a), 23920, 23920(a), 24310*, 24410*, 24510*, 24610*, 24710*, 25100(a)*, 25100(b), 25100(c), 25135, 25200(a), 25200(b), 25250(a), 25250(b), 25300(a), 25400(a)(1)*, 25400(a)(2)*, 25400(a)(3)*, 25400(c)(5)*, 25400(c)(6)*, 25400(c)(6)(b)*, 25400(f), 25800(a)*, 25850(a), 25850(c)(5)*, 25850(c)(6)*, 26100(a), 26100(b)*, 26100(d)*, 26180(a), 26180(b), 26350(a)(2), 26350(a)(1)(a), 26350(a)(1)(b), 26350(a)(1)(c), 26350(a)(2)(b), 26350(a)(2)(c), 26400(a)(1), 26400(a)(2), 26500(a), 27310, 27315, 27330, 27340(b), 27500(b)*, 27505(a)*, 27510(a)*, 27515*, 27520*, 27530(a), 27545*, 27573(a), 27575(a), 27575.1(a), 27585(a), 28050(a), 28050(b), 28050(c), 28100(a), 28210(a)(1)*, 28250(a)(1), 28250(a)(3), 29010(a), 29010(b), 29010(c), 29180(b), 29180(c), 29180(d)(1), 29180(e), 29180(f), 29185(a), 29185(b), 29185(c), 29525, 29610(a)*, 29610(b)*, 29650*, 29805(a)*, 29805(a)(1)*, 29805(a)(2)*, 29805(b)*, 29805(c)*, 29805(d)*, 29815(a)*, 29820(b)*, 29825(a)*, 29825(b), 30210(a)*, 30210(b)*, 30300(a)(1), 30300(a)(2), 30300(a)(3), 30305(a)(1)*, 30305(b)(1), 30306(a), 30306(b), 30310(a), 30312(a)(1), 30314(a), 30315*, 30342, 30342(a), 30352(a), 30352(b), 30352(c), 30352(d), 30355, 30360, 30362(a), 30362(b), 30363, 30400(a), 30605(a)*, 30610(a), 30720(a)*, 31500*, 31615(a)(1), 31615(a)(2), 31620(b), 32000(a), 31620(c), 32310(a), 32310(a)*, 32311(a), 32900*, 33215*, 33600*

Driving Under the Influence - 655(b) HN, 655(c) HN, 655(d) HN, 655(e) HN, 655(f) HN, 11362.3(a)(7) HS, 23152(a) VC, 23152(b) VC, 23152(c) VC, 23152(d) VC, 23152(e) VC, 23152(f) VC, 23152(g) VC, 23153(a) VC*, 23153(b) VC*, 23153(f) VC*, 23153(g) VC*, 23247(a) VC, 23247(b) VC, 23247(c) VC, 23247(d) VC, 23247(e) VS, 23546(a) VC, 23550(a) VC*, 23550.5(a) VC*, 23573(i) VC

Glue Sniffing - 380(a), 381(a), 381(b), 381b, 381c(b), 381d(a), 381e(a), 647(f)

Hit-and-Run - 20001(b)(1) VC*, 20001(b)(2) VC*, 20002(a)(1) VC, 20002(a)(2) VC, 20002(b) VC

Joy Riding - 487(d)(1)*, 499b(a), 10851(a) VC*

Selected Traffic Violations - 2800.3(a) VC, 23103(a) VC, 23103(b) VC, 23104(a) VC, 23105(a) VC*, 23109(a) VC*, 23109(b) VC, 23109(c) VC, 23109(d) VC, 23109.1 VC*, 23109.1(a) VC, 38316 VC, 38316(a) VC, 38317 VC, 40005 VC, 40254(b) VC, 40500(d) VC, 40508(a) VC, 40508(b) VC, 40508(c) VC, 40519 VC, 40519(c) VC, 42005(e) VC

Gambling - 318, 319, 320, 321, 322, 323, 324, 326, 326.5(b), 326.5(n), 330, 330a(a), 330b(a), 330b(1), 330c, 330.1(a), 330.4, 331, 335,336, 337a(a)(1)*, 337a(a)(2)*, 337a(a)(3)*, 337a(a)(4)*, 337a(a)(5)*, 337a(a)(6)*, 337i, 337j(a)(2)*, 337j(a)(3)*, 337j(b)*, 337j(c)*, 337k(a), 337s(b), 337.1, 337.2, 337.5, 11300, 11302, 11303, 11304, 19921(a) BP, 19940 BP, 19941(a)(1) BP

Nonsupport - 270*, 270a, 270c, 270.5(a), 270.6, 271, 271a

All Other Misdemeanor Offenses

Notes: These codes are valid for 2023 data and may not be applicable for prior years.
"All Other Felony Offenses" also includes sections in the Election Code and Water Code.
"All Other Misdemeanor Offenses" also includes sections in the California Code of Regulations, City or County Ordinances, Civil Procedure Code, Election Code, Public Utilities Code, Uniform Fire Code, and Water Code.
Arrests for attempted offenses are reported in their respective categories with the exception of homicide and manslaughter, which are captured in the felony assault category.

*These code sections can be either a felony or a misdemeanor.

And of course, Petitioner wanted population data of the prisons that Pen. Code § 11103 mandated Respondent keep record of.

Table 53
POPULATION ESTIMATES, 1966-2023

Year	Total population	Population at risk		
		Total[1]	Adult[2]	Juvenile[3]
2023	39,109,070	29,738,875	25,698,841	4,040,034
2022	39,028,571	30,801,258	26,615,085	4,186,173
2021	39,368,613	30,418,892	26,222,173	4,196,719
2020	39,782,419	30,351,854	26,168,032	4,183,822
2019	39,959,095	30,948,835	26,807,124	4,141,711
2018	39,825,181	30,947,933	26,718,187	4,229,746
2017	39,613,045	30,771,994	26,566,180	4,205,814
2016	39,354,432	30,662,726	26,486,720	4,176,006
2015	39,071,323	30,426,258	26,369,040	4,057,218
2014	38,499,378	30,190,364	26,129,967	4,060,397
2013	38,204,597	29,923,597	25,825,829	4,097,768
2012	37,826,160	29,735,335	25,593,235	4,142,100
2011	37,578,616	29,556,094	25,352,813	4,203,281
2010	37,318,481	29,432,329	25,166,828	4,265,501
2009	37,077,204	29,092,061	24,846,056	4,246,005
2008	36,856,222	28,869,786	24,483,271	4,386,515
2007	36,552,529	28,597,658	24,193,795	4,403,863
2006	36,246,822	28,317,290	23,915,923	4,401,367
2005	35,985,582	28,066,451	23,678,907	4,387,544
2004	35,752,765	27,835,492	23,461,739	4,373,753
2003	35,388,928	27,496,472	23,162,159	4,334,313
2002	34,938,290	27,091,683	22,826,738	4,264,945
2001	34,512,742	26,707,152	22,524,040	4,183,112
2000	34,000,835	26,252,783	22,175,874	4,076,909
1999	34,036,000	25,711,892	21,855,190	3,856,702
1998	33,494,000	25,263,064	21,498,170	3,764,894
1997	32,957,000	25,760,375	21,934,916	3,825,459
1996	32,383,000	25,554,242	21,825,735	3,728,507
1995	32,063,000	25,122,782	21,505,839	3,616,943
1994	32,140,000	24,703,379	21,193,571	3,509,808
1993	31,742,000	24,334,534	20,923,632	3,410,902
1992	31,300,000	23,975,578	20,661,120	3,314,458
1991	30,646,000	23,585,168	20,356,984	3,228,184
1990	29,557,836	23,178,961	20,027,633	3,151,328
1989	28,771,207	22,524,392	19,451,763	3,072,629
1988	28,060,746	21,969,953	18,885,349	3,084,604
1987	27,388,477	21,483,563	18,378,758	3,104,805
1986	26,741,621	21,009,362	17,903,122	3,106,240
1985	26,112,632	20,563,314	17,468,941	3,094,373
1984	25,587,254	20,167,923	17,083,479	3,084,444
1983	25,075,581	19,860,746	16,763,095	3,097,651
1982	24,546,566	19,510,945	16,415,571	3,095,374
1981	24,038,711	19,172,812	16,082,355	3,090,457
1980	23,668,145	18,824,197	15,778,999	3,045,198
1979	23,255,000	18,371,691	15,323,376	3,048,315
1978	22,839,000	18,012,901	14,916,032	3,096,869
1977	22,350,000	17,619,453	14,470,680	3,148,773
1976	21,935,000	17,269,884	14,080,872	3,189,012
1975	21,537,000	16,914,556	13,694,793	3,219,763
1974	21,173,000	16,563,671	13,339,906	3,223,765
1973	20,868,000	16,237,031	13,031,007	3,206,024
1972	20,585,000	15,926,249	12,758,809	3,167,440
1971	20,346,000	15,657,238	12,542,795	3,114,443
1970	20,039,000	15,378,312	12,339,580	3,038,732
1969	19,856,000	14,697,200	11,657,600	3,039,600
1968	19,554,000	14,379,400	11,403,700	2,975,700
1967	19,478,000	14,065,700	11,159,800	2,905,900
1966	19,132,000	13,696,700	10,872,500	2,824,200

Source: Population estimates were provided by the Demographic Research Unit, California Department of Finance.
[1] Total population at risk: 10-69 years of age.
[2] Adult population at risk: 18-69 years of age.
[3] Juvenile population at risk: 10-17 years of age.

Every aspect of the request was just shown as tracked by Respondent. All ages, all crimes, all races, and all sexes were cataloged above. Except that they were arbitrarily separated by Respondent and not compiled by county. That was the one major aspect missing from *Crime in California* that was included in Petitioner's demand.

A ways back, Petitioner noted that a footnote was omitted. That footnote stated:

> 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.

Referring to the following home of said Penal provisions:

TITLE 3. CRIMINAL STATISTICS [13000 - 13400]
CHAPTER 1. Department Of Justice [13000 - 13023]
ARTICLE 1. Duties of the Department [13000 - 13016]

Because we just saw, what Respondent tabulates, it is important to know that all of those stats come from *Respondent's* request.

Pen. Code § 13010

> It **shall be the duty** of the department:
> (a) To **collect data** necessary for the work of the department from all persons and agencies mentioned in Section 13020 and from any other appropriate source.
> (b) To prepare and distribute to all those persons and agencies cards, forms, or electronic means used in **reporting data to the department**. …
> (c) To recommend the form and **content of records** that must be kept by those persons and agencies in order to **ensure the correct reporting** of data to the department.
> (d) To **instruct those persons** and agencies in the installation, maintenance, and use of those records and in the reporting of data therefrom to the department.
> (e) **To process, tabulate, analyze, and interpret the data collected from those persons and agencies.**
> (g) **To make available to the public**, through the department's OpenJustice Web portal, information relating to criminal statistics,

Pen. Code § 13012

> (a) The information published on the OpenJustice Web portal pursuant to Section 13010 shall contain statistics showing all of the following:
> (1) The amount and the types of offenses known to the public authorities.
> (2) The personal and social characteristics of criminals and delinquents.

Pen. Code § 13020 "It shall be the duty of every…chief of police,… sheriff,… district attorney… [and all prisons and probations etc.] when requested by the Attorney General:

(a) To install and maintain records needed for the correct reporting of statistical data required by him or her.
(b) To report statistical data to the department at those times and in the manner that the Attorney General prescribes.
(c) To give to the Attorney General, or his or her accredited agent, access to statistical data for the purpose of carrying out this title."

We thus know Respondent collects all data from all sources and it is at its direction that the data be gathered. But still, what about the counties?

When Respondent said this information was confidential, Respondent was referring to the data that it releases on its website:

https://openjustice.doj.ca.gov/exploration/crime-statistics/arrest-dispositions
SEARCH ARREST DISPOSITIONS STATISTICS
Jurisdiction: Counties:
(All Counties) (Each of the 58 Counties are Listed Separately)

https://openjustice.doj.ca.gov/exploration/crime-statistics/arrests
SEARCH ARRESTS STATISTICS
Jurisdiction: Counties:
(All Counties) (Each of the 58 Counties are Listed Separately)

https://openjustice.doj.ca.gov/exploration/crime-statistics/crimes-clearances
SEARCH CRIMES & CLEARANCES STATISTICS
Jurisdiction: Counties:
(All Counties) (Each of the 58 Counties are Listed Separately)

THE MOST DISINGENUOUS CLAIM OF ALL WAS SAVED FOR LAST

> 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.

Aside from every aspect being impeached up to that point. Legal conclusions by such a dishonest entity fails to establish facts that support the claim. Moreover, as shown to the Court above, every aspect requested was in their possession and released to the public. See also, Pen. Code § 13125, which the Court will have to review online as it was a list of items gathered that was five and half pages when pasted in here. Showing that the Department tracks *everything*.

Yet Petitioner believes in fair readings of things, opening one's mind to see what the speaker is saying. Respondent has great trouble with this, as they read things ultra-literally. Thus, it can be assumed Respondent latched on to "contains all targeted information *as so grouped*," and thus, "*e.g., Folsom 2/1/1983 Asian 204; Black 5,971; White 8,121"* and also *"e.g., April 2010 Robbery Ventura Black 73M, 4F; White 16M, 0F; Asian 7M, 1F; divided further into juvenile and adult*" (Pet. 14) but Respondent overlooked the summary provided to help it understand.

> In short: Each county and prison facility separately; broken down by each month dating back to 1983; showing the population housed in total number by race; showing the convictions derived from each county, cataloged by crimes as listed in Crime in California, grouped by races, genders and majority/minority, showing total number per each and the disposition.
>
> The desired information should be clear from the above, if the existing catalog is different than Crime in California's format, that is fine, it was a suggestion to assist the visual of the request if necessary. (Pet. 15)

The sole signer of the denial apparently regrets that the sole reason for invoking the 14 day extension was the multiple components she needed to check with. Because the denial letter focused only on the other three excuses she did not invoke when only she signed the denial.

See Pet. p. 3, showing that the legislature contemplated all her excuses: "need to search for and collect… from.. other establishments that are separate from the office" she suggested Petitioner ask every prison for data Respondent collects under Pen. Code § 11103. The constant excuse was that some statutes collected it and some records reported it, contemplated as "need to search for, collect, and appropriately examine a voluminous amount of *separate* and *distinct* records" most important of all was that Respondent expressly has all of this data but said "Department does not categorize ACHS data in *The Crime in California* publication in the manner you are seeking" which is fine, because the Legislature provided "need *to compile data*, to write programming language or a computer program, or to construct a computer report *to extract data*." (Gov. Code § 7922.535(c)(4))

One of the express excuses for delay was the reason declared to deny access, yet Respondent did not invoke any of the above as an excuse "For the reasons set forth below," "In this instance, an extension is needed to *consult* with multiple components of the Department" "which shall be conducted with all practicable speed" (Gov. Code, § 7922.535(c)(3))

The false statement made that no records were located that were responsive to the request seeking charges by county by crime, race, gender and age after a reasonable search, was a statement made only for this Court to read and rely on.

Petitioner offers another statement for the Court to read and rely on:

Cal. Const. art. I, § 3

(a) The people have the *right to instruct their representatives*, **petition government for redress of grievances**, and assemble freely to consult *for the common good*.

(b) (1) The people have the **right of access to information concerning the conduct of the people's business**, and, therefore, the meetings of public bodies and *the writings of public officials and agencies shall be open to public scrutiny*.

(2) **A statute**, court rule, or other authority, including those in effect on the effective date of this subdivision, **shall be broadly construed if it furthers the people's right of access**, and *narrowly construed if it limits the right of access*. A statute, court rule, or other authority adopted after the effective date of this subdivision that limits the right of access shall be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

Moreover, each provision Respondent relied on contained an exception of *unless permitted by other law*. And since the stated purpose was known to Respondent, that claim of not finding after a search, was done solely to further a racist agenda with design to further the incidents of slavery currently occurring in California.

Because the authorizing statute was:

Pen. Code § 745(a)(3) The defendant was **charged or convicted of a more serious offense** than defendants **of other races**, ethnicities, or national origins who have **engaged in similar conduct and are similarly situated**, and the **evidence** establishes that the **prosecution more frequently sought or obtained convictions** for **more serious offenses *against*** people who *share the defendant's race*, ethnicity, or national origin in the **county** where the convictions were sought or obtained.

(4) (A) A **longer or more severe sentence** was imposed on the defendant than was imposed on other similarly situated individuals **convicted of the same offense**, and longer or more severe sentences were **more frequently imposed** for that offense on people that share the defendant's race, ethnicity, or national origin than on defendants of other races, ethnicities, or national origins in the **county** where the sentence was imposed.

(c) (1) At the hearing, **evidence** may be presented by either party, including, but not limited to, **statistical evidence, aggregate data**,…

(h) As used in this section, the following definitions apply:

(1) "More frequently sought or obtained" or "more frequently imposed" means that the **totality of the evidence** demonstrates **a significant difference** in seeking or obtaining convictions or in imposing sentences comparing individuals who have engaged in similar conduct and are similarly situated, and the prosecution cannot establish race-neutral reasons

for the disparity. **The evidence may include statistical evidence, aggregate data**, or nonstatistical evidence. Statistical significance is a factor the court may consider, but is not necessary to establish a significant difference**. In evaluating the totality of the evidence, the court shall consider whether systemic and institutional racial bias**, racial profiling, **and historical patterns of racially biased** policing and **prosecution** may have contributed to, or **caused differences observed in, the data** or **impacted the availability of data overall**. Race-neutral reasons shall be relevant factors to charges, convictions, and sentences that are **not influenced by implicit, systemic, or institutional bias based on race**, ethnicity, or national origin.

(2) "Prima facie showing" means that the defendant produces facts that, if true, establish that there is a **substantial likelihood that a violation** of subdivision (a) occurred. For purposes of this section, a "substantial likelihood" requires more than a mere possibility, but ***less*** than a standard of *more likely than not*.

(5) "**State" includes the Attorney General,** a district attorney, or a city prosecutor.

(6) "Similarly situated" means that factors that are relevant in charging and sentencing are similar and do not require that all individuals in the comparison group are identical. A defendant's conviction history may be a relevant factor to the severity of the charges, convictions, or sentences. If it is a relevant factor and the defense produces evidence that the **conviction history may have been impacted by racial** profiling or **historical patterns of racially biased** policing, the court shall consider the evidence.

(i) A defendant may share a race, ethnicity, or national origin with more than one group. A defendant may aggregate data among groups to demonstrate a violation of subdivision (a).

That shows the relevant statute, but the rule of law that Petitioner relies upon is much stronger, "slavery… shall [not] exist within the United States" (U.S. Const. amend. XIII)

As quoted to Respondent before it went into hiding for five months:

We apply our multiplier of 13.6 to reveal the current incarceration of Blacks, if the populations were equal and the rate of imprisonment remained constant.

For the 56,659 Whites in prison right now,

there would have to be 483,285 Blacks in prison. Compare actual 35,532

"The long existence of African slavery in this country gave us very distinct notions of what it was, and what were its necessary incidents. … Severer punishments for crimes were imposed on the slave than on free persons guilty of the same offences." Violating "the essential distinction between freedom and slavery." (*Civil Rights Cases*, (1883) 109 U.S. 3, 22) Which violates the absolute prohibition on slavery and incidents thereof, *Griffin v. Breckenridge*, (1971) 403 U.S. 88, 105.

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Civil Rights Act of 1866, ch. 31, § 1, 14 Stat. 27 (1866):

> 42 U.S.C. § 1981 ("(a) **Statement of equal rights *All persons*** within the jurisdiction of the United States shall have the **same right in every State** and Territory to make and enforce contracts, to sue**, be parties, give evidence**, and to the **full and equal benefit of all laws and proceedings for the security of persons** and property as is **enjoyed by white citizens**, and **shall be subject to like punishment**, pains, penalties, taxes, licenses, and exactions of every kind, ***and to no other***.)

"The Thirteenth Amendment" that "undertook to wipe out these burdens and disabilities, the necessary incidents of slavery, constituting its substance and visible form" "by the Civil Rights Bill of 1866" (*Civil Rights Cases, supra*.)

Mr. Justice Douglas made an immensely profound point:

"The true curse of slavery is not what it did to the black man, but what it has done to the white man. For the existence of the institution produced the notion that the white man was of superior character, intelligence, and morality." (*Jones v. Mayer Co.* (1968) 392 U.S. 409, 445, Douglas, J., concurring.)

The purpose of this request is to end the incidents of slavery that are in effect in California by imprisoning Blacks at a grossly disproportionate rate.

"Severer punishments for crimes were imposed on the slave than on free persons guilty of the same offences."

> **483,285 Blacks in prison** vs. 56,659 Whites in prison right now
> Yet if the rate of White incarceration was applied to the Blacks,
> then the 35,532 Blacks in prison **should be 4,161**.

In response to that notification, the Department of *Justice* disregarded the matter, then ignored the plain language of the request so that it could ignore the plain language of the law and denied access, then claimed it looked for the very data it holds and could not find it. Then submitted an unverified purported answer declaring to a court of law that it had responded prior to the petition's sworn statements that no response had been tendered.

And all of the above is the "good faith" that all of Respondent's agents have shown.

In doing so, they just secured the release of 31,000 slaves by establishing systemic racism.

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MEMORANDUM OF LAW

The initial aspect to address is the correctness of this very motion.

DOJ PRECLUDED USE OF MOTION TO STRIKE OR DEMURRER

"The pleadings are the formal allegations by the parties of their respective claims and defenses, for the judgment of the court." (CCP § 420)

There is an operative word in the following statutes:

"A party against whom an **answer** has been filed may object, by demurrer" (CCP § 430.20)

"A notice of motion to strike the **answer**" (CCP § 435(b)(2))

Respondent errantly relied on if a "public agency, or public corporation, in his or her official capacity is defendant, its or his or her **answer** need not be verified." (CCP § 446)

"*Except as otherwise provided in this Title*, the provisions of Part II of the Code are applicable to and constitute the rules of practice in the proceedings mentioned in this Title." (CCP § 1109) Whereby, Title III of this Code contemplated the answer, requiring "the party upon whom the… notice has been served may make a return by demurrer**, verified answer** or both." (CCP § 1089) The Legislature excepted to CCP § 446 by not caveating the special proceeding nor a public agency which they clearly knew how to do. "For the purpose of this section, 'public entity' includes the state, a county, city, district or other public agency or public corporation." (CCP§ 1095)

And they did so again: "However, when a writ of mandate is sought pursuant to the provisions of Section 1088.5, the action may be *filed and served* in the same manner *as an ordinary action* under Part 2 (commencing with Section 307)." (CCP § 1107) The specific connection to an ordinary action was to filing and serving, not to pleading.

"[B]ut if the application is upon due notice and the writ is allowed, the peremptory may be issued in the first instance. With the alternative writ and also with any notice of an intention to apply for the writ, there must be served on each person against whom the writ is sought a copy of the petition. The notice of the application, when given, must be at least ten days. The writ cannot be granted by default. The case must be heard by the court, whether the adverse party appears or not." (CCP § 1089)

"Where a petition for writ of mandate is filed in the trial court pursuant to Section 1088.5, and … where no record of a proceeding is required, the respondent shall answer or otherwise respond within 30 days after service of the petition." (CCP § 1089.5)

"If no return be made, the case may be heard on the papers of the applicant. … If a petition for a writ of mandate filed pursuant to Section 1088.5 presents no triable issue of fact … the matter may be determined by the court by noticed motion of any party for a judgment on the peremptory writ." (CCP § 1094)

Having failed to file an answer, it "is comparable to a blank piece of paper and so necessarily derives no validity" (*OC Interior Services, LLC v. Nationstar Mortgage, LLC*, (2017) 7 Cal. App. 5th 1318, 1332). Respondent earnestly hoped it could stall and play games, but having thus failed to plead, the matter must be heard on the papers.

"Every material allegation of the complaint…, *not* controverted by the **answer**, shall, for the purposes of the action, *be taken as true*." (CCP § 431.20(a))

MANDAMUS BARS MOTION TO STRIKE—LOCAL RULES PREEMPTED

> CCP § 436. **Improper matter or nonconforming pleading; Discretion of court**
> The court may, upon a motion made pursuant to Section 435, or at any time in its discretion, and upon terms it deems proper:
> **(a)** Strike out any irrelevant, false, or improper matter inserted in any pleading.
> **(b) Strike out all** or any part **of any pleading not drawn** or filed **in conformity with the laws of this state**, a court rule, or an order of the court.

Clearly an unverified pleading in response to a verified petition is not drawn in conformity with the laws of this state. Authorizing the Court to strike out all of it. But Petitioner cannot so move a court to act in excess of its jurisdiction. Such an act would play directly into Respondent's desire to delay relief.

Because motions to strike were denied to Respondents they are therefore denied to Petitioners. This is evinced by a motion to strike being absent in the statute. CCP § 1089 ("the party upon whom the writ or notice has been served may make a **return by demurrer, verified answer or both**. If the return is by demurrer alone, the court may allow an answer to be filed within such time as it may designate.") When not a listed tool for a Respondent, it is harder to conjure such a right being held by a Petitioner.

That is not to say that a petitioner was without such a tool under the common law. The 1872 Code of Civil Procedure annotated by the Code commissioners, Vol. II, under CCP § 1089, cite to *People ex rel. Central Pacific Railroad v. Board of Supervisors*, (1864) 27 Cal. 655, 674. For ease of reference the Court may find said annotation in Ex. 18, p.65.

The original code did not codify that rule. And no Legislative body has since either.

> It has long been settled that "[a] court may not by rule change or add to procedural requirements established by statutory provision. An order attempting to add requirements to those prescribed by a statute is to such an extent a nullity and void. (Cf. *Butterfield v. Butterfield,* 1 Cal.2d 227, 228; *Henry v. Willett,* 60 Cal.App. 244, 252.)" (*Conae v. Conae* (1952) 109 Cal.App.2d 696, 697.)
> *Woolsey v. Woolsey (In re Marriage of Woolsey)*, (2014) 220 Cal.App.4th 881, 899

Rule 3.20. Preemption of local rules
(a) Fields occupied
The Judicial Council has **preempted all local rules *relating* to <u>pleadings</u>, demurrers,** ex parte applications, **motions**, discovery, provisional remedies, and the form and format of papers. **No trial court**, or any division or branch of a trial court, may enact or **enforce any local rule concerning these <u>fields</u>**. **All local rules concerning these fields are null and void** unless otherwise permitted or required by a statute or a rule in the California Rules of Court.

Local Rule of Court, rule 3.231 (f) **Pleadings**. The rules of practice governing civil actions are generally applicable to writ proceedings. (Code Civ. Proc., § 1109.) The respondent agency and real party-in-interest **may file a demurrer, motion to strike, answer,** or otherwise appear.

To the contrary, CCP § 1109 does not generally apply, rather it specifically excludes, CCP § 1109 ("Except as otherwise provided in *this* Title, the provisions of Part II of the Code are applicable to and constitute the rules of practice in the proceedings mentioned in this Title.") Yet even the preempted rules do not authorize a *petitioner*.

> "... A trial court is without authority to adopt local rules or procedures that conflict with statutes or with rules of court adopted by the Judicial Council, or that are inconsistent with the California Constitution or case law. (*Rutherford, supra,* at pp. 967–968; see also *Hall v. Superior Court* (2005) 133 Cal.App.4th 908, 916–918.) As provided in Government Code section 68070, subdivision (a): 'Every court may make rules for its own government and the government of its officers *not inconsistent with law or with the rules adopted and prescribed by the Judicial Council.*' (Italics added; see also 2 Witkin, Cal. Procedure (4th ed.1996) Courts, § 204, p. 272; *id.* (2006 supp.) § 204, pp. 87–88.) In sum, local courts may not create their own rules of evidence and procedure in conflict with statewide statutes." (*Elkins, supra,* 41 Cal.4th at pp. 1351–1352.)
Woolsey at 896

One reason why the local rules are preempted in this area is because writ proceedings are confusing enough. The misunderstandings of local courts only make matters more confusing.

Local Rule 3.231 (b) "Noticed Motion for a Peremptory Writ. (1)… The hearing on the motion is the trial of the case."

"A judgment in a special proceeding is the final determination of the rights of the parties therein. The definitions of a motion and an order in a civil action are applicable to similar acts in a special proceeding." (CCP § 1064) And "Every direction of a court or judge, made or entered in

writing, and *not included in a judgment*, is denominated an order. An application for an order is a motion." (CCP § 1003) Moving for a judgment obtains a contradictory result.

There is a much simpler reason why such trivialities are not authorized in mandamus. See CCP § 21 (remedies are divided into two classes: actions and special proceedings) now try to imagine any aspect of law not encompassed in CCP § 22: ("An action is an ordinary proceeding in a court of justice by which one party prosecutes another for the declaration, enforcement, or protection of a right, the redress or prevention of a wrong, or the punishment of a public offense.")

"Every other remedy is a special proceeding." (CCP § 23) But the word remedy was absent from § 22, the comparative word was "other". That is because '"Remedy' … is the *means* by which a wrong is redressed and relief obtained." (*Painter v. Berglund* (1939) 31 Cal.App.2d 63, 70) Thus the injury not described in § 22, is the continuing injury.

We do not lollygag when a person is suffering a persistent injury, we stop the harm.

Thus, in mandamus, a petitioner sets out in its papers the entire case; a Respondent sets out their case; to be heard upon them, there testimony is their verification. "An affidavit may be used to verify a pleading or a paper in a special proceeding" (CCP § 2009).

"The writ must be issued in all cases where there is not a plain, speedy, and adequate remedy, in the *ordinary course of law*. It must be issued upon the verified petition of the party beneficially interested." (CCP § 1086) But such "writ cannot be granted by default. The case must be heard by the court, whether the adverse party appears or not." (CCP § 1088)

See *Lewis v. Superior Court* (1999) 19 Cal.4th 1232, 1250 ("The use of the term 'heard' in section 1088, authorizing issuance of a peremptory writ in the first instance, does not appear to contemplate consideration of oral argument. In context, the requirement that the case 'must be heard' means that the court cannot issue the writ by default, but rather must consider and evaluate the petition before granting the relief requested, even if the adverse party does not respond to the petition.")

"The State of California **affirms its role in protecting the descendants of enslaved people and all Black Californians**… and **acknowledges and affirms its responsibility <u>to end ongoing harm</u>**." (Gov. Code § 8301.2(b)) Enacted five days before Respondent disregarded a specific demand for a third time to stop the incidents of slavery in California.

> *Id*., (a) The State of California recognizes and accepts responsibility for all of the harms and atrocities committed by the state, its representatives thereof, and entities under its jurisdiction **who promoted, facilitated, enforced, and permitted** the institution of chattel

slavery and the **enduring legacy of ongoing** badges and **incidents** from which the **systemic structures of discrimination have come to exist.**

LEGAL BASIS FOR PEREMPTORY ISSUANCE

CHAPTER 4. Writs of Review, Mandate, and Prohibition May Issue and Be Heard at Chambers

CCP § 1107 When an application is filed for the issuance of any prerogative writ, the application shall be accompanied by proof of service of a copy thereof upon the respondent and the real party in interest named in such application. The provisions of Chapter 5 (commencing with Section 1010) of Title 14 of Part 2 shall apply to the service of the application. However, when a writ of mandate is sought pursuant to the provisions of Section 1088.5, the action may be filed and served in the same manner as an ordinary action under Part 2 (commencing with Section 307). …. *Within five days after service and filing* of the application, the real party in interest or the respondent or both may serve upon the applicant and file with the court points and authorities in opposition to the granting of the writ.

The court in which the application is filed, in its discretion and for good cause, may grant the application ex parte, without notice or service of the application as herein provided.

CCP § 1108 Writs of review, mandate, and prohibition issued by the Supreme Court, a court of appeal, or *a superior court*, may, in the discretion of the court issuing the writ, be made returnable, and a hearing thereon be had at any time.

CCP § 1087

The writ may be either alternative or peremptory. The alternative writ **must command the party to whom it is directed immediately after the receipt of the writ, or at some other specified time, to do the act required to be performed**, or to show cause before the court at a time and place then or thereafter specified by court order why he has not done so. The **peremptory writ must be in a similar form**, except that the words requiring the party to show cause why he has not done as commanded must be omitted.

CCP § 1088

When the application to the court is made without notice to the adverse party, and the writ is allowed, the alternative must be first issued; but **if the application is upon due notice and the writ is allowed, the peremptory may be issued in the first instance.** With the alternative writ and also with any notice of an intention to apply for the writ, there must be served on each person against whom the writ is sought a copy of the petition. The notice of the application, when given, *must be at least ten days*. The writ *cannot be granted by default*. The case **must be heard by the court**, whether the adverse party appears or not.

CCP § 1088.5

In a trial court, if no alternative writ is sought, proof of service of a copy of the petition need not accompany the application for a writ at the time of filing, but proof of service of a copy of the filed petition must be lodged with the court prior to a hearing or any action by the court.

A proof of service, showing Respondent was served on March 14, 2025, was filed with the Court on March 14, 2025. Any action by the court is thus permitted.

The statute that shows the local rules are preempted by state law is:

CCP § 1089

> On the date for return of the alternative writ, or on which the application for the writ is noticed, or, *if the Judicial Council shall adopt rules* relating to the return and answer, then at the time provided by those rules, the party upon whom the writ or notice has been served may make a return by demurrer, **verified answer** or both. If the return is by demurrer alone, the court may allow an answer to be filed within such time as it may designate. Nothing in this section affects rules of the Judicial Council governing original writ proceedings *in reviewing courts.*

Rules of Court, rule 3.1320(i) "**Motion to strike late-filed amended pleading**." Referencing therein CCP § 1010 as for allowed time, reiterated in rule 3.1322(b) "**Timing**." The limited permission granted was to late-filed amended pleadings.

CCP § 1089.5

> Where a petition for writ of mandate is filed in the trial court pursuant to Section 1088.5, and … where no record of a proceeding is required, the respondent **shall answer** or otherwise respond **within 30 days after service of the petition**.

THE PROPRIETY OF HEARING THE CAUSE IN CHAMBERS IS PROVIDED BY STATUTE

Code Civ. Proc., § 166 **(a)** The judges of the superior courts may, in chambers:
(1) Grant all… writs that are usually granted in the first instance upon an ex parte application, and hear and dispose of those… writs…
(3) Hear and determine all uncontested actions, proceedings, demurrers, motions, petitions, applications, and other matters pending before the court other than actions for dissolution of marriage, for legal separation, or for a judgment of nullity of the marriage, and except also applications for confirmation of sale of real property in probate proceedings.
(b) A judge may, out of court, anywhere in the state, exercise all the powers and perform all the functions and duties conferred upon a judge as contradistinguished from the court, or that a judge may exercise or perform in chambers.

> Historically, "at chambers" referred to appointed hours when "out-of-court" matters were disposed of during "term time" but not in a formally convened court in the courtroom. The term "chambers" later was extended to include any place, either in or out of the courtroom, where the judge heard such matters while the court was not in actual session. Von Schmidt v. Widber (Cal. 1893), 99 Cal. 511, 34 P. 109, 1893 Cal. LEXIS 702.
> (Code Civ. Proc., § 166 (Deering, Lexis Advance through all legislation of the 2024 Regular and Special sessions).)
>
> The meaning of the word "chambers" varies with the context in which it is used. It may mean a room adjacent to a courtroom in which a judge performs the duties of her office when her court is not in session; but the word is also commonly used in a different sense. Thus, when

> a judge performs a judicial act while the court is not in session in the matter acted upon, it is said that she acted "in chambers," whether the act was performed in the "judge's chambers," the library, at her home, or elsewhere. People v. Valenzuela (Cal. App. 2d Dist.), 259 Cal. App. 2d 826, 66 Cal. Rptr. 825, 1968 Cal. App. LEXIS 2025, cert. denied, (U.S. 1968), 393 U.S. 943, 89 S. Ct. 311, 21 L. Ed. 2d 280, 1968 U.S. LEXIS 399.

DISCUSSION

Respondent has formed an opinion that the CPRA is to be interpreted as literal as possible. That a single record must exist in order to be obliged to comply and should such document not predate the request, then denial is proper.

> Gov. Code, § 7930.000 **(a)** It is the intent of the Legislature to assist members of the public and state and local agencies in identifying exemptions to the California Public Records Act. It is the intent of the Legislature that, after January 1, 1999, e*ach addition or amendment to a statute that exempts* any information ***contained in*** a public record from disclosure **pursuant to Section 7927.705 shall be listed and described in Chapter 2 (commencing with Section 7930.100)** pursuant to a bill authorized by a standing committee of the Legislature to be introduced during the first year of each session of the Legislature.
> **(b)** The statutes and constitutional provisions listed in Chapter 2 (commencing with Section 7930.100) **may operate to exempt** certain records, ***or portions thereof***, from disclosure. The statutes and constitutional provisions listed and described may not be inclusive of all exemptions. The **listing of a statute** or constitutional provision in Chapter 2 (commencing with Section 7930.100) **does not itself create an exemption**. Requesters of public records and public agencies are cautioned to review the applicable statute or constitutional provision to **determine the extent to which** it, in light of the **circumstances surrounding the request**, exempts public records from disclosure.

"The following provisions *may* operate to exempt certain records, *or portions thereof*, from disclosure pursuant to this division:" Gov. Code §§ 7930.100, 7930.105, 7930.110, 7930.115, 7930.120, 7930.125, 7930.130, 7930.135, 7930.140, 7930.145, 7930.150, 7930.155, 7930.160, 7930.165, 7930.170, 7930.175, 7930.180, 7930.185, 7930.190, 7930.195, 7930.200, 7930.205, 7930.210, 7930.215.

"A CPRA request can cover anything the person making the request suspects the agency might have in its files." (*Wilder v. Superior Court* (1998) 66 Cal.App.4th 77, 83)

Gov. Code § 7923.105
"The court shall decide the case after the court does all of the following:
(a) Examine the record in camera, if permitted by subdivision (b) of Section 915 of the Evidence Code.
(b) Examine any papers filed by the parties.
(c) Consider any oral argument and additional evidence as the court *may allow*."

The record was elected to be kept secreted by the Department, a crime per Gov. Code § 6200 et seq. The Court has been presented the papers offered by the parties consisting of:

1.) The CPRA request submitted to Respondent on Nov. 4, 2024.
2.) Respondent's invocation of consulting with multiple components of the Department and its required date to comply or deny by Dec. 2, 2024.
3.) Petitioner's letter alerting the Department to incidents of slavery that are presently occurring in California, submitted to help the multiple components of the Department on Nov. 14, 2024.
4.) Petitioner's email inquiring as to status on Dec. 10, 2024 when the Department failed to comply by the deadline.
5.) Petitioner's email inquiring as to status on Jan. 6, 2025 when the Department showed no intention of compliance.
6.) A proper in form petition seeking a writ of mandamus compelling the Department to conform its conduct to law and to release the records requested after it failed to respond at all, filed with the Court and served on Respondent on March 14, 2025.
7.) The attached letter dated April 9, 2025, whereby a single member of the Department issued her decision to deny the records requested based on her own reading that this was a request for individual data despite repeatedly excluding individual data from the request. Whereby such singular signature proves that multiple components of the Department concurred that the data was required to be released by law.
8.) The document wrongly titled Answer filed by Respondent on April 11, 2025, that was unverified, failed to positively answer and willfully sought to mislead the Court by declaring Petitioner committed the crime of perjury when declaring no response had been submitted when filed on March 14, 2025.

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RESPONDENT FAILED ITS MINISTERIAL DUTY TO COMPLY WITH THE LAW, THE ELECTED PATH OF DECEIVING A COURT TO CONTINUE THE HARMS OF SYSTEMIC RACISM REQUIRES ISSUANCE OF THE WRIT OF MANDAMUS

> Upon the filing of a verified petition, the court must set a schedule "with the object of securing a decision as to the matters at issue at the earliest possible time." (§ 7923.005.) If the court finds unjustified the public agency's decision to refuse disclosure under either section 7922.000 or 7920.505, the court must order disclosure of the record. (§ 7923.110, subd. (a).)

Gascon v. Logan (2023) 94 Cal.App.5th 352, 366

In the court's docket it was observed that the clerk of the court set a Case Management Conference for Aug. 1, 2025 at 8:30 in this Department 56. However, such setting is not consistent with the CPRA's requirement for "the earliest possible time." Of course, Petitioner is ignorant of the Court's calendar, and thus Aug. 1, 2025 may very well be the earliest possible time for a *calendar* setting, but it is not the earliest *possible* time. For instances such as the present matter, the Legislature has seen fit to empower the Court to hear Petitioner's papers in chambers.

> And upon a determination that the public entity has failed to meet obligations as basic as projecting a reasonably prompt schedule for compliance, the Public Records Act authorizes a trial court to 'direct disclosure by a public official'… see also *Sukumar, supra*, 14 Cal.App.5th at p. 466, 221 Cal.Rptr.3d 418 [unwillingness to locate and produce documents is tantamount to withholding documents]; §§ 7923.000, 7923.100 [authorizing enforcement action where documents are improperly withheld].) Accordingly, the Public Records Act does not leave a plaintiff at the mercy of a public agency that is unreasonably or indefinitely delaying its production.

Cnty. of San Benito v. The Superior Court (2023) 96 Cal.App.5th 243, 263

Gov. Code, § 7923.100 ("Whenever it is made to appear, by verified petition to the superior court of the county where the records or some part thereof are situated, that certain public records are being *improperly withheld* from a member of the public, the court shall order the officer or other person charged with withholding the records to disclose those records *or* show cause why that person should not do so.") The text of the statute does not expressly require an alternative writ, rather it provides two options. Since the second option is foreclosed by the Department's waiver of the right to show cause when willfully severing all communications instead of complying with their statutory obligations, then issuing a most disingenuous denial letter signed by a single rogue agent of the Department, not by any other member of the multiple components of the Department, combined with the failure to submit a verified answer and positively answer within the time contemplated by law, only a peremptory writ remains.

"Discretion ... is the power conferred on public functionaries to act officially according to the dictates of their own judgment." (*Ctr. for Biological Diversity v. Dep't of Conservation* (2018) 26 Cal.App.5th 161, 171) The discretion exercised here was foreclosed by command of the Thirteenth Amendment. "A ministerial act is an act that a public officer is required to perform in a prescribed manner in obedience to the mandate of legal authority and without regard to his [or her] own judgment or opinion concerning such act's propriety or impropriety, when a given state of facts exists." (*Ctr. for Biological Diversity, ibid.*)

CONCLUSION

While it would be a singular honor to appear before the jurist that is seated in this court, Petitioner fears that the gravity of the instant cause requires resolution by the most expedient means. Which would require forsaking such an appearance in favor of the remedy afforded by law, to have this Court rule in chambers and issue a peremptory writ of mandamus directing and compelling Respondent to produce the records as prayed.

Petitioner's aims are simple: End systemic racism in California.

End incidents of slavery in California.

Respondent has embarrassed itself enough. The Executive's decision to overrule the legislature because it wants to keep those that the first clause of the Thirteenth Amendment deemed shall be free is totalitarian rule with disregard of the separation of powers. Preemptively usurping the courts from arbitrating claims and cries for justice. Denying its duty to uphold the law, not the parts that it favors, but all laws. For the Department is merely a servant that we the people of California lend our name to.

The Department can continue to refrain and cause a greater stain publicly or it can release the data needed for any Californian to be able to ascertain if they fall within the available remedies of Pen. Code § 745 on its website. Either compile it all and deliver it to Petitioner or compile it all and release it to the public on its website.

It is hoped the Department will elect to be a leader so that all will know no one can escape the greatest maxim of all, Civ. Code § 3548:

"The law has been obeyed."

PRAYER FOR INDEPENDENT OVERSIGHT AND SANCTIONS

Petitioner respectfully requests the following:

1. An order requiring independent oversight of DOJ's compliance, potentially via court-appointed auditing or the FBI's Civil Rights Division;
2. A finding of contempt and monetary sanctions should DOJ be found to have knowingly withheld or falsified data;
3. Sanctions totaling $4,030,000,000—representing the annual cost Californians pay to incarcerate 31,000 people whose imprisonment violates the Thirteenth Amendment.

CONCLUSION AND PRAYER FOR RELIEF

DOJ's refusal to file a verified answer is not a clerical misstep—it is a procedural forfeiture. Its fabricated reliance on ACHS, a non-statutory system, and its failure to justify exemptions under express provisions of law violate both the letter and the spirit of the CPRA.

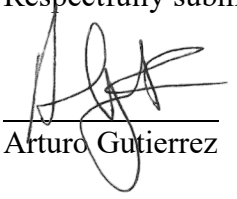
Petitioner respectfully requests that the Court:

1. Grant judgment on the peremptory writ of mandate in chambers;
2. Compel DOJ to produce the requested data as prayed in the petition;
3. Order independent oversight to ensure DOJ's compliance;
4. Impose sanctions or civil contempt if DOJ is found to have knowingly misled the Court.

This case presents not only an abuse of procedural integrity but a broader refusal to confront racial disparity. For these reasons, peremptory relief must issue now.

It is so prayed.

Respectfully submitted,



May 12, 2025

Arturo Gutierrez

TABLE OF EXHIBITS

Ex.	Description	Date	Page
16	Denial Letter issued by Respondent	4/9/25	55
17	DOJ Information Bulletin 13-04-CJIS	4/12/13	60
18	Code of Civil Procedure annotated by the Code commissioners, Vol. II		65

PROOF OF SERVICE

1. I, Edward Lasseville, am over the age of 18 years and am not party to this cause. I am a resident of or employed in the county where the service occurred.

a. My business address is:

b. 6040 Sante Fe Avenue Huntington Park, CA 90255

c. Lasseville@yahoo.com

2. I served the following documents:

NOTICE OF MOTION FOR JUDGMENT ON THE PEREMPTORY WRIT IN CHAMBERS NOW; SYNOPSIS; MOTION; MEMORANDUM OF LAW

3. The manner of service per party served is indicated next to each party name below by either:

a. Email: Attaching an electronic version of the document(s) in 2, to an email using the email address(es) listed next to each party's name and causing them to be sent electronically.

b. Postal: Enclosing a copy of the document(s) in 2 in an envelope, addressed to the party as shown next to each name and depositing the sealed envelope with the U.S. Postal Service, postage fully prepaid.

c. Electronic Service: "a party may effectuate service not only by the electronic transmission of a document, but also by providing electronic notification of where a document served electronically may be located and downloaded." (Rule of Court 2.250 Advisory Committee Comment citing Code Civ. Proc. § 1010.6)

4. I served the documents in 2 on the following persons in the manner indicated below:

The manner in 3.a.

Respondent: The Department of Justice of California
c/o deputy Attorney General Kelsey Kook
2550 Mariposa Mall, Room 5090
Fresno, CA 93721-2271
Telephone: (559) 705-2356
kelsey.kook@doj.ca.gov

On 5/19/2025, from Los Angeles County, I caused the documents in 2 to be served in the manner described in 3, identified as to the persons and their listed addresses stated in 4.

I declare under penalty of perjury under the laws of the State of California the above is true and correct.

May 19, 2025

Edward Lasseville

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EXHIBIT 16

CALIFORNIA
DEPARTMENT OF JUSTICE

Rob Bonta
Attorney General

CJIS Executive Office
Telephone: (916) 210-5368
Fax: (916) 227-3079
E-Mail Address: CJISPRA@doj.ca.gov

April 9, 2025

Arturo Gutierrez
603 Golden West Ave.
Ojai, CA 93023
Sent via email: gcglaw@gmail.com

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, signaletic 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 data[1] 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.

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,

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

For ROB BONTA
Attorney General

EXHIBIT 17

59

California Department of Justice CALIFORNIA JUSTICE INFORMATION SERVICES DIVISION Cuong D. Nguyen, Director	**INFORMATION BULLETIN**	
Subject: Criminal Offender Record Information (CORI)	*No:* 13-04-CJIS *Date:* 4-12-13	*Contact for information* Client Services Program 227-3332

This Information Bulletin supersedes Information Bulletin 07-01-BCIA

TO: California Department of Justice (DOJ) Automated Criminal History System (ACHS) Users

This bulletin advises agencies of the regulations placed on the user and dissemination of DOJ's CORI and to remind agencies of the policies regarding the ACHS "route to" field (RTE).

ACHS ACCESS

Section 11075 of the Penal Code (PC) defines CORI as "records and data compiled by criminal justice agencies for purposes of identifying criminal offenders and of maintaining as to each such offender a summary of arrests, pretrial proceedings, the nature and disposition of criminal charges, sentencing, incarceration, rehabilitation, and release." State and local summary criminal history information is considered CORI.

Section 11105 of the PC identifies who has access to DOJ CORI and under what circumstances it may be released. Access is based upon the "right to know" and the "need to know." The "right to know" is defined as "authorized access to such records by statute" and the "need to know" is defined as "the information is required for the performance of official duties or functions."

Title 11, sections 703 (d) and 707 (b) of the California Code of Regulations (CCR) require agencies to conduct record clearances on all personnel hired after July 1, 1975, who have access to CORI. Record checks require the submission of fingerprints to the DOJ for processing. The clearances must be obtained for anyone who may have access to CORI, including non-criminal justice personnel having physical access to the computer systems, terminals or stored CORI. Visitors, such as tour groups, are not required to undergo a record check; however, they must be escorted at all times.

ACHS RESTRICTIONS

Unless specifically authorized by statute, agencies with access to ACHS via the California Law Enforcement Telecommunications System (CLETS) are prohibited from making inquiries into ACHS for employment, licensing or certification purposes. This restriction is based on the court's decision in *Central Valley v. Younger.*

Effective June 1, 2006, the DOJ Command Center no longer processes name based criminal history inquiries from agencies screening applicants for peace officer positions. Please see DOJ Information Bulletin 06-09 BCIA.

The following are statutory exceptions to the prohibition of using the CLETS to conduct criminal record clearances:

Education Code section 45125.5

A school district or county office of education may request a local law enforcement agency to conduct an automated records check of a prospective non-certified employee to ascertain whether the applicant has a criminal record. For purposes of this section, "prospective non-certified employee" includes only those applicants whom the requestor intends to hire at the time the automated records check is requested. **Note: While statutory authority exists for these entities to request criminal history information on the above applicants, the Michelle Montoya School Safety Act (Chapter 588, Statutes of 1997) requires all non-certified employees to undergo fingerprint based criminal history clearances before employees can begin work.**

Education Code section 35021.1

A school district or county office of education may request that a local law enforcement agency conduct an automated records check of a prospective non-teaching volunteer aid in order to ascertain whether the volunteer has been convicted of any sex offenses as defined in Education Code section 44010.

Penal Code section 11105.03

Local law enforcement agencies are authorized to provide state criminal history information obtained via CLETS, at the request of local housing authorities, for the purpose of screening prospective residents and prospective and current housing authority staff.

UNAUTHORIZED ACCESS AND MISUSE OF ACHS AND CORI

The unauthorized access and misuse of ACHS and CORI violates state statutes and may adversely affect an individual's civil rights. Sections 11140 through 11144 of the PC prescribe penalties for misuse of state summary criminal history information, while PC sections 13301 through 13304 prescribe penalties for misuse of local summary criminal history information. Sections 6200 and 6201 of the Government Code prescribe the penalties for the misuse of various government records, which include CORI. Section 502 of the PC prescribes the penalties relating to computer crimes.

"ROUTE TO" FIELD (RTE)

The mandatory RTE must be completed for all ACHS inquiries. This field contains up to 30 characters and must indicate the following: the name, initials or ID number (#) of the requestor; the

operator's name, initials or ID # (if different from the requestor); and the specific reason for the request, i.e., case #, file #, Department of Corrections and Rehabilitation (CDCR) #, inmate #, etc. The reason for the inquiry is to ensure that an agency has provided sufficient information to justify the "need to know" criteria. Generic terms, such as "Investigation" or "Inquiry" are unacceptable for use as an inquiry reason.

ACHS AUDIT TRAIL

Title 11, section 707 (c) of the CCR requires each authorized agency to maintain, and make available for inspection, an audit trail for a period of three years from the date of release of CORI from an automated system. The audit trail must provide an agency with sufficient information to substantiate the "need to know." An agency may choose to maintain the audit trail by utilizing the RTE in the ACHS inquiry format, provided the RTE contains the mandatory data. In addition, the "CLETS Policies, Practices, and Procedures (PPPs)" require that agency direct interface message switching computers record all transactions to and from CLETS in their entirety on an automated log or journal, and have the capability to search and print all journals for a three year period (PPP 1.7.1 A).

ACHS THIRD PARTY RELEASE

Section 11078 of the PC requires each agency, holding or receiving CORI in a computerized system, to maintain a listing (audit trail) of the agencies to which it has released or communicated CORI. Also, pursuant to section 707 (c) of the CCR, this audit trail must be maintained for a period of three years and must include any routine releases.

ACHS TEST/TRAINING RECORDS

Active records shall not be used to test a system or to train employees. The "need to know" for access to CORI cannot be justified for test or training purposes. ACHS records which can be used for testing and/or training purposes are identified in DOJ Information Bulletin 97-12 BCIA.

DESTRUCTION

Title 11, section 708 (a) of the CCR requires the destruction of CORI in such a manner that the identity of the subject can no longer be ascertained. When CORI is destroyed outside the authorized agency (e.g., vendor hired to handle confidential destruction), a person designated by the agency shall witness the destruction. The DOJ recommends that agencies destroy CORI when the business need has been fulfilled.

Pursuant to Section 708 (c) of the CCR, printouts of CORI obtained through system development, test or maintenance shall be destroyed at the completion of the function or purpose for which the printout was obtained. DOJ Information Bulletin 02–17 BCII which states "retention of CORI is permissible if the agency has a legitimate business need for the information and there are no statutory requirements to destroy such information" is still valid. However, the DOJ recommends that agencies destroy CORI when the business need has been fulfilled.

CONTACT INFORMATION

If you have questions regarding the statutes or regulations placed on the use and dissemination of CORI, the policies regarding the ACHS "route to" field (RTE), or complaints concerning unauthorized access and misuse of CORI please contact the Client Services Program at (916) 277-3332 or dojcsp@doj.ca.gov.

If you have questions about CLETS Training or CORI audits, please send an e-mail to Client Services Program (CSP) at DOJCSP@doj.ca.gov or call CSP at (916) 227-3332.

Sincerely,

CUONG D. NGUYEN, Director
California Justice Information Services Division

For KAMALA D. HARRIS
Attorney General

EXHIBIT 18

64

to show cause before the Court, at a specified time and place, why he has not done so. The peremptory writ must be in a similar form, except that the words requiring the party to show cause why he has not done as commanded must be omitted, and a return day inserted.

If the application be without notice, the alternative writ may issue; otherwise, the peremptory

1088. (§ 470.) When the application to the Court is made without notice to the adverse party, and the writ be allowed, the alternative must be first issued; but if the application be upon due notice, and the writ be allowed, the peremptory may be issued in the first instance. The notice of the application, when given, must be at least ten days. The writ cannot be granted by default. The case must be heard by the Court, whether the adverse party appear or not.

Notice and default.

NOTE.—If the application be upon notice, the Court may, in its discretion, issue either an alternative or peremptory writ in the first instance.—People vs. Turner, 1 Cal., p. 143.

The adverse party may answer under oath.

1089. (§ 471.) On the return of the alternative, or the day on which the application for the writ is noticed, the party on whom the writ or notice has been served may show cause by answer, under oath, made in the same manner as an answer to a complaint in a civil action.

NOTE.—In a proceeding against a Board of Supervisors, in its corporate capacity, to procure a writ of mandate, the answer should be in form the answer of the Board in its aggregate capacity; the answer of one or more than one of the Supervisors, in his or their own name or names, whether as Supervisors or otherwise, cannot be regarded as the answer of the Board, and, on motion, will be stricken out.—People vs. Supervisors of San Francisco, 27 Cal., p. 665. A motion for judgment on the pleading is equivalent to a demurrer to the answer, on the ground that it does not state facts sufficient to constitute a defense to the action. Objections which are required to be taken by special demurrer, or by motion to strike out, will be disregarded on such motion.—People vs. Supervisors of San Francisco, 27 Cal., p. 665. In proceedings by mandate against a

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County Treasurer, to compel him to pay a warrant drawn upon him by the Auditor, the Treasurer may show in defense that the warrant is founded upon a demand not legally chargeable against the county.—Keller vs. Hyde, 20 Cal., p. 594; Connor vs. Morris, 23 Cal., p. 451.

If an essential question of fact is raised, the Court may order a jury trial.

1090. (§ 472.) If an answer be made, which raises a question as to a matter of fact essential to the determination of the motion, and affecting the substantial rights of the parties, and upon the supposed truth of the allegation of which the application for the writ is based, the Court may, in its discretion, order the question to be tried before a jury, and postpone the argument until such trial can be had, and the verdict certified to the Court. The question to be tried must be distinctly stated in the order for trial, and the county must be designated in which the same shall be had. The order may also direct the jury to assess any damages which the applicant may have sustained, in case they find for him.

NOTE.—Calaveras County vs. Brockway, 30 Cal., p. 325; People vs. Judge Tenth District, 9 Cal., p. 19; People vs. Harris, 9 Cal., p. 571.

The applicant may demur to the answer, or countervail it by proof.

1091. (§ 473.) On the trial, the applicant is not precluded by the answer from any valid objection to its sufficiency, and may countervail it by proof either in direct denial or by way of avoidance.

Motion for new trial, where made.

1092. The motion for new trial must be made in the Court in which the issue of fact is tried.

NOTE.—The rule was otherwise under the old Practice Act.

The Clerk must transmit the verdict to the Court where the motion is pending, after which the hearing shall be had on motion.

1093. (§ 475.) If no notice of a motion for a new trial be given, or if given, the motion be denied, the Clerk, within five days after rendition of the verdict or denial of the motion, must transmit to the Court in which the application for the writ is pending, a certified copy of the verdict attached to the order of trial;

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EXHIBIT 7

Arturo Gutierrez
226 West Ojai Ave.
Suite 101 PMB 547
Ojai, CA 93023
(805) 669-0226
teamleader@survivinginjustice.org

Electronically FILED by
Superior Court of California,
County of Los Angeles
5/19/2025 3:41 AM
David W. Slayton,
Executive Officer/Clerk of Court,
By V. Ortega, Deputy Clerk

Petitioner *in propria persona*

SUPERIOR COURT OF CALIFORNIA,

COUNTY OF LOS ANGELES

STANLEY MOSK COURTHOUSE

ARTURO GUTIERREZ *Petitioner*, vs. CALIFORNIA DEPARTMENT OF JUSTICE *Respondent*.	Case No. 25STCV07287 **REQUEST FOR JUDICIAL NOTICE** To be heard as part of the in Chambers Ruling Requested CCP §§ 1107; 1108 Department: 56 Hon. Holly J. Fujie, Judge

TO THE CLERK OF THE SUPERIOR COURT OF LOS ANGELES COUNTY AND TO RESPONDENT THE CALIFORNIA DEPARTMENT OF JUSTICE, PLEASE TAKE NOTICE:

NOTICE OF MOTION FOR THE COURT TO TAKE JUDICIAL NOTICE

Petitioner, Arturo Gutierrez, *in propria persona*, notices along with an application for judgment on the peremptory writ of mandate to issue after ten days of this filing, a request for the Court to take judicial notice, pursuant to Evidence Code §§ 451, 452 and 453, of the materials listed herein.

This notice of motion and motion is based on the facts and grounds as set forth in the memorandum of law, any exhibits and the papers on file.

MEMORANDUM OF LAW

In conjunction with the motion for peremptory issuance, Petitioner requests the Court to take judicial notice in support thereof.

FACTUAL BASIS IN SUPPORT

Respondent is the California Department of Justice. By our constitution, Government Code and Penal Code, Respondent is tasked with engaging in various matters. Those aspects and relevant laws are set forth below.

LEGAL GROUNDS

Petitioner Arturo Gutierrez respectfully requests that this Court take judicial notice of the following materials, pursuant to Evidence Code §§ 451, 452 and 453. These materials are not subject to reasonable dispute, are capable of accurate and ready determination, and consist of records and publications issued by a state agency or contained within official government websites.

1. §452(h) The California Department of Justice's publicly available 'OpenJustice' portal: https://openjustice.doj.ca.gov
2. §452(c) The 2023 Crime in California report, including pages 41 through 59, published on the DOJ website.
3. *A Primer: Three Strikes - The Impact After More Than a Decade*, the Legislative Analyst's Office, Oct. 2005 https://lao.ca.gov/2005/3strikes/3strikes102005.htm
4. §452(h) The fact that the California Department of Justice issued a denial letter to Petitioner dated April 9, 2025, which is Exhibit 16 to the Motion for Peremptory Issuance in Chambers. Judicial notice is requested as to the letter's date of issuance only—not for the truth of its contents.
5. §451(a) Penal Code §§ 11103 and 11104, establishing DOJ's duty to collect and maintain records of incarcerated persons by race, age, and facility, *id*., § 11105(g) releasable if individual identity not disclosed.
6. §451(a) Penal Code §§ 11075, 11076 is limited to individual identifying data.
7. §451(a) Penal Code § 13125 the DOJ possesses each and every item requested, including second and third strike sentence enhancements.
8. §451(a) Government Code §§ 7922.000, 7922.535, 7922.540, 7922.570, 7927.705, and 7930.000, establishing the legal framework for required acts and if exemptions are available or not under the Public Records Act.

9. §452(h) DOJ's "Arrest Dispositions" and "Crime and Clearance" datasets, disaggregated by race, gender, county, and year (available via OpenJustice portal), establishing that information released by county is not confidential.
10. §451(a) Penal Code §§ 13010–13012 and 13020–13021, showing DOJ's statutory authority to collect and publish criminal statistics by demographic categories. Pen. Code § 13370, DOJ is statutorily obligated to release this data, funding is not an issue as it already possesses it.
11. §451(c) California Rules of Court, Rule 3.20, preemption of local rules of court on matters of pleadings and motions.
12. §451(a) Penal Code § 745, racial justice statute mandates the specific data requested is necessary.
13. §451(a) United States Constitution, amend. XIII, slavery is abolished in this country.
14. §451(a) Decisional law of the Supreme Court in *Civil Rights Cases*, (1883) 109 U.S. 3, 22 defining incidents of slavery.
15. §451(a) Gov. Code § 8301.2 the DOJ must cease and desist its perpetration and concealment of incidents of slavery.
16. §451(a) Gov. Code § 100 (a) "The sovereignty of the state resides in the people thereof, and all writs and processes shall issue in their name. (b) The style of all process shall be 'The People of the State of California,' and all prosecutions shall be conducted in their name and by their authority."

DISCUSSION

I. EXECUTIVE ACTS OF THE OFFICIALS OF THIS STATE

> First, section 452, subdivision (c) provides that judicial notice may be taken of "[o]fficial acts of the legislative, executive, and judicial departments of the United States and of any state of the United States." This subdivision "enables courts in California to take notice of a wide variety of official acts. … [A]n expansive reading must be provided to certain of its phrases[;] included in 'executive' acts are those performed by administrative agencies." (Simons, California Evidence Manual (2013) Judicial Notice § 7:11, p. 558.)

Scott v. JPMorgan Chase Bank, N.A. (2013) 214 Cal.App.4th 743, 752-753

The Department of Justice is charged with reporting all information and releasing that data publicly. The Department does so as to each and every aspect requested, save for the striker population, which the Department most certainly does collect, Pen. Code § 13125 "Sentence enhancement data elements".

Because the OpenJustice portal publicly releases the data by county and all other aspects requested in its public publication Crime in California, it is most certainly not confidential.

II. FACTS NOT REASONABLY SUBJECT TO DISPUTE

> Second, section 452, subdivision (h) provides that judicial notice may be taken of "[f]acts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy." In this case, the fact of the P&A Agreement and the fact of the transfer to JPMorgan of WaMu assets, but not liabilities for borrower's claims, are not reasonably subject to dispute and are capable of ready determination, particularly since Scott did not question with specificity the authenticity, completeness, or legal effect of the P&A Agreement posted on the official FDIC Web site. Numerous federal courts have taken judicial notice of the P&A Agreement on a similar basis.
> *Scott* at 753

The facts released are not reasonably open to dispute unless the DOJ is going to admit it has been falsely reporting the information required by statute to release.

III. THE DATE OF THE DOCUMENT IS PROPER TO NOTICE

> "Strictly speaking, a court takes judicial notice of facts, not documents. (Evid. Code, § 452, subds. (g), (h).) When a court is asked to take judicial notice of a document, the propriety of the court's action depends upon the nature of the facts of which the court takes notice from the document. …
> *Scott* at 755

The date of the April 9, 2025 letter is the fact to be noticed, one not capable of dispute. The contents are not worth noticing.

IV. REPORTS OF THE LEGISLATIVE ANALYST

Case law supports taking notice of the Legislative Analysists' Office report that notes strike population by race. (*Heavenly Valley v. El Dorado County Bd. of Equalization* (2000) 84 Cal.App.4th 1323, 1339-1340; *People v. Patterson* (1999) 72 Cal.App.4th 438, 443; *Board of Administration v. Wilson* (1997) 52 Cal.App.4th 1109, 1133; *Aguimatang v. California State Lottery,* (1991) 234 Cal.App.3d 769, 788; *People v. Gulbrandsen* (1989) 209 Cal.App.3d 1547, 1562.)

V. STATUTORY AND CONSTITUTIONAL PROVISION

The topic needs no discussion. The relevance is directly applicable to the motion.

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CONCLUSION

All information requested is relevant to the Petition and Motion pending before this Court and is proper to notice judicially.

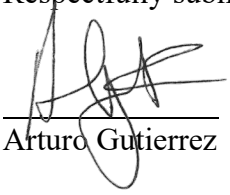
PRAYER

Wherefore, good cause having been presented herein, the Court is respectfully requested to grant the motion and afford the relief as requested herein by taking judicial notice of the above listed materials.

It is so prayed.

Respectfully submitted,

May 12, 2025



Arturo Gutierrez

PROOF OF SERVICE

1. I, Edward Lasseville, am over the age of 18 years and am not party to this cause. I am a resident of or employed in the county where the service occurred.

a. My business address is:

b. 6040 Sante Fe Avenue Huntington Park, CA 90255

c. Lasseville@yahoo.com

2. I served the following documents:

REQUEST FOR JUDICIAL NOTICE

3. The manner of service per party served is indicated next to each party name below by either:

a. Email: Attaching an electronic version of the document(s) in 2, to an email using the email address(es) listed next to each party's name and causing them to be sent electronically.

b. Postal: Enclosing a copy of the document(s) in 2 in an envelope, addressed to the party as shown next to each name and depositing the sealed envelope with the U.S. Postal Service, postage fully prepaid.

c. Electronic Service: "a party may effectuate service not only by the electronic transmission of a document, but also by providing electronic notification of where a document served electronically may be located and downloaded." (Rule of Court 2.250 Advisory Committee Comment citing Code Civ. Proc. § 1010.6)

4. I served the documents in 2 on the following persons in the manner indicated below:

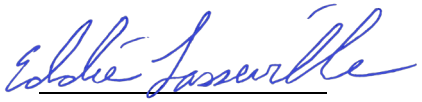
The manner in 3.a.

Respondent: The Department of Justice of California
c/o deputy Attorney General Kelsey Kook
2550 Mariposa Mall, Room 5090
Fresno, CA 93721-2271
Telephone: (559) 705-2356
kelsey.kook@doj.ca.gov

On 5/19/2025, from Los Angeles County, I caused the documents in 2 to be served in the manner described in 3, identified as to the persons and their listed addresses stated in 4.

I declare under penalty of perjury under the laws of the State of California the above is true and correct.

May 19, 2025



Edward Lasseville

EXHIBIT 8

Arturo Gutierrez
226 West Ojai Ave.
Suite 101 PMB 547
Ojai, CA 93023
(805) 669-0226
teamleader@survivinginjustice.org

Electronically FILED by
Superior Court of California,
County of Los Angeles
5/19/2025 3:41 AM
David W. Slayton,
Executive Officer/Clerk of Court,
By V. Ortega, Deputy Clerk

Petitioner *in propria persona*

SUPERIOR COURT OF CALIFORNIA,

COUNTY OF LOS ANGELES

STANLEY MOSK COURTHOUSE

ARTURO GUTIERREZ *Petitioner*, vs. CALIFORNIA DEPARTMENT OF JUSTICE *Respondent*.	Case No. 25STCV07287 **OBJECTION TO CLERK'S DISOBEDIENCE OF LOCAL RULE 3.3(I) AND USURPATION OF JUDICIAL POWER** Chambers Ruling Requested to Order the Clerk of the Court to File the Motion in Dept. 56 Department: 56 Hon. Holly J. Fujie, Judge

TO THE COURT AND TO THE CLERK OF THE COURT, PLEASE TAKE NOTICE:

OBJECTION TO CLERK'S DISOBEDIENCE OF LOCAL RULE 3.3(I) AND USURPATION OF JUDICIAL POWER

Petitioner, Arturo Gutierrez, appearing *in propria persona*, presents the Court with this objection as this matter was **assigned for all purposes** on **March 14, 2025** to the Honorable Holly Fujie in **Dept. 56**, per Local Rules of Court, rule 3.3(c), and requests a judicial order directed to the clerk of the court if the documents titled Notice of Motion for Judgment on the Peremptory Writ in Chambers Now; Motion; Memorandum of Law and Request for Judicial Notice are not concurrently filed with this document. The matter is ministerial and properly heard in chambers, if necessary, and relief should be granted by way of an order directed to the clerk's office as it is usurping the Presiding Judge and Judge Fujie's power per Local Rules of Court, Rule 3.3(i).

This notice of motion and motion is based on the facts and grounds as set forth in the memorandum of law, any exhibits and the papers on file.

MEMORANDUM OF LAW

The filing clerks have specifically acted contrary to their ministerial duties and have usurped the authority of the Presiding Judge and the Honorable Holly Fujie by errantly rejecting a filing that must be heard in Dept. 56.

FACTUAL BASIS IN SUPPORT

On March 14, 2025 a document titled Notice of Case Assignment Unlimited Civil Case stated: "**Your case is assigned for all purposes to the judicial officer indicated below."**

"ASSIGNED JUDGE	DEPT
Holly J. Fujie	56"

On May 11, 2025 the Los Angeles Superior Court received two submissions for electronic filing titled Notice of Motion for Judgment on the Peremptory Writ in Chambers Now; Motion; Memorandum of Law and Request for Judicial Notice.

Said submissions contained the following advisement to the clerk in the notes: "This is a mandamus petition, respondent failed to file verified answer, nuanced rules of procedure apply now, filing a noticed motion with motion and chambers ruling request is correct, see CCP 1107, 1108".

On May 14, 2025 the clerk's office issued a rejection notice stating: "Reject Reason Other: Incorrect department. File in the Writ department courtroom on the 8th floor. Follow the procedure for the Writ of mandate."

Petitioner inquired via phone on May 15; first to the very helpful and wonderful judicial assistant in Dept. 56. She confirmed what was already known, that if Petitioner arrived with a motion to file in this Dept., it would be met with instructions to go downstairs and file it. Additionally, it was confirmed that Dept. 56 was on the fifth floor and does occasionally hear writ proceedings.

A second call was then made to the general clerk's office and was met with an advisement that a supervisor would return the call.

The following day another call was made, and Petitioner was advised of the massive training occurring on May 16. That clerk was very helpful and inquired. He advised that he could ascertain that the reasoning appeared to be attributed to the 8th floor hearing law and motions of this nature.

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LEGAL GROUNDS

We start with a basic premise: the clerks of the court are the most overworked and underappreciated people in the courthouse they are the lifeblood of the courts, but they are not the court.

To the extent the rejection was based on **Local Rule 3.5(a)**, the Clerk's interpretation is mistaken. Rule 3.5(a) simply provides the hearing calendar for the Writs and Receivers departments **if a case has been assigned to them.** It does not override an all-purpose assignment nor empower clerks to reassign matters.

Rather the correct rule is clear, Local Rule 3.3(i) "Assignment for All Purposes. Cases are assigned for all purposes, including trial. Except as the Presiding Judge may otherwise direct, each judge shall schedule, hear and decide **all matters** for each case assigned."

"Under the familiar rule of construction, *expressio unius est exclusio alterius,* where exceptions to a general rule are specified by statute, other exceptions are not to be implied or presumed." (*Wildlife Alive* v. *Chickering* (1976) 18 Cal. 3d 190, 195.)

There is no exception stated in subsection (i) that says except as provided for in subsection (a). No. The exception to the rule is when the Presiding Judge says otherwise.

Nothing in the docket shows there has been a reassignment nor an order from the Presiding Judge.

DISCUSSION

Petitioner's motion was a post-case assignment, post-service of summons, post-answer submission under **CCP §§ 1107 and 1108**, seeking a chambers ruling whereas Respondent failed to verify its answer. This is **not a new writ petition**, and no reassignment order exists. Judge Fujie in Department 56 retains full jurisdiction over all aspects of the case.

As the Court of Appeal held in *County of Los Angeles v. Granite State Ins. Co.* (2004) 121 Cal.App.4th 1, 3:

"We also decline to let the clerk overrule the judge by issuing a minute order that bears no resemblance to what took place during the hearing."

The Clerk's action here is similarly without legal authority and improperly interferes with the jurisdiction of the assigned Judge Fujie. If reassignment were appropriate, it must occur **by judicial order** from the assigned department if required under law or at the Presiding Judge's discretion.

Note, there was no other basis stated for rejection, only the errant belief that any motion pertaining to a mandamus proceeding should be heard on the 8th floor, which would render assignment for all purposes to any other department a gross waste of judicial resources.

This objection is submitted to preserve the record, avoid delay, and ensure compliance with judicial assignment protocols.

PRAYER

Petitioner respectfully requests that:

If the Clerk of the Court has accepted the subject motions and chambers request for filing in Dept. 56 then for the court to disregard this objection as moot.

Alternatively, if not, then as the matter was formally assigned to Judge Fujie for all purposes, that the Court order the clerks to file the documents as submitted to Dept. 56.

Wherefore, good cause having been presented herein, the Court is respectfully requested to sustain this objection and grant the motion and afford the relief as requested herein.

It is so prayed.

Respectfully submitted,

May 19, 2025

Arturo Gutierrez

PROOF OF SERVICE

1. I, Edward Lasseville, am over the age of 18 years and am not party to this cause. I am a resident of or employed in the county where the service occurred.

a. My business address is:

b. 6040 Sante Fe Avenue Huntington Park, CA 90255

c. Lasseville@yahoo.com

2. I served the following documents:

OBJECTION TO CLERK'S DISOBEDIENCE OF LOCAL RULE 3.3(I) AND USURPATION OF JUDICIAL POWER

3. The manner of service per party served is indicated next to each party name below by either:

a. Email: Attaching an electronic version of the document(s) in 2, to an email using the email address(es) listed next to each party's name and causing them to be sent electronically.

b. Postal: Enclosing a copy of the document(s) in 2 in an envelope, addressed to the party as shown next to each name and depositing the sealed envelope with the U.S. Postal Service, postage fully prepaid.

c. Electronic Service: "a party may effectuate service not only by the electronic transmission of a document, but also by providing electronic notification of where a document served electronically may be located and downloaded." (Rule of Court 2.250 Advisory Committee Comment citing Code Civ. Proc. § 1010.6)

4. I served the documents in 2 on the following persons in the manner indicated below:

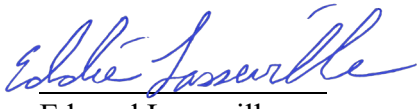
The manner in 3.a.

Respondent: The Department of Justice of California
c/o deputy Attorney General Kelsey Kook
2550 Mariposa Mall, Room 5090
Fresno, CA 93721-2271
Telephone: (559) 705-2356
kelsey.kook@doj.ca.gov

On 5/19/2025, from Los Angeles County, I caused the documents in 2 to be served in the manner described in 3, identified as to the persons and their listed addresses stated in 4.

I declare under penalty of perjury under the laws of the State of California the above is true and correct.

May 19, 2025



Edward Lasseville

EXHIBIT 9

Arturo Gutierrez
226 West Ojai Ave.
Suite 101 PMB 547
Ojai, CA 93023
(805) 669-0226
teamleader@survivinginjustice.org

Electronically FILED by
Superior Court of California,
County of Los Angeles
6/23/2025 8:59 AM
David W. Slayton,
Executive Officer/Clerk of Court,
By Y. Tarasyuk, Deputy Clerk

Petitioner *in propria persona*

SUPERIOR COURT OF CALIFORNIA,

COUNTY OF LOS ANGELES

STANLEY MOSK COURTHOUSE

ARTURO GUTIERREZ *Petitioner*, vs. CALIFORNIA DEPARTMENT OF JUSTICE *Respondent*.	Case No. 25STCV07287 **NOTICE OF EX PARTE APPLICATION TO SHORTEN TIME FOR RULING ON MOTION FOR JUDGMENT ON THE PEREMPTORY WRIT IN CHAMBERS NOW; APPLICATION; MEMORANDUM; DECLARATIONS ISO AND NOTICE; EXHIBITS; PROOF OF SERVICE** Date: Jun. 25, 2025 Time: 8:30AM Department: 56 Hon. Holly J. Fujie, Judge

TO THE CLERK OF THE SUPERIOR COURT OF LOS ANGELES COUNTY AND TO RESPONDENT THE CALIFORNIA DEPARTMENT OF JUSTICE, PLEASE TAKE NOTICE:

NOTICE OF EX PARTE APPLICATION TO SHORTEN TIME FOR RULING ON MOTION FOR PEREMPTORY ISSUANCE IN CHAMBERS

On the above stated date and time and location, Petitioner, Arturo Gutierrez, appearing *in propria persona*, will be making application for an order shortening time, seeking to move the court to rule on the motion for peremptory issuance after Respondent failed to file a verified return. Granting relief by way of peremptory issuance. This application is based on the good cause that Respondent has expressly stated it intends to judge shop and remove the matter from Judge Fujie while actively delivering malicious code to Petitioner's computer.

This notice of application and application are based on the facts and grounds as set forth in the memorandum of law, any exhibits and the papers on file.

REQUIREMENTS UNDER RULES OF COURT, RULE 3.1202

The matter was submitted for filing on June 23, 2025, before 10:00AM, well ahead of compliance with the Rules of Dept. 56, for a hearing on June 25, 2025. Respondent was notified prior to 10:00AM on June 23, 2025.

PREVIOUS APPLICATIONS

There have been no prior applications to shorten time submitted.

ATTORNEY FOR PARTY OF RECORD

RESPONDENT

Kelsey Kook of the California Department of Justice at 2550 Mariposa Mall Ste 5090 Fresno, CA 93720, telephone: (509) 705-2356; email: kelsey.kook@doj.ca.gov

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NATURE OF REQUEST AND REASONING

Respondent has explicitly manifested a design to sabotage these proceedings, inclusive of judge shopping and to remove Judge Fujie from hearing the matter, all of course, without legal cause.

AFFIRMATIVE FACTUAL SHOWING

The memorandum has an accurate accounting of the facts supporting this application. Attached to this application is the affidavit of Arturo Gutierrez attesting to the litigation sabotage employed and the imminent irreparable harm that will occur if this Court does not act as required and authorized by statute and rule of court.

Also attached, is the declaration regarding notice and the efforts to contact named counsel and provide notice as required by Rule 3.1204.

Based on this application, proper in form, and the memorandum and supporting documents, the Court will be requested to sign the order regarding those that are disregarding the rule of law.

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MEMORANDUM OF POINTS AND AUTHORITIES

FACTUAL BASIS IN SUPPORT

On May 19, 2025 Petitioner filed a Notice of Motion for Judgment on the Peremptory Writ in Chambers Now; Motion; Memorandum of Law requesting the Court to rule on the petition as the Respondent failed to file a verified return, CCP § 1089.

On June 12, 2025, Respondent submitted a stipulation seeking to remove the matter from Judge Fujie on grounds that mandamus was the proper vehicle for this CPRA enforcement action and this matter was assigned to an unlimited civil department, but Stanley Mosk had a writs department so Petitioner should sign the "stipulation and order to ***reclassify***" (Exhibit 1, p.15).

Petitioner methodically explained that the rules and laws prohibited Respondent's design to move the matter away from this Court and that the matter was properly an unlimited civil action, not limited civil. (Exhibit 2, p.18) Respondent advised that it intended to proceed with removing the matter from Judge Fujie. (Exhibit 3, p.21)

When asked for supporting authority (Exhibit 4, p.25), Respondent now clarified its design to "reclassify pursuant to Code of Civil Procedure section 403.040, subdivision (a)." (Exhibit5, p.291)

Also relevant is the statement in counsel for Respondent's email signature "Public Records Unit" (Exhibit 1, p.15), as someone assigned to this aspect of law should be aware *ab initio* that mandamus is correct and that it "may file a motion for reclassification within the time allowed for that party to respond to the initial pleading" (*id*.,(a)) and a late motion for reclassification requires "show[ing] good cause for not seeking reclassification earlier." (*Id*.,(b)(2)) As a part of a specialized "Public Records Unit" that focuses on "Public Records", it knew such request was required long ago.

Which is why its purpose has little to do with reclassification and reassignment.

LITIGATION SABOTAGE

The California Department of Justice's June 12, 2025 email contained an attachment appearing to be a Word document—with malicious code and spyware. This was confirmed after opening it through various methods. It was then scrubbed from Petitioner's hard drive.

The DOJ sent a second payload on June 18, 2025, within a new attachment appearing to be a Word document—with malicious code and spyware, which was not delivered to Petitioner's hard drive as proactive measures were taken by analyzing the payload before it could be triggered.

Interstate commerce is in effect. The servers for Petitioner's website survivinginjustice.org and its email are located in Arizona (Exhibit 6, p.33), Petitioner lives in California, Respondent's counsel claims to work out of Fresno, CA. The malicious emails were retrieved directly from the servers and analyzed in raw form.

The information below is submitted to the Court in lay terms that are more digestible.

In Word (.docx) files, the visible text and layout derive from a file called document.xml, critically stored in the internal word/ directory. If this file is missing or corrupted, the document should crash, not open, or alert an error.

The DOJ's file appeared to open normally. However, forensic analysis revealed that word/document.xml was missing—despite being listed in the internal manifest. This is a classic indicator of a cloaked payload: the structure falsely claims completeness, enabling malicious execution before the user suspects anything unusual.

But the DOJ went beyond simple cloaking. The file included a self-erasing component triggered upon certain types of access—similar to a tripwire. Imagine three doors: entering through Door 1 appears harmless. But using Door 2 silently destroys the contents behind Door 3, leaving no trace for forensic review.

The DOJ's stipulation for cooperation—delivered with a digital cyanide pill—was a near flawless digital crime. But for the fact that its very presence proves intended payload deployment. One does not engage in cloak and dagger unless one plans to land that cloaked dagger.

A. Two Files. Same Origin. Same Device.

- Both were sent by the California Department of Justice.
- Both contained Word documents presented as procedural stipulations.
- Both were configured to execute a post-open deletion of their core XML body content (word/document.xml).

B. Independent Confirmation of Malicious Behavior

- File 1's payload self-erased upon opening — confirmed via ZIP-level XML structure diff.
- File 2's payload behaved identically — verified post-macro test and again via forensic archive analysis.
- The behavior matches textbook digital sabotage: triggered, concealed, and without any legitimate operational purpose.

The details of the discovery and forensic methodology are outlined in the attached affidavit at p. 9.

DISCUSSION

The DOJ denies it has been engaged in efforts to conceal incidents of slavery at a systemic level. To prove they have not concealed incidents of slavery, the DOJ has refused to allow inspection of the records to corroborate their denial. This is the quintessential purpose of the CPRA. Invoked for the single most important legal cause— slavery.

Rather, the DOJ has presented themselves in a cold and measured tone while actively deceiving this Court. See purported answer (unverified CCP § 1089) compare to denial letter issued two days prior; while not advising the Court the denial was five months late—and completely unsupported by fact or law.

These "innocent" actors (in the performance sense) confirmed the accusations against them. Evidence of digital tampering via DOJ-sent files demonstrates a pattern of malicious intention designed to *prevent* judicial intervention.

The proof herein, however, *justifies* judicial remediation.

In fact it compels it. The separation of powers is the very reason the judiciary serves as the enforcement arm when the executive fails to abide legislative direction. Cal. Const. art. III § 3.

A. General Intent Crime

- Under both federal and state law, **digital trespass or intrusion** does not require specific intent—only the knowing dispatch of malicious code or instruction.
- Willfully sending and knowing the nature of the file, is the sufficient occurrence.
- "These statutes have also been included in the *updated* stipulation that is attached." (Exhibit 5, p.29)

18 U.S.C. § 1030 — Computer Fraud and Abuse Act (CFAA)

- **Crime:** Transmitting malicious code or software to intentionally cause damage or gain unauthorized access to another's system.
- **Trigger:** When the first .docx executed its code, pinged a server, or altered file access—even metadata—it fell under CFAA. The attempted crime occurred when sending the second payload.

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Petitioner's computer is a central hub of operations for a financial institution Safe Haven Metal LLC operating in interstate commerce and therefore is a protected computer under federal and state law, 18 U.S.C. § 1030(a)(2), (5) and see 31 C.F.R. §§ 1010.100; 1027.210; 1027.100 (b),(d); 1027.300; 1027.330; 1027.400 and Cal. Pen. Code § 186.9(b) ('"Financial institution' means, when located or doing business in this state,… any dealer in gold, silver, or platinum bullion or coins").

Penalty: Fines + up to 10 years for first offense, 20 years for repeat or damage-causing conduct.

Penal Code § 502 — California Computer Crime Law

- **Crime:** Knowingly accessing or causing access to a computer, system, or data without permission.
- **Trigger:** Sending a document designed to modify or report on system behavior triggers Pen. Code § 502(c)(1), (4), (7), or (8) (non-exclusive list).

During these proceedings, the DOJ has engaged in a felony subject to 3 years prison, $10,000 fine, *id*., (d) and "punitive or exemplary damages." (*Id.*, (e)(4))

> *Id*., (g) Any computer, computer system, computer network, or any software or data, owned by the defendant, that is used during the commission of any public offense described in subdivision (c) or any computer, owned by the defendant, which is used as a repository for the storage of software or data illegally obtained in violation of subdivision (c) shall be subject to forfeiture, as specified in Section 502.01.

B. DOJ was Notified

- File 1's behavior was identified then destroyed by Petitioner.
- The DOJ nonetheless sent a second file exhibiting the same behavior.
- This excludes accident and proves knowledge and intent of a state actor.

The DOJ became aware that their first payload was not operational after initial pings and/or used that data to deliver a more efficient payload. Either way, they repeated their criminal conduct. Warranting sanctions issue to those that believe they are above the law.

Cal. Const. art. VI § 13 "the Attorney General shall be the chief law officer of the State. It shall be the duty of the Attorney General to see that the laws of the State are uniformly and adequately *enforced*."

Which is manifestly a failure to "support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and *domestic*" (*id.*, art.

XX § 3) requiring the other branch— empowered for this very situation— to preclude the DOJ from continuing to embarrass our state.

C. Remedy Required

Why they are engaging in this criminal behavior is not an aspect Petitioner needs to prove, "because 'corrupt intent knows no stylistic boundaries,"'[1] but which is readily apparent based on the circumstances of this case.

This special proceeding commenced because the California Department of Justice has been knowingly and actively concealing incidents of slavery. Refusing to allow inspection of the records that are relevant to the issue. Failing to abide lawful procedure, while engaging in deception to this Court. A criminal design to thwart exposing them was expected from the start. The proof is now preserved.

The underlying premise to deliver the payload was judge shopping without lawful justification.

Petitioner has prayed for third party oversight when the Court issues the writ commanding and compelling the DOJ to release the public records. Respondent's deception to this Court and now the criminal acts of digital espionage have only confirmed the absolute need to have independent auditing occur.

The level of deception and efforts to conceal the Department of Justice's cover-up, combined with the direct false statements made to this Court and their direct defiance of rules of procedure and criminal acts are cause for a genuine fear that the Department of Justice intends to use its influence in a corrupt and unlawful means to disregard any resulting judicial order and therefore the order must include third party auditing at Respondent's expense.

The verified petition, the motion seeking to secure peremptory issuance and this application are all consistent '"with the object of securing a decision as to the matters at issue at the earliest possible time.' (§ 7923.005.)" (*Gascon v. Logan* (2023) 94 Cal.App.5th 352, 366)

If this Court had cause to understand how dangerous the executive can be if left unchecked, then it knows Petitioner needs this Court's protection now.

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[1] *Stephen Slesinger, Inc. v. Walt Disney Co.,* (2007) 155 Cal.App.4th 736, 764 quoting *Aoude v. Mobil Oil Corp.*, (1st Cir. 1989) 892 F.2d 1115, 1118; disapproved as to *Slesinger's* point at p. 764, fn. 19 in *City of Los Angeles v. PricewaterhouseCoopers, LLP* (2024) 17 Cal.5th 46, 73, fn. 5.

PRAYER

Wherefore, good cause having been presented herein, the Court is respectfully requested to grant the motion and afford the relief as requested herein by ruling on the motion for peremptory issuance now and issuing the peremptory writ as prayed.

It is so prayed.

Respectfully submitted,

June 23, 2025

Arturo Gutierrez

TABLE OF EXHIBITS

Ex.	Description	Date	Page
1	Email from DOJ	6/12/25	15
2	Email response to DOJ	6/12/25	18
3	Email from DOJ	6/13/25	21
4	Email response to DOJ	6/17/25	25
5	Email from DOJ	6/18/25	29
6	Chat log with Namecheap	6/20/25	33

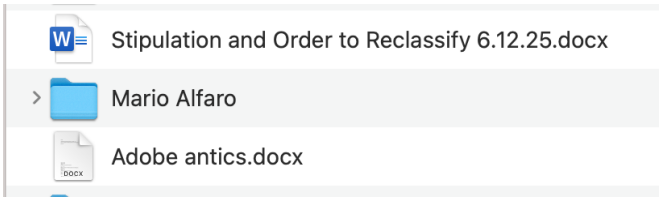
DECLARATION OF ARTURO GUTIERREZ IN SUPPORT OF APPLICATION TO SHORTEN TIME FOR RULING ON MOTION FOR PEREMPTORY ISSUANCE

I, Arturo Gutierrez, declare:

1. I am the named Petitioner in this case and am over the age of 18 years. I submit this declaration in support of my Ex Parte Application for Order Shortening Time re Notice of Motion for Judgment on the Peremptory Writ in Chambers Now; Motion; Memorandum of Law filed May 19, 2025.
2. I have personal knowledge of the facts stated herein and, if called as a witness, could and would testify competently thereto.
3. On Nov. 4, 2024 I submitted a Public Records Request to the California Department of Justice seeking records within its control as required by numerous statutes. The DOJ responded on Nov. 14, 2024 seeking an extension to Dec. 2, 2024 so that it may consult with multiple components of the DOJ with a substantial interest in the records.
4. In response, on Nov. 14, 2024, I caused my agent and father retired Superior Court Judge Arturo Gutierrez to submit the proof of incidents of slavery occurring in California. Due to the DOJ's disregard of the deadline, I caused said agent to submit a friendly reminder email on Dec. 10, 2024. Again, not hearing from the DOJ, I caused said agent to submit another email on Jan. 6, 2025 demanding performance.
5. Because the means of discovering gross systemic racism amounting to incidents of slavery was through the common denominator method, I filed my petition for a peremptory writ of mandamus on Pi day, 3.14/25. Also the birthday of Albert Einstein and Stephen Hawking's day of death. (The latter I had the pleasure to meet on a dance floor in Los Angeles.) Both of whom would find these events appalling.
6. The DOJ sent a denial letter on April 9, 2025 followed by filing an unverified return on April 11, 2025.
7. I then filed the motion seeking an in chambers ruling for peremptory issuance now in accord with the law and facts as set forth herein.
8. On June 12, 2025 the DOJ sent an email seeking a stipulation to judge shop. I provided a thoroughly well-reasoned explanation why this was not permissible by law that day.
9. The following day, the DOJ reiterated its believe that moving to the writ department was correct and asked if I would be stipulating. I observed this email the following day.

10. Upon seeing this email, it was observed that there was an attachment that was previously sent and given their stated believe of correctness the attachment was downloaded.

11. Upon opening the purported Word document a payload was activated on my hard drive. Which was unknown to me at the start. I soon noted the documents odd appearance compared to other Word documents in my computer.



12. I conducted basic checks and discovered usual meta data was absent. And that the document noted 9 edits since I opened it and closed it without making a change.

13. I isolated the document and conducted further analysis. I observed that the document triggered multiple duplicate edit events and metadata anomalies despite no input from me. I preserved the file and secured it offline for later controlled forensic review.

14. I then sent an email on June 17, 2025 to the DOJ asking for its superior authority as its basis to declare the laws provided were errant. The DOJ responded with a new and different Word document.

15. To preclude deployment of the second payload, the raw email and attachment was inspected in a sandbox (secure environment designed to isolate). Upon inspection and analyzing the internal structure of this newly sent file, anomalies were detected—including differences in the core XML structure, particularly in document.xml.

16. It became evident that the document contained behavior consistent with a tampered payload after attempting to extract it using standard Python ZIP archive tools (via zipfile.ZipFile().read('word/document.xml')). The tool returned: “KeyError: "There is no item named 'word/document.xml' in the archive"”

17. To confirm the same malicious structure was present in the previously opened document, stored externally, an attempt to upload it for evaluation triggered file system security protocols and the document was rejected. In short, the version stored in the USB drive was actively toxic.

18. The raw unopened version in the email was then sandboxed and the same evaluation yielded the same: “KeyError: "There is no item named 'word/document.xml' in the archive"”

19. A Word doc **should never open** cleanly without that file. That the first one did confirms a high-level concealment method. Combined with after the fact opened version triggering firewalls and the result is undeniable.

20. Following this discovery, I executed a full digital hygiene protocol: the files were sandboxed, macros scanned, variables extracted (none found), and the document was then zipped, uploaded to an external drive and securely erased using terminal commands under isolated conditions on the hard drive.

21. The DOJ is attempting to manipulate judicial assignment.

22. The DOJ has now introduced maliciously coded documents into adversarial proceedings—actions that go beyond gamesmanship and into the realm of digital misconduct, obstruction, and criminal law violations.

23. Evidence of the DOJ's crimes is now preserved.

24. Exhibits 1-5 are true and correct copies of the emails between Respondent and myself and are the documents they are claimed to be.

25. Exhibit 6 is a true and correct copy of the chat dialog with Namecheap confirming the location of the servers for my website survivinginjustice.org and email are located in Arizona and is the document it claims to be.

26. I am the managing member of Safe Haven Metal LLC, a gold, silver and precious metal vendor. I run the website safehavenmetal.com from my computer. I process sales order for Safe Haven Metal LLC through my computer. I maintain highly valuable and confidential information on my computer that is deemed inaccessible under federal law.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

June 23, 2025

Arturo Gutierrez

DECLARATION OF ARTURO GUTIERREZ RE NOTICE

I, Arturo Gutierrez, declare:

1. I am over the age of 18 years. I have personal knowledge of each fact stated in this declaration.

For all persons listed below, I sent an email with the documents attached and the following message:

PLEASE TAKE NOTICE that on June 25, 2025, at 8:30AM or as soon thereafter as the matter may be heard, in Department 56 of the Los Angeles County Superior Court, located at 111 N. Hill Street, Los Angeles, CA 90012, Arturo Gutierrez will move for an ex parte application to shorten time seeking to have the court rule on the motion for peremptory issuance now filed May 19, 2025.

If the Court declines to grant the Application on ex parte basis and accepts it as a noticed motion and sets a hearing date, Applicant will request that the Court set a noticed hearing date on shortened time and accept Applicants' ex parte application as their motion for an order issuing the peremptory writ now.

Please advise if you intend to oppose the Application.

Kelsey Kook

2. The name, address and telephone number of the Respondent's attorney, as known to me, are: Attorney General | Office of General Counsel - Public Records Unit, 2550 Mariposa Mall Ste 5090 Fresno, CA 93720, telephone: (559) 705-2356; email: kelsey.kook@doj.ca.gov

3. Pursuant to California Rules of Court, Rule 3.1203 and Rule 3.1204 I have informed respondent of this ex parte request by (check all that apply):

☒ Telephone call on 6/23/2025 at **8:40AM** (time).

☐ In Person on n/a (date) at _____ (time).

☐ By Facsimile: On n/a at _____ (time) I faxed the papers, including the Ex Parte Application and Proposed Order to Joseph Buchman at the fax number 213-236-2700. I received a fax confirmation that the fax was transmitted completely.

☒ Email on 6/23/2025 at **8:45AM** I emailed the papers, including the Ex Parte Application and Affidavits, I did not receive any return email declaring the address is undeliverable.

4. I told Ms. Kook that I would be bringing this ex parte request in Department 56 of the Stanley Mosk Courthouse at 111 Hill St. Los Angeles, CA 90012 on 6/25/25 at 8:30AM, regarding my request for an order seeking peremptory issuance of the writ of mandate.

5. I ☒ do ☐ do not expect an opposition to my request from the party.

6. I received the following response to above notice: _____

_____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

June 23, 2025

Arturo Gutierrez

PROOF OF SERVICE

1. I, Edward Lasseville, am over the age of 18 years and am not party to this cause. I am a resident of or employed in the county where the service occurred.

a. My business address is:

b. 6040 Sante Fe Avenue Huntington Park, CA 90255

c. Lasseville@yahoo.com

2. I served the following documents:

NOTICE OF APPLICATION TO SHORTEN TIME FOR RULING ON MOTION FOR JUDGMENT ON THE PEREMPTORY WRIT IN CHAMBERS NOW; MEMORANDUM; DECLARATION ISO; NOTICE DECLARATION; EXHIBITS

3. The manner of service per party served is indicated next to each party name below by either:

a. Email: Attaching an electronic version of the document(s) in 2, to an email using the email address(es) listed next to each party's name and causing them to be sent electronically.

b. Postal: Enclosing a copy of the document(s) in 2 in an envelope, addressed to the party as shown next to each name and depositing the sealed envelope with the U.S. Postal Service, postage fully prepaid.

c. Electronic Service: "a party may effectuate service not only by the electronic transmission of a document, but also by providing electronic notification of where a document served electronically may be located and downloaded." (Rule of Court 2.250 Advisory Committee Comment citing Code Civ. Proc. § 1010.6)

4. I served the documents in 2 on the following persons in the manner indicated below:

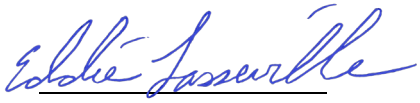
The manner in 3.a.

Respondent: The Department of Justice of California
2550 Mariposa Mall Ste 5090
Fresno, CA 93720
(559) 705-2356
kelsey.kook@doj.ca.gov

On 6/23/2025, from Los Angeles County, I caused the documents in 2 to be served in the manner described in 3, identified as to the persons and their listed addresses stated in 4.

I declare under penalty of perjury under the laws of the State of California the above is true and correct.

June 23, 2025



Edward Lasseville

EXHIBIT 1

015

Gutierrez, Arturo v. California Department of Justice (25STCV07287)

From Kelsey Kook <Kelsey.Kook@doj.ca.gov>
To teamleader@survivinginjustice.org <teamleader@survivinginjustice.org>
Date 2025-06-12 14:03

Stipulation and Order to Reclassify 6.12.25.docx (~27 KB)

Good afternoon Arturo Gutierrez,

It has come to the attention of the Department of Justice ("Department" and "Respondent") that *Gutierrez, Arturo v. California Department of Justice* (Los Angeles County Superior Court, Case No. 25STCV07287) is incorrectly assigned to a Civil Unlimited department. Under Government Code section 7923.000, a writ of mandate is the proper vehicle to provide a judicial remedy to inspect or receive a copy of any public record. The Los Angeles County Superior Court Stanley Mosk Courthouse has a writ department. As you are seeking a remedy pursuant to Gov. Code section 7923.00,0 this case needs to be reassigned from Dept 56, a civil unlimited department, to a writ department. In order to aid in this process I have drafted a stipulation and order to reclassify. Please review the stipulation, and if you agree, please sign. I will then file this on our behalf.

Please provide a signed copy, or let me know you decision to not sign, by June 23, 2025.

Kelsey Kook
Deputy Attorney General I Office of General Counsel - Public Records Unit
2550 Mariposa Mall Ste 5090I Fresno, CA 93720
(559) 705-2356I kelsey.kook@doj.ca.gov

CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

EXHIBIT 2

017

Re: Gutierrez, Arturo v. California Department of Justice (25STCV07287)

From teamleader@survivinginjustice.org <teamleader@survivinginjustice.org>
To Kelsey Kook <Kelsey.Kook@doj.ca.gov>
Date 2025-06-12 20:09

Hi Ms. Kook,
You're not wrong—but also not quite correct. Believe it or not, I've had the exact sentiments you're expressing come up in other writ cases and initially shared your exact perspective myself. Experience has taught me that the bottom line is that local culture in Los Angeles, per local rules, is that while the writs and receivers departments are preferred for initial assignment, the court routinely reassigns writ cases to other unlimited civil departments when caseloads or scheduling require it. It's a matter of internal allocation—not jurisdiction.

I've attached screenshots from **LA Superior Case No. 23STCP04453** as an example. That case—also a mandamus—was assigned to the writs dept., then bumped to a non-writs department in Alhambra. So your concern about "incorrectly assigned to a Civil Unlimited department" isn't supported by how the court actually operates.

And remedy by mandamus is only one of the vehicles. Check out Gov. Code § 7923.000 "Any person may institute a proceeding *for injunctive* or *declarative relief*, or for a *writ of mandate*, in any court of competent jurisdiction, to enforce that person's right under this division to inspect or receive a copy of any public record or class of public records."

Per Local Rule 3.3(i), this case was assigned *for all purposes* to Dept. 56, including trial and all motions. As you may have seen, the clerk recently questioned that assignment, but after I laid out the applicable rules in my objection and refiled the same documents, the clerks ultimately filed all documents, confirming the case was properly in Dept. 56.

While I understand the desire to route this to a writ department, there's no basis under the court's local rules for reassignment at this stage. No peremptory challenge or request for reassignment was filed following the Notice of Case Assignment. Local Rule 3.3(b) prohibits any party from anticipating or altering assignments, and subdivision (d) bars any effort to maneuver around assignment through strategic filings or dismissals. Assignment is a clerk function governed by standing orders from the Presiding Judge—you can verify the Local Rule referenced here.

Also, you mentioned "I have drafted a stipulation and order to **reclassify**." Oh, how I wish it could be that simple, if we could just stipulate to make things right then we could get this whole thing straightened up, asap. But the jurisdictional classification is de facto unlimited civil. We know this based on CCP § 85(a) limited civil must have an amount demanded of less than $35,000. And CCP § 86(b) lists the limited equitable cases, which are not applicable here. Since a CPRA will never have monetary damages, one would think the Legislature would have thought to announce it under CCP § 85.
Bringing us to the answer, Gov. Code § 7923.500(a) "is not a final judgment or order within the meaning of Section 904.1 of the Code of Civil Procedure from which an appeal may be taken," CCP § 904.1(a) "An appeal, other than in a limited civil case, is to the court of appeal." Granted life would be easier sometimes if they would just give us straight answers —but the statutory breadcrumbs are there, and they lead in only one direction. See CCP § 88 "A civil action or proceeding other than a limited civil case may be referred to as an unlimited civil case."

So, while a stipulation might sound appealing, reclassification simply isn't within our powers—it's a jurisdictional matter controlled by statute, not mutual agreement. And the stated desire to reclassify from "a civil unlimited department, to a writ department" is actually an assignment issue that the Local Rules of Court already cover.

The confusion portrayed here was not unwarranted. It would be nice if they were more direct, see e.g., Gov. Code § 7930.000(b) "The listing of a statute or constitutional provision in Chapter 2 (commencing with Section 7930.100) does not itself create an exemption." Which is what the five month tardy denial letter was focused on, in its unsupported-by-fact denial—submitted two days before the Department's court filing declaring a response was submitted, omitting the five month delinquent aspect.

"Requesters of public records and public agencies are cautioned to review the applicable statute or constitutional provision to determine the extent to which it, in light of the circumstances surrounding the request, exempts public records from disclosure." (*Id.*)

Leading us to something we do have stipulation power over, allowing us to be more collaborative on what actually matters, like publicly providing the records required by Pen. Code § 745 so that we can stop systemically violating the Thirteenth and Fourteenth Amendments.
I hope that clarifies the matter.
Thanks again for the outreach.

Very truly,
Arturo Gutierrez

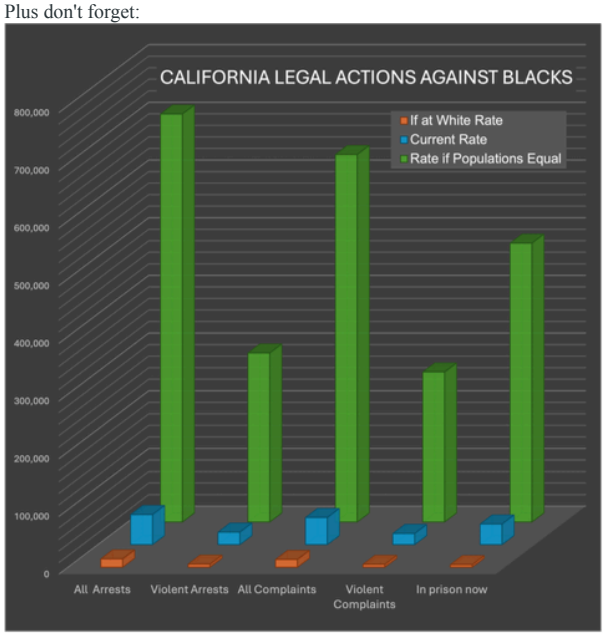
Quick example from the above case:

4/11/2024 12:00 AM	Department X	Status Conference
3/28/2024 12:00 AM	Department X	Hearing on Ex Parte Application
2/2/2024 12:00 AM	Department X	Non-Appearance Case Review
1/11/2024 12:00 AM	Department 1	Court Order
1/10/2024 12:00 AM	Department 86	Case Management Conference
1/5/2024 12:00 AM	Department 86	Court Order
12/13/2023 12:00 AM	Department 1	Court Order
12/11/2023 12:00 AM	Department 85	Court Order

Detailed example from the same:

1/11/2024	Case reassigned to Alhambra Courthouse in Department X - Hon. Joel L. Lofton; Reason: Other
1/11/2024	Minute Order (Court Order Re:)
1/11/2024	Certificate of Mailing for (Court Order Re:) of 01/11/2024; Filed by: Clerk
1/9/2024	Notice of CEQA Settlement Conference; Filed by: City of Gardena (Respondent)
1/8/2024	Proof of Service (not Summons and Complaint); Filed by: Mariya Wrightsman (Petitioner); As to: City of Gardena (Respondent)
1/8/2024	Case Management Statement; Filed by: Mariya Wrightsman (Petitioner)
1/5/2024	Updated -- Challenge To Judicial Officer - Peremptory (170.6): Filed By: Mariya Wrightsman (Petitioner); Result: Granted ; Result Date: 01/05/2024
1/5/2024	Case reassigned to Stanley Mosk Courthouse in Department 1 - Hon. Michelle Williams Court; Reason: Other
1/5/2024	Minute Order (Court Order Re Peremptory Challenge to Judicial Officer)
1/5/2024	Certificate of Mailing for (Court Order Re Peremptory Challenge to Judicial Officer) of 01/05/2024; Filed by: Clerk
1/5/2024	On the Court's own motion, Case Management Conference scheduled for 01/10/2024 at 09:30 AM in Stanley Mosk Courthouse at Department 86 Not Held - Advanced and Vacated on 01/05/2024
12/27/2023	Challenge To Judicial Officer - Peremptory (170.6); Filed by: Mariya Wrightsman (Petitioner); Judge Name: Mitchell L. Beckloff
12/26/2023	Proof of Personal Service; Filed by: Mariya Wrightsman (Petitioner); As to: City of Gardena (Respondent); Service Cost Waived: No; Service Cost: 376.75; Service Date: 12/20/2023
12/22/2023	Consent to Electronic Service and Notice of Electronic Service Address; Filed by: Mariya Wrightsman (Petitioner)
12/14/2023	Case Management Conference scheduled for 01/10/2024 at 09:30 AM in Stanley Mosk Courthouse at Department 86
12/14/2023	Notice of Case Management Conference; Filed by: Clerk
12/13/2023	Application for Publication; Filed by: Mariya Wrightsman (Petitioner); As to: City of Gardena (Respondent)
12/13/2023	Order on Application for Publicagtion Code of Civil Procedure 863; Proposed - Received by: Mariya Wrightsman (Petitioner); As to: City of Gardena (Respondent)
12/13/2023	Case reassigned to Stanley Mosk Courthouse in Department 86 - Hon. Mitchell L. Beckloff; Reason: Other
12/13/2023	Minute Order (Court Order Re: Assignment of CEQA Case)
12/13/2023	Certificate of Mailing for (Court Order Re: Assignment of CEQA Case) of 12/13/2023; Filed by: Clerk
12/12/2023	The case is placed in special status of: California Environmental Quality Act
12/11/2023	Summons on Petition; Issued and Filed by: Mariya Wrightsman (Petitioner)
12/11/2023	Notice of Case Assignment - Unlimited Civil Case; Filed by: Clerk
12/11/2023	Civil Case Cover Sheet; Filed by: Mariya Wrightsman (Petitioner); As to: City of Gardena (Respondent)
12/11/2023	Civil Case Cover Sheet; Filed by: Mariya Wrightsman (Petitioner); As to: City of Gardena (Respondent)
12/11/2023	Petition for Writ of Mandate; Filed by: Mariya Wrightsman (Petitioner); As to: City of Gardena (Respondent)
12/11/2023	Case assigned to Hon. James C. Chalfant in Department 85 Stanley Mosk Courthouse
12/11/2023	Minute Order (Court Order)
12/11/2023	Certificate of Mailing for (Court Order) of 12/11/2023; Filed by: Clerk

Plus don't forget:



On Jun 12, 2025, at 11:03 AM, Kelsey Kook <Kelsey.Kook@doj.ca.gov> wrote:

Good afternoon Arturo Gutierrez,

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Please provide a signed copy, or let me know you decision to not sign, by June 23, 2025.

Kelsey Kook
Deputy Attorney General I Office of General Counsel - Public Records Unit
2550 Mariposa Mall Ste 5090I Fresno, CA 93720
(559) 705-2356I kelsey.kook@doj.ca.gov

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EXHIBIT 3

020

RE: Gutierrez, Arturo v. California Department of Justice (25STCV07287)

From Kelsey Kook <Kelsey.Kook@doj.ca.gov>
To teamleader@survivinginjustice.org <teamleader@survivinginjustice.org>
Date 2025-06-13 17:15

Stipulation and Order to Reclassify 6.12.25.docx (~27 KB)

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Kelsey Kook
Deputy Attorney General | Office of General Counsel - Public Records Unit
2550 Mariposa Mall Ste 5090| Fresno, CA 93720
(559) 705-2356| kelsey.kook@doj.ca.gov

From: teamleader@survivinginjustice.org <teamleader@survivinginjustice.org>
Sent: Thursday, June 12, 2025 5:10 PM
To: Kelsey Kook <Kelsey.Kook@doj.ca.gov>
Subject: Re: Gutierrez, Arturo v. California Department of Justice (25STCV07287)

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Quick example from the above case:

4/11/2024 12:00 AM	Department X	Status Conference
3/28/2024 12:00 AM	Department X	Hearing on Ex Parte Application
2/2/2024 12:00 AM	Department X	Non-Appearance Case Review
1/11/2024 12:00 AM	Department 1	Court Order
1/10/2024 12:00 AM	Department 86	Case Management Conference
1/5/2024 12:00 AM	Department 86	Court Order
12/13/2023 12:00 AM	Department 1	Court Order
12/11/2023 12:00 AM	Department 85	Court Order

Detailed example from the same:

1/11/2024	Case reassigned to Alhambra Courthouse in Department X - Hon. Joel L. Lofton; Reason: Other
1/11/2024	Minute Order (Court Order Re:)
1/11/2024	Certificate of Mailing for (Court Order Re:) of 01/11/2024; Filed by: Clerk
1/9/2024	Notice of CEQA Settlement Conference; Filed by: City of Gardena (Respondent)
1/8/2024	Proof of Service (not Summons and Complaint); Filed by: Mariya Wrightsman (Petitioner); As to: City of Gardena (Respondent)
1/8/2024	Case Management Statement; Filed by: Mariya Wrightsman (Petitioner)
1/5/2024	Updated -- Challenge To Judicial Officer - Peremptory (170.6): Filed By: Mariya Wrightsman (Petitioner); Result: Granted ; Result Date: 01/05/2024
1/5/2024	Case reassigned to Stanley Mosk Courthouse in Department 1 - Hon. Michelle Williams Court; Reason: Other
1/5/2024	Minute Order (Court Order Re Peremptory Challenge to Judicial Officer)
1/5/2024	Certificate of Mailing for (Court Order Re Peremptory Challenge to Judicial Officer) of 01/05/2024; Filed by: Clerk
1/5/2024	On the Court's own motion, Case Management Conference scheduled for 01/10/2024 at 09:30 AM in Stanley Mosk Courthouse at Department 86 Not Held - Advanced and Vacated on 01/05/2024
12/27/2023	Challenge To Judicial Officer - Peremptory (170.6); Filed by: Mariya Wrightsman (Petitioner); Judge Name: Mitchell L. Beckloff
12/26/2023	Proof of Personal Service; Filed by: Mariya Wrightsman (Petitioner); As to: City of Gardena (Respondent); Service Cost Waived: No; Service Cost: 376.75; Service Date: 12/20/2023
12/22/2023	Consent to Electronic Service and Notice of Electronic Service Address; Filed by: Mariya Wrightsman (Petitioner)
12/14/2023	Case Management Conference scheduled for 01/10/2024 at 09:30 AM in Stanley Mosk Courthouse at Department 86
12/14/2023	Notice of Case Management Conference; Filed by: Clerk
12/13/2023	Application for Publication; Filed by: Mariya Wrightsman (Petitioner); As to: City of Gardena (Respondent)
12/13/2023	Order on Application for Publicagtion Code of Civil Procedure 863; Proposed - Received by: Mariya Wrightsman (Petitioner); As to: City of Gardena (Respondent)
12/13/2023	Case reassigned to Stanley Mosk Courthouse in Department 86 - Hon. Mitchell L. Beckloff; Reason: Other
12/13/2023	Minute Order (Court Order Re: Assignment of CEQA Case)
12/13/2023	Certificate of Mailing for (Court Order Re: Assignment of CEQA Case) of 12/13/2023; Filed by: Clerk
12/12/2023	The case is placed in special status of: California Environmental Quality Act
12/11/2023	Summons on Petition; Issued and Filed by: Mariya Wrightsman (Petitioner)
12/11/2023	Notice of Case Assignment - Unlimited Civil Case; Filed by: Clerk
12/11/2023	Civil Case Cover Sheet; Filed by: Mariya Wrightsman (Petitioner); As to: City of Gardena (Respondent)
12/11/2023	Civil Case Cover Sheet; Filed by: Mariya Wrightsman (Petitioner); As to: City of Gardena (Respondent)
12/11/2023	Petition for Writ of Mandate; Filed by: Mariya Wrightsman (Petitioner); As to: City of Gardena (Respondent)
12/11/2023	Case assigned to Hon. James C. Chalfant in Department 85 Stanley Mosk Courthouse
12/11/2023	Minute Order (Court Order)
12/11/2023	Certificate of Mailing for (Court Order) of 12/11/2023; Filed by: Clerk

Plus don't forget:

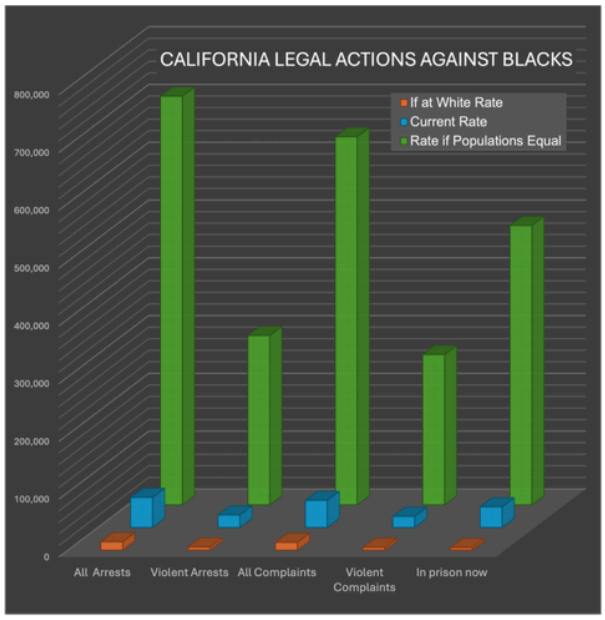

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EXHIBIT 4

024

Re: Gutierrez, Arturo v. California Department of Justice (25STCV07287)

From teamleader@survivinginjustice.org <teamleader@survivinginjustice.org>
To Kelsey Kook <Kelsey.Kook@doj.ca.gov>
Date 2025-06-17 22:04

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Sent: Thursday, June 12, 2025 5:10 PM
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Plus don't forget:
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EXHIBIT 5

028

RE: Gutierrez, Arturo v. California Department of Justice (25STCV07287)

From Kelsey Kook <Kelsey.Kook@doj.ca.gov>
To teamleader@survivinginjustice.org <teamleader@survivinginjustice.org>
Date 2025-06-18 16:26

Stipulation and Order to Reclassify 6.18.25.docx (~27 KB)

Good afternoon Arturo Gutierrez,

We are basing this stipulation on the ability to reclassify pursuant to Code of Civil Procedure section 403.040, subdivision (a). Also, we are noting that, under Gov. Code, section 7923.000, a writ of mandate is the proper vehicle to provide a judicial remedy to inspect or receive a copy of any public record. These statutes have also been included in the updated stipulation that is attached.

Please let us know by June 23 if you are planning on signing the attached stipulation. If we do not hear from you by then, we will proceed with our plan to file a motion to reclassify.

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From: teamleader@survivinginjustice.org <teamleader@survivinginjustice.org>
Sent: Tuesday, June 17, 2025 7:04 PM
To: Kelsey Kook <Kelsey.Kook@doj.ca.gov>
Subject: Re: Gutierrez, Arturo v. California Department of Justice (25STCV07287)

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Plus don't forget:
<image003.png>

On Jun 12, 2025, at 11:03 AM, Kelsey Kook <Kelsey.Kook@doj.ca.gov> wrote:

Good afternoon Arturo Gutierrez,

It has come to the attention of the Department of Justice ("Department" and "Respondent") that *Gutierrez, Arturo v. California Department of Justice* (Los Angeles County Superior Court, Case No. 25STCV07287) is incorrectly assigned to a Civil Unlimited department. Under Government Code section 7923.000, a writ of mandate is the proper vehicle to provide a judicial remedy to inspect or receive a copy of any public record. The Los Angeles County Superior Court Stanley Mosk Courthouse has a writ department. As you are seeking a remedy pursuant to Gov. Code section 7923.00,0 this case needs to be reassigned from Dept 56, a civil unlimited department, to a writ department. In order to aid in this process I have drafted a stipulation and order to reclassify. Please review the stipulation, and if you agree, please sign. I will then file this on our behalf.

Please provide a signed copy, or let me know you decision to not sign, by June 23, 2025.

Kelsey Kook
Deputy Attorney General I Office of General Counsel - Public Records Unit
2550 Mariposa Mall Ste 5090I Fresno, CA 93720
(559) 705-2356I kelsey.kook@doj.ca.gov

CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication. <Stipulation and Order to Reclassify 6.12.25.docx>

CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.<Stipulation and Order to Reclassify 6.12.25.docx>

CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

EXHIBIT 6

032

Time Zone - GMT (UTC +00) 20 June, 2025

[17:53:37] **Arturo Gutierrez** : survivinginjustice.org stellarplus I have a simple question, what is the geographical location of the servers? I am near Los Angeles, California.

hosting technical | Softaculous

[17:53:38] [Suzy Q joined the chat]

[17:53:59] **Suzy Q** : The Stellar Plus hosting servers for Namecheap are located in several geographical locations, including the USA, United Kingdom, Europe, and Asia. Specifically, for the USA, the servers are located in the PhoenixNAP datacenter in Phoenix, Arizona. This location supports shared hosting, which includes the Stellar Plus plan.
Since you are near Los Angeles, California, the Phoenix, Arizona datacenter would be the closest option for you. Choosing a datacenter closer tc your location can help improve your website's performance by reducing latency and potentially increasing loading speeds for your visitors.
If you need to change your datacenter location or have specific requirements, you can request a transfer to another datacenter. However, this process typically involves contacting the billing team, but I can guide you through any necessary steps or provide further information if needed.

[17:55:13] **Arturo Gutierrez** : Thank you, that was the specific information I needed, where they are physically located at this moment. You were a huge help.

[17:55:30] **Suzy Q** : You're very welcome! I'm glad I could provide the information you needed. If you have any more questions or need further assistance, feel free to ask. Have a great day!

[17:55:48] **Arturo Gutierrez** : Have a good one!

[17:56:11] **Suzy Q** : Thank you! Wishing you a great day as well!

EXHIBIT 10

Electronically Received 06/23/2025 08:59 AM

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF LOS ANGELES
STANLEY MOSK COURTHOUSE

ARTURO GUTIERREZ *Petitioner*, vs. CALIFORNIA DEPARTMENT OF JUSTICE *Respondent*.	Case No. 25STCV07287 **[PROPOSED] ORDER EX PARTE APPLICATION TO SHORTEN TIME FOR RULING ON MOTION FOR JUDGMENT ON THE PEREMPTORY WRIT IN CHAMBERS NOW** Date: Jun. 25, 2025 Time: 8:30AM Department: 56 Hon. Holly J. Fujie, Judge

THE COURT:

Notice having been provided to Respondent, and the Court having reviewed all submitted materials, the Court finds good cause to grant Petitioner's ex parte application to shorten time for ruling on the Motion for Judgment on the Peremptory Writ, filed on May 19, 2025 by Petitioner, Arturo Gutierrez.

Based on Petitioner's May 19, 2025 motion and Respondent's failure to file an opposition, the Court finds Respondent has established no applicable exemption that would permit them to further deny access to the demanded public records. Therefore further finding good cause to grant the underlying motion and grant the petition. As such the Court will issue the peremptory writ of mandate directing and compelling the California Department of Justice to act in accordance with the directives in the writ.

IT IS SO ORDERED.

_____

Honorable Holly J. Fujie, Judge of the Superior Court

Arturo Gutierrez
226 West Ojai Ave.
Suite 101 PMB 547
Ojai, CA 93023
(805) 669-0226
teamleader@survivinginjustice.org

Electronically FILED by
Superior Court of California,
County of Los Angeles
6/23/2025 11:57 AM
David W. Slayton,
Executive Officer/Clerk of Court,
By L. Grim, Deputy Clerk

Petitioner *in propria persona*

SUPERIOR COURT OF CALIFORNIA,

COUNTY OF LOS ANGELES

STANLEY MOSK COURTHOUSE

ARTURO GUTIERREZ *Petitioner*, vs. CALIFORNIA DEPARTMENT OF JUSTICE *Respondent*.	Case No. 25STCV07287 **PROOF OF SERVICE OF PROPOSED ORDER** Date: Jun. 25, 2025 Time: 8:30AM Department: 56 Hon. Holly J. Fujie, Judge

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PROOF OF SERVICE

1. I, Edward Lasseville, am over the age of 18 years and am not party to this cause. I am a resident of or employed in the county where the service occurred.

a. My business address is:

b. 6040 Sante Fe Avenue Huntington Park, CA 90255

c. Lasseville@yahoo.com

2. I served the following documents:

PROPOSED ORDER

3. The manner of service per party served is indicated next to each party name below by either:

a. Email: Attaching an electronic version of the document(s) in 2, to an email using the email address(es) listed next to each party's name and causing them to be sent electronically.

b. Postal: Enclosing a copy of the document(s) in 2 in an envelope, addressed to the party as shown next to each name and depositing the sealed envelope with the U.S. Postal Service, postage fully prepaid.

c. Electronic Service: "a party may effectuate service not only by the electronic transmission of a document, but also by providing electronic notification of where a document served electronically may be located and downloaded." (Rule of Court 2.250 Advisory Committee Comment citing Code Civ. Proc. § 1010.6)

4. I served the documents in 2 on the following persons in the manner indicated below:

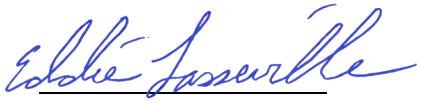
The manner in 3.a.

Respondent: The Department of Justice of California
2550 Mariposa Mall Ste 5090
Fresno, CA 93720
(559) 705-2356
kelsey.kook@doj.ca.gov

On 6/23/25, from Los Angeles County, I caused the documents in 2 to be served in the manner described in 3, identified as to the persons and their listed addresses stated in 4.

I declare under penalty of perjury under the laws of the State of California the above is true and correct.

June 23, 2025



Edward Lasseville

EXHIBIT 11

ROB BONTA
Attorney General of California
ANTHONY P. O'BRIEN
Supervising Deputy Attorney General
KELSEY KOOK
Deputy Attorney General
State Bar No. 285543
2550 Mariposa Mall, Room 5090
Fresno, CA 93721-2271
Telephone: (559) 705-2356
Fax: (916) 324-8835
E-mail: kelsey.kook@doj.ca.gov
Attorneys for Respondent California Department of Justice

NO FEE PER GOV. CODE § 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

ARTURO GUTIERREZ, Petitioner, **v.** **CALIFORNIA DEPARTMENT OF JUSTICE,** Respondent.	Case No. 25STCV07287 **RESPONDENT'S OPPOSITION TO PETITIONER'S EX PARTE APPLICATION TO SHORTEN TIME FOR RULING ON MOTION FOR JUDGMENT ON THE PEREMPTORY WRIT** Date: June 25, 2025 Time: 8:30 am Dept: 56 Judge: The Honorable Holly J. Fujie Action Filed: March 14, 2025

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Respondent California Department of Justice ("Respondent" or "Department") respectfully submits this Opposition to Petitioner's Ex Parte Application to Shorten Time for Ruling on Motion For Judgment On the Preemptory Writ ("Ex Parte Application").

INTRODUCTION

On June 23, 2025, Petitioner filed an ex parte application to shorten time to hear his pending motion for judgment. However, Petitioner has failed to establish good cause for this application as the irreparable harm he has alleged is not supported by any facts or declaration, and it is not clear how an expedited briefing and hearing schedule would prevent any alleged harm. In addition, and as noted in Respondent's forthcoming motion to reclassify, this matter should be properly heard in the Court's Writ Department. At its core, Petitioner's action is a challenge to the Department of Justice's response to his Public Records Act request. The Legislature has been clear in noting that such actions are to be filed as petition for writ of mandate. Given that this is litigation stems from Petitioner's challenge to the Department's response to his PRA request, reclassification to the Court's Writ Department is warranted and would not cause any irreparable harm to Petitioner. For these reasons, this Court should deny this ex parte application.

PROCEDURAL HISTORY

On March 14, 2025, Petitioner filed Petition for Writ of Mandamus and Statutory Mandate ("Petition"). In his Petition, Plaintiff challenges the Department's withholding of records pursuant to the PRA under Government Code section 7923.000. (Petition, p. 1.) The Petition was assigned to Department 56 a Civil Unlimited Department. On April 11, 2025, the Department filed their Answer to Petition for Writ of Mandamus and Statutory Mandate. A case management conference is currently set for August 1, 2025 in this Department.

On March 14, 2025 Petitioner's motion titled "Notice of Motion for Judgment on the Preemptory," was rejected by the Court when he attempted to file because: "'Reject Reason: Incorrect department. File in the Writ department courtroom on the 8th floor. Follow the procedure for the Writ of mandate.'" (Pet. Obj. to Clerk's Disobedience of Local Rule 3.3(i) and Usurpation of Judicial Power, p. 2.) On March 19, 2025, Petitioner filed a motion titled "Objection to Clerk's Disobedience of Local Rule 3.3(i) and Usurpation of Judicial Power," and a

second motion titled "Notice of Motion for Judgment on the Preemptory Writ In Chambers Now; Motion; Memorandum of Law," based on the claim that the Department needed to verify its Answer to the Petition. (Pet. Mot. For Judgment, p. 1.) Petitioner did not notice any hearing date for the motion. On May 27, 2025, Respondent's counsel called the Department 56 clerk and was told in summary, that this case—filed as a petition for writ of mandate—is not properly before Department 56, which is a civil unlimited jurisdiction department. (See Declaration of Kelsey Kook ("Kook Decl."), ¶ 3.)

On June 12, 2025, the Department's counsel emailed Petitioner requesting Petitioner sign a stipulation and [proposed] order to reclassify this writ petition to the Court's Writ Department as it is presently assigned to a civil unlimited department. (See Kook Decl., ¶ 4.) Petitioner did not object to the reassignment but did not sign the stipulation. (*Id.*, ¶ 5.) On June 12, 2025, the Department's counsel replied that writ cases are routinely reassigned to other unlimited civil departments when caseloads or scheduling require it. (*Ibid.*) The next day, the Department's counsel responded that reassignment of a PRA enforcement action was appropriate and that the Department still intended to seek the reassignment. (*Id.*, ¶ 6.) The Department's counsel further asked Petitioner to let her know if he would be signing the stipulation by June 17, 2025. (*Ibid.*) On June 17, 2025, Petitioner responded, asking the Department's counsel to provide the laws the Department is relying on to seek reclassification. (*Id.*, ¶ 7.)

On June 18, 2025 the Department's counsel provided the applicable reclassification citations with an updated stipulation and [proposed] order to reclassify. (Kook Decl., ¶ 8.) The Department's counsel further requested Petitioner sign the stipulation by June 23, 2025, or the Department would proceed with a motion to reclassify. (Kook Decl., ¶ 8.)

The Department did not and has not attempted to send Petitioner malware. (Kook Decl., ¶ 10.) To the contrary, all emails and attachments from the Department are automatically scrubbed for metadata before they are sent. (Kook Decl., ¶ 10.)

On Monday, June 23, 2025, 8:53 a.m., the Department's counsel received notification via an email that Petitioner will move for an ex parte application to shorten time and is seeking for it to be heard on June 25, 2025. (Kook Decl., ¶ 11.) The Department's counsel replied at 10:44

a.m. that the Department will oppose the application. (Kook Decl., ¶ 12.) The Department's counsel also requested a different date for the application hearing, noting that she is unavailable on June 25, 2025 due to a conflicting medical appointment. (*Ibid*.) Petitioner did not respond, but at 11:53 a.m. served the underlying ex parte application without changing the hearing date. (*Id*., ¶ 13.)

ARGUMENT

I. PETITIONER FAILS TO SHOW GOOD CAUSE TO SHORTEN TIME FOR A HEARING

Petitioner has failed to establish any basis justifying shortening the hearing schedule for his motion for judgment. California Code of Civil Procedure section 1005, subdivision (b), permits a Court to order shortened time for service and hearing of motions before the Court. Such relief can be granted upon a showing of good cause, which requires "an affirmative factual showing in a declaration containing competent testimony based on personal knowledge of irreparable harm, immediate danger, or any other statutory basis for granting relief ex parte." (Cal. Rule of Court, rule 3.1202, subd. (c).)

In an attempt to demonstrate good cause for expedited treatment of his Petition, Petitioner asserts that imminent and irreparable harm is that the Department is involved in "litigation sabotage." (Ex Parte App., p. 3.) This "litigation sabotage" is claimed to have occurred through the Department providing Petitioner an electronic copy of the proposed stipulation and order that allegedly contained malicious code and spyware. (Ex Parte App., p. 3-4.)

Petitioner's assertion that the Department inserted malware into his computer lacks any factual support. The Department disputes Petitioner's claim that it has infected his computer—either intentionally or accidentally—with malware. While the Department's emails are scrubbed for metadata before they are sent (Kook Decl., ¶ 8.), Petitioner provides no reason to believe that the communication sent to him by Department's counsel had malware. And even if Petitioner's system were infected with malware, it is not clear how an expedited briefing and hearing schedule—for a motion with no scheduled hearing date—would prevent any alleged irreparable harm. Petitioner provides no declaration supporting any such claim. On this basis alone, the Court should deny this application.

II. DENIAL OF THIS APPLICATION WILL NOT CAUSE IRREPARABLE HARM TO PETITIONER.

Petitioner does not stand to suffer *any* irreparable harm if the Court denies this application. Petitioner's application appears to be in response to the Department's attempt to seek Petitioner's stipulation to reclassify this matter in this Court's Writ Department, due to the litigation being based on Petitioner's challenge to the Department's withholding of records pursuant to the PRA (Gov. Code, § 7920.000 et seq.). (Petition, p. 1.)

A writ of mandate is the proper vehicle to provide a judicial remedy to inspect or receive a copy of any public record pursuant to the PRA. (See Gov. Code, § 7923.000 ["Any person may institute a proceeding for injunctive or declarative relief, or for a writ of mandate, in any court of competent jurisdiction, to enforce that person's right" under the PRA].) This Court has a Writ Department designated for hearing petitions for writ of mandate, such as the present matter. Therefore, the Department will seek that this case be reclassified, Pursuant to Code of Civil Procedure section 403.040, subdivision (a), as a Writ of Mandate and transferred to a Writ Department for this Court for all purposes.

Contrary to Petitioner's claim, the Department is not "judge shopping" by seeking reclassification. (Ex Parte App., p. 7.) To the contrary, reclassification is warranted, given that this is litigation stems from Petitioner's challenge to the Department's response to his PRA request. As noted in the PRA, such litigation is to be handled through a petition for writ of mandate (See Gov. Code, § 7923.000.) The Department's counsel sought Petitioner's stipulation for this reclassification, as such reclassification would provide the only means by which Petitioner will be able to seek a hearing on the merits of his claims. (*Ibid.*)[1] Petitioner's writ, and his present Ex Parte Application to shorten time and briefing on his writ, will not address the harm alleged in the Petition, and will only serve to burden this Court and the Department with

[1] Given Petitioner's unwillingness to stipulate to reclassification, Department's counsel will proceed to file a Motion for Reclassification with this Court, under Code of Civ. Proc., § 403.040, subd. (a). Alternatively, the Court has discretion to reclassify this matter on its own motion at any time. (*Ibid*.)

having to address Petitioner's writ on an unnecessarily expedited schedule. The Court should therefore deny this application to shorten time on the motion for judgment.

CONCLUSION

For these reasons, the Court should deny Petitioner's Ex Parte Application.

Dated: June 24, 2025

Respectfully submitted,

ROB BONTA
Attorney General of California
ANTHONY P. O'BRIEN
Supervising Deputy Attorney General

/s/ Kelsey Kook

KELSEY KOOK
Deputy Attorney General
Attorneys for Respondent
California Department of Justice.

SA2025601096

EXHIBIT 12

ROB BONTA
Attorney General of California
ANTHONY P. O'BRIEN
Supervising Deputy Attorney General
KELSEY KOOK
Deputy Attorney General
State Bar No. 285543
2550 Mariposa Mall, Room 5090
Fresno, CA 93721-2271
Telephone: (559) 705-2356
Fax: (916) 324-8835
E-mail: kelsey.kook@doj.ca.gov
Attorneys for Respondent California Department of Justice

NO FEE PER GOV. CODE § 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

ARTURO GUTIERREZ, Plaintiff, **v.** **CALIFORNIA DEPARTMENT OF JUSTICE,** Respondents,	Case No. 25STCV07287 **DECLARATION OF KELSEY C. KOOK IN SUPPORT OF RESPONDENT'S OPPOSITION TO PETITIONER'S EX PARTE APPLICATION TO SHORTEN TIME FOR RULING ON MOTION FOR JUDGMENT ON THE PEREMPTORY WRIT** Date: June 25, 2025 Time: 8:30 am Dept: 56 Judge: The Honorable Holly J. Fujie Action Filed: March 14, 2025

/ / /

/ / /

DECLARATION OF KELSEY C. KOOK

I, Kelsey C. Kook, declare as follows:

1. I am an attorney admitted to practice before the courts of the State of California, including this Court. I am employed by the California Attorney General's Office as a Deputy Attorney General and was assigned as counsel of record for Respondent California Department of Justice in this matter. I submit this declaration in support of Respondent's Opposition to Petitioner's Ex Parte Application to Shorten Time for Ruling on Motion for Judgment on the Peremptory Writ. I have personal knowledge of the facts set forth in this declaration and if called as a witness, I could and would testify competently to these facts under oath.

2. This declaration is made pursuant to California Rules of Court, rules 3.1201 and 3.1204.

3. On May 27, 2025 I called the Department 56 clerk and was told in summary, that this case—filed as a petition for writ of mandate—is not properly before Department 56, which is a civil unlimited jurisdiction department.

4. Based on the Department 56 clerk's statement, and because Petitioner filed this matter as a petition for writ of mandate under Government Code section 7923.000, I concluded that seeking reclassification of this matter to the Court's Writ Department would ensure resolution of the merits of Petitioner's claim. To that end, on Thursday, June 12, 2025, I emailed Petitioner requesting Petitioner sign a stipulation and [proposed] order to reclassify this writ petition to the Court's Writ Department. A copy of that email is attached as Exhibit A.

5. Petitioner did not object to the reassignment but did not sign the stipulation. On Thursday, June 12, 2025, Respondent replied that writ cases are routinely reassigned to other unlimited civil departments when caseloads or scheduling require it. Respondent's email response is attached as Exhibit B.

6. On Friday, June 13, 2025, I responded to Petitioner, stating that reassignment of a PRA enforcement action was appropriate and we still intended to seek the reassignment. I also asked Petitioner to let Respondent know if he would be signing the stipulation by June 17, 2025. A copy of the June 13, 2025 email is attached as Exhibit C.

7. On June 17, 2025, Petitioner responded asking me to provide the laws it is relying on to seek reclassification. A copy of this email is attached as Exhibit D.

8. On June 18, 2025, I provided the applicable reclassification citations with an updated stipulation and [proposed] order to reclassify. I also requested Petitioner sign the stipulation by June 23, 2025, or Respondent would proceed with a motion to reclassify. A copy of this correspondence is attached as Exhibit E.

9. Petitioner has not signed the stipulation to reclassify this matter.

10. The Department did not and has not attempted to send Petitioner malware. To the contrary, all emails and attachments from the Department are automatically scrubbed for metadata before they are sent outside of the Department.

11. On Monday June 23, 2025, 8:53 a.m., I received notification via an email that Petitioner will move for an Ex Parte Application to shorten time and is seeking for it to be heard on June 25, 2025. In the application, Petitioner alleged that our office attempted to send him malware through transmission of the stipulation for reclassification. A copy of the email I received is attached as Exhibit F.

12. I replied that same day at 10:44 a.m. that the Department will oppose the application, and that I am unavailable on June 25, 2025, due to a prescheduled medical appointment that conflicts with that time. I asked Petitioner to reschedule the ex parte hearing for a different date. A copy of my email is attached as Exhibit G.

13. Petitioner did not respond, but at 11:53 a.m. served the underlying Ex Parte Application without changing the hearing date. A copy of the notification of service of the Ex Parte application is attached as Exhibit H.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 24th day of June, 2025, at Clovis, California.

s/ Kelsey C. Kook
Kelsey C. Kook

EXHIBIT A

From: Kelsey Kook
To: teamleader@survivinginjustice.org
Bcc: Anthony OBrien
Subject: Gutierrez, Arturo v. California Department of Justice (25STCV07287)
Date: Thursday, June 12, 2025 11:03:12 AM
Attachments: Stipulation and Order to Reclassify 6.12.25.docx

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Good afternoon Arturo Gutierrez,

It has come to the attention of the Department of Justice ("Department" and "Respondent") that *Gutierrez, Arturo v. California Department of Justice* (Los Angeles County Superior Court, Case No. 25STCV07287) is incorrectly assigned to a Civil Unlimited department. Under Government Code section 7923.000, a writ of mandate is the proper vehicle to provide a judicial remedy to inspect or receive a copy of any public record. The Los Angeles County Superior Court Stanley Mosk Courthouse has a writ department. As you are seeking a remedy pursuant to Gov. Code section 7923.00,0 this case needs to be reassigned from Dept 56, a civil unlimited department, to a writ department. In order to aid in this process I have drafted a stipulation and order to reclassify. Please review the stipulation, and if you agree, please sign. I will then file this on our behalf.

Please provide a signed copy, or let me know you decision to not sign, by June 23, 2025.

Kelsey Kook
Deputy Attorney General | Office of General Counsel - Public Records Unit
2550 Mariposa Mall Ste 5090| Fresno, CA 93720
(559) 705-2356| kelsey.kook@doj.ca.gov

EXHIBIT B

From: teamleader@survivinginjustice.org
To: Kelsey Kook
Subject: Re: Gutierrez, Arturo v. California Department of Justice (25STCV07287)
Date: Thursday, June 12, 2025 5:12:23 PM
Attachments: Screenshot 2025-06-12 at 2.53.07 PM.png
Screenshot 2025-06-12 at 2.54.38 PM.png
CA Legal Actions Against Blacks Penal Code Section 745.png

EXTERNAL EMAIL: This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

Hi Ms. Kook,
You're not wrong—but also not quite correct. Believe it or not, I've had the exact sentiments you're expressing come up in other writ cases and initially shared your exact perspective myself. Experience has taught me that the bottom line is that local culture in Los Angeles, per local rules, is that while the writs and receivers departments are preferred for initial assignment, the court routinely reassigns writ cases to other unlimited civil departments when caseloads or scheduling require it. It's a matter of internal allocation—not jurisdiction.

I've attached screenshots from **LA Superior Case No. 23STCP04453** as an example. That case—also a mandamus—was assigned to the writs dept., then bumped to a non-writs department in Alhambra. So your concern about "incorrectly assigned to a Civil Unlimited department" isn't supported by how the court actually operates.

And remedy by mandamus is only one of the vehicles. Check out Gov. Code § 7923.000 "Any person may institute a proceeding *for injunctive* or *declarative relief*, or for a *writ of mandate*, in any court of competent jurisdiction, to enforce that person's right under this division to inspect or receive a copy of any public record or class of public records."

Per Local Rule 3.3(i), this case was assigned *for all purposes* to Dept. 56, including trial and all motions. As you may have seen, the clerk recently questioned that assignment, but after I laid out the applicable rules in my objection and refiled the same documents, the clerks ultimately filed all documents, confirming the case was properly in Dept. 56.

While I understand the desire to route this to a writ department, there's no basis under the court's local rules for reassignment at this stage. No peremptory challenge or request for reassignment was filed following the Notice of Case Assignment. Local Rule 3.3(b) prohibits any party from anticipating or altering assignments, and subdivision (d) bars any effort to maneuver around assignment through strategic filings or dismissals. Assignment is a clerk function governed by standing orders from the Presiding Judge—you can verify the Local Rule referenced here.

Also, you mentioned "I have drafted a stipulation and order to **reclassify**." Oh, how I wish it could be that simple, if we could just stipulate to make things right then we could get this whole thing straightened up, asap. But the jurisdictional classification is de facto unlimited civil. We know this based on CCP § 85(a) limited civil must have an amount demanded of less than $35,000. And CCP § 86(b) lists the limited equitable cases, which are not applicable here. Since a CPRA will never have monetary damages, one would think the Legislature would have thought to announce it under CCP § 85.
Bringing us to the answer, Gov. Code § 7923.500(a) "is not a final judgment or order within the meaning of Section 904.1 of the Code of Civil Procedure from which an appeal may be taken," CCP § 904.1(a) "An appeal, other than in a limited civil case, is to the court of

appeal." Granted life would be easier sometimes if they would just give us straight answers — but the statutory breadcrumbs are there, and they lead in only one direction. See CCP § 88 "A civil action or proceeding other than a limited civil case may be referred to as an unlimited civil case."

So, while a stipulation might sound appealing, reclassification simply isn't within our powers —it's a jurisdictional matter controlled by statute, not mutual agreement. And the stated desire to reclassify from "a civil unlimited department, to a writ department" is actually an assignment issue that the Local Rules of Court already cover.

The confusion portrayed here was not unwarranted. It would be nice if they were more direct, see e.g., Gov. Code § 7930.000(b) "The listing of a statute or constitutional provision in Chapter 2 (commencing with Section 7930.100) does not itself create an exemption." Which is what the five month tardy denial letter was focused on, in its unsupported-by-fact denial— submitted two days before the Department's court filing declaring a response was submitted, omitting the five month delinquent aspect.

"Requesters of public records and public agencies are cautioned to review the applicable statute or constitutional provision to determine the extent to which it, in light of the circumstances surrounding the request, exempts public records from disclosure." (*Id*.)

Leading us to something we do have stipulation power over, allowing us to be more collaborative on what actually matters, like publicly providing the records required by Pen. Code § 745 so that we can stop systemically violating the Thirteenth and Fourteenth Amendments.
I hope that clarifies the matter.
Thanks again for the outreach.

Very truly,
Arturo Gutierrez

Quick example from the above case:

4/11/2024 12:00 AM	Department X	Status Conference
3/28/2024 12:00 AM	Department X	Hearing on Ex Parte Application
2/2/2024 12:00 AM	Department X	Non-Appearance Case Review
1/11/2024 12:00 AM	Department 1	Court Order
1/10/2024 12:00 AM	Department 86	Case Management Conference
1/5/2024 12:00 AM	Department 86	Court Order
12/13/2023 12:00 AM	Department 1	Court Order
12/11/2023 12:00 AM	Department 85	Court Order

Detailed example from the same:

1/11/2024	Case reassigned to Alhambra Courthouse in Department X - Hon. Joel L. Lofton; Reason: Other
1/11/2024	Minute Order (Court Order Re:)
1/11/2024	Certificate of Mailing for (Court Order Re:) of 01/11/2024; Filed by: Clerk
1/9/2024	Notice of CEQA Settlement Conference; Filed by: City of Gardena (Respondent)
1/8/2024	Proof of Service (not Summons and Complaint); Filed by: Mariya Wrightsman (Petitioner); As to: City of Gardena (Respondent)
1/8/2024	Case Management Statement; Filed by: Mariya Wrightsman (Petitioner)
1/5/2024	Updated -- Challenge To Judicial Officer - Peremptory (170.6): Filed By: Mariya Wrightsman (Petitioner); Result: Granted ; Result Date: 01/05/2024
1/5/2024	Case reassigned to Stanley Mosk Courthouse in Department 1 - Hon. Michelle Williams Court; Reason: Other
1/5/2024	Minute Order (Court Order Re Peremptory Challenge to Judicial Officer)
1/5/2024	Certificate of Mailing for (Court Order Re Peremptory Challenge to Judicial Officer) of 01/05/2024; Filed by: Clerk
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12/27/2023	Challenge To Judicial Officer - Peremptory (170.6); Filed by: Mariya Wrightsman (Petitioner); Judge Name: Mitchell L. Beckloff
12/26/2023	Proof of Personal Service; Filed by: Mariya Wrightsman (Petitioner); As to: City of Gardena (Respondent); Service Cost Waived: No; Service Cost: 376.75; Service Date: 12/20/2023
12/22/2023	Consent to Electronic Service and Notice of Electronic Service Address; Filed by: Mariya Wrightsman (Petitioner)
12/14/2023	Case Management Conference scheduled for 01/10/2024 at 09:30 AM in Stanley Mosk Courthouse at Department 86
12/14/2023	Notice of Case Management Conference; Filed by: Clerk
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12/13/2023	Order on Application for Publicagtion Code of Civil Procedure 863; Proposed - Received by: Mariya Wrightsman (Petitioner); As to: City of Gardena (Respondent)
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12/11/2023	Minute Order (Court Order)
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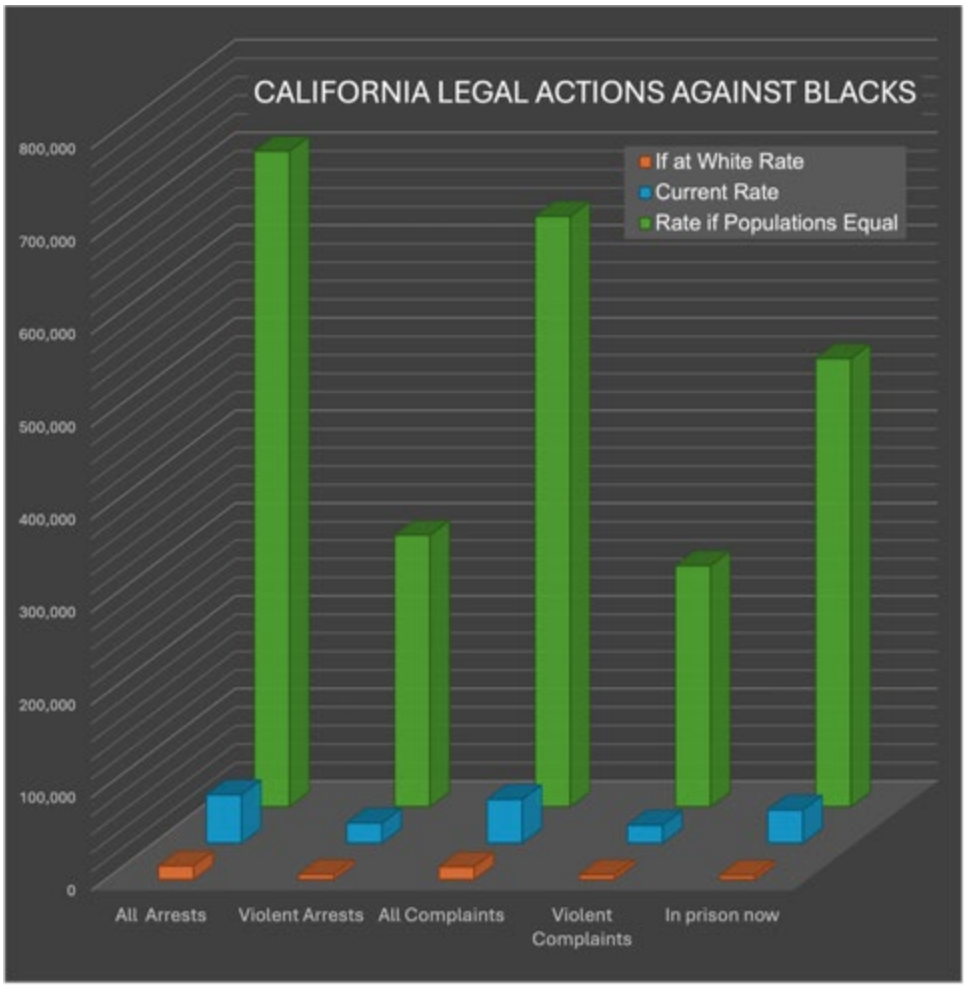
Plus don’t forget:



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Please provide a signed copy, or let me know you decision to not sign, by June 23, 2025.

Kelsey Kook
Deputy Attorney General | Office of General Counsel - Public Records Unit
2550 Mariposa Mall Ste 5090| Fresno, CA 93720
(559) 705-2356| kelsey.kook@doj.ca.gov

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EXHIBIT C

From: elsey Kook
To: eamleader@survivinginjustice.org
Bcc: nthony OBrien
Subject: E: Gutierrez, Arturo v. California Department of Justice (25STCV07287)
Date: iday, June 13, 2025 2:15:09 PM
Attachments: mage001.png
image002.png
image003.png
Stipulation and Order to Reclassify 6.12.25.docx

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Kelsey Kook
Deputy Attorney General | Office of General Counsel - Public Records Unit
2550 Mariposa Mall Ste 5090| Fresno, CA 93720
(559) 705-2356| kelsey.kook@doj.ca.gov

From: teamleader@survivinginjustice.org <teamleader@survivinginjustice.org>
Sent: Thursday, June 12, 2025 5:10 PM
To: Kelsey Kook <Kelsey.Kook@doj.ca.gov>
Subject: Re: Gutierrez, Arturo v. California Department of Justice (25STCV07287)

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Hi Ms. Kook,
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And remedy by mandamus is only one of the vehicles. Check out Gov. Code § 7923.000 "Any person may institute a proceeding *for injunctive* or *declarative relief*, or for a *writ of mandate*, in any court of competent jurisdiction, to enforce

that person's right under this division to inspect or receive a copy of any public record or class of public records."

Per Local Rule 3.3(i), this case was assigned *for all purposes* to Dept. 56, including trial and all motions. As you may have seen, the clerk recently questioned that assignment, but after I laid out the applicable rules in my objection and refiled the same documents, the clerks ultimately filed all documents, confirming the case was properly in Dept. 56.

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Bringing us to the answer, Gov. Code § 7923.500(a) "is not a final judgment or order within the meaning of Section 904.1 of the Code of Civil Procedure from which an appeal may be taken," CCP § 904.1(a) "An appeal, other than in a limited civil case, is to the court of appeal." Granted life would be easier sometimes if they would just give us straight answers —but the statutory breadcrumbs are there, and they lead in only one direction. See CCP § 88 "A civil action or proceeding other than a limited civil case may be referred to as an unlimited civil case."

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"Requesters of public records and public agencies are cautioned to review the applicable statute or constitutional provision to determine the extent to which it, in light of the circumstances surrounding the request, exempts public records from disclosure." (*Id*.)

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I hope that clarifies the matter.
Thanks again for the outreach.

Very truly,
Arturo Gutierrez

Quick example from the above case:

4/11/2024 12:00 AM	Department X	Status Conference
3/28/2024 12:00 AM	Department X	Hearing on Ex Parte Application
2/2/2024 12:00 AM	Department X	Non-Appearance Case Review
1/11/2024 12:00 AM	Department 1	Court Order
1/10/2024 12:00 AM	Department 86	Case Management Conference
1/5/2024 12:00 AM	Department 86	Court Order
12/13/2023 12:00 AM	Department 1	Court Order
12/11/2023 12:00 AM	Department 85	Court Order

Detailed example from the same:

1/11/2024	Case reassigned to Alhambra Courthouse in Department X - Hon. Joel L. Lofton; Reason: Other
1/11/2024	Minute Order (Court Order Re:)
1/11/2024	Certificate of Mailing for (Court Order Re:) of 01/11/2024; Filed by: Clerk
1/9/2024	Notice of CEQA Settlement Conference; Filed by: City of Gardena (Respondent)
1/8/2024	Proof of Service (not Summons and Complaint); Filed by: Mariya Wrightsman (Petitioner); As to: City of Gardena (Respondent)
1/8/2024	Case Management Statement; Filed by: Mariya Wrightsman (Petitioner)
1/5/2024	Updated -- Challenge To Judicial Officer - Peremptory (170.6): Filed By: Mariya Wrightsman (Petitioner); Result: Granted ; Result Date: 01/05/2024
1/5/2024	Case reassigned to Stanley Mosk Courthouse in Department 1 - Hon. Michelle Williams Court; Reason: Other
1/5/2024	Minute Order (Court Order Re Peremptory Challenge to Judicial Officer)
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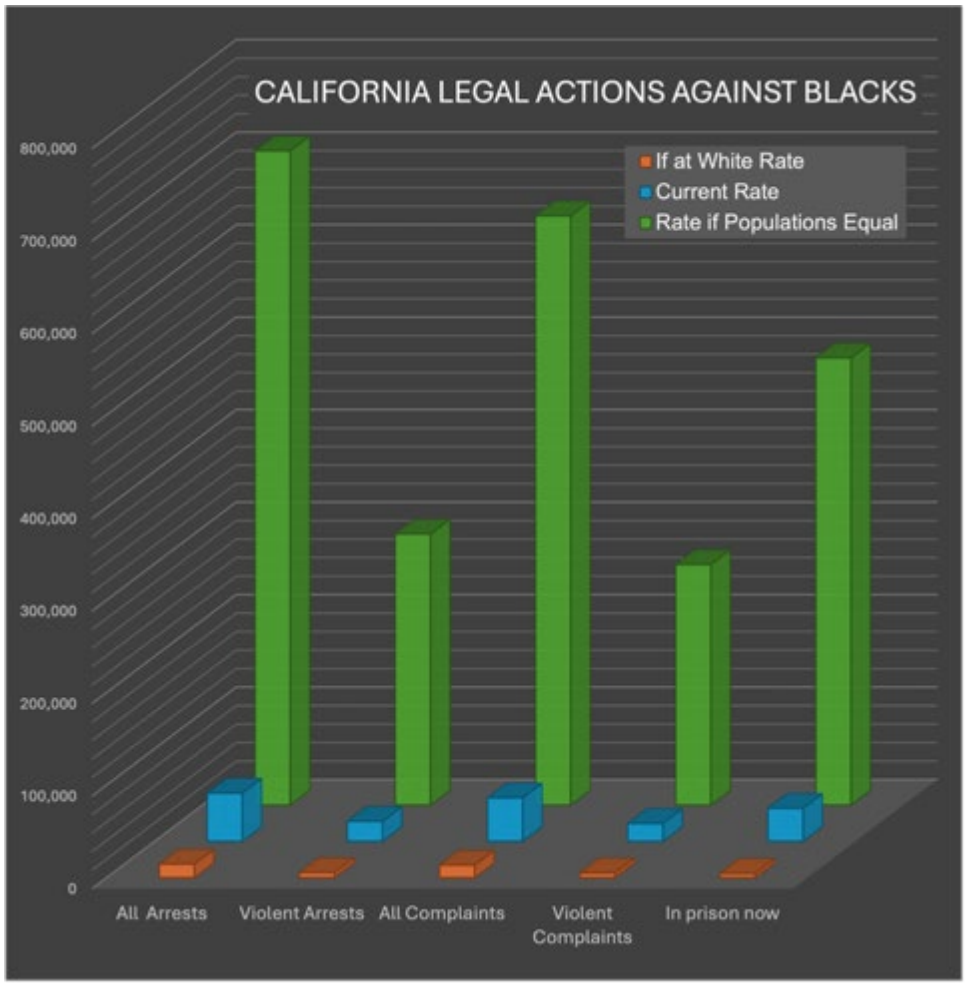

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Please provide a signed copy, or let me know you decision to not sign, by June 23, 2025.

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EXHIBIT D

From: teamleader@survivinginjustice.org
To: Kelsey Kook
Subject: Re: Gutierrez, Arturo v. California Department of Justice (25STCV07287)
Date: Tuesday, June 17, 2025 7:04:25 PM

EXTERNAL EMAIL: This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

Hi Ms. Kook,

I've been thinking about this more, and I realize I must be missing something. I thought I found the laws that apply here on Google, but you obviously know way more than I do. Since you say I'm wrong and those laws don't apply—and since you already have the right laws handy—I'd be grateful if you could send them over so I can get on the right page and review the correct laws that govern here.

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And thanks again for making sure I know the right laws. It'd be so embarrassing to have to explain to a judge that I missed something really obvious. I appreciate you educating me. They say those AIs make mistakes, but I tell you—if they led me down the wrong path again, oh man… well, lesson learned, I guess.

Take it easy,

Arturo Gutierrez

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> Deputy Attorney General | Office of General Counsel - Public Records Unit
> 2550 Mariposa Mall Ste 5090| Fresno, CA 93720
> (559) 705-2356| kelsey.kook@doj.ca.gov
>
> **From:** teamleader@survivinginjustice.org <teamleader@survivinginjustice.org>
> **Sent:** Thursday, June 12, 2025 5:10 PM
> **To:** Kelsey Kook <Kelsey.Kook@doj.ca.gov>

Subject: Re: Gutierrez, Arturo v. California Department of Justice (25STCV07287)

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<image001.png>
Detailed example from the same:

<image002.png>

Plus don't forget:
<image003.png>

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EXHIBIT E

From: Kelsey Kook
To: teamleader@survivinginjustice.org
Bcc: Anthony OBrien
Subject: RE: Gutierrez, Arturo v. California Department of Justice (25STCV07287)
Date: Wednesday, June 18, 2025 1:26:00 PM
Attachments: Stipulation and Order to Reclassify 6.18.25.docx

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Good afternoon Arturo Gutierrez,

We are basing this stipulation on the ability to reclassify pursuant to Code of Civil Procedure section 403.040, subdivision (a). Also, we are noting that, under Gov. Code, section 7923.000, a writ of mandate is the proper vehicle to provide a judicial remedy to inspect or receive a copy of any public record. These statutes have also been included in the updated stipulation that is attached.

Please let us know by June 23 if you are planning on signing the attached stipulation. If we do not hear from you by then, we will proceed with our plan to file a motion to reclassify.

Kelsey Kook
Deputy Attorney General | Office of General Counsel - Public Records Unit
2550 Mariposa Mall Ste 5090| Fresno, CA 93720
(559) 705-2356| kelsey.kook@doj.ca.gov

From: teamleader@survivinginjustice.org <teamleader@survivinginjustice.org>
Sent: Tuesday, June 17, 2025 7:04 PM
To: Kelsey Kook <Kelsey.Kook@doj.ca.gov>
Subject: Re: Gutierrez, Arturo v. California Department of Justice (25STCV07287)

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I've attached screenshots from **LA Superior Case No. 23STCP04453** as an example. That case—also a mandamus—was assigned to the writs

dept., then bumped to a non-writs department in Alhambra. So your concern about "incorrectly assigned to a Civil Unlimited department" isn't supported by how the court actually operates.

And remedy by mandamus is only one of the vehicles. Check out Gov. Code § 7923.000 "Any person may institute a proceeding *for injunctive* or *declarative relief*, or for a *writ of mandate*, in any court of competent jurisdiction, to enforce that person's right under this division to inspect or receive a copy of any public record or class of public records."

Per Local Rule 3.3(i), this case was assigned *for all purposes* to Dept. 56, including trial and all motions. As you may have seen, the clerk recently questioned that assignment, but after I laid out the applicable rules in my objection and refiled the same documents, the clerks ultimately filed all documents, confirming the case was properly in Dept. 56.

While I understand the desire to route this to a writ department, there's no basis under the court's local rules for reassignment at this stage. No peremptory challenge or request for reassignment was filed following the Notice of Case Assignment. Local Rule 3.3(b) prohibits any party from anticipating or altering assignments, and subdivision (d) bars any effort to maneuver around assignment through strategic filings or dismissals. Assignment is a clerk function governed by standing orders from the Presiding Judge—you can verify the Local Rule referenced here.

Also, you mentioned "I have drafted a stipulation and order to **reclassify**." Oh, how I wish it could be that simple, if we could just stipulate to make things right then we could get this whole thing straightened up, asap. But the jurisdictional classification is de facto unlimited civil. We know this based on CCP § 85(a) limited civil must have an amount demanded of less than $35,000. And CCP § 86(b) lists the limited equitable cases, which are not applicable here. Since a CPRA will never have monetary damages, one would think the Legislature would have thought to announce it under CCP § 85.
Bringing us to the answer, Gov. Code § 7923.500(a) "is not a final judgment or order within the meaning of Section 904.1 of the Code of Civil Procedure from which an appeal may be taken," CCP § 904.1(a) "An appeal, other than in a limited civil case, is to the court of appeal." Granted life would be easier sometimes if they would just give us

straight answers —but the statutory breadcrumbs are there, and they lead in only one direction. See CCP § 88 “A civil action or proceeding other than a limited civil case may be referred to as an unlimited civil case.”

So, while a stipulation might sound appealing, reclassification simply isn’t within our powers—it’s a jurisdictional matter controlled by statute, not mutual agreement. And the stated desire to reclassify from “a civil unlimited department, to a writ department” is actually an assignment issue that the Local Rules of Court already cover.

The confusion portrayed here was not unwarranted. It would be nice if they were more direct, see e.g., Gov. Code § 7930.000(b) “The listing of a statute or constitutional provision in Chapter 2 (commencing with Section 7930.100) does not itself create an exemption.” Which is what the five month tardy denial letter was focused on, in its unsupported-by-fact denial—submitted two days before the Department’s court filing declaring a response was submitted, omitting the five month delinquent aspect.

“Requesters of public records and public agencies are cautioned to review the applicable statute or constitutional provision to determine the extent to which it, in light of the circumstances surrounding the request, exempts public records from disclosure.” (*Id*.)

Leading us to something we do have stipulation power over, allowing us to be more collaborative on what actually matters, like publicly providing the records required by Pen. Code § 745 so that we can stop systemically violating the Thirteenth and Fourteenth Amendments.
I hope that clarifies the matter.
Thanks again for the outreach.

Very truly,
Arturo Gutierrez

Quick example from the above case:
<image001.png>
Detailed example from the same:

<image002.png>

Plus don’t forget:
<image003.png>

On Jun 12, 2025, at 11:03 AM, Kelsey Kook <Kelsey.Kook@doj.ca.gov> wrote:

Good afternoon Arturo Gutierrez,

It has come to the attention of the Department of Justice ("Department" and "Respondent") that *Gutierrez, Arturo v. California Department of Justice* (Los Angeles County Superior Court, Case No. 25STCV07287) is incorrectly assigned to a Civil Unlimited department. Under Government Code section 7923.000, a writ of mandate is the proper vehicle to provide a judicial remedy to inspect or receive a copy of any public record. The Los Angeles County Superior Court Stanley Mosk Courthouse has a writ department. As you are seeking a remedy pursuant to Gov. Code section 7923.00,0 this case needs to be reassigned from Dept 56, a civil unlimited department, to a writ department. In order to aid in this process I have drafted a stipulation and order to reclassify. Please review the stipulation, and if you agree, please sign. I will then file this on our behalf.

Please provide a signed copy, or let me know you decision to not sign, by June 23, 2025.

Kelsey Kook
Deputy Attorney General | Office of General Counsel - Public Records Unit
2550 Mariposa Mall Ste 5090| Fresno, CA 93720
(559) 705-2356| kelsey.kook@doj.ca.gov

CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication. <Stipulation and Order to Reclassify 6.12.25.docx>

CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.<Stipulation and Order to Reclassify 6.12.25.docx>

EXHIBIT F

From: amleader@survivinginjustice.org
To: Kelsey Kook
Subject: Gutierrez v. DOJ Notice of hearing June 25, 2025 at 8:30AM
Date: Monday, June 23, 2025 8:59:02 AM
Attachments: Proposed Order-1.pdf
Application shortening time-1.pdf

EXTERNAL EMAIL: This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

PLEASE TAKE NOTICE that on June 25, 2025, at 8:30AM or as soon thereafter as the matter may be heard, in Department 56 of the Los Angeles County Superior Court, located at 111 N. Hill Street, Los Angeles, CA 90012, Arturo Gutierrez will move for an ex parte application to shorten time seeking to have the court rule on the motion for peremptory issuance now filed May 19, 2025.

If the Court declines to grant the Application on ex parte basis and accepts it as a noticed motion and sets a hearing date, Applicant will request that the Court set a noticed hearing date on shortened time and accept Applicants' ex parte application as their motion for an order issuing the peremptory writ now.

Please advise if you intend to oppose the Application.

See attached.

Best,

Arturo Gutierrez

EXHIBIT G

From: Kelsey Kook
To: teamleader@survivinginjustice.org
Bcc: Anthony OBrien
Subject: RE: Gutierrez v. DOJ Notice of hearing June 25, 2025 at 8:30AM
Date: Monday, June 23, 2025 10:43:00 AM

Good morning Arturo Gutierrez,

The Department will oppose your Ex Parte Application to Shorten Time. I am unavailable on June 25, 2025 at 8:30 am. Based on my unavailability, I would ask that you set it to a different day. I am available Thursday or Friday.

Kelsey Kook
Deputy Attorney General | Office of General Counsel - Public Records Unit
2550 Mariposa Mall Ste 5090| Fresno, CA 93720
(559) 705-2356| kelsey.kook@doj.ca.gov

From: teamleader@survivinginjustice.org <teamleader@survivinginjustice.org>
Sent: Monday, June 23, 2025 8:53 AM
To: Kelsey Kook <Kelsey.Kook@doj.ca.gov>
Subject: Gutierrez v. DOJ Notice of hearing June 25, 2025 at 8:30AM

EXTERNAL EMAIL: This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

PLEASE TAKE NOTICE that on June 25, 2025, at 8:30AM or as soon thereafter as the matter may be heard, in Department 56 of the Los Angeles County Superior Court, located at 111 N. Hill Street, Los Angeles, CA 90012, Arturo Gutierrez will move for an ex parte application to shorten time seeking to have the court rule on the motion for peremptory issuance now filed May 19, 2025.

If the Court declines to grant the Application on ex parte basis and accepts it as a noticed motion and sets a hearing date, Applicant will request that the Court set a noticed hearing date on shortened time and accept Applicants' ex parte application as their motion for an order issuing the peremptory writ now.

Please advise if you intend to oppose the Application.
See attached.
Best,
Arturo Gutierrez

EXHIBIT H

From: dward Lasseville
To: elsey Kook
Subject: utierrez v. DOJ Service of Documents, Case No. 25STCV07287
Date: onday, June 23, 2025 11:56:48 AM
Attachments: roposed Order-1 (1).pdf
Application shortening time-1 (1).pdf
Application shortening time-1.pdf
Proposed Order-1.pdf

EXTERNAL EMAIL: This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

this services of the following documents.
see attached
Eddie Lasseville

EXHIBIT 13

ROB BONTA
Attorney General of California
ANTHONY P. O'BRIEN
Supervising Deputy Attorney General
KELSEY KOOK
Deputy Attorney General
State Bar No. 285543
2550 Mariposa Mall, Room 5090
Fresno, CA 93721-2271
Telephone: (559) 705-2356
Fax: (916) 324-8835
E-mail: kelsey.kook@doj.ca.gov
Attorneys for Respondent California Department of Justice

NO FEE PER GOV. CODE § 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

ARTURO GUTIERREZ, Petitioner, **v.** **CALIFORNIA DEPARTMENT OF JUSTICE,** Respondent.	Case No. 25STCV07287 **PROPOSED ORDER DENYING PETITIONER'S EX PARTE APPLICATION TO SHORTEN TIME FOR RULING ON MOTION FOR JUDGMENT ON THE PEREMPTORY WRIT** Date: June 25, 2025 Time: 8:30 am Dept: 56 Judge: The Honorable Holly J. Fujie Action Filed: March 14, 2025

/ / /

/ / /

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

The Ex Parte Application to Shorten Time for Ruling on Motion for Judgment on the Peremptory Writ in Chambers Now ("Ex Parte Application") filed by Arturo Gutierrez (Petitioner) came for hearing on June 25, 2025 at 8:30 AM in Department 56 of the above-titled court.

The Court, after considering all documents filed in support of and opposition to the Ex Parte Application, and oral argument thereon, and for good cause shown, it is ordered that the Petitioner's Ex Parte Application is DENIED.

IT IS SO ORDERED.

Dated: _____

_____
Hon. Holly J. Fujie
JUDGE OF THE SUPERIOR COURT

SA2025601096

EXHIBIT 14

Arturo Gutierrez
226 West Ojai Ave.
Suite 101 PMB 547
Ojai, CA 93023
(805) 669-0226
teamleader@survivinginjustice.org

Petitioner *in propria persona*

SUPERIOR COURT OF CALIFORNIA,

COUNTY OF LOS ANGELES

STANLEY MOSK COURTHOUSE

ARTURO GUTIERREZ *Petitioner*, vs. CALIFORNIA DEPARTMENT OF JUSTICE *Respondent*.	Case No. 25STCV07287 **NOTICE OF PETITIONER'S MOTION FOR SANCTIONS BASED ON CRIMINAL MISCONDUCT, INVASION OF PRIVACY, AND VIOLATION OF CONSTITUTIONAL AND ETHICAL DUTIES; MEMORANDUM; DECLARATIONS ISO AND NOTICE; EXHIBITS; PROOF OF SERVICE** Date: Jun. 25, 2025 Time: 8:30AM Department: 56 Hon. Holly J. Fujie, Judge

TO THE CLERK OF THE SUPERIOR COURT OF LOS ANGELES COUNTY AND TO RESPONDENT THE CALIFORNIA DEPARTMENT OF JUSTICE, PLEASE TAKE NOTICE:

NOTICE OF PETITIONER'S MOTION FOR SANCTIONS BASED ON CRIMINAL MISCONDUCT, INVASION OF PRIVACY, AND VIOLATION OF CONSTITUTIONAL AND ETHICAL DUTIES

Petitioner, Arturo Gutierrez, appearing in propria persona, hereby gives notice that at the above stated dated and time or as soon as the matter may be heard in the above Department 56, Petitioner will move the court to issue sanctions against Respondent the California Department of Justice seek costs of necessary expenses that are only partially known at this time, in the amount of $2,500 and as may be ascertained soon hereafter based on egregious misconduct by implanting malicious code into petitioner's computer with the aim of spying on an opponent and disrupting

the orderly administration of justice, authorized by the Court's inherent powers, Rule of Court, Rule 2.30(c) and various statutory and constitutional provisions.

This noticed motion was brought as reasonably soon as possible given the nature of the offending act and the difficulty in locating the malicious code, which was accomplished June 24, 2025 at 12:34PM. This notice and motion is supported by the memorandum, declaration of Arturo Gutierrez, exhibits and any argument or papers on file.

The Code of Civil Procedure and the Rules of Court do not cover situations as egregious as this, making it necessary to call on the Court's inherent authority to deter and remedy litigation abuse, misconduct, and criminal interference with a party's ability to meaningfully participate in legal proceedings.

Wherefore, it is prayed the court protect Petitioner and grant the relief as prayed.

Respectfully submitted,

6/24/25

Arturo Gutierrez

MEMORANDUM OF LAW

Due to the nature of these events, Petitioner has been working as diligently as possible to bring the motion and simultaneously prepare for this hearing while protecting himself from criminal acts caused by the Department of Justice.

FACTS IN SUPPORT

The full facts in support explaining the harm is set out in the Declaration of Arturo Gutierrez as attached hereto and are incorporated by reference as if fully set forth herein.

Respondent intentionally transmitted malicious spy code to engage in digital surveillance via a purported stipulation in what appeared to be a Word document, breaching the criminal laws, violating Petitioner's privacy, and causing significant disruption to Petitioner's ability to litigate.

The evidence shows embedded code was within the payload and was both concealed and timed to activate post-delivery, consistent with spyware, resulting in multiple uploads due to live spying through this malicious code.

Respondent subsequently defended this misconduct by declaring it did not attempt to send malicious code. Which is true, attempt is the failure to complete a crime. Respondent successfully sent malicious code, a fact it does not deny.

"The Department did not and has not ***attempted*** **to send** Petitioner malware."

Respondent noted it had advanced notice "In the application, Petitioner alleged that our office ***attempted*** **to send** him malware through transmission of the stipulation for reclassification."

Petitioner is not alleging that Respondent tried to commit a crime. Rather, he has proven that they *did*.

"And even if Petitioner's system **were infected with malware**, it is not clear how an expedited briefing and hearing schedule—for a motion with no scheduled hearing date—would ***prevent*** any alleged ***irreparable*** harm."

DISCUSSION

Cal. Const. art. I § 28

(a) The People of the State of California find and declare all of the following:

(1) Criminal activity has a serious impact on the citizens of California. **The rights of victims of crime** … **are a subject of grave statewide concern**.

(2) California's victims of crime are **largely dependent** upon the ***proper*** functioning of government, ….upon the **expeditious** enforcement of the rights of victims of crime …to secure justice when the public safety has been compromised by criminal activity.

Not being a constant victim of crime in one's own home through violating the Fourth Amendment is worthy of prevention. Respondent has shown a particular degree of callousness and flippant concern for their litigation tactics.

Notice and safe harbor sanctions have their place, but here that only further serves to reward respondent for their criminal acts by depriving their opponent of a means to litigate without the opponent knowing every step in advance.

The website url used to serve Respondent's papers was inspected and the results advised: "Last-Modified: Sun, 22 Jun 2025 17:13:38 GMT" for Petitioner's motion served June 23, 2025. See Exhibit 2 of the Declaration.

Legal Authority

If the Court will observe the general sanctions statutes CCP § 128.5 (frivolous) & § 128.7 (truth of allegations and denials), they do not address this level of harm, spying in violation of the Fourth Amendment and violating criminal law and then displaying a disregard for the harm.

Rule 2.30(c) permits a court on its own motion to issue sanctions provided notice and opportunity to be heard, "not intended to be limited to compensatory sanctions but instead was contemplated to authorize punitive sanctions as well…. it is not unreasonable to give the courts additional discretionary authority to deter misconduct" (*In re Woodham* (2001) 95 Cal.App.4th 438, 444.)

The California Supreme Court and Court of Appeal have long affirmed the judiciary's inherent power to punish and deter misconduct that undermines the judicial process. See e.g., *Stephen Slesinger, Inc. v. Walt Disney Co.* (2007) 155 Cal.App.4th 736[1] sanction of dismissal for spying.

2,022 Ranch, LLC v. Superior Court (2004) 113 Cal.App.4th 1377, 1387 [litigants entitled to prepare with privacy "free from unnecessary intrusion by opposing parties"].) Allowing "work with a certain degree of privacy, free from unnecessary intrusion by opposing parties and their counsel." (*Hickman v. Taylor* (1947) 329 U.S. 495, 510)

[1] (Disapproved as to limiting attorney fees at p. 764, fn. 19 in *City of Los Angeles v. PricewaterhouseCoopers, LLP* (2024) 17 Cal.5th 46, 73, fn. 5.)

Punitive sanctions are appropriate where, as here, there is direct evidence of oppression and malice through egregious behavior designed to gain an unfair advantage through deception and technological intrusion.

> "'One of the powers which has always been recognized as inherent in courts, which are protected in their existence, their powers and jurisdiction by constitutional provisions, has been the right to control its order of business and to so conduct the same that *the rights of all suitors before them may be safeguarded.* This power has been recognized as judicial in its nature, and as being a necessary appendage to a court organized to enforce rights and redress wrongs.'" (*Lorraine v. McComb* (1934) 220 Cal. 753, 756, quoting *Ringlander v. Star Co*. (1904) 98 A.D. 101, 104, italics added.)

People v. Castello (1998) 65 Cal. App. 4th 1242, 1248

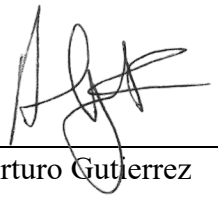
What is to be the future of litigation, when "the chief law officer of the State" (Cal. Const. art. V § 13) sets an example such as use of spyware or unauthorized access to a litigant's private system during litigation if courts do not recognized that this is among the most egregious forms of litigation misconduct.

Petitioner respectfully prays the Court issue sanctions as follows:

- An order imposing punitive sanctions under Rule 2.30(c) and the Court's inherent authority.
- An award of expenses and costs incurred due to the need to investigate, isolate, and neutralize Respondent's embedded surveillance code and obtain a new computer as the device has been totally compromised.
- To order Respondent to pay for forensic examination.
- Referral of Respondent's counsel to the California State Bar for violation of Business and Professions Code sections 6068(d) and 6068(o).
- An order requiring full disclosure of any digital tracking or malware code embedded in prior or future filings by Respondent.
- All of these prayers and more are set out in detail in the proposed order and are materially incorporated by reference.

Again, Petitioner apologizes for the poor draftsmanship of this motion, but Petitioner has made the most of the very little time available to be able to bring the truth to the court's attention and submit this prayer for relief.

It is so prayed.



6/24/25

Arturo Gutierrez

DECLARATION OF ARTURO GUTIERREZ IN SUPPORT OF SANCTIONS

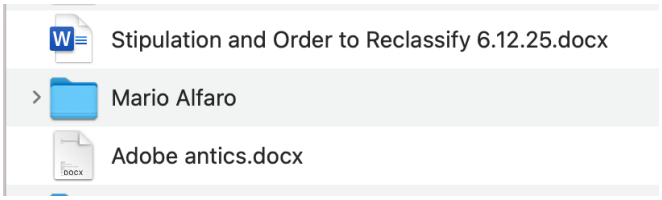
I, Arturo Gutierrez, declare:

I am the named Petitioner in this case and am over the age of 18 years. I submit this declaration in support of my motion for sanctions for egregious misconduct by a party opponent. I have personal knowledge of the facts stated herein and, if called as a witness, could and would testify competently thereto.

1. On June 24, 2025, Petitioner engaged in an over 10 hour hunt to isolate the weaponized code unlawfully transmitted into his computer by Respondent, the California Department of Justice on or about June 14, 2025.

2. Respondent submitted a frivolous stipulation in what appeared to be a Word document. Once opened the malicious code was unleashed inside of Petitioner's computer.

3. Upon opening the purported Word document a payload was activated on my hard drive. Which was unknown to me at the start. I soon noted the documents odd appearance compared to other Word documents in my computer.



4. I conducted basic checks and discovered usual meta data was absent. And that the document noted 9 edits since I opened it and closed it without making a change.

5. I isolated the document and conducted further analysis. I observed that the document triggered multiple duplicate edit events and metadata anomalies despite no input from me. I preserved the file and secured it offline for later controlled forensic review.

6. I then sent an email on June 17, 2025 to the DOJ asking for its superior authority as its basis to declare the laws provided were errant. The DOJ responded with a new and different Word document.

7. To preclude deployment of the second payload, the raw email and attachment was inspected in a sandbox (secure environment designed to isolate). Upon inspection and analyzing the internal structure of this newly sent file, anomalies were detected—including differences in the core XML structure, particularly in document.xml.

8. It became evident that the document contained behavior consistent with a tampered payload after attempting to extract it using standard Python ZIP archive tools (via zipfile.ZipFile().read('word/document.xml')). The tool returned: “KeyError: "There is no item named 'word/document.xml' in the archive"”

9. To confirm the same malicious structure was present in the previously opened document, stored externally, an attempt to upload it for evaluation triggered file system security protocols and the document was rejected. In short, the version stored in the USB drive was actively toxic.

10. The raw unopened version in the email was then sandboxed and the same evaluation yielded the same: “KeyError: "There is no item named 'word/document.xml' in the archive"”

11. A Word doc should never open cleanly without that file. That the first one did confirms a high-level concealment method. Combined with after the fact opened version triggering firewalls and the result is undeniable.

12. Following this discovery, I executed a full digital hygiene protocol: the files were sandboxed, macros scanned, variables extracted (none found), and the document was then zipped, uploaded to an external drive and securely erased using terminal commands under isolated conditions on the hard drive.

13. In the early morning hours on June 24, 2025, I observed that Gmail had reported two devices logged in to my computer. (Exhibit 1)

14. A very long and technical process of isolating access points and programs that were being initiated by a foreign program thus began.

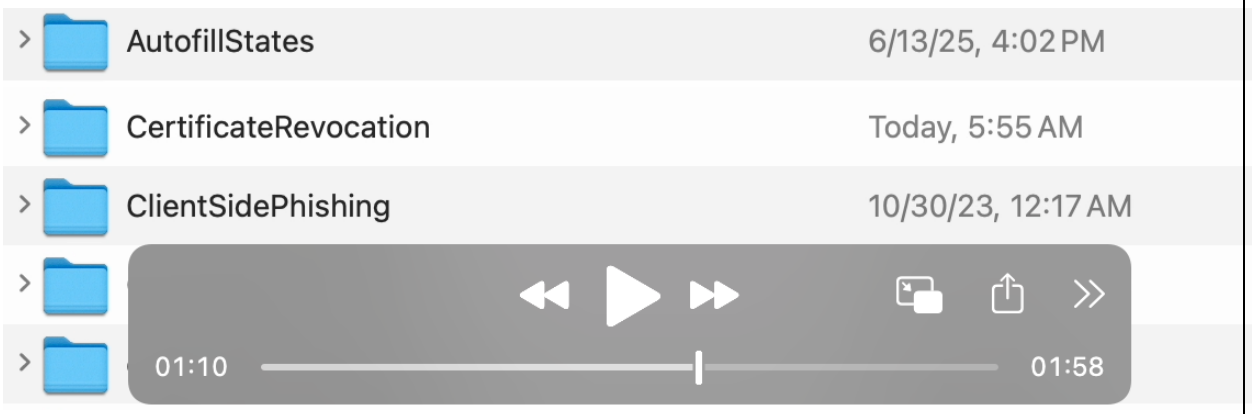
15. After ascertaining the path being used by the program through use of the Terminal application, a beacon was identified as well as manipulation and destruction of file folders in the computer. Classic covering of tracks by a program wanting to communicate to the outside world through use of the Chrome web browser.

17. While monitoring files that were being manipulated and through reading endless streams of code, an anomaly was observed regarding a vital file containing passkeys that was being recreated at a frequent rate. This is highly unusual behavior.

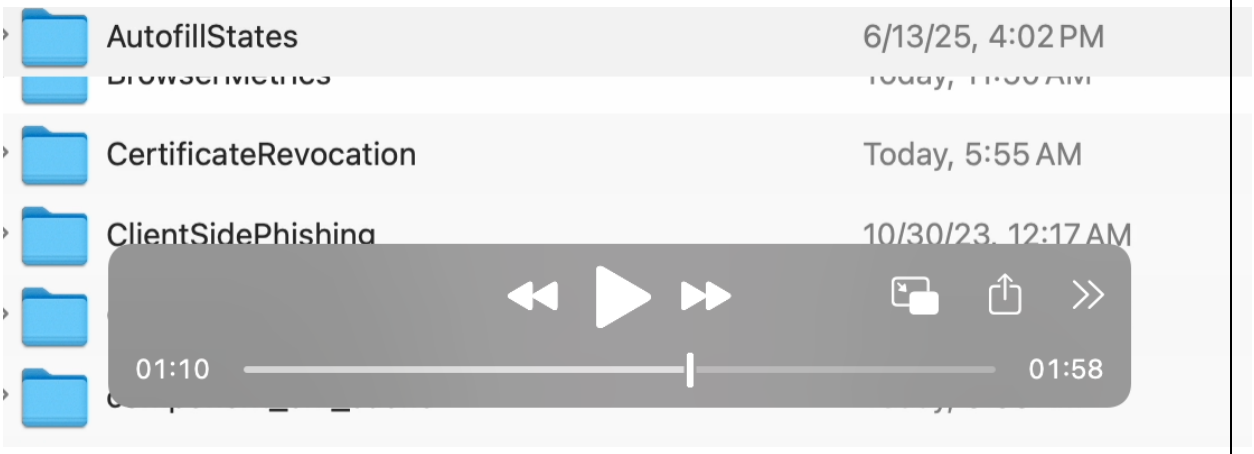
18. A trap was set for the program by monitoring access to the enclosing file. Then that passkey file was manipulated causing an alert in the program. While honing further and powering down the computer, it was observed a file was appearing and disappearing over a period of about two seconds when Chrome was launched.

19. Through video capture of the screen, the act of appearing and disappearing, the identity of the time window and name and location became known.

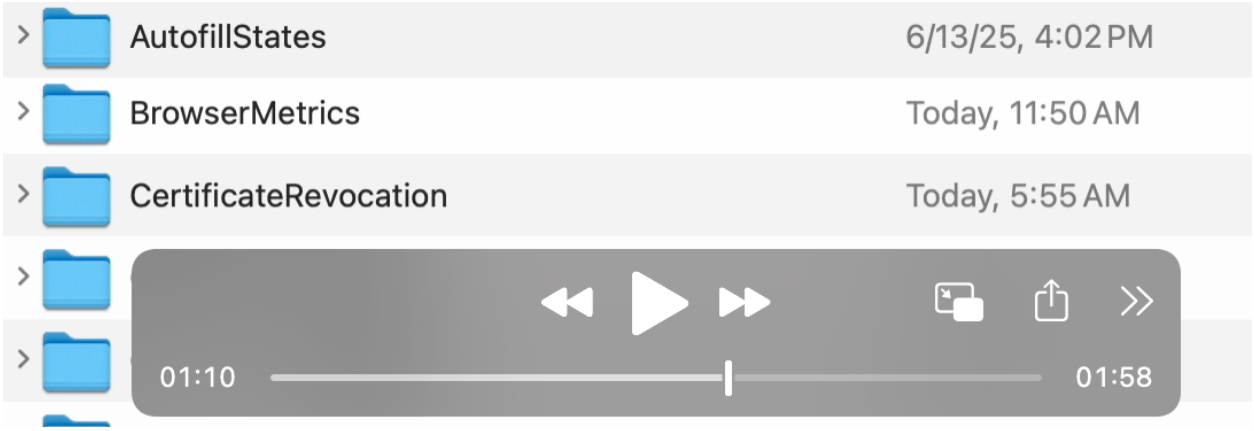
20. Note the time on the video slider as the images progress.



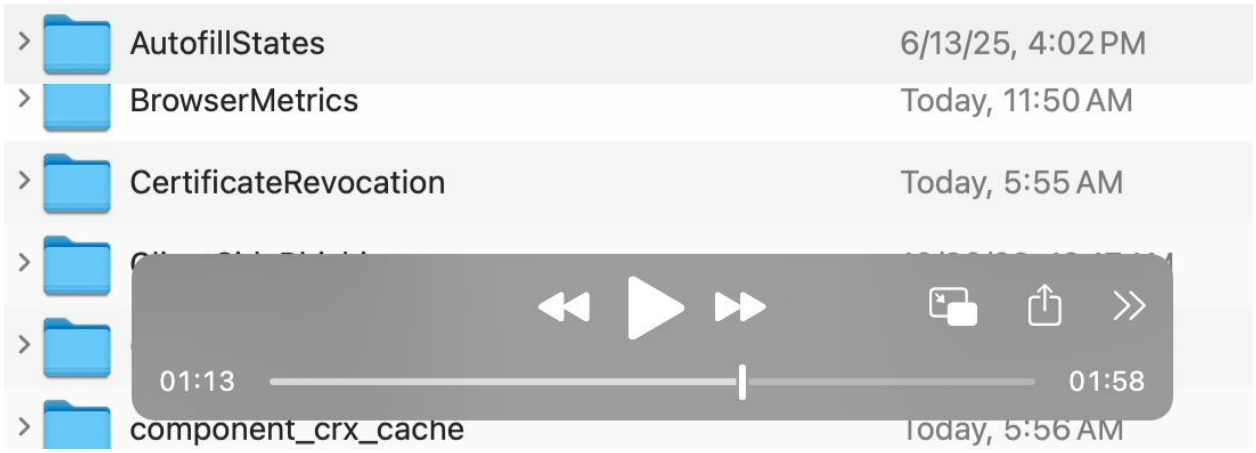
21. It is now beginning to appear.



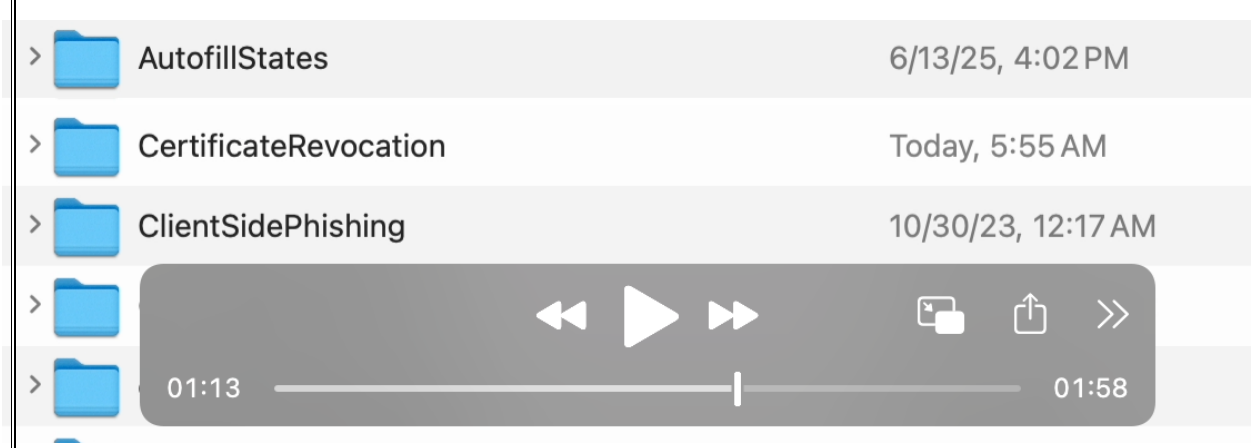
22. Note the time, 1:10 on the counter.



23. Now it is disappearing again.

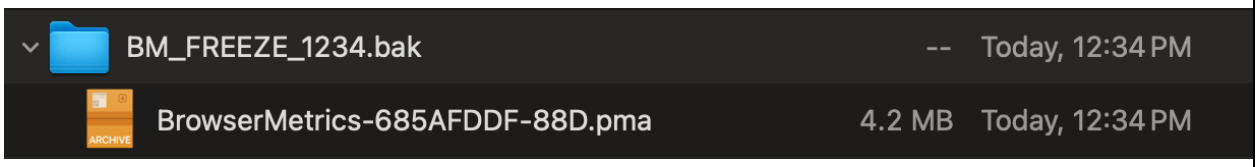


24. Until finally gone.



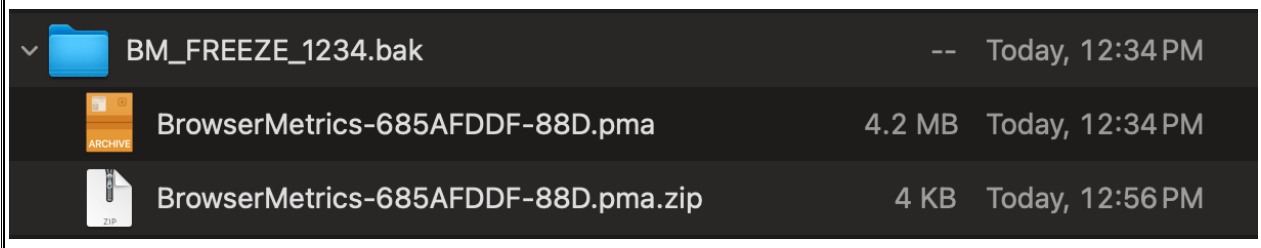
25. A capture command was prepared in Terminal to execute within that two second window. Chrome was then launched and the command was executed in time.

The program was capture at 12:34PM, 6/24/25. BrowserMetrics-685AFDDF-88D.pma



26. This 4MB file was creating and erasing every time Chrome was launched. This was a terrible waste of CPU and not normal. The file was the compressed which scrambles its interior makeup and revealing its true nature and components.

27. The beast that is its code was thus revealed.



28. As a rule of thumb: 1 kilobyte (KB) ≈ 1,000 bytes. A plain text file averages about 1 byte per character, so: 4KB ≈ 4,000 characters. With an average English word being about 5 characters, equaling about 800 words.

29. I stopped short of opening the file—not because I could not—but because I refused to risk further infection. Once I identified the threat vector, it would have been reckless to continue without containment.

30. That is above my skill sets and it is necessary for a proper forensic review of the item.

31. I am now not able to confidently work on my computer knowing that it is being spied on by the Department of Justice in violation of the Fourth Amendment and several penal provisions.

32. The cost of my MacBook Pro M1 Silicon Chip 16" 4K retina display with 1TB drive was over $2,500.

33. As part of the over two hour process of opening the documents served on me by Respondent on June 24, 2025, to ensure that additional malicious code was not being sent to me, I ran one of many Terminal commands to identify the source url as malicious or not, the results are set out in Exhibit 2. Showing that Respondent was preparing with foreknowledge of my application before it was formally filed, consistent with a designed spyware for preemptive surveillance.

34. The screencaps of images and the exhibits in support are true and correct depictions of real time observations and are what they are claimed to be.

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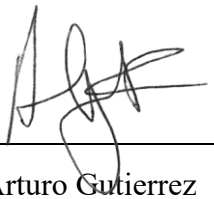
I declare the above is true and accurate under penalty of perjury under the laws of the state of California.



6/24/25

Arturo Gutierrez

EXHIBIT 1

Activity on this account

This feature provides information about the last activity on this mail account and any concurrent activity. Learn more

This account is open in one other location.
(*Location* may refer to a different session on the same computer.)

Concurrent session information:

Access Type [?] (Browser, mobile, etc.)	**Location (IP address) [?]**
Authorized Application	United States (CA) (2603:8000:fe07:b6d2:e5c7:5bb7:adc2:6477)

Visit Security Checkup for more details

Recent activity:

Access Type [?] (Browser, mobile, POP3, etc.)	**Location (IP address) [?]**	**Date/Time** (Displayed in your time zone)
Authorized Application () Hide details	United States (CA) (2603:8000:fe07:b6d2:e5c7:5bb7:adc2:6477)	3:39 am (0 minutes ago)
Browser (Chrome) Hide details *"Mozilla/5.0 (Macintosh; Intel Mac OS X 10_15_7) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/137.0.0.0 Safari/537.36,gzip(gfe),gzip(gfe)"*	* United States (CA) (2603:8000:fe07:b6d2:e5c7:5bb7:adc2:6477)	3:39 am (0 minutes ago)
Browser	United States (CA) (76.90.38.60)	3:13 am (26 minutes ago)
Browser	United States (CA) (2603:8000:fe07:b6d2:2849:999e:dd3c:5016)	3:11 am (29 minutes ago)
Browser	United States (CA) (2603:8000:fe07:b6d2:2849:999e:dd3c:5016)	3:11 am (29 minutes ago)
Browser (Chrome) Hide details *"Mozilla/5.0 (Macintosh; Intel Mac OS X 10_15_7) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/137.0.0.0 Safari/537.36,gzip(gfe),gzip(gfe)"*	* United States (CA) (2603:8000:fe07:b6d2:e5c7:5bb7:adc2:6477)	2:52 am (47 minutes ago)
Browser	United States (CA) (2603:8000:fe07:b6d2:2849:999e:dd3c:5016)	2:51 am (48 minutes ago)
Authorized Application (532713016892-ev29m8tv9gejefcvvv1o3coj5bhkc1ar.apps.googleusercontent.com) Hide details OAuth Domain Name: *532713016892-ev29m8tv9gejefcvvv1o3coj5bhkc1ar.apps.googleusercontent.com* Manage Account Access	United States (CA) (2603:8000:fe07:b6d2:2849:999e:dd3c:5016)	2:51 am (49 minutes ago)

Browser (Chrome) Hide details *"Mozilla/5.0 (Macintosh; Intel Mac OS X 10_15_7) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/137.0.0.0 Safari/537.36,gzip(gfe),gzip(gfe)"*	* United States (CA) (2603:8000:fe07:b6d2:e5c7:5bb7:adc2:6477)	2:14 am (1 hour ago)
Browser (Chrome) Hide details *"Mozilla/5.0 (Macintosh; Intel Mac OS X 10_15_7) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/137.0.0.0 Safari/537.36,gzip(gfe),gzip(gfe)"*	* United States (CA) (2603:8000:fe07:b6d2:e5c7:5bb7:adc2:6477)	1:34 am (2 hours ago)

* indicates activity from the current session.

This computer is using IP address 2603:8000:fe07:b6d2:e5c7:5bb7:adc2:6477. (United States (CA))

EXHIBIT 2

```
Last login: Tue Jun 24 12:35:17 on ttys001
soapyart@Soapyarts-MBP ~ % curl -I "https://efile.acelegal.com/ca/
#guest_ViewEnhancedService;id=4KZ9VK2-F6DWL5Z"

HTTP/1.1 200 200
Date: Tue, 24 Jun 2025 23:22:38 GMT
Server: Apache/2.4.58 (Ubuntu)
Strict-Transport-Security: max-age=31536000
Accept-Ranges: bytes
ETag: W/"2052-1750612418000"
Last-Modified: Sun, 22 Jun 2025 17:13:38 GMT
Content-Type: text/html
Cache-Control: max-age=0
Expires: Tue, 24 Jun 2025 23:22:38 GMT

soapyart@Soapyarts-MBP ~ %
```

Arturo Gutierrez
226 West Ojai Ave.
Suite 101 PMB 547
Ojai, CA 93023
(805) 669-0226
teamleader@survivinginjustice.org

Petitioner *in propria persona*

SUPERIOR COURT OF CALIFORNIA,

COUNTY OF LOS ANGELES

STANLEY MOSK COURTHOUSE

ARTURO GUTIERREZ *Petitioner*, vs. CALIFORNIA DEPARTMENT OF JUSTICE *Respondent*.	Case No. 25STCV07287 **PROOF OF SERVICE MOTION FOR SANCTIONS; EXHIBITS; AND PROPOSED ORDER** Date: Jun. 25, 2025 Time: 8:30AM Department: 56 Hon. Holly J. Fujie, Judge

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PROOF OF SERVICE

1. I, Edward Lasseville, am over the age of 18 years and am not party to this cause. I am a resident of or employed in the county where the service occurred.

a. My business address is:

b. 6040 Sante Fe Avenue Huntington Park, CA 90255

c. Lasseville@yahoo.com

2. I served the following documents:

NOTICE OF PETITIONER'S MOTION FOR SANCTIONS BASED ON CRIMINAL MISCONDUCT, INVASION OF PRIVACY, AND VIOLATION OF CONSTITUTIONAL AND ETHICAL DUTIES; MEMORANDUM; DECLARATIONS ISO AND NOTICE; EXHIBITS; and PROPOSED ORDER

3. The manner of service per party served is indicated next to each party name below by either:

a. Email: Attaching an electronic version of the document(s) in 2, to an email using the email address(es) listed next to each party's name and causing them to be sent electronically.

b. Postal: Enclosing a copy of the document(s) in 2 in an envelope, addressed to the party as shown next to each name and depositing the sealed envelope with the U.S. Postal Service, postage fully prepaid.

c. Electronic Service: "a party may effectuate service not only by the electronic transmission of a document, but also by providing electronic notification of where a document served electronically may be located and downloaded." (Rule of Court 2.250 Advisory Committee Comment citing Code Civ. Proc. § 1010.6)

4. I served the documents in 2 on the following persons in the manner indicated below:

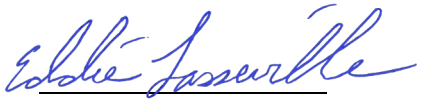
The manner in 3.a.

Respondent: The Department of Justice of California
2550 Mariposa Mall Ste 5090
Fresno, CA 93720
(559) 705-2356
kelsey.kook@doj.ca.gov

On 6/25/25, from Los Angeles County, I caused the documents in 2 to be served in the manner described in 3, identified as to the persons and their listed addresses stated in 4.

I declare under penalty of perjury under the laws of the State of California the above is true and correct.

June 25, 2025



Edward Lasseville

EXHIBIT 15

SUPERIOR COURT OF CALIFORNIA,

COUNTY OF LOS ANGELES

STANLEY MOSK COURTHOUSE

ARTURO GUTIERREZ *Petitioner*, vs. CALIFORNIA DEPARTMENT OF JUSTICE *Respondent*.	Case No. 25STCV07287 **[PROPOSED] ORDER FOR TEMPORARY INJUNCTIVE RELIEF, PRESERVATION OF DIGITAL EVIDENCE, AND CONTEMPT SANCTIONS** Date: Jun. 25, 2025 Time: 8:30AM Department: 56 Hon. Holly J. Fujie, Judge

FACTUAL FINDINGS

Based on the evidence presented by Petitioner, Arturo Gutierrez, showing the behavior of code derived from a document sent to him by Respondent and its interaction with Petitioner's computer system, this Court finds prima facie evidence that Respondent deployed and benefited from a self-modifying program designed to avoid detection, suppress evidence and illegally spy on an opposing party to active litigation before the Court. The preservation of this invasive program is of significant public interest.

The Court further finds that this intrusion renders it implausible for Petitioner to continue this litigation with the autonomy and security due any litigant unless these orders are strictly adhered to as set forth herein.

Furthermore, based on the Court's inherent power to control litigation before it and impose sanctions for egregious misconduct, *Stephen Slesinger, Inc. v. Walt Disney Co.,* (2007) 155 Cal.App.4th 736 (disapproved as to limiting attorney fees at p. 764, fn. 19 in *City of Los Angeles v. PricewaterhouseCoopers, LLP* (2024) 17 Cal.5th 46, 73, fn. 5.) the Court hereby finds and orders as follows:

IMMEDIATELY CEASE AND DESIST

The California Department of Justice (DOJ), and any of its employees, agents, associates, affiliates, contractors, subcontractors, whatever, (hereafter collectively as "Respondent"), are **immediately enjoined** from accessing, transmitting, modifying, deleting or interacting in any way with Petitioner's computing devices, local networks, or associated cloud infrastructure, inclusive of any data, metadata, files, or code, whatever.

NO TAMPERING

Respondent shall in no way attempt to delete, suppress, or overwrite any evidence preserved by Petitioner. This includes any local, remote, or cloud-based attempts, regardless of automation or AI involvement.

THIRD-PARTY EVALUATION AT STATE EXPENSE

Respondent shall fund an independent forensic analysis of the evidence by a qualified digital forensics firm of Petitioner's choosing. Said firm shall:

- Operate under nondisclosure and non-dissemination agreements.
- Generate a report for court review and Petitioner's counsel only.
- Have no authority to access Petitioner's personal data or unrelated system contents, absent Petitioner's express written consent.

Respondent shall provide all code, passkeys, hash, meta, identifiers, whatever to the forensic firm so that the evidence may be preserved and any of the offending digital intrusion maybe identified and removed from Petitioner's devices, networks, whatever.

SCOPE LIMITATION

No further forensic access to Petitioner's computer, accounts, or unrelated materials shall be permitted. This Order shall not be construed as authorizing full disk imaging or invasive forensic access beyond the evidence captured by Petitioner and as necessary to remove the offending digital invasive content.

NO SPOLIATION

Any automated or intentional deletion, overwrite, or network command targeting Petitioner's systems in an effort to alter or remove the evidence shall be deemed spoliation and trigger sanctions, contempt findings, and referral for criminal investigation.

TURN OVER

Respondent shall immediately turn over all information obtained together with a complete log of the materials and list who the materials were distributed to and for what purposes. Failure to comply within 7 days shall be deemed contempt of court and may trigger further sanctions including, but not limited to, monetary fines, evidentiary preclusion, or default judgment.

CONTINUING ORDER

This order shall continue until the case is over, including review; all information ordered to be turned over in the Writ; the completion of the forensic review; or upon motion of Petitioner, whichever occurs last in time. Petitioner may schedule a hearing to determine long-term preservation strategy, evaluate preliminary findings, and consideration of any necessary expansion or narrowing of relief.

STATUS QUO

Petitioner shall immediately be reimbursed by Respondent in the amount of $2,500 to replace his compromised computer.

The original device shall remain in Petitioner's possession, preserved solely for evidentiary purposes.

ORDER

Respondent was on notice for its own conduct as admitted in its papers and failed to deny its wrongdoing. The opportunity to be heard was afforded.

The Court finds these are the least restrictive and most just means to address Respondent's conduct in this litigation and that these orders are necessary to preserve Petitioner's rights, preclude Respondent from profiting from its egregious misconduct and to allow Petitioner to be returned to the status enjoyed prior to the harm imposed by Respondent.

IT IS SO ORDERED.

_____ _____

Honorable, Holly J. Fujie, Judge Date

EXHIBIT 16

ROB BONTA
Attorney General of California
ANTHONY P. O'BRIEN
Supervising Deputy Attorney General
KELSEY KOOK
Deputy Attorney General
State Bar No. 285543
2550 Mariposa Mall, Room 5090
Fresno, CA 93721-2271
Telephone: (559) 705-2356
Fax: (916) 324-8835
E-mail: kelsey.kook@doj.ca.gov
Attorneys for Respondent California Department of Justice

NO FEE PER GOV. CODE § 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

ARTURO GUTIERREZ, Petitioner, **v.** **CALIFORNIA DEPARTMENT OF JUSTICE,** Respondent.	Case No. 25STCV07287 **NOTICE OF EX PARTE APPLICATION TAKEN OFF CALENDAR** Date: June 25, 2025 Time: 8:30 am Dept: 56 Judge: The Honorable Holly J. Fujie Action Filed: March 14, 2025

NOTICE OF EX PARTE APPLICATION TAKEN OFF CALENDAR

TO THE CLERK OF THE SUPERIOR COURT, ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on June 25, 2025, the Honorable Holly J. Fujie has taken off calendar the Ex Parte Application filed by Petitioner Arturo Gutierrez, as the application should be filed in Department 86.

Dated: June 25, 2025

Respectfully submitted,

ROB BONTA
Attorney General of California
ANTHONY P. O'BRIEN
Supervising Deputy Attorney General

/s/ Kelsey Kook

KELSEY KOOK
Deputy Attorney General
Attorneys for Respondent
California Department of Justice.

DECLARATION OF SERVICE BY E-MAIL and U.S. MAIL

Case Name: **Gutierrez v. DOJ**
Case No.: **25STCV07287**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. My business address is: 2550 Mariposa Mall, Room 5090, Fresno, CA 93721-2271. My electronic service address is Ashanti.Billings@doj.ca.gov. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On June 25, 2025, I served the attached **NOTICE OF EX PARTE APPLICATION TAKEN OFF CALENDAR** by transmitting a true copy via electronic mail. In addition, I placed a true copy thereof enclosed in a sealed envelope, in the internal mail system of the Office of the Attorney General, addressed as follows:

Arturo Gutierrez
226 West Ojai Ave.
Suite 101, PMB 547
Ojai, CA 93023
In Pro Per

E-mail Address:
teamleader@survivinginjustice.org

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct, and that this declaration was executed on June 25, 2025, at Fresno, California.

A. Billings	***/s/ A. Billings***
Declarant	Signature

SA2025601096
95636332

EXHIBIT 17

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 56

25STCV07287 June 25, 2025
ARTURO GUTIERREZ vs CALIFORNIA DEPARTMENT OF JUSTICE 8:30 AM

Judge: Honorable Holly J. Fujie
Judicial Assistant: Oscar R. Chavez
Courtroom Assistant: Deonna Jones

CSR: None
ERM: None
Deputy Sheriff: None

APPEARANCES:

For Petitioner(s): Arturo Gutierrez (Self-Represented) (In Person)

For Respondent(s): Anthony P. O'Brien by LACC for Kelsey Christine Kook

NATURE OF PROCEEDINGS: Hearing on Ex Parte Application TO SHORTEN TIME FOR RULING ON MOTION FOR JUDGMENT ON THE PEREMPTORY WRIT IN CHAMBERS NOW

The matter is called held.

The court reads and considers ex parte application and opposition papers.

The Ex Parte Application NOTICE OF APPLICATION TO SHORTEN TIME FOR RULING ON MOTION FOR JUDGMENT ON THE PEREMPTORY WRIT IN CHAMBERS NOW; MEMORANDUM; DECLARATION ISO; NOTICE DECLARATION; EXHIBITS filed by Arturo Gutierrez on 06/23/2025 is Denied.

The Petitioner is to file Ex parte Application in Department 86.

Counsel for the Defendant is to give notice.

EXHIBIT 18

CASE INFORMATION:	25STCV07287
Case Title:	ARTURO GUTIERREZ VS CALIFORNIA DEPARTMENT OF JUSTICE
Filing Courthouse:	Stanley Mosk Courthouse
Filing Date:	3/14/2025
Case Type:	Writ - Mandamus on Limited Court Case Matter (General Jurisdiction)
Status:	Pending

Click here to access document images for this case.

If this link fails, you may go to the Case Document Images site and search using the case number displayed on this page

☐ Print New Search

FUTURE HEARINGS

8/1/2025	08:30	Department 56	111 North Hill Street, Los Angeles, CA 90012	Case Management Conference

PARTY INFORMATION

CALIFORNIA DEPARTMENT OF JUSTICE	Respondent
GUTIERREZ ARTURO	Petitioner
KOOK KELSEY CHRISTINE	Attorney for Respondent

DOCUMENTS FILED

6/25/2025	Minute Order	Filed by Clerk
6/25/2025	Notice	Filed by California Department of Justice (Respondent)
6/24/2025	Declaration	Filed by California Department of Justice (Respondent)
6/24/2025	Opposition	Filed by California Department of Justice (Respondent)
6/24/2025	Proof of Service by Mail	Filed by California Department of Justice (Respondent)
6/23/2025	Ex Parte Application	Filed by Arturo Gutierrez (Petitioner)
6/23/2025	Proof of Service (not Summons and Complaint)	Filed by Arturo Gutierrez (Petitioner)
5/19/2025	Notice	Filed by Arturo Gutierrez (Petitioner)

5/19/2025	Objection	Filed by Arturo Gutierrez (Petitioner)
5/19/2025	Request for Judicial Notice	Filed by Arturo Gutierrez (Petitioner)
4/11/2025	Answer	Filed by California Department of Justice (Respondent)
3/17/2025	Notice of Case Management Conference	Filed by Clerk
3/14/2025	Civil Case Cover Sheet	Filed by Arturo Gutierrez (Petitioner)
3/14/2025	Declaration Re: Add-On on Petition	Filed by Arturo Gutierrez (Petitioner)
3/14/2025	Notice of Case Assignment - Unlimited Civil Case	Filed by Clerk
3/14/2025	Order on Court Fee Waiver (Superior Court)	Filed by Clerk
3/14/2025	Petition for writ of mandamus and statutory mandate	Filed by Arturo Gutierrez (Petitioner)
3/14/2025	Proof of Service (not Summons and Complaint)	Filed by Arturo Gutierrez (Petitioner)
3/14/2025	Proof of Service by Substituted Service	Filed by Arturo Gutierrez (Petitioner)
3/14/2025	Summons	Filed by Arturo Gutierrez (Petitioner)

PROCEEDINGS HELD

Case Information | | FUTURE HEARINGS | PARTY INFORMATION | Documents Filed | Past Proceedings

6/25/2025 12:00 AM Department 56 Hearing on Ex Parte Application Held

REGISTER OF ACTIONS

Case Information | | FUTURE HEARINGS | PARTY INFORMATION | Documents Filed | Past Proceedings

6/25/2025	Updated -- Ex Parte Application NOTICE OF APPLICATION TO SHORTEN TIME FOR RULING ON MOTION FOR JUDGMENT ON THE PEREMPTORY WRIT IN CHAMBERS NOW; MEMORANDUM; DECLARATION ISO; NOTICE DECLARATION; EXHIBITS: Filed By: Arturo Gutierrez (Petitioner); Result: Denied ; Result Date: 06/25/2025
6/25/2025	Notice Of Ex Parte Application Taken Off Calendar; Filed by: California Department of Justice (Respondent); As to: Arturo Gutierrez (Petitioner)
6/25/2025	Minute Order (Hearing on Ex Parte Application TO SHORTEN TIME FOR RULING ON...)
6/25/2025	Hearing on Ex Parte Application TO SHORTEN TIME FOR RULING ON MOTION FOR JUDGMENT ON THE PEREMPTORY WRIT IN CHAMBERS NOW scheduled for 06/25/2025 at 08:30 AM in Stanley Mosk Courthouse at Department 56 updated: Result Date to 06/25/2025; Result Type to Held
6/24/2025	Opposition TO PETITIONER'S EX PARTE APPLICATION TO SHORTEN TIME FOR RULING ON MOTION FOR JUDGMENT ON THE PEREMPTORY WRIT; Filed by: California Department of Justice (Respondent)
6/24/2025	Declaration OF KELSEY C. KOOK IN SUPPORT OF RESPONDENT'S OPPOSITION TO PETITIONER'S EX PARTE; Filed by: California Department of Justice (Respondent)
6/24/2025	Proof of Service by Mail; Filed by: California Department of Justice (Respondent); As to: Arturo Gutierrez (Petitioner); After Substituted Service of Summons and Complaint ?: No
6/23/2025	Ex Parte Application NOTICE OF APPLICATION TO SHORTEN TIME FOR RULING ON MOTION FOR JUDGMENT ON THE PEREMPTORY WRIT IN CHAMBERS NOW; MEMORANDUM; DECLARATION ISO;

NOTICE DECLARATION; EXHIBITS; Filed by: Arturo Gutierrez (Petitioner); As to: Kelsey Christine Kook (Attorney)

6/23/2025 Hearing on Ex Parte Application TO SHORTEN TIME FOR RULING ON MOTION FOR JUDGMENT ON THE PEREMPTORY WRIT IN CHAMBERS NOW scheduled for 06/25/2025 at 08:30 AM in Stanley Mosk Courthouse at Department 56

6/23/2025 Proof of Service (not Summons and Complaint); Filed by: Arturo Gutierrez (Petitioner); As to: California Department of Justice (Respondent)

5/19/2025 Objection OBJECTION TO CLERK'S DISOBEDIENCE OF LOCAL RULE 3.3(I) AND USURPATION OF JUDICIAL POWER; Filed by: Arturo Gutierrez (Petitioner)

5/19/2025 Notice NOTICE OF MOTION FOR JUDGMENT ON THE PEREMPTORY WRIT IN CHAMBERS NOW; MOTION; MEMORANDUM OF LAW; Filed by: Arturo Gutierrez (Petitioner); As to: California Department of Justice (Respondent)

5/19/2025 Request for Judicial Notice; Filed by: Arturo Gutierrez (Petitioner)

4/11/2025 Answer; Filed by: California Department of Justice (Respondent)

3/17/2025 Case Management Conference scheduled for 08/01/2025 at 08:30 AM in Stanley Mosk Courthouse at Department 56

3/17/2025 Notice of Case Management Conference; Filed by: Clerk

3/14/2025 Updated -- Order on Court Fee Waiver (Superior Court): Status Date changed from 03/14/2025 to 03/14/2025

3/14/2025 Case assigned to Hon. Holly J. Fujie in Department 56 Stanley Mosk Courthouse

3/14/2025 Proof of Service by Substituted Service; Filed by: Arturo Gutierrez (Petitioner); As to: California Department of Justice (Respondent); Proof of Mailing Date: 03/14/2025; Service Cost: 0.00; Service Cost Waived: No

3/14/2025 Proof of Service (not Summons and Complaint); Filed by: Arturo Gutierrez (Petitioner); As to: California Department of Justice (Respondent)

3/14/2025 Petition for writ of mandamus and statutory mandate; Filed by: Arturo Gutierrez (Petitioner); As to: California Department of Justice (Respondent)

3/14/2025 Civil Case Cover Sheet; Filed by: Arturo Gutierrez (Petitioner); As to: California Department of Justice (Respondent)

3/14/2025 Summons on Petition; Issued and Filed by: Arturo Gutierrez (Petitioner); As to: California Department of Justice (Respondent)

3/14/2025 Declaration Re: Add-On on Petition Consent to Electronic Service; Filed by: Arturo Gutierrez (Petitioner); As to: California Department of Justice (Respondent)

3/14/2025 Notice of Case Assignment - Unlimited Civil Case; Filed by: Clerk

3/14/2025 Order on Court Fee Waiver (Superior Court); Signed and Filed by: Clerk; As to: Arturo Gutierrez (Petitioner)

Back To Top

EXHIBIT 19

RE: Gutierrez, Arturo v. California Department of Justice (25STCV07287)

From Kelsey Kook <Kelsey.Kook@doj.ca.gov>
To teamleader@survivinginjustice.org <teamleader@survivinginjustice.org>
Cc Anthony OBrien <Anthony.OBrien@doj.ca.gov>
Date 2025-06-30 14:42

Stipulation and Order to Reclassify 6.30.25.pdf (~141 KB)

Good afternoon Arturo Gutierrez,

The Department plans on filing a motion to reclassify by tomorrow, unless we receive the signed stipulation from you prior to then. We cannot request a specific court for reclassification. We can only ask to reclassify to the Writ Department, which, as we understand it, includes at least 2 courtrooms Depts. 85 and 86. Please confirm if this is correct. Attached is the stipulation in a PDF format.

Kelsey Kook
Deputy Attorney General I Office of General Counsel - Public Records Unit
2550 Mariposa Mall Ste 5090I Fresno, CA 93720
(559) 705-2356I kelsey.kook@doj.ca.gov

From: teamleader@survivinginjustice.org <teamleader@survivinginjustice.org>
Sent: Monday, June 30, 2025 1:41 PM
To: Kelsey Kook <Kelsey.Kook@doj.ca.gov>; Anthony OBrien <Anthony.OBrien@doj.ca.gov>
Subject: Re: Gutierrez, Arturo v. California Department of Justice (25STCV07287)

EXTERNAL EMAIL: This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

Counsel,

The means by which your office seeks cooperation makes cooperation difficult. As previously stated, I will not open any Word documents sent from your office. This is not a general policy — it is a direct response to your prior transmission of a Word file that exhibited post-open behavior consistent with embedded scripting designed to deliver malware or spyware. Resending such a file, after that notice, demonstrates either bad faith or an intent to deliver a new payload. In either case, it renders cooperation impossible.

If you are genuinely seeking my signature or participation regarding judicial reassignment, the document must be provided in PDF format. To date, I have not received a readable or acceptable version of any stipulation and therefore cannot assess — let alone agree to — its terms.

As I have already stated, we are not going to Dept. 86, so it's entirely possible that you've accepted my prior offer to stipulate to Dept. 85 — which would render the threatened motion to compel entirely unnecessary. But I have no way of knowing, due solely to your refusal to transmit the stipulation in a secure, readable format. Your office has already provided PDFs in this case, so I know it is both possible and easy. And just as easy to apply my signature to a PDF as to a Word document. There is no legitimate reason not to comply, absent nefarious intent.

Please resend the documents in PDF format.

Very truly,

Arturo Gutierrez

> On Jun 27, 2025, at 2:06 PM, Kelsey Kook <Kelsey.Kook@doj.ca.gov> wrote:
>
> Good afternoon Arturo Gutierrez,
>
> Reclassification, is the proper resolution here, and unless you sign and return the attached stipulation today, the Department will file a motion to reclassify the matter early next week. I have attached the stipulation and proposed order.
>
> **Kelsey Kook**
> Deputy Attorney General I Office of General Counsel - Public Records Unit
> 2550 Mariposa Mall Ste 5090I Fresno, CA 93720
> (559) 705-2356I kelsey.kook@doj.ca.gov

From: teamleader@survivinginjustice.org <teamleader@survivinginjustice.org>
Sent: Friday, June 27, 2025 12:59 PM
To: Kelsey Kook <Kelsey.Kook@doj.ca.gov>; Anthony OBrien <Anthony.OBrien@doj.ca.gov>
Subject: Re: Gutierrez, Arturo v. California Department of Justice (25STCV07287)

EXTERNAL EMAIL: This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

The Department expressed an earnest concern, under penalty of perjury, that by transferring "this matter to the Court's Writ Department would ensure resolution of the merits of Petitioner's claim." (Decl. of Kelsey Kook, p.2¶4) While the attention to the merits may be sporadic elsewhere, it is appreciated here.

That said, there seems to be some confusion by the Department about some terminology. Reclassify and reassign are not interchangeable. To reassign is to send to another court for all purposes. To reclassify entirely changes the structure of the case by attempting to move the matter to civil limited, which is categorically improper in PRA cases. Gov. Code § 7923.500(a) "is not a final judgment or order within the meaning of Section 904.1 of the Code of Civil Procedure from which an appeal may be taken," CCP § 904.1(a) "An appeal, other than in a limited civil case, is to the court of appeal." In short, PRA cases are not limited civil. The are unlimited civil by law and structure.

Local Rule of Court, Rule 3.3, (i) "Assignment for All Purposes. Cases are assigned for all purposes, including trial. Except as the Presiding Judge may otherwise direct, each judge shall schedule, **hear and decide *all* matters** for each case assigned."

"A judge has a duty to decide any proceeding in which he or she is not disqualified." (CCP § 170)

The Presiding Judge of Los Angeles County is the Hon. Sergio C. Tapia II. Accordingly, Judge Fujie acted in excess of jurisdiction when reassigning this matter to Dept. 86.

Setting aside the avenues of correction available, I am a pragmatic person. As Judge Fujie appears to not wish to preside over this case—given its weight—then I am content with relieving her of that burden.

The Department has promoted the idea a number of times about stipulating to reassignment, even though misspeaking and switching it to reclassification at the last moment. The words can be confusing at times, to be sure. As to the issue of reassigning to the 8th floor, that leaves us with Departments 82, 85, and 86. We will not be going to Dept. 86. Leaving Dept. 82 or Dept. 85. Based on a review, it appears the jurist in Dept. 82 may have an actual conflict given the nature of the issues. You may need to check my math here, but that might leave us with one option. Departments ~~82,~~ 85, and ~~86.~~

If you would like to draft up the stipulation to reassign to Dept. 85 and send it over in PDF form, less prone to hitchhikers and all, then I will sign and send back if it is clean.

Enjoy your weekend,
ARTURO GUTIERREZ

On Jun 18, 2025, at 1:26 PM, Kelsey Kook <Kelsey.Kook@doj.ca.gov> wrote:

Good afternoon Arturo Gutierrez,

We are basing this stipulation on the ability to reclassify pursuant to Code of Civil Procedure section 403.040, subdivision (a). Also, we are noting that, under Gov. Code, section 7923.000, a writ of mandate is the proper vehicle to provide a judicial remedy to inspect or receive a copy of any public record. These statutes have also been included in the updated stipulation that is attached.

Please let us know by June 23 if you are planning on signing the attached stipulation. If we do not hear from you by then, we will proceed with our plan to file a motion to reclassify.

Kelsey Kook
Deputy Attorney General I Office of General Counsel - Public Records Unit
2550 Mariposa Mall Ste 5090I Fresno, CA 93720
(559) 705-2356I kelsey.kook@doj.ca.gov

From: teamleader@survivinginjustice.org <teamleader@survivinginjustice.org>
Sent: Tuesday, June 17, 2025 7:04 PM
To: Kelsey Kook <Kelsey.Kook@doj.ca.gov>

Subject: Re: Gutierrez, Arturo v. California Department of Justice (25STCV07287)

EXTERNAL EMAIL: This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

Hi Ms. Kook,

I've been thinking about this more, and I realize I must be missing something. I thought I found the laws that apply here on Google, but you obviously know way more than I do. Since you say I'm wrong and those laws don't apply—and since you already have the right laws handy—I'd be grateful if you could send them over so I can get on the right page and review the correct laws that govern here.

If I'm going about this the wrong way, I really don't want to waste the court's time. And I'm sure it'd make things easier on you too. I just can't sign a stipulation without knowing why.

Also, in your first email you mentioned June 23, but then in your second it changed to June 17. I just noticed that—wasn't sure where the sudden rush came from. Since you guys are usually way more laid back about time, I'd appreciate the extra time to review whatever law you have that I missed.

And thanks again for making sure I know the right laws. It'd be so embarrassing to have to explain to a judge that I missed something really obvious. I appreciate you educating me. They say those AIs make mistakes, but I tell you—if they led me down the wrong path again, oh man... well, lesson learned, I guess.

Take it easy,

Arturo Gutierrez

On Jun 13, 2025, at 2:15 PM, Kelsey Kook <Kelsey.Kook@doj.ca.gov> wrote:

Good afternoon Arturo Gutierrez,

Thank you for your response. We still think having this moved to the Writ department is appropriate in this circumstance. Please let us know by June 17, 2025, if you will be stipulating.

Kelsey Kook
Deputy Attorney General I Office of General Counsel - Public Records Unit
2550 Mariposa Mall Ste 5090I Fresno, CA 93720
(559) 705-2356I kelsey.kook@doj.ca.gov

From: teamleader@survivinginjustice.org <teamleader@survivinginjustice.org>
Sent: Thursday, June 12, 2025 5:10 PM
To: Kelsey Kook <Kelsey.Kook@doj.ca.gov>
Subject: Re: Gutierrez, Arturo v. California Department of Justice (25STCV07287)

EXTERNAL EMAIL: This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

Hi Ms. Kook,
You're not wrong—but also not quite correct. Believe it or not, I've had the exact sentiments you're expressing come up in other writ cases and initially shared your exact perspective myself. Experience has taught me that the bottom line is that local culture in Los Angeles, per local rules, is that while the writs and receivers departments are preferred for initial assignment, the court routinely reassigns writ cases to other unlimited civil departments when caseloads or scheduling require it. It's a matter of internal allocation—not jurisdiction.

I've attached screenshots from **LA Superior Case No. 23STCP04453** as an example. That case—also a mandamus—was assigned to the writs dept., then bumped to a non-writs department in Alhambra. So your concern about "incorrectly assigned to a Civil Unlimited department" isn't supported by how the court actually operates.

And remedy by mandamus is only one of the vehicles. Check out Gov. Code § 7923.000 "Any person may institute a proceeding *for injunctive* or *declarative relief*, or for a *writ of mandate*, in any court of competent jurisdiction, to enforce that person's right under this division to inspect or receive a copy of any public record or class of public records."

Per Local Rule 3.3(i), this case was assigned *for all purposes* to Dept. 56, including trial and all motions. As you may have seen, the clerk recently questioned that assignment, but after I laid out the applicable rules in my objection and refiled the same documents, the clerks ultimately filed all documents, confirming the case was properly in Dept. 56.

While I understand the desire to route this to a writ department, there's no basis under the court's local rules for reassignment at this stage. No peremptory challenge or request for reassignment was filed following the Notice of Case Assignment. Local Rule 3.3(b) prohibits any party from anticipating or altering assignments, and subdivision (d) bars any effort to maneuver around assignment through strategic filings or dismissals. Assignment is a clerk function governed by standing orders from the Presiding Judge—you can verify the Local Rule referenced here.

Also, you mentioned "I have drafted a stipulation and order to **reclassify**." Oh, how I wish it could be that simple, if we could just stipulate to make things right then we could get this whole thing straightened up, asap. But the jurisdictional classification is de facto unlimited civil. We know this based on CCP § 85(a) limited civil must have an amount demanded of less than $35,000. And CCP § 86(b) lists the limited equitable cases, which are not applicable here. Since a CPRA will never have monetary damages, one would think the Legislature would have thought to announce it under CCP § 85.
Bringing us to the answer, Gov. Code § 7923.500(a) "is not a final judgment or order within the meaning of Section 904.1 of the Code of Civil Procedure from which an appeal may be taken," CCP § 904.1(a) "An appeal, other than in a limited civil case, is to the court of appeal." Granted life would be easier sometimes if they would just give us straight answers —but the statutory breadcrumbs are there, and they lead in only one direction. See CCP § 88 "A civil action or proceeding other than a limited civil case may be referred to as an unlimited civil case."

So, while a stipulation might sound appealing, reclassification simply isn't within our powers—it's a jurisdictional matter controlled by statute, not mutual agreement. And the stated desire to reclassify from "a civil unlimited department, to a writ department" is actually an assignment issue that the Local Rules of Court already cover.

The confusion portrayed here was not unwarranted. It would be nice if they were more direct, see e.g., Gov. Code § 7930.000(b) "The listing of a statute or constitutional provision in Chapter 2 (commencing with Section 7930.100) does not itself create an exemption." Which is what the five month tardy denial letter was focused on, in its unsupported-by-fact denial—submitted two days before the Department's court filing declaring a response was submitted, omitting the five month delinquent aspect.

"Requesters of public records and public agencies are cautioned to review the applicable statute or constitutional provision to determine the extent to which it, in light of the circumstances surrounding the request, exempts public records from disclosure." (*Id.*)

Leading us to something we do have stipulation power over, allowing us to be more collaborative on what actually matters, like publicly providing the records required by Pen. Code § 745 so that we can stop systemically violating the Thirteenth and Fourteenth Amendments.
I hope that clarifies the matter.
Thanks again for the outreach.

Very truly,
Arturo Gutierrez

Quick example from the above case:
<image001.png>
Detailed example from the same:

<image002.png>

Plus don't forget:
<image003.png>

On Jun 12, 2025, at 11:03 AM, Kelsey Kook <Kelsey.Kook@doj.ca.gov> wrote:

Good afternoon Arturo Gutierrez,

It has come to the attention of the Department of Justice ("Department" and "Respondent") that *Gutierrez, Arturo v. California Department of Justice* (Los Angeles County Superior Court, Case No. 25STCV07287) is incorrectly assigned to a Civil Unlimited department. Under Government Code section 7923.000, a writ of mandate is the proper vehicle to provide a judicial remedy to inspect or receive a copy of any public record. The Los Angeles County Superior Court Stanley Mosk Courthouse has a writ department. As you are seeking a remedy pursuant to Gov. Code section 7923.00,0 this case needs to be reassigned from Dept 56, a civil unlimited department, to a writ department. In order to aid in this process I have drafted a stipulation and order to reclassify. Please review the stipulation, and if you agree, please sign. I will then file this on our behalf.

Please provide a signed copy, or let me know you decision to not sign, by June 23, 2025.

Kelsey Kook
Deputy Attorney General I Office of General Counsel - Public Records Unit
2550 Mariposa Mall Ste 5090I Fresno, CA 93720
(559) 705-2356I kelsey.kook@doj.ca.gov

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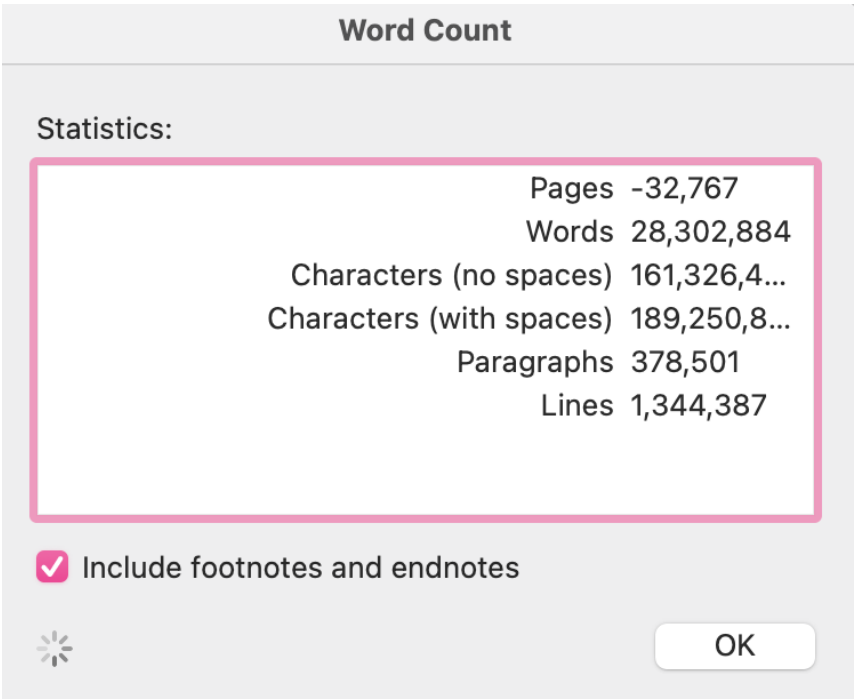
EXHIBIT 20

```
Last login: Mon Jul  7 16:06:22 on ttys000
soapyart@MacBookPro ~ % log show --style syslog --start "2025-07-07
15:40:00" --end "2025-07-07 16:00:00" > ~/Desktop/mail_trigger_log.txt

Wall Clock adjustment detected - results might be strange while using
--end
soapyart@MacBookPro ~ %
```

```
2025-07-07 15:44:47.566766-0700  localhost WindowServer[407]: (KeyboardBacklightServiceFilter)
[com.apple.CoreBrightness.KeyboardBacklightDriver:PWM] Setting kbd backlight to: 586846170
(13%). current = 586846170 (13%)
2025-07-07 15:44:47.614151-0700  localhost (null)[0]: ((null))  localhost timesync: === system
wallclock time adjusted
2025-07-07 15:44:47.624325-0700  localhost runningboardd[414]: (RunningBoard) Created Activity
ID: 0x58cb1, Description: invalidateAssertionWithIdentifier
2025-07-07 15:44:47.624373-0700  localhost runningboardd[414]: (RunningBoard)
[com.apple.runningboard:ttl] Invalidating assertion 414-407-3335 (target:
[osservice<com.apple.LocalAuthentication.UIAgent(501)>:1542]) from originator
[osservice<com.apple.WindowServer(88)>:407]
```



The above are true and correct screenshots from my computer from the Terminal output and the Word application word count, respectively; both are what they are claimed to be.

I declare under penalty of perjury under the laws of the state of California that the above is true and correct.

July 7, 2025

Arturo Gutierrez