**MEMORANDUM**

**To**: Yoel Haile

**From**: Zachariah Oquenda

**Date**: July 12, 2019

**Subject**: LA District Attorney Transparency and Accountability Report

**Request Item #1 – Prosecution Data**

ACLU PRA Request

1. *Records of prosecution data within your possession for calendar year 2017 and 2018, including but not limited to,*
   1. *Unique identifiers for each person, charges, and outcomes for all minors (any persons under the age of 18) prosecuted directly in adult court in Contra Costa County (adult court is defined as a court of criminal jurisdiction) (otherwise known as “pipeline” or “direct file” cases) under Welfare and Institutions Code section 707.*
      1. *Unique identifiers for each person, charges, and outcomes for all minors prosecuted in adult court in Contra Costa County after any one of the following:* 
         1. *a judicial certification to adult court following a juvenile transfer hearing under the newly amended Welfare and Institutions Code section 707 subsection (a);*
         2. *a juvenile defendant’s waiver of transfer hearing or stipulation to adult court following the District Attorney’s motion to transfer to adult court.*
   2. *Unique case identifiers, charges, and outcomes for all minors prosecuted in juvenile court in Contra Costa county, including, but not limited to demographic data, charges filed, and case outcomes during the calendar year of 2017 and 2018.*
   3. *Unique case identifiers, charges, and outcomes (including diversion) of all misdemeanor charges for minors and adults in Contra Costa county.*
   4. *Unique case identifiers, charges, enhancements and outcomes (including diversion) of all felony charges for minors and adults in Contra Costa county.*

District Attorney Response

The LADA provided us a lot of prosecution data for adults and youths. They do not have records on juvenile’s motion to transfer to adult court. They do not track race or ethnicity in any data.

[More details pending analysis of LADA’s prosecution data.]

Recommended Next Steps

[More details pending analysis of LADA’s prosecution data.]

**Request Item #2 – Diversion Programs and Policies**

ACLU PRA Request

1. *All documents and records related to all diversion programs offered or used by the DA’s office, how many people utilized those programs, demographics of those people, the charges they were facing, outcomes of those cases, requirements for completing diversion, and any charges or costs associated with those diversion programs for calendar years 2017 and 2018.*

District Attorney Response

The LADA provided several responsive documents to this request item. In addition to summary information in the June 21, 2019 response letter, the LADA provided Chapter 6 of their Legal Policy Manual. This chapter contains guidance on eligibility for diversion programs. The LADA has not provided a copy of their Pre-Filing Diversion (PDP) Manual, which contains additional guidance and specific procedures, including forms to be utilized for diversion.[[1]](#footnote-1)

According to the June 21, 2019 response letter, the LADA office does not keep formal statistics of how many people enter the program and who successfully completes the programs. The LADA sent estimates from the Alternate Sentencing Courts[[2]](#footnote-2) in downtown LA. According to those estimates, the total number of people accepted into the various Alternative Sentencing Courts are 499 and 472 in 2017 and 2018, respectively. Of those who were accepted into the programs during those two years the 148 people in 2017 and 196 people in 2018 successfully completed the programs. In 2017, 136 people were terminated from the program, and, in 2018, 129 people were terminated. Those who are terminated are likely prosecuted. The office keeps no statistics for demographics.

Chapter 6 of the Legal Policy Manual contains information on the purpose of the PDP, a procedural overview, criteria for eligibility, PDP hearings process, victims’ rights, and non-criminal diversion actions for business license violations or other minor consumer and environmental violations. The purpose of the Pre-Filing Diversion Program is primarily to divert low-level, non-violent crimes from incarceration. Additional aims include collecting restitution for victims, directing the offender to rehabilitation services, imposing community service, reducing recidivism rates, and resolving minor problems before they become more serious.

Pre-Filing Diversion decisions start with the filing deputy district attorney. The filing deputy first determines if the offender is “eligible and suitable” to participate. Generally, people who commit low-level, non-violent offenses are broadly eligible; however, the list of exceptions is lengthy and broad. Most notably, people to be associated with any “gang activity” broadly defined are explicitly ineligible, though deputies have the discretion to deviate for the general exceptions for good cause.[[3]](#footnote-3) Also, the sale, transportation for sale, or possession for sale of drugs are also disqualifying, unless the offender has a “documented” history of addiction. The LADA denies “drug dealers” eligibility because their admittance into the PDP threatens the recovery of addicts.

If the filing deputy finds the suspected offender “eligible and suitable,” the deputy refers the offender to the Prefiling-Diversion Program, where a “PDP officer has discretion to accept or reject a candidate upon the initial referral to the program, or at any time thereafter.” The deputy must notify the offender, victim(s), and arresting police agency of PDP hearing information. During the hearing, attorneys are permitted for advising only but the suspected offenders must speak for themselves during the hearing. It is unclear whether suspected offenders with a public defender are entitled to have attorneys present.

If suspected offender is accepted, he or she must sign a contract agreeing to terms of PDP plan of supervision. The PDP officer reviews and verifies all documents concerning the enrollment and/or completion of the PDP plan. Upon successful completion, charges are dropped. If an offender fails, then the PDP officer refers the case to filing deputy for prosecution. Reasons for failure include commission of a new offense, nonpayment of restitution, inability or unwillingness to participate in program requirements. It’s unclear if nonpayment of other fines or fees, which one might consider a “program requirement,” also lead to program failure and prosecution.

While the LADA provided no statistical information, the Legal Policy Manual states that the Pre-Filing Diversion officer must use the “PDP database to track each offender’s referral to, and participation in, the PDP.” PDP Officers must generate a monthly report. Also, PDP officers must enter the case information into the Prosecutors’ Information Management System (PIMS). The statistical information and file retention policy suggests the LADA should have more data than merely the summary data the office provided to the ACLU. Judging by the LADA’s response to our request, these data either are not tracked according to policy or require follow up clarification to retrieve.

Recommended Next Steps

While many of the pre-filing diversion program eligibility requirements are broadly set by the state legislature, prosecutors wield significant discretion in the referral of PDP cases. Where the prosecutor does not refer a case to the PDP officer for diversion, the policy manual describes no other pathway for cases to be assessed for PDP eligibility. Certain offenses are explicitly disqualifying, including gang activity, DUI, possession of firearm, and sale of drugs. Even in those instances, the LADA provides that “circumstances may justify a deviation from the eligibility criteria.”[[4]](#footnote-4) The standard of review is without a foundation for accountability. The LADA’s claim that it does not track demographic data undermines any ability to test the fairness of the consideration for diversion programs. Given the LADA’s wide grant of prosecutorial discretion, it is possible that unconscious bias has created racial or other disparities in referrals for diversion. Without the data we cannot know one way or the other. Therefore, notwithstanding any model diversion policy, the LADA ought to consider the improvements to transparency and accountability in its pre-filing diversion programs:

1. Track and retain data concerning referrals, program success and failure, and demographics of people who are eligible and referred for these diversion programs.
2. Provide additional guidance to line deputies concerning what “circumstances may justify a deviation from the eligibility criteria.”
3. Require line deputies to state their reason(s) for (in)eligibility or (un)suitability.
4. Update this policy consistent with updated list of decline-to-charge offenses.
5. Clarify when ability to pay may weigh in suitability for pre-filing diversion programs where restitution and additions administrative fees are required for successful completion.

**Request Item #3 – Parole Hearings**

ACLU PRA Request

1. *All records relating to how many parole hearings the office attended, how many hearings your office opposed, and how many parole hearings your office opposed when the next of kin took no position in the calendar years of 2017 and 2018.*

District Attorney Response

The LADA provided two partially responsive documents. Both are spreadsheets indicating the number of parole hearings LADA deputies attended each month in 2017 and 2018. The LADA does not keep statistics on demographics of the people up for parole. The LADA does not keep information on whether the office opposed the inmate’s release, and thus whether LADA deputies at those parole hearings opposed inmate release when next of kin took no position. The LADA failed to provide any office policies, protocols, or guidelines concerning LADA line deputies’ presence or participation in parole hearings.

Recommended Next Steps

While prosecutors do not have decision-making power over the release of incarcerated people to parole, a prosecutor’s presence in a parole hearing and position on an inmate’s suitability can influence the release or continued confinement of incarcerated people. According to the Brooklyn District Attorney Eric Gonzalez, “For too long, prosecutors across the country have automatically and reflexively opposed release when individuals become eligible for parole.”[[5]](#footnote-5) Without the data to investigate the practices of the LADA’s office in parole hearings, the public cannot evaluate the office’s participation in parole hearings or their consequences on mass incarceration. In the interest of transparency, accountability, and “the fair and ethical pursuit of justice,”[[6]](#footnote-6) the LADA’s office should consider adopting the following reforms:

1. Begin tracking the data on line deputy parole hearing participation, including whether the deputy’s recommendation is for or against release and the reasons for that decision.
2. Expand the staffing and role of Parole[[7]](#footnote-7) and Conviction Review[[8]](#footnote-8) to develop and implement the following policy positions:
   1. For cases ending with guilty pleas, the LADA’s default position is to support the defendant’s release at his or her first parole opportunity (subject to record in prison and other considerations).
   2. For juvenile cases with indeterminate life sentences, the LADA give special considerations in parole determinations to ensure meaningful inquiry into whether those individuals have matured into appropriate candidates for release.
   3. Partnering with transitional services to identify defendants who merit early parole.
   4. Training guidelines and assistance for line deputies on their parole recommendations.
3. Establish a policy and practice for including in published reports information on annual data on the LADA’s parole recommendations.

**Request Item #4 – Office Policies, Protocols, and Guidelines**

ACLU PRA Request

1. *Copies of all office policies, including but not limited to Brady compliance policy, charging and plea deal offer policies, pardons and commutations, etc. Request #3* [sic] *is not limited to calendar year 2017 and 2018.*

District Attorney Response

The LADA provided several chapters of the office’s Legal Policy Manual. Generally, Chapter 2 deals with office policies on criteria for investigations, evidence, and felony and misdemeanor charging decisions. Chapter 5 details the office’s decline-to-charge policies. Chapter 10 covers misdemeanor case settlement policy, which includes plea bargaining and consideration of adverse immigration consequences, among other topics. Chapter 12 describes the office’s felony case settlement policy, which also includes guidelines on plea bargaining, enhancement decisions, three strikes cases, sentencing, consideration of adverse immigration consequences, and asset forfeiture cases, among other topics. Chapter 14 explains the *Brady* policies related to disclosure of exculpatory and impeachment information. According to the LADA’s response letter, the office does not have policies on pardons or commutations.

LADA policy prohibits deputies from using the charging process to obtain leverage to induce a guilty plea to a lesser charge.[[9]](#footnote-9) Where a deputy can charge a crime as a felony or a misdemeanor (i.e., a wobbler), the LADA’s default policy is to charge the case as a felony unless the circumstances warrant a misdemeanor.[[10]](#footnote-10) The LADA’s explanation for this policy is that some cases cannot be easily categorized as either a felony or misdemeanor. To determine how a deputy should charge a wobbler, the deputy must consider a list of factors, including prior record, severity of the crime (e.g., use of deadly weapon, severity of injury, or status of the victim), probability of continued criminal conduct. To ascertain the probability of continued criminal conduct, the deputy must consider whether the defendant is professional criminal or connected to gang activities or organized crime. Factors that deputies are prohibited from considering include (1) the attitude of the victim, witnesses, or law enforcement toward the decision, and (2) the accused’s family, economic, immigration, or professional status. It is important to note that each of these factors can implicitly biased the outcome based on race, ethnicity, and socio-economic status. For example, because of practices of racial profiling, low-income Black men will tend to have prior records and be assumed to have higher probability of continued criminal conduct. Based on these factors, the LADA’s office is likely systematically biasing wobbler decisions to be more punitive for non-white people accused of crimes.[[11]](#footnote-11)

The LADA’s policies for charging co-defendants and special allegations (i.e. enhancements) lean punitive by default.[[12]](#footnote-12) The policy states, “[w]hen multiple defendants can be charged with a felony, and at least one appears to deserve a felony sentence for the crime(s), *all should be charged initially with a felony*.”[[13]](#footnote-13) The reason given for this policy is judicial economy of joining defendants. So even if the co-defendant(s) do *not* deserve a felony sentence—for example, they had a much more minor role than the principal—they receive the same level of punishment. Moreover, the LADA requires deputies to “charge all applicable special allegations that enhance the penalty or result in the mandatory denial of probation.”[[14]](#footnote-14) The LADA claims this policy does not prejudice the accused.[[15]](#footnote-15) Instead, it allows deputies to have choice among a range of potential penalties that should be deferred to the sentencing stage. While the deputies are told “[c]are in charging is necessary to prevent the prosecution of innocent individuals,” they actively implement a policy that encourages seeking the most punitive charges by default.[[16]](#footnote-16) The mere existence of probable cause to support an enhancement does not mean the deputy should charge that enhancement with no other considerations. Again, this will tend to create, intentionally or not, more leverage for the prosecution to extract a plea, when the defendant feels that the potential sentence is so extreme that many will accept a plea even while maintaining their actual innocence. This directly contravenes the LADA’s mission to promote justice.

Nothing requires the LADA have more punitive policies. Deputies have wide latitude to decline to charge.[[17]](#footnote-17) The LADA’s policy states the proper bases for declining to charge include budgetary limitations, legislative intent, antiquated statute, victims request, probation violation, or pending prosecution of other charges. Improper bases for declining to charge include restitution to victim (buying one’s way out of a charge), extradition cases, relationship between accused and victim, unpopular statute, victim’s lack of cooperation, and impact on accused’s family, among other reasons.

When deputies decline to charge, a Charge Evaluation Worksheet must be completed in PIMS for all felony and misdemeanor cases. The Worksheet must include the name of the victim, the charges, name of the investigating/filing officer, and reasons for the declination.[[18]](#footnote-18) One listed reason for declining to charge is in the “Interest of Justice.” This general declination-to-charge reason supports each deputy’s duty under Penal Code Section 4 “to promote justice.” The investigating/filing officer can appeal a decline-to-charge decision.

The LADA’s handling of misdemeanor and felony cases default to incapacitation and punishment. The stated purpose of the LADA’s case misdemeanor settlement policy is to protect crime victims, protect the community, punish the guilty, and deter crime. When conflicting interpretations of this policy arise, deputies should adopt the interpretation that “favors the victim and public, not the defendant.”[[19]](#footnote-19) The LADA holds the same position under its felony case settlement policy.[[20]](#footnote-20) Moreover, the LADA holds a strong policy that sale and possession for sale cases are not to be reduced, but rather deputies should seek the maximum appropriate sentence.[[21]](#footnote-21) Under the same punitive framework, defendants in cases involving narcotics sales and possession for sale shall be deemed ineligible for work release. Repeat defendants in narcotics cases shall not be allowed bail either.

No policy is more punitive than the LADA’s policy on criminal street gangs. To quote the “*Commentary*” section,

“*Deputies shall aggressively seek harsher sentences for street gang members in every case whether or not the instant offense was gang related. The objective is to use every opportunity to remove gang members from the streets. For crimes for which the usual sentence is a county jail sentence, if the defendant is a gang member, deputies shall seek a state prison commitment.*”[[22]](#footnote-22)

Policies like this will tend to over-incarceration. Indeed, the punishments from gang enhancements are often more severe than the punishments for the underlying felonies. Gang member registries are notoriously faulty, netting unsuspecting community members with little or no evidence of gang affiliation. The LADA disproportionately wields this policy against young men and boys of color.

The LADA also holds broad guidelines for complying with *Brady* disclosure requirements.[[23]](#footnote-23) Any doubt as to the disclosure of potentially exculpatory or impeachment information or evidence must be resolved in favor of disclosure. Where deputies learn that any enforcement officer’s personnel file contains impeaching information, deputies must inform the defense of that information. The LADA also observes the California court due process requirement to disclose impeaching evidence before a defendant pleads guilty or no contest, and in any case as soon the impeaching information becomes known.

Recommended Next Steps

While the LADA Office is unusual in that it has significant officewide policy guidelines on a broad range of issues, several of those policies tend to favor punishment over rehabilitation. Moreover, the more punitive posture of many LADA policy positions may contribute to more incarceration, not less, and the burden of these policies is likely disproportionately shifted to Black and brown men and boys. To promote principles of equity, transparency, and accountability in the LADA’s practices, the office should consider the following reforms:

1. Charge wobblers as misdemeanors by default. Develop a new set of factors upon which to determine whether a wobbler should/could be charged as a felony in unusual circumstances. Certain categories of wobbler crimes, including sex crimes involving minors, for example, may be considered under a separate tier of charging standards. The policy should explicitly account for unconscious bias in consideration of any factors for charging or enhancements.
2. Develop a list of charges the deputies must decline-to-charge, except in unusual circumstances in which case they must obtain permission from the head deputy or deputy-in-charge.
3. Rather than always resolving doubtful interpretations of office policies against defendants, which tends to undermine a core principle of innocence until proven guilty, develop a procedurally fair and transparent review of those doubtful interpretations.
4. Rather than always erring on the side of more punitive charging practices in cases with special allegations and multiple defendants, the LADA should adopt higher standards of review for its deputies to meet before seeking the highest felony charges or enhancements.
5. Impose a higher standard of scrutiny of any accused person’s alleged “gang affiliation.” Enhancements do not need to be applied and should not be applied in all cases. The LADA policy must recognize the deficiencies of the gang registry and the negative collateral consequences of its lock-up-first, ask-questions-later policy on alleged gang members.

**Request Item #5 – Immigration Related Policies**

ACLU PRA Request

1. *Copies of all office policies that relate to immigration including but not limited to:*
   1. *Records that refer to office efforts to implement its obligations under Penal Code 1016.3(b).*
   2. *Records that refer to office efforts to implement its obligations under Penal Code 1473.7.*
   3. *Records, memoranda, and emails that relate to the creation and development of an immigration policy for the office.*[[[24]](#footnote-24)]
   4. *Request #5 is not limited to calendar year 2017 and 2018.*

District Attorney Response

Penal Code Section 1016.3 requires deputies to consider adverse immigration consequences as one factor in the charging and plea negotiation process. Penal Code Section 1473.7 allows for a person to move to vacate a conviction or sentence where the movant was unable to meaningfully understand, defend against, or knowingly accept the actual or potential adverse immigration consequences of a guilty plea. The LADA denied possessing records on Penal Code Section 1016.3, but in the LADA’s Legal Policy Manual informs deputies of their obligations under the section. Any deviation from case settlement policy for felonies or misdemeanors requires prior approval by the Head Deputy or Deputy-in-Charge.[[25]](#footnote-25)

The LADA provided several officewide directives relating to implementation of Penal Code Section 1473.7. These policies were updates to the office’s Legal Policy Manual Chapter 17 on Post-Conviction Proceedings. The policy includes proactive steps deputies may take to prevent convictions from being set-aside due to a person’s lack of understanding of the consequences of a plea on the person’s immigration status.[[26]](#footnote-26) The LADA also prepares its deputies with procedural defenses in Penal Code Section 1473.7 hearings: (1) deputies must object to the movant’s absence during the hearing; (2) deputies must object to admission of hearsay evidence; (3) deputies must insist on cross-examination of hearsay declarants; and (4) deputies must object to plea withdrawals out of open court. These directives help uphold convictions regardless of the movant’s claims to injury. Nothing in the LADA’s policy establishes an affirmative procedure for reviewing the claims of the movant and abstaining from fighting clear violations of Penal Code Section 1473.7.

Recommended Next Steps

That the office has a written policy is promising, compared to other jurisdictions. An office committed to justice must be able to acknowledge harm, intentional or not, and act accordingly. However, the LADA’s policy on 1016.3 and 1473.7 assumes a defensive posture. A more just and effective policy to uphold the integrity of just convictions while protecting people from adverse immigration consequences might include developing a procedure under the LADA’s Conviction Review Unit to accept informal post-conviction meetings to offer an opportunity for case review under a claim of prejudicial damage under Penal Code Section 1473.7.

**Request Item #6 – SB 1421 Policies**

ACLU PRA Request

1. *All records concerning implementation of SB 1421, including copies of any new policies, training manuals or procedures regarding SB 1421, including any policies, procedures or training manuals for making SB 1421 requests, maintaining SB 1421 records, disclosures of SB 1421 requests to criminal defendants, revisions of any Brady policies in light of SB 1421, and all policies and procedures for reviewing all criminal convictions, arrests and charging decisions, in view of SB 1421. Request #4* [sic] *is not limited to calendar year 2017 and 2018.*

District Attorney Response

The LADA provided no responsive record. The LADA states the requirements of SB 1421 do not apply to line deputies, so the LADA has not considered or implemented any policies or guidelines regarding SB 1421.

Recommended Next Steps

The LADA misstates that SB 1421 requirements do not apply to line deputies. The purpose of SB 1421 is to promote transparency and accountability of law enforcement through the disclosure of misconduct and dishonesty. Before the passage of SB 1421, District Attorneys already had access to officer records. With the passage of SB 1421, the role of line deputies in upholding the text and spirit of SB 1421 must be retrieving information on any officer involved in a case to confirm the trustworthiness of the officer’s sworn testimony.

The initial decision to prosecute a suspect depends on the sworn incident reports provided by the arresting officers. If those officers have a history of dishonesty, then the reports could hardly serve as a credible basis for initial prosecutorial decisions. Therefore, the ACLU recommends the LADA take the following steps to improve transparency and accountability:

1. Develop a guidelines and practices of reviewing an officer’s history of misconduct in each case, regardless of whether any disciplinary action was taken, or whether inquiries in an officer’s misconduct or dishonesty resulted in sustained findings.
2. Establish office-wide guidelines and practices to disclose to criminal defendants the arresting officer’s history of misconduct or dishonesty.
3. Create a cadre of two or three staff attorneys to retrieve information on past and current police officers’ records of misconduct or dishonesty, so the office may review any cases where those officers played a material role in the arrest and prosecution of the defendants. This would require adopting new procedures and standards for review. For example, the LADA could develop a method of intake where defense counsel may submit cases for review.

1. *See* Legal Policy Manual, Chapter 6.01.01. Updated January 15, 2019. Page 114. [↑](#footnote-ref-1)
2. The Alternative Sentencing Court Programs include LA County Drug Court, Co-Occurring Disorders Court, Sentenced Offender Drug Court, Women’s Re-Entry Court, Veterans Court, and Community Collaborative Court. *See* Legal Policy Manual, Chapters 15.05 (drug court), 28.01 (mental health diversion), 28.02 (description of all alternative sentencing court programs). [↑](#footnote-ref-2)
3. *See* [*California Penal Code § 186.20 et seq*](http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=PEN&division=&title=7.&part=1.&chapter=11.&article=). For reference to broad definitions of what constitutes “criminal gang activity,” see also PC §§ 186.22(e), (f), (i) and 186.30. (“[I]t is not necessary for the prosecution to prove that the person devotes all, or a substantial part, of his or her time or efforts to the criminal street gang, *nor is it necessary to prove that the person is a member of the criminal street gang*. Active participation in the criminal street gang is all that is required.”) [↑](#footnote-ref-3)
4. *See* Legal Policy Manual, Chapter 6.01.02. Updated January 15, 2019. Page 115 (in “*Commentary*” section). [↑](#footnote-ref-4)
5. Brooklyn Office of District Attorney. Press Release. “Brooklyn District Attorney Eric Gonzalez Announces Dedicated Post-Conviction Justice Bureau That Will Include Parole and Clemency Unit, Sealing Unit, and Nationally Recognized Conviction Review Unit.” Wed., April 17, 2019. <http://www.brooklynda.org/2019/04/17/brooklyn-district-attorney-eric-gonzalez-announces-dedicated-post-conviction-justice-bureau-that-will-include-parole-and-clemency-unit-sealing-unit-and-nationally-recognized-conviction-review-unit/>. [↑](#footnote-ref-5)
6. Los Angeles County District Attorney’s Office. “Mission Statement.” Accessed June 9, 2019. <http://da.co.la.ca.us/about/mission-statement>. [↑](#footnote-ref-6)
7. Led by Head Deputy Steven Frankland and Assistant Head Deputy Donna Lebowitz. *See* LADA’s “Organizational Chart.” Updated January 25, 2019. <http://da.co.la.ca.us/sites/default/files/pdf/Org-chart-0119.pdf>. [↑](#footnote-ref-7)
8. Led by Deputy-in-Charge Robert Grace. *See* LADA’s “Organizational Chart.” Updated January 25, 2019. <http://da.co.la.ca.us/sites/default/files/pdf/Org-chart-0119.pdf>.  [↑](#footnote-ref-8)
9. Legal Policy Manual, Chapter 2.07.01. [↑](#footnote-ref-9)
10. Legal Policy Manual, Chapter 2.09. *See also* Penal Code § 17(b)(4) for authority to charge wobblers. [↑](#footnote-ref-10)
11. Regression analysis of charging decisions of all wobblers based on race and ethnicity would likely ascertain the validity of this hypothesis; however, the LADA does not track race or ethnicity in its prosecution data. [↑](#footnote-ref-11)
12. Legal Policy Manual, Chapter 2.09.04 (multiple defendants) and 2.10.01 (charging special allegations). [↑](#footnote-ref-12)
13. Legal Policy Manual, Chapter 2.09.04. [↑](#footnote-ref-13)
14. Legal Policy Manual, Chapter 2.10. [↑](#footnote-ref-14)
15. Legal Policy Manual, Chapter 2.10 (*See* “*Commentary*” section.) [↑](#footnote-ref-15)
16. Legal Policy Manual, Chapter 2.10 (*See* “*Commentary*” section.) [↑](#footnote-ref-16)
17. Legal Policy Manual, Chapter 5. *See* Penal Code § 4 (“The rule of the common law, that penal statutes are to be strictly construed, has no application to this Code. All its provisions are to be construed according to the fair import of their terms, with a view to effect its objects and to promote justice.”) [↑](#footnote-ref-17)
18. Legal Policy Manual, Chapter 5.04 (Explaining declination procedures for entering declination information into PIMS and choosing from list of reasons. The list of potential reasons with their declination code for the CA Department of Justice is included under Chapter 5.04.01.) [↑](#footnote-ref-18)
19. Legal Policy Manual, Chapter 10. [↑](#footnote-ref-19)
20. Legal Policy Manual, Chapter 12. [↑](#footnote-ref-20)
21. Legal Policy Manual, Chapter 12.06. [↑](#footnote-ref-21)
22. Legal Policy Manual, Chapter 12.07. [↑](#footnote-ref-22)
23. Legal Policy Manual, Chapter 14. [↑](#footnote-ref-23)
24. The LADA refused to provide records, memoranda, and emails related to the creation and development of immigration policy for the office because those documents are considered preliminary draft work product under the “deliberative process privilege.” Gov. Code section 6254(a). [↑](#footnote-ref-24)
25. Legal Policy Manual Chapters 10.12.01 (misdemeanor case settlement policy) and 12.13.01 (felony case settlement policy). [↑](#footnote-ref-25)
26. Legal Policy Manual Chapter 17.01.03 (Cited from Special Directive 18-11 from December 28, 2018 guiding deputies on the impact of AB 2867 amendments to Penal Code Section 1473.7, which took effect on January 1, 2019.) [↑](#footnote-ref-26)