



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE

SACRAMENTO LEGISLATIVE OFFICE

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The Honorable Reggie Jones-Sawyer
Assembly Public Safety Committee, Chair
1020 N Street, Room 111
Sacramento, CA 95814

ASSEMBLY BILL 709 (McKINNOR)
SPONSOR
Assembly Public Safety Committee
Hearing Date: April 11, 2023

Dear Assembly Member Jones- Sawyer:

The Los Angeles County District Attorney's Office (LADA) is pleased to sponsor Assembly Bill 709 (McKinnor).

Prosecutors have a duty to disclose exculpatory and impeachment evidence to the defense when in their possession. As an inherent part of law enforcement oversight and ongoing investigations related to justice system integrity, prosecutors receive information pertaining to law enforcement witnesses that might constitute exculpatory or impeachment evidence in open and closed criminal matters. When potential Brady information concerning a specific person is received by LADA's Discovery Compliance Unit (DCU), a search is run within LADA's Prosecution Information Management System (PIMS) to identify cases in which that person may have been a witness.

Data stored in PIMS constitutes "local summary criminal history information" and is therefore subject to the disclosure restrictions set forth in Penal Code Section 13300. (See, 89 Ops.Cal.Atty.Gen. 204, 215 (2006).) By definition, "local summary criminal history information," includes a defendant's name, date of birth, charges, and "similar data." (§ 13300, subd. (a).)

Subdivision (b) of section 13300, provides for the disclosure of local summary criminal history information of the person who is the subject of that information to a public defender or attorney of record when representing the person in a criminal matter. (§ 13300, subd. (b).) However, there is no provision in section 13300 for disclosure beyond the individual public defender or attorney.

Section 13300 inadvertently hinders disclosures of exculpatory or impeachment evidence required by the United States Supreme Court decision in *Brady v Maryland* when quick, high-volume disclosures are necessary.

At its core, the issue is that the *Brady* notification process is time consuming. Upon determining that officer misconduct may have impacted closed cases, a paralegal performs a PIMS run to generate a list of potentially affected defendants and case numbers. That list is considered summary criminal history information because it contains both case numbers and defendants' names.

Instead of immediately generating and sending the list of cases, personnel at the DCU must sort the list and send letters to each supervisor throughout the office attaching a location-specific list of cases. The supervisor is responsible for sending out *Brady* notifications on those cases and upon receipt of the letter and list from DCU, the supervisor must determine who defense counsel is on each case and send out individual letters to defense counsel with the information. A large portion of notifications are made to attorneys from either the Public Defender's Office or the Alternate Public Defender's Office. Consequently, attorneys at the Public Defender's Office and Alternate Public Defender's Office receive piecemeal *Brady* notification letters, authored by different supervisors throughout the District Attorney's Office, as opposed to a singular consistent notification from DCU. In the past year, DCU has sent supervisors requests to make notifications on thousands of cases. Currently, from the time of entry into the DCS system to the time notification is made to defense counsel ranges can take months.

If DCU was permitted to instead make direct notifications to a contact person within the Public Defender's Office and the Alternate Public Defender's Office by sending them each one *Brady* letter with the attached summary criminal history information, those offices could quickly run the cases on their end to determine which listed individuals were their clients, and advise DCU which individuals were not. DCU could then forward notification requests to location-specific supervisors only for those cases with private or appointed attorneys.

Under AB 709, local summary criminal history information could be provided to public defender's office or government agency. As such, providing the names and case numbers of all defendants, including non-clients from other cases, as part of a disclosure letter, or a PIMS sourced printout, would be permitted.

AB 709 also addresses confidentiality and privilege waiver issues by expressly deeming that disclosure of the list to the Public Defender's Office and Alternate Public Defender's Office does not constitute a waiver. This would allow our office as well as the Public Defender and Alternate Public Defender Offices to deny any public records act requests for the list, although, the press is allowed access to such upon request for journalistic purposes.

In combination, these amendments will allow prosecutors to make *Brady* disclosures in a much more timely and efficient manner.


It makes no sense from a legal or public policy perspective to allow the sharing of this information with the press (and therefore the public) but not with a Public Defender's/Alternate Public Defender Office.

AB 709 will assist prosecutors with expediting our constitutionally mandated *Brady* obligations. In some cases, timely notifications can result in the immediate release of an individual from custody. Conversely, a delay in making the notifications can result in the over detention of an individual.

For these reasons I am pleased to sponsor AB 709 and respectfully request your **AYE** vote.

If you have any questions or need additional information, please feel free to contact Daniel Felizzatto in my Sacramento Legislative Office at (916) 442-0668.

Very truly yours,



GEORGE GASCÓN
District Attorney