



OFFICE OF THE DISTRICT ATTORNEY
CONTRA COSTA COUNTY

Diana Becton
DISTRICT ATTORNEY

October 20, 2025

Juliana F. Gmur
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814



Comments to Draft Expedited Parameters and Guidelines
Test Claim Criminal Procedure: Discrimination, 24-TC-02

Dear Ms. Gmur,

On behalf of the Contra Costa District Attorney's Office, please accept the following proposed comments and modifications to the Commission's Draft Expedited Parameters and Guidelines. We appreciate the opportunity to provide input to ensure that the reimbursement framework accurately captures the range of activities reasonably required for compliance with the State's mandate.

As the county's prosecuting agency, our office also plays an integral role in matters involving habeas petitioners seeking relief under Penal Code section 745. While we are not the petitioners' counsel, their ability to move forward often depends on our office's capacity to retrieve, review, and produce extensive statistical data and historical case materials. In practice, the activities outlined in the test claim cannot be carried out unless the appropriate infrastructure is implemented in local prosecutors' offices.

For example, in the habeas matter of *Eugene Jones* (see attached order), Petitioner, through his public defender, filed a motion for discovery on July 30, 2024. The request included materials from historical homicide files and disposition statistics dating back to 1990. Due to the absence of data synthesis systems to efficiently access and compile this type of information, Petitioner has not received the information necessary to proceed with his habeas petition. In an order issued two weeks ago, Honorable Julia Campins wrote:

"In light of the efforts made by the District Attorney's Office, the Court finds that the delay does not appear to be the result of the People not taking their RJA discovery obligations seriously. The Court finds that the People are

operating in good faith to harness their available resources toward efficiently expediting compliance with the Court's orders, but have been significantly weighed down by an overwhelming volume of discovery orders and insufficient funding for additional resources."

(People v. Jones, Docket 5-00951552-9, Order for Discovery Compliance, September 24, 2025)

This same challenge affects numerous other pending cases. In each instance, the pace of progress is closely linked to the resources and infrastructure available to local prosecutors to meet discovery and data production obligations under section 745. The above order was incorporated into numerous habeas petitions that remain in the same procedural posture. Effective representation for habeas petitioners, and the timely resolution of their cases, therefore depends on two key factors: (1) the ability of prosecutors' offices to retrieve and analyze historical data, and (2) personnel to comply with the necessary discovery orders pursuant to subdivision (d) of section 745. Any reimbursable activity established by the Commission that does not include the corresponding resources to the local prosecutor's office for improved data infrastructure and staffing will fail to achieve its desired outcome. Indigent habeas petitioners will obtain representation, but their petitions will endlessly circle a runway that is yet to be built.

Therefore, in addition to the proposed reimbursable activities approved in the Decision by the Commission, we respectfully request inclusion of the following additional reimbursable activities that are directly tied to compliance with the underlying mandate and fall within the purview of "reasonably necessary activities" required to meet the mandates of AB 256:

Data Extraction and Synthesis Systems:

Penal Code section 745, subdivision (d) allows a defendant to request discovery of "all evidence relevant to a potential violation," which includes all statistical evidence and aggregate data. (Penal Code § 745, Sub, (h)(1).) To appropriately respond to these new discovery mandates, accurate and comprehensive case data must be retrieved and analyzed in a timely fashion. Currently, much of this information is stored across fragmented systems that are difficult to access and analyze. Software systems and data extraction services are necessary to collect and evaluate case-level data in a structured and timely manner. These analytical programs are essential to evaluate fairness in prosecutorial practices and to effectively respond to litigation brought under the RJA.

Accordingly, we recommend the following language addition to Section IV (Reimbursable Activities):

“Preparation activities undertaken by the District Attorney’s Office, including extraction, review, and synthesis of case data and evidence necessary to comply with the statutory requirements imposed by the mandate.”

Salaries and Benefits for prosecutors necessary for representation:

The corresponding personnel costs at local prosecutors’ offices must be included because the representation of these habeas petitioners is directly tied to the district attorney’s ability to respond in a timely and comprehensive manner. The commission aptly strives to fund this newly created mandated activity enacted pursuant to AB256. The inclusion of prosecution personnel costs is vital to ensuring petitioners’ effective representation in these habeas matters. Otherwise, any order to financially support the representation indigent habeas petitioners will fail to achieve its desired outcome.

Accordingly, we recommend the following language addition to Section IV (Reimbursable Activities):

“Personnel costs borne by the District Attorney’s Office, to appropriately respond to habeas petitioner’s claims for discovery, which are necessary to comply with the statutory requirements imposed by the mandate.”

Both data systems and prosecution personnel costs are directly linked to mandated compliance and support effective representation contemplated by this test claim. Excluding these activities would fail to capture the full scope of costs imposed by the State’s mandate. We appreciate the Commission’s careful consideration of the practical aspects involved in implementation. We respectfully request that the final Parameters and Guidelines be modified to include the proposed reimbursable activities described above.

Thank you for your consideration.

Respectfully submitted,

DIANA BECTON
DISTRICT ATTORNEY
CONTRA COSTA COUNTY



Ryan Wagner
Senior Deputy District Attorney
Contra Costa County

09/24/2025

S. LIND CLERK OF THE COURT
SUPERIOR COURT OF CALIFORNIA
CONTRA COSTA COUNTY

bcuevas

BY: _____
DEPUTY CLERK

**IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF CONTRA COSTA**

PEOPLE OF THE STATE OF CALIFORNIA

Plaintiff,

No. 5-00951552-9

**Order For Request to Order
the District Attorney to Show
Cause and to Enforce
Compliance with the
Discovery Order Under the
Racial Justice Act**

V.S.

Defendant,

Eugene Jones,

_____ /

I. Procedural Background

On February 10, 2025, the court issued a discovery order pursuant to section 745(d) of the Racial Justice Act (RJA).

On June 4, 2025, the prosecution disclosed via email a list of filed cases (Item #1, case, defendant name, and date of birth). To date, the prosecution has not disclosed Item #3 (lead police report redacted); Item #4 (green sheet, pre- and post-preliminary hearing); Item #5 (reason or policy in deciding to charge defendant); Item #7 (protocols of negotiating disposition in homicides/capital case).

On July 3, 2025, and August 14, 2025, the court held status dates on the remaining disclosure.

On September 4, 2025, the defendant filed a motion requesting that the court order the People to show cause why they have not complied with the court's discovery order. The defendant requests modification of the disclosure order in the form of compliance dates for incremental disclosure of lead police reports and

green sheets. To expedite the process, the defendant proposes that the unredacted police reports be disclosed subject to a protective order that would prohibit the public filing of the reports or their disclosure outside the Public Defender's Office. The defendant requests modification of the disclosure order in the form of compliance dates for the disclosure of police reports and green sheets, along with a minimum number to be disclosed per month.

On September 12, 2025, the People filed their response.

On September 18, 2025, the matter came before the Court at which time the Court took it under submission.

II. Discussion

The arguments raised in the present case and the reasoning in this order (*People v. Eugene Jones*, No. 5-00951552-9) shall be incorporated by reference in all other cases in which the Court issues an order for the request to order the District Attorney's Office to show cause and to enforce compliance with the discovery order under RJA. Those cases are *Jerit Aaron* No.5-00141129-7; *Paul Westmorland* No.5-00051785-4; *Kimiko Wilson* PTN24-00396; *James Hill* No.5-00930705-9; *Leron Morris* No.5-00041042-3; *Akeli Blake* PTN24-00095; *Joseph Blacknell* No.5-00110816-6; *Julian Covington* No.5-00901032-3; and *Montrell Hall* No.5-00081148-9.

A. Power to Compel Compliance with RJA Discovery Order

Section 745 does not specify a sanction for the failure of the state to comply with a discovery order. Nothing in the statute suggests that non-compliance with the order will result in the remedies under section 745(e) or the sanctions under section 1054.5(b). (Couzens, R. "Assembly Bill 2542: California Racial Justice Act of 2020, [Rev. April, 2023] at p. 22.) This, however, does not diminish a court's inherent power to enforce its lawful discovery orders through standard judicial remedies, such as compelling discovery, granting a continuance, imposing contempt, or issuing financial sanctions. (Code of Civil Procedure section 177(2) [every judicial officer has the power to "compel obedience to his [or her] lawful orders"]; Code of Civil Procedure section 128(a)(4) [every court has the power to "compel obedience to its judgments, orders, and process, ..."].)

All courts have "fundamental inherent equity, supervisory, and administrative powers, as well as inherent power to control litigation before them. (*Rutherford v. Owens-Illinois, Inc.* (1997) 16 Cal.4th 953, 967.) The trial court also has broad discretion to fashion a remedy in the event of discovery. (*People v. Jenkins* (2000) 22 Cal.4th 900, 951; *People v. Lamb* (2006) 136 Cal.App.4th 575, 581.) Misuses of the discovery process include, among other things, "[f]ailing to

respond or to submit to an authorized method of discovery,” “[m]aking an evasive response to discovery,” and “[d]isobeying a court order to provide discovery.” (Code of Civil Procedure sections 2023.010 (d), (f), & (g).)

All courts have “fundamental inherent equity, supervisory, and administrative powers, as well as inherent power to control litigation before them. (Rutherford v. Owens-Illinois, Inc. (1997) 16 Cal.4th 953, 967.) The trial court also has broad discretion to fashion a remedy in the event of discovery. (*People v. Jenkins* (2000) 22 Cal.4th 900, 951; *People v. Lamb* (2006) 136 Cal.App.4th 575, 581.) Misuses of the discovery process include, among other things, “[f]ailing to respond or to submit to an authorized method of discovery,” “[m]aking an evasive response to discovery,” and “[d]isobeying a court order to provide discovery.” (Code of Civil Procedure sections 2023.010 (d), (f), & (g).)

The burden of proving a “substantial justification” for failing to comply with a discovery order is on the party that has disobeyed the order. (*Doe v. United States Swimming, Inc.* (2011) 200 Cal. App. 4th 1424, 1436, citing Code of Civil Procedure section 2023.010(a).) Before sanctions are imposed, the court must therefore determine if the party subject to the sanction acted with substantial justification or if other circumstances make the imposition of the sanction unjust. (Code of Civil Procedure section 2023.010(a); Code of Civil Procedure section 2023.030 [authorizes a trial court to impose monetary sanctions, issue sanctions, evidence sanctions, or terminate sanctions against “anyone engaging in conduct that is a misuse of the discovery process” including “[d]isobeying a court order to provide discovery”]; Code of Civil Procedure section 177.5 [judicial officer shall have the power to impose reasonable money sanctions, not to exceed fifteen hundred dollars (\$1,500), payable to the court, for any violation of a lawful court order by a person, done without good cause or substantial justification].)

The trial court must, however, take an incremental approach to discovery sanctions. “If a lesser sanction fails to curb misuse, a greater sanction is warranted: continuing misuses of the discovery process warrant incrementally harsher sanctions until the sanction is reached that will curb the abuse. (*Creed-21 v. City of Wildomar* (2017) 18 Cal.App.5th 690, 702; *Doppes v. Bentley Motors, Inc.* (2009) 174 Cal.App.4th 967, 991 (*Doppes*).)

B. Enforcing Compliance with the Discovery Order

In considering an appropriate remedy for the delayed production of discovery, the Court has considered the reason for the delay, whether the delay prejudices the defendant, and the feasibility of curing the prejudice with a continuance and/or modification of the discovery order.

Reasons for the Delay

The Court's discovery order was issued on February 10, 2025. To date, there has been a delay of 7 months, 8 days in compliance with the Court's discovery order. The People stand by the estimate that it would take "anywhere from 3-5 years to complete the process of locating and redacting these [lead police reports and green sheets]" for Items #2 and #3.

First, the People assert that there are limited resources available to process the RJA motions. There are currently two full-time Deputy District Attorneys who handle all the RJA matters, including the ones before this court (post-conviction matters either pending a habeas petition or with a pending habeas petition) and those involving open cases. To date, a part-time case prep assistant (CPA), who also had other duties, has been processing the locating and redaction of the lead police reports. Overtime was paid to the CPA to ensure compliance with the discovery orders. On or about September 29, 2025, a full-time (temporary) CPA will be hired to handle all these duties. There is one filing clerk who also assists, but who has other responsibilities.

Second, the People cite numerous outstanding post-conviction and open case RJA discovery orders that need to be complied with. The District Attorney's Office, at this time and with some deviation based on particularly circumstances, processes RJA discovery orders in post-sentencing cases on a sequential, not a concurrent, basis. The steps involved in the disclosure entail many hours of locating and reviewing files. The task requires the redaction of a significant quantity of reports covering a twenty- to forty-year timeframe.

The components involved in disclosing the lead police report and Green Sheet begin with creating the lists of cases, which are disclosed to the defense first. There are an estimated total of 1350 homicide cases (1100 homicides between 1985 - 2009 and 250 cases between 2010-2015). There are 1,244 non-homicide cases.¹ Of the homicide cases, approximately 675 are non-digital (in a box).

For the CPA to process the lead police report, he or she must locate the file. It takes on average 24 hours to obtain the file from storage. The CPA then compiles the case file. Reports are located in the file or are ordered from agencies. It takes 15 minutes to locate and format a digitally available police report. It takes 2 hours to locate the lead police report in non-digital files. The reports are scanned and digitized if they are not in the system.

¹ *Jerit Aaron* No.5-00141129-7 includes 465 cases and *Akeli Blake* PTN24-00095 includes 779.

The CPA then redacts the lead police report. A homicide lead report can be anywhere from 30 to 300 pages. It takes 2 minutes per page to redact a typed report and 4 minutes per page to redact a handwritten report. Next, an attorney has to review the redactions to ensure accuracy.

The People's outstanding post-conviction discovery orders include all homicide reports from 1985–2015 and 10 years of sexual assault and human trafficking cases. Compliance is expected to require 6,788 case prep assistant hours and at least 621 attorney review hours. They have prioritized the redaction for the open homicide cases and are now commencing on pulling the files, scanning, and locating the police reports and redaction for the post-conviction matters.

The People assert that they are currently taking steps to use technology to assist with the redactions. To date, attempts have been made to use software to deal with the redactions, but errors occur regularly. On or about November 3, 2025, the People hope to secure software that is AI-based that will expedite the redaction process.

The People have also attempted to secure software that permit the office to collect data from the Court's computer system. The District Attorney asked the Contra Costa County Board of Supervisors if the remaining unused portion of the District Attorney's budget could go towards funding this software. The request was denied. The People are now applying for a grant to secure alternative funding.

As for locating the green sheet, the People assert that a complete hand search of every homicide box from 1990 to 2000 is required to determine if there is a green sheet. This task takes a minimum of one and a half hours of attorney time per case, or as much as two to three hours to search the boxes.

Finally, the People's request for additional funding has been repeatedly denied by the Contra Costa County Board of Supervisors. The People indicated that the budget provisions in 2023 to address the Antioch Police Department scandal do not mean that there is adequate funding for RJA discovery related to murders from 2005 to 2015. The People asked for ten attorneys, and were given five, two of whom handle only RJA matters while another two process the felony murder resentencing petitions. They requested a full-time CPA, and the request was denied. They had to secure a grant to hire a temporary CPA. When asked about what additional steps have been taken to obtain funding, the People stated that they have not made any new requests for funding. They already have ten vacant attorney positions in their office, and any request for additional staffing has been denied to date.

The People assert that they are currently taking steps to contract with companies to collect, organize, and disclose data, as well as to use technology to assist with the redactions. Efforts to locate a contract company to assist in the processing of RJA discovery orders have been unsuccessful to date, but efforts are ongoing.

In light of the efforts made by the District Attorney's Office, the Court finds that the delay does not appear to be the result of the People not taking their RJA discovery obligations seriously. The Court finds that the People are operating in good faith to harness their available resources toward efficiently expediting compliance with the Court's orders, but have been significantly weighed down by an overwhelming volume of discovery orders and insufficient funding for additional resources.

Prejudice Caused by the Delay

The delay has deprived the defendant of the ability to review the police reports, green sheets, and data that might demonstrate racial animus or disparity in treatment towards him because of his race. The delay in the discovery threatens the defendant's ability to conduct a meaningful investigation into a claim under the RJA in a timely fashion. In turn, the delay undermines his ability to challenge the viability of his conviction. He has been subject to the deprivation of his liberty without the opportunity to challenge his conviction under the RJA.

The defense has demonstrated a reasonable and accommodating posture by recognizing that compliance with the Court's mandate imposes logistical challenges upon the prosecution that cannot be overcome instantly. The defendant recognizes that, even assuming the People devoted 30 hours per month in a given case to redaction (totaling 900 pages of reports, or about 20 police reports), it would still take two years in many cases to disclose the police reports at issue.

The Court has also heeded the warning by the defendant that, to date, this is just a trickle in terms of the number of RJA matters that will be litigated in the future. The defendant cited that there are 1469 defendants in custody, and 179 of them are persons of color who are incarcerated from Contra Costa County. There is no doubt that the number of pending RJA orders and claims will continue to increase exponentially over the coming months and years. Though there are currently only two Deputy District Attorneys assigned to handle RJA matters, the strain on prosecutorial resources was indeed part of the legislature's choice in setting the discovery standard low under Pen. Code section 745(d). (See *Young v. Superior Court of Solano County* (2022) 79 Cal. App. 5th 138, 163 [discussing legislative intent for the discovery standard under the RJA].)

Remedy

The defense is not seeking monetary sanctions. It would be premature at this juncture to do so and should serve only as a means of last resort to secure compliance. Rather, the defendant is requesting that the Court set compliance dates to require disclosure of fifty police reports and green sheets per month. This would be achieved by eliminating the redaction requirement and issuing a protective order permitting all unredacted police reports to be disclosed to the defendant.

The People objected to the disclosure of unredacted police reports based on protecting the privacy rights of the victims. The protective order would have to apply to use in related cases, as well as to experts. CLETS information would have to be redacted to maintain compliance with the terms of operation permitting access to CLETS data. The defendant would have to ask the Court for leave to use any information in the unredacted report. Moreover, the disclosure of green sheets is limited by the number of attorney hours required to review the files.

The court finds that setting compliance dates for the release of targeted numbers of police reports and green sheets is a reasonable request. However, the Court cannot dictate to the District Attorney's Office how to manage their budget or who they should hire. Rather, the Court can have deeper involvement by monitoring and ensuring that the People make consistent progress toward meeting their graduated discovery targets. Although the People have provided sufficient explanation for the reasons for the delay to date, they need to continue to report to the Court the steps they are taking to make progress.

Before the court orders the modification of the discovery order, the Court finds that a continuance is appropriate to allow the People the opportunity to demonstrate if the steps they are taking can alleviate the delay; namely, whether their capacity to expedite the disclosure of the redacted police reports and green sheets will be improved with the onboarding of the temporary CPA in September and the use of AI software to assist in the redaction in November, while the People systematically provide rolling disclosures starting with the comparative group of White defendants from the list.

Should the People make no significant progress in terms of releasing redacted reports and green sheets by January 2026, then the Court may revisit the terms of the discovery order and consider an appropriate alternative to compel the People's future compliance with the court's order.

III. Disposition

To date, in the past 7 months, 8 days since the Court ordered discovery, the People have complied with the Court's discovery order as follows, and the parties are to return on the dates specified:

Item #1: Discovery was ordered for a list of all homicide cases from January 1, 1990, and January 1, 2000. The People have turned over a list of every homicide from 1985-2009. Defendant is already in possession of a list of every homicide from 2010-2024 based on a Public Records Request. These lists are incomplete because the system's data collection is very unreliable. The parties must work together to resolve this.

Item #3 (lead police reports) – To date, no police reports have been disclosed. The People have located the boxes from storage and have searched them. They have indicated that there are 404 cases related to the relevant time frame. Some of the reports from January 1, 1990, to January 1, 2000, are likely to be handwritten. Redacting a 50-page handwritten report would take 1350 hours. The matter is calendared for October 16, 2025, for further confirmation as to the expected date of the initial disclosure of police reports, with prioritization related to cases involving the comparative group White defendants from the list.

Item #4 (green sheet) – To date, no green sheets have been disclosed. The People have indicated that there are 404 cases from January 1, 1990, to January 1, 2000. It would require 600 hours of attorney time (at 1.5 hours per case) to locate and review the green sheets.

The People have confirmed that they have found green sheets in their search of the boxes, and the matter is calendared for October 2, 2025, to address work-product and objections to the disclosure of the entirety of the documents.

Item #5 (reason or policy in making decision to charge defendant) – The disclosure of this item was not addressed at the hearing.

Item #7 (protocols of negotiating disposition in homicides/capital case) - The disclosure of this item was not addressed at the hearing.

It is so ordered.

Dated: September 24, 2025



Judge Julia Campins
Judge of the Superior Court

Cc:

Deputy Public Defender,
Rebecca Brackman;

Deputy District Attorney,
Eric Dickson, Amber White

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On October 22, 2025, I served the:

- **Current Mailing List dated October 16, 2025**
- **City and County of San Francisco Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **Contra Costa County Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **Controller's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **County of Marin Office of the County Counsel's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **County of Santa Clara Office of the County Counsel's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **County of Sonoma Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **Sacramento County Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**
- **Stanislaus County Office of the District Attorney's Comments on the Draft Expedited Parameters and Guidelines filed October 20, 2025**

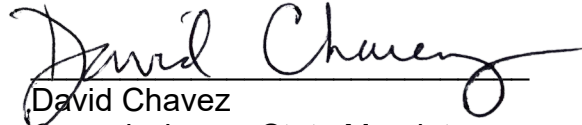
Criminal Procedure: Discrimination, 24-TC-02

Statutes 2022, Chapter 739, Sections 2 and 3.5 (AB 256); Penal Code Sections 745 and 1473, effective January 1, 2023

County of Los Angeles, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on October 22, 2025 at Sacramento, California.

A handwritten signature in black ink, reading "David Chavez", with a horizontal line extending from the end of the signature.

David Chavez
Commission on State Mandates
980 Ninth Street, Suite 300
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(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 10/16/25

Claim Number: 24-TC-02

Matter: Criminal Procedure: Discrimination

Claimant: County of Los Angeles

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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