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CASE #: B341644, Div: 5

CASE NO.
B_____

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION _____

DIANA MARIA TERAN,

Petitioner and Defendant,

v.

LOS ANGELES COUNTY SUPERIOR COURT,

Respondent.

CALIFORNIA ATTORNEY GENERAL,

Real Party in Interest and Plaintiff.

PETITION FOR WRIT OF PROHIBITION (PEN. CODE § 999a); MEMORANDUM OF POINTS AND AUTHORITIES

Los Angeles County Superior Court
No. 24CJCF02649
Honorable Sam Ohta as Magistrate

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CERTIFICATE OF INTERESTED PARTIES

Undersigned counsel for Petitioner and Defendant Diana Maria Teran is not aware of any interested parties required to be disclosed by California Rule of Court 8.208.

DATED: October 24, 2024

Respectfully submitted,

SPERTUS, LANDES & JOSEPHS, LLP

BY: _____

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Attorneys for Petitioner
DIANA MARIA TERAN

INTRODUCTION

Petitioner Diana Teran has been committed on an Information without reasonable or probable cause.

The California Attorney General ("AG") alleges that, on April 26, 2021, Ms. Teran violated Penal Code section 502(c)(2) by using data "belonging to the Los Angeles County Sheriff's Department" ("LASD") without "permission."[1] The allegedly unlawful "use" of data was Ms. Teran's act of sharing a folder named "Writ Discipline Decisions" with an employee she supervised in the Los Angeles District Attorney's Office ("LADA") Discovery Compliance Unit ("DCU"). The folder contained PDFs of documents from Los Angeles Superior Court ("LASC") case files in writ proceedings initiated by "disaffected County employee[s] who filed a request for a writ of mandamus ... pursuant to Code of Civil Procedure section 1094.5." (Appx., Vol. 5, 851, RT 685:7-21.)

At the time of this alleged "use" of data, Ms. Teran was employed by the LADA and one of her official duties was to maintain the internal LADA databases that enable criminal prosecutors to comply with their obligations under *Brady v. Maryland*, (1963) 373 U.S. 83, Penal Code section 1054.1, and Rule 3.8 of the California Rules of Professional Conduct (collectively, "*Brady* obligations"). The internal LADA databases are not accessible to the general public. (Appx., Vol. 2, 260-261, RT 203:19-204:6.) Ms. Teran shared her folder by sending an email with a link to the folder to an LADA employee she supervised, asking that person to research the judicial decisions to determine whether information from the writ proceedings should be entered in the databases consistent with LADA written policies. The April 26, 2021, email sharing the link to the Writ Discipline Decisions folder is the allegedly

[1] Unless otherwise noted, all statutory references are to the Penal Code.

criminal "use" of data without "permission" that is charged in the Information.

The magistrate found that the shared PDFs were public records: "The writ documents are in the public domain. That's where they live. They've always lived there. They began there. They were born [there]. They still live there." (Appx., Vol. 5, 878, RT 712:15-18.) Nonetheless, the magistrate concluded that, because the names of deputies appearing on the face of the judicial decisions publicly "linked" the deputies' names to the disciplinary decisions that were the subject of the writ proceedings, sharing the PDFs required "permission" from the LASD. "The writ documents [were] the vehicle through which [deputy] names were disclosed." (Appx., Vol. 5, 865-866, RT 699:27-700:3 [emphasis added].) "[A] deputy who is the subject of the writ document revealed to DDA Revel may claim *his or her privilege was breached by the disclosure of the writ PDF linked to his or her name*." (Appx., Vol. 5, 855, RT 689:1-3 [emphasis added].)

The "use" of public records that do not "belong" to the LASD cannot require "permission" from the LASD before they can be "used." Public records "belong" to the public, not the LASD as alleged in the Information. Ms. Teran did not violate section 502(c)(2) by failing to obtain LASD "permission" before sharing her "Writ Discipline Decisions" folder with a LADA employee. The magistrate's conclusion that public court records can be a "vehicle" linking a deputy's name to his or her disciplinary records and, therefore, require LASD permission before sharing is legally and factually erroneous. Any "link" between the deputies' names and their discipline was made public by the deputies themselves who were parties to public writ proceedings resulting in judicial decisions in those cases. The deputies' names appear on the face of each shared writ document, and the discipline "linked" to the deputies' names was the subject each court document. Those court records are not personnel records created or maintained by the LASD.

They public records that were made public by the deputies themselves. Ms. Teran's "use" of public data does satisfy the elements of section 502(c)(2) because they do not "belong" to the LASD as alleged.

The magistrate acknowledged there is no precedent for this case, and candidly described this case as "a case of first impression." (Appx., Vol. 3, 433, RT 366:11-16 ["There is no precedent for this case. There's no decisional law either—published or unpublished. There is nothing out there. . . . So we're all operating in . . . uncharted territory."].) The magistrate repeatedly characterized the case as "complicated" in nature (Appx., Vol. 5, 857, RT 691:18; Vol. 3, 421, 443, RT 354:18-20, 376:4-5), and observed that "[t]he Court and counsel's research have not turned up any decisional law applying section 502, subd. (c)(2) to facts like this prosecution." (Appx., Vol. 5, 832-833, RT 666:28-667:2.) The magistrate described his assessment that the AG was "attempting to put something into the statute, which I'm not sure the legislature had thought about that scenario when they crafted the statute." (Appx., Vol. 1, 69, RT 13:1-4.) Nonetheless, he found probable cause to hold Ms. Teran to answer the unprecedented allegations that sharing PDF documents of public court records violates section 502(c)(2).

There are significant policy reasons to grant this petition. Criminal justice administrators, law enforcement oversight professionals, and prosecutors throughout the state are monitoring this case to determine whether the use of public records in *Brady* compliance programs is legal. This case is having a devastating deterrent impact on criminal justice administration throughout the State of California by setting the precedent that *Brady* compliance officers can be criminally prosecuted for using public records in compliance efforts. *Brady* compliance programs will be promptly abandoned if administrators face criminal exposure for using public data to do their jobs. Oversight officials are also closely monitoring this case to determine whether they can face criminal prosecution for sending, saving,

quoting, citing, acknowledging, reviewing, or in any other way calling attention to a public document that identifies an officer over which they have or ever formerly had oversight responsibility. There has never been a case alleging section 502(c)(2) violations by an official who used public records for an official purpose. As acknowledged by the magistrate, this case was forging a path through "uncharted territory" that would benefit enormously from the guidance from the Court. A decision clarifying the boundaries of section 502(c)(2) and the permitted use of public data belonging to the public would serve important public interests.

PETITION FOR WRIT OF PROHIBITION

I. THE PARTIES

Petitioner is Diana Teran, the defendant in the case captioned *People of the State of California v. Diana Maria Teran,* Los Angeles Superior Court Case No. 24CJCF02649.

Respondent is the Los Angeles County Superior Court, Clara Shortridge Foltz Courthouse, Department 108, the Honorable Sam Ohta, presiding.

Real Party in Interest Rob Bonta, the Attorney General for the State of California, is the plaintiff in the case captioned *People of the State of California v. Diana Maria Teran,* Los Angeles Superior Court Case No. 24CJCF02649.

II. JURISDICTION

This is a petition for a writ of prohibition to set aside a criminal Information for lack of reasonable or probable cause pursuant to Penal Code section 999a.

III. TIMELINESS

Ms. Teran filed a motion to dismiss pursuant to Penal Code section 995 that was heard by the Honorable Charlaine Olmedo on October 10, 2024,

and denied. (Appx., Vol. 5, 951-1046, 10/10/24 RT 1-95.) This petition is timely filed within fifteen days of the order denying the 995 motion as required by Penal Code section 999a.

IV. PROCEDURAL HISTORY

On April 24, 2024, the AG filed a criminal complaint alleging eleven identical violations of Penal Code section 502(c)(2). (Appx., Vol. 1, 12.) Each count alleged that "[o]n April 26, 2021, Diana Maria Teran . . . did knowingly access and *without permission* take, copy, or make use of data . . . concerning Sheriff's Deputy Doe [#] and *belonging* to the Los Angeles County Sheriff's Department." (Appx., Vol. 1, 14-16 [emphasis added].)

From August 7 through August 20, 2024, the preliminary hearing was conducted before the Honorable Sam Ohta, Department 108, sitting as a magistrate. On August 20, 2024, Judge Ohta held Ms. Teran to answer six counts charged in the complaint (counts 1-2, 4, and 7-9), and dismissed Counts 3 and 5. (Appx., Vol. 4, 796-823.)

On September 3, 2024, Ms. Teran was arraigned on the Information charging these six counts. (Appx., Vol. 5, 906.)

On September 30, 2024, Ms. Teran filed a motion to dismiss pursuant to Penal Code section 995. (Appx., Vol. 5, 911.) On October 10, 2024, the Honorable Charlaine Olmedo, Department 105, heard the motion and denied it. (Appx., Vol. 5, 951-1046, 10/10/24 RT 1-95.)

Trial is scheduled to begin on October 31, 2024, although the defense may request a short continuance if convenient and acceptable to the trial court and the AG.

V. FACTUAL BACKGROUND

The material facts have never been disputed. From 2015 to 2018, Ms. Teran was employed by the LASD as a Constitutional Policing Advisor. As part of her official duties, Ms. Teran advised the Sheriff about deputy

discipline issues and assisted with efforts to ensure compliance with the LASD's *Brady* obligations. (Appx., Vol. 1, 215-216, RT 159:18-161:10; Vol. 1, 237, RT 181:7-9; Vol. 3, 456, RT 389:15-21; Vol. 4, 592, RT 514:25-27.) Ms. Teran was kept abreast of writ proceedings filed by dissatisfied deputies appealing administrative discipline decisions in public LASC judicial proceedings. (Appx., Vol. 7, 1243, 1245, 1316, 1301, 1335 [Exs. D, G, R, N, Y].) She sometimes received decisions from the LASC court files that she would save in a personal folder.

Ms. Teran left her LASD employment in 2018 and joined the Office of the Inspector General, and then subsequently the Los Angeles County Public Defender's Office. In 2021, Ms. Teran joined the LADA. Ms. Teran has been employed by the County of Los Angeles for her entire career of public service; she was a Los Angeles County Deputy District Attorney before joining the LASD in 2015. When she returned to the LADA in 2021, her official duties included supervising the DCU, which is responsible for maintaining the LADA *Brady* and ORWITS databases pursuant to LADA written policies. The databases are tools that help prosecutors comply with their *Brady* obligations, and they are maintained internally for compliance purposes and are not publicly accessible. (Appx., Vol. 2, 260-261, RT 203:19-204:6.)

Pamela Revel is a Deputy District Attorney who works in the DCU, and Ms. Teran was her supervisor. On April 26, 2021, Ms. Teran sent Ms. Revel an email inviting her to access a folder containing PDFs named "Writ Discipline Decisions" that contained 33 PDF files of decisions from public proceedings in LASC, the California Court of Appeal, and United States District Court. Ms. Teran asked Ms. Revel to research the decisions to determine whether updates to the *Brady* or ORWITS databases were necessary. (Appx., Vol. 4, 597, 625-627, RT 519, 547–49.) Sharing the folder

with Ms. Revel did not result in any public disclosure of the PDFs contained in the folder. (Appx., Vol. 4, 622, RT 544:11-21.)

Only twelve of the PDFs are relevant to this case. They were all judgments, writs of mandate, tentative decisions, or minute orders (collectively, "writ documents") from writ proceedings under Code of Civil Procedure section 1094.5 following administrative appeals of deputy disciplinary actions. (Appx., Vol. 7, 1378-1387 [Exs. GG, HH, II, JJ, KK]; Vol. 2, 299-303, RT 242–246; Vol. 4, 604, RT 526.) None of the documents was filed under seal, and all were public records. In all but one of the cases in which the decisions were issued, the writ petitions were publicly filed by the Doe Deputies themselves. The writ proceedings, as well as the judicial decisions arising from them, were "created based on the voluntary act of the disaffected County employee who filed a request for a writ of mandamus . . . pursuant to Code of Civil Procedure section 1094.5." (Appx., Vol. 5, , 851, RT 685:7-21.) "The writ documents are in the public domain. That's where they live. They've always lived there. They began there. They were born [there]. They still live there." (Appx., Vol. 5, 878, RT 712:15-18.)

Throughout this case, the AG has described the shared folder as a "list" of LASD deputy names and corresponding documents, but that vernacular is misleading. (*See, e.g.*, Appx., Vol. 4, 750 [AG Closing Brief, p.14:12-13] ["Th[e] data allowed the defendant to compile a list of deputy names that were subject to investigations of complaints and/or involving discipline, as well as civil service proceedings."].) The "list" of names is a series of photographs of Ms. Revel's computer screen displaying the contents of the folder using the "detail view" in Microsoft File Explorer, and nothing was in the folder except public court records. (Appx., Vol. 2, 299-303, RT 242:12-246:10; Vol. 7, 1376-1387 [Exs. FF-KK].) There was never a compiled list of names that Ms. Teran shared with Ms. Revel as argued by the AG. Judge Ohta confirmed this at the preliminary hearing. (Appx., Vol.

5, 871; RT 705:20 ["I did not conclude that she compiled a list."].) Judge Olmeda similarly confirmed there was no shared "list" based on her review of the preliminary hearing record in connection with the 995 motion. (Appx., Vol. 5,960, 10/10/24 RT 10:1-7 ["The Court:· Yeah.· I didn't read an actual list in the transcript."].)

None of the court records in the shared folder was stored by the LASD in Doe Deputy personnel files, and none was obtained by Ms. Teran from Doe Deputy personnel files, as the AG witnesses conceded during the preliminary hearing:

> Q: And for all the exhibits that I was showing you just now—LL, NN, PP, RR, TT, VV, XX, ZZ, BBB, DDD, and FFF—for all those documents, you are unable to tell whether they are even stored in PRMS; correct?
>
> A: Correct, sir.
>
> Q: But you can conclusively say that the [PRMS] log you created, the three pages that you were presented, show that Ms. Teran did not download any of those exhibits even if they were stored in PRMS; correct?
>
> A: Based upon the pages I was shown, yes, sir.

(Appx., Vol. 3, 541, RT 474:15-25.)

1. The only "use" "without permission" of "data" "belonging to the Los Angeles County Sheriff's Department" charged in the Information is Ms. Teran's sharing of her writ documents folder with Ms. Revel on April 26, 2021. No other conduct is charged. All "access" to "data" while Ms. Teran was employed by the LASD was "authorized," and any unlawful access or taking or copying of data without permission would fall outside the statute of limitations because Ms. Teran left her employment at the LASD in 2018. (Appx., Vol. 5, 852, RT 686:11-13 [The Court: "Based on the statute of limitation under Section 801, the People are limited to the 'made use of data' [element of 502(c)(2)]."].)

VI. THE THEORIES OF LIABILITY

A. The AG's Theory of Liability Changed Multiple Times at the Preliminary Hearing

1. Theory One: Writ Documents Are Personnel Records Protected by Section 832.7

2. The AG's original theory of liability was that the writ documents shared by Ms. Teran on April 26, 2021, were Doe Deputy personnel records protected by section 832.7. (Appx., Vol. 2, 366-367, RT 309:18-310:6 [arguing that the "Superior Court documents, expressly relate to complaint, investigation, and discipline of that peace officer [and], when that is then put into a personnel file, it is cloaked by 832.7."]; see also Appx., Vol. 1, 51 [AG Preliminary Hearing Brief, p.10:13-14] ["[T]he People's evidence will show that the data Defendant accessed and used came directly from LASD's confidential files, not a separate public source."].)

3. Dispositive case law holds the opposite, and Judge Ohta rejected this theory early in the preliminary hearing. (Appx., Vol. 5, 856, RT 690:13-17 ["These documents did not originate in Deputy Does' personnel records. They are court records. This Court cannot conceive such receipt of writ documents in PDF format from outside the Sheriff's network constitutes access as defined in section 502(b)(1)."]; Vol. 1, 75, RT 19:24-28 ["If the source of the information is not going into the file, but going into the personnel file, but going into the L.A. Superior Court file, there's nothing that the holder of the privilege can claim to stop that from happening."]; Commission on Peace Officer Standards & Training v. Superior Ct. (2007) 42 Cal.4th 278 ["We consider it unlikely the Legislature intended to render documents confidential based on their location, rather than their content."].)

4. At the conclusion of the preliminary hearing, Judge Ohta ruled that court records are not personnel records, and Judge Olmedo agreed with

Judge Ohta's analysis. (Appx., Vol. 5, 974, 10/10/24 RT 24:24-25 ["And they clearly are not [personnel records], and I agree with that analysis."].)

2. Theory Two: All Data on the Sheriff's Department Network Belongs to the LASD

5. The AG's next theory of liability was that all data on the Sheriff's Department Network ("SDN") of any type belongs to the LASD and requires "permission" from the LASD before it can be "used." The AG argued that the email attachments of judicial writ documents were transmuted into LASD property when received by an LASD email address. The AG argued Ms. Teran's personal folder of writ documents was LASD property because it was stored on the SDN while Ms. Teran was employed by LASD. (Appx., Vol. 4, 749 [AG Closing Brief, p.13:19-21] ["Matching meta data between LASD email attachments (see Peo. Exh. D-P) and documents defendant later sent to Revel in 2021 (see Peo. Exh. LL-SS, ZZ, AAA) shows that the defendant took several documents that were stored in the Sheriff's Data Network."].) Judge Ohta rejected this theory because large amounts of data on the SDN network are not confidential records. (Appx., Vol. 5, 855, , RT 689:7-9 ["The People suggest accessing the SDN is the computer network the People must show to prove element 1 [but] this Court disagrees."]; Vol. 5, 878, RT 712:15-18 ["The writ documents are in the public domain. That's where they live. They've always lived there. They began there. They were born [there]. They still live there."].)

3. Theory Three: Sharing Public Writ Documents Derived from Personnel Records Requires Permission from the LASD

6. The AG's third liability theory was that "the data used by the defendant falls under the category of 'personnel records' relating to discipline, complaints, and investigations of complaints, or of 'information obtained from those records.'" (Appx., Vol. 4, 758 [AG Closing Brief,

p.22:24-26].) The AG argued that Ms. Teran "used information derived from [the Deputy Does'] confidential personnel records to compile a list of names that was then used without the LASD's permission." (Appx., Vol. 4, 760 [AG Closing Brief, p.24:14-16].) As discussed above, the vernacular is misleading because there was no "list" of names shared with Ms. Revel and the amended complaint alleged that the data shared with Ms. Revel was the data belonging to the LASD. Ms. Teran only shared public court records, nothing else. (Appx., Vol. 5, 871, RT 705:20 ["I did not conclude that she compiled a list."].) The shared PDFs were created by Los Angeles Superior Court judges and "derived" from court proceedings or other public records, not personnel records. Judge Ohta therefore rejected this third theory too.

B. Judge Ohta's Theory of Liability

7. Although Judge Ohta rejected the AG's evolving liability theories, he ultimately ruled that the "data" used by Ms. Teran on April 26, 2021, could be protected under section 832.7 if Mr. Teran obtained the "name" of a Doe Deputy from his or her personnel file after receiving a writ decision and then "shared" that name with Ms. Revel without obtaining permission from the LASD: "It is important to remember here that the data at issue is the name of the Deputy Does obtained from the personnel records, not the writ documents. *The writ documents are the vehicle through which the names were disclosed*." (Appx., Vol. 5, 865-866, RT 699:27-700:3 [emphasis added].)

8. Judge Ohta based this probable cause finding on the inference that Ms. Teran could have obtained the names of the Doe Deputies from personnel records because "it is logical to conclude, on a writ proceeding occurring when the Defendant was tasked with advising the Sheriff, any reasonable and competent advisor would have accessed Deputy Doe [] personnel records to be thoroughly prepared." (Appx., Vol. 5, 858-861, RT

692:15-19, 693:5-9, 693:23-27, 694:8-12, 695:17-22.) There is no evidence that Ms. Teran ever looked at personnel records upon receiving a writ decision, but Judge Ohta's probable cause finding is based entirely on that inference.

9. Judge Ohta explained that if Ms. Teran reviewed personnel records *after* receiving a writ document, then the sharing of the writ document with Ms. Revel on April 26, 2021, "linked" the Doe Deputy's name to his or her personnel records. (Appx., Vol. 5, 865-866, RT 699:27-700:3.)

10. Judge Ohta's ruling was fatally inconsistent with the evidence and Judge Ohta's own findings of fact. The AG offered no evidence that any of the writ documents were ever stored in the deputies' personnel files. Moreover, Judge Ohta found that the writ proceedings were "created based on the voluntary act of the disaffected County employee who filed a request for a writ of mandamus . . . pursuant to Code of Civil Procedure section 1094.5." (Appx., Vol. 5, 851, RT 685:7-21.) Judge Ohta also found that the writ documents "are in the public domain," "began there," and "still live there." (Appx., Vol. 5, 878, RT 712:15-18.) Thus, any "link" between the Deputy Does' names and the conduct at issue in the LASC writ proceedings was already made public by the Doe Deputies themselves, *before* Ms. Teran would have received the writ documents.

11. Nonetheless, Judge Ohta held Ms. Teran to answer on Counts 1, 2, 4, 7, 8, and 9 because she was employed by the LASD when each writ decision charged in those counts was issued by a court, and he dismissed Counts 3 and 5 after finding that those writ documents were issued by courts before Ms. Teran became a Constitutional Policing Advisor to the Sheriff. (Appx., Vol. 5, 862, RT 696:14-21.)

VII. PRAYER FOR RELIEF

WHEREFORE, Petitioner prays:

1. That the Court issue a writ of prohibition vacating the order denying Ms. Teran's section 995 motion and directing Respondent to enter a new order granting the motion.

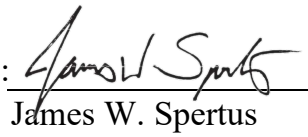
2. Alternatively, that the Court issue an alternative writ directing Respondent to vacate its order denying Ms. Teran's section 995 motion or to show cause why the order should not be vacated.

3. Alternatively, that the Court order any other relief that may be just and proper.

DATED: October 24, 2024

Respectfully submitted,

SPERTUS, LANDES & JOSEPHS, LLP

BY: 

James W. Spertus
M. Anthony Brown
Hans Allhoff

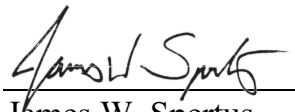
Attorneys for Petitioner
DIANA TERAN

VERIFICATION

I, James W. Spertus, am licensed to practice law in the State of California. I am an attorney with Spertus, Landes & Josephs, LLP, attorneys for Petitioner Diana Teran in this case. I make this verification because the facts set forth in the petition are better known to counsel than to Ms. Teran. I have read the foregoing petition for writ relief and know its contents. The facts alleged in the petition are either true of my own knowledge or I am informed and believe, and thereon allege, that they are true.

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

Executed October 24, 2024, at Los Angeles, California.



James W. Spertus

MEMORANDUM OF POINTS AND AUTHORITIES

I. STANDARD OF REVIEW

When reviewing an order denying a motion to dismiss under section 995, this Court disregards the superior court's ruling and directly reviews the decision of the magistrate. (*AG v. Swanson-Birabent* (2003) 114 Cal.App.4th 733, 740 [citing *People v. Hall* (1971) 3 Cal.3d 992, 996].) "The court is only to determine whether the magistrate, acting as a [person] of ordinary caution or prudence, could conscientiously entertain a reasonable suspicion that a public offense had been committed in which the defendant had participated." (*Ibid*. [internal quotation marks omitted].) This Court is bound by the magistrate's factual findings and must draw every reasonable inference in favor of the Information. (*Ibid*.)

"Insofar as the Penal Code section 995 motion rests on issues of statutory interpretation, . . . review is de novo." (*Lexin v. Superior Court* (2010) 47 Cal.4th 1050, 1072.) Similarly, where the facts are undisputed, the determination of probable cause constitutes "'a legal conclusion which is subject to independent review on appeal.'" (*People v. Superior Ct. (Bell)* (2002) 99 Cal.App.4th 1334, 1339 [quoting *People v. Watson* (1981) 30 Cal.3d 290, 300].

II. MS. TERAN WAS COMMITTED ON AN INFORMATION WITHOUT REASONABLE OR PROBABLE CAUSE

A. Because the Writ Documents Do Not Belong to the LASD, Ms. Teran Committed No Crime

Section 502(c)(2) provides that a person "is guilty of a public offense" if he or she "[k]nowingly accesses and without permission takes, copies, or makes use of any data from a computer, computer system, or computer network." Each count of the AG's amended complaint alleged:

> On April 26, 2021, the crime of accessing and using computer data without permission, in violation of Penal Code section

> 502(c)(2), a felony, was committed by Diana Maria Teran, who did knowingly access and without permission, take, copy, or make use of data from a computer, computer system or computer network concerning [a LASD deputy] and belonging to the Los Angeles County Sheriff's Department.

(Appx., Vol. 1, 30-31.)

Although the amended complaint alleged that Ms. Teran took, copied, and made use of data without permission that belonged to the LASD, only Ms. Teran's "use" of the data, is at issue in this case not on her "taking" or "copying" data. As Judge Ohta found at the preliminary hearing, charges based on the taking or copying of data would fall outside the three-year statute of limitations because Ms. Teran left her employment with the LASD in 2018. (Appx. Vol. 5, 852, RT 686:10-12 ["Based on the statute of limitation under section 801, the People are limited to the 'made use of data' part of element 2."].)[2]

In addition, the AG's allegation that Ms. Teran made use of data "belonging to the Los Angeles County Sheriff's Department" is a critical element of the offenses charged. The AG must prove that the LASD owned the data "used" "without permission," and permission is only required from an individual or entity with a proprietary interest in the data. Ownership is an essential element of a section 502(c)(2) offense. While section 502(c)(2) does not define "permission," the word's ordinary meaning is "formal consent." (See Merriam Webster's Collegiate Dict. (10th ed. 1997) p. 866; *Green v. State of California* (2007) 42 Cal.4th 254, 260 [when interpreting a statute, courts "must look to the statute's words and give them their usual and ordinary meaning"].) The only person who can give or withhold formal

[2] This Court is bound by Judge Ohta's factual findings. (*See Swanson-Birabent*, 114 Cal.App.4th at p. 740.)

consent to use data is the individual or entity that owns the data. At the preliminary hearing, the AG argued that the elements it must meet are:

> (1) *The LASD is the owner of* the Sheriff's Data Network and *the data that resides on the network*
>
> (2) The defendant knowingly accessed the LASD's computer network
>
> (3) The defendant knowingly, *without the Los Angeles Sheriff's Department's permission*, used data from that computer network[.]

(Appx. Vol. 4, 743-744 [AG Closing Brief, p.7:26–8:3].) Judge Ohta agreed, ruling that to prevail on the charges in this case, the AG must show that Ms. Teran used data from a LASD computer "without the permission of the Sheriff." (Appx. Vol. 5, 852, RT 686:16.) Thus, if the data allegedly used without permission did not "belong" to the LASD, she committed no crime.[3]

The data Ms. Teran allegedly used does not belong to the LASD. The only data that Ms. Teran "used" on April 26, 2021, were the PDF files she shared with Ms. Revel:

> Q Right. There's no other use at issue in this case other than the e-mail to Pamela Revel; right?
>
> A Correct.

(Appx. Vol. 4, 622, RT 544:5-7.) The PDF files contained only judicial decisions—judgments, writs, and tentative orders—in public writ proceedings before the LASC, nothing else. (Appx., Vol. 7, 1388, 1402, 1429, 1437 [Exs. LL, NN, PP, RR]; Vol. 8, 1457, 1461 1478, 1494, 1506,

[3] At the hearing on Ms. Teran's 995 motion, the AG disavowed its own theory from the preliminary hearing that "those PDFs were owned by LASD." (Appx., Vol. 5, 1027, 10/10/24 RT 77:5-6.).) But the charges filed expressly allege that the data used "belonged" to the LASD, as section 502(c)(2) requires because "permission" is not required unless there is an owner of the data.

1524, 1531 [Exs. TT, VV, XX, ZZ, BBB, DDD, FFF].) At the hearing on Ms. Teran's section 995 motion, the AG argued that metadata from the PDF files allowed the court to draw the string "to where that information came from." (Appx., Vol. 5, 1027, 10/10/24 RT 77:3.) The AG argued that the information "came from" LASD's computers based on the date each PDF was created. But the AG did not pull the string far enough. As Ms. Teran argued, the AG "stopped at the Sheriff's Department email where they were sent from the Court, rather than continuing to pull the string to establish what should be undisputed." (Appx., Vol. 5, 1028, 10/10/24 RT 78:2-5.) Judge Ohta "pulled the string" on the writ document to their original source, and he correctly found that the court records belonged to the Superior Court, not the LASD: "The writ documents are in the public domain. That's where they live. They've always lived there. They began there. They were born [there]. They still live there." (Appx., Vol. 5, 878, RT 712:15-18.)

Court records are public and do not belong to anyone. "'[I]t is a first principle that the people have the right to know what is done in their courts.'" (*Copley Press, Inc. v. Superior Ct. (M.P.R.)* (1998) 63 Cal.App.4th 367, 373 [quoting *In re Shortridge* (1893) 99 Cal. 526, 530].) "'Filed' documents in the official record are open and available to the public, in accordance with California's 'long standing tradition of open civil proceedings.'" (*In re Marriage of Mosley* (2010) 190 Cal.App.4th 1096, 1102–1103 [quoting *In re Marriage of Nicholas* (2010) 186 Cal.App.4th 1566, 1568.) "Court records are available to the public in general, including news reporters, unless a specific exception makes specific records nonpublic." (*M.P.R.*, 63 Cal.App.4th at 373 [citing *Estate of Hearst* (1977) 67 Cal.App.3d 777, 782]; see also *Hibernia Savings and Loan Society v. Boyd* (1909) 155 Cal. 193, 200 ["A judicial record is a public writing ...."].) "To implement these principles of public access, the court rules require court records to be 'public' and available for inspection to the public at a court facility or in electronic

form. (Rule 2.400 et seq.) Rule 2.550(c), for example, requires 'court records' to be presumptively 'open to inspection by the public,' unless a court makes express factual findings to seal them." (*In re Marriage of Mosley*, 190 Cal.App.4th at p.1103.)

Garrabrants v. Erhart, (2003) 98 Cal.App.5th 486, 509, reversed a section 502(c)(2) verdict because the trial court failed to instruct the jury that it must find "the foundational and necessary question of whether [the defendant] actually 'owned' the data at issue." *Garrabrants* is a civil case, where plaintiffs are required to establish their right to seek damages by proving ownership of the data that was used, but the same ownership element must be proven in criminal cases. The error identified by *Garrabrants* would infect this case if the jury were not instructed to find that the data Ms. Teran used in April 2021 belonged to the LASD because LASD's ownership of the data is the only basis for the AG's to claim that Ms. Teran required "permission" to share the writ documents. The AG recognized this, expressly alleging that Ms. Teran's use of data in April 2021 was without permission because it was data "belonging to" the LASD. "[T]he concept of 'ownership' has particular meaning in the law. The Civil Code defines "ownership" as "the right of one or more persons to possess and use [a thing] to the exclusion of others." (*Garrabrants* 98 Cal.App.5th at 509.)

Because the "data" Ms. Teran used consisted of only public court records, and because those decisions did not belong to the LASD, Ms. Teran did not need LASD's permission to share the documents and committed no crime when she shared them. The AG did not, and cannot, satisfy the elements of the section 502(c)(2) offenses because the data "used" came from the public domain.

B. Ms. Teran Did Not Publicly Link the Deputies' Names to the Facts of their Discipline

Judge Ohta's theory that the AG could prove a violation of section 502(c)(2) by showing that the writ documents "linked" a deputy's name to confidential disciplinary records in his or her personnel file fails for similar reasons.

Under Judge Ohta's theory, Ms. Teran needed LASD's permission to share the writ documents because the link between a deputy name and his or her discipline "belonged" to the LASD as the official custodian of the deputy personnel files. But Judge Ohta's own findings undermined his conclusion. Judge Ohta found that the writ documents were not "personnel records" under section 832.7 on several grounds: they did not meet the definition of "personnel records" under 832.8(a); they were not generated or created by LASD; they were not created by the administrative appeal process; and they were not citizen complaint-related records required to be maintained under section 832.5. (Appx., Vol. 5, 851, RT 685:9-21.) In addition, Judge Ohta found that the documents "were created based on the voluntary act of the disaffected county employee who filed a request for a writ of mandamus with the county court system pursuant to Code of Civil Procedure section 1094.5"; and, as publicly filed court records, were presumed to be "open to the public" under California Rule of Court 2.550(c).[4] (Appx., Vol. 5, 851, RT 685:18-21.) Based on these findings, LASD is not and cannot be the custodian of the link between a deputy name and his or her discipline because that link was made public in the judicial writ proceeding. Ms. Teran therefore did not need LASD to use the writ documents.

[4] Rule 2.550(c) provides: "Unless confidentiality is required by law, court records are presumed to be open."

Judge Ohta's theory also fails because any "link" between the Deputy Does' names and the fact of their discipline did not result from Ms. Teran's use of the writ documents but, instead, from the deputies' decision to litigate disciplinary actions in the public forum of the Superior Court. The writ documents were all judicial decisions of the LASC. The name of each Doe Deputy appears on the face of each decision, and the contents of each decision addresses the substance of the Doe Deputy's discipline being challenged in the writ proceedings. Although Judge Ohta recognized that the writ petitions were filed by the deputies themselves, and he ruled that that Ms. Teran unlawfully used the writ documents as a vehicle to "link" the deputies' names to the fact that they were disciplined. This was error because the public "link" was accomplished by the deputies themselves.

Judge Ohta's theory was also legally erroneous, based on his misreading of *Commission on Peace Officer Standards & Training v. Superior Ct.* (2007) 42 Cal.4th 278, 295 ("*POST*"), the only case he cited in support of his novel theory (Appx., Vol. 5, 851-852, RT 685:19-686:1.) In *POST*, a newspaper sought the names, employing departments, and hiring and termination dates of all California peace officers maintained in a state agency's database. (32 Cal.4th at p. 284.) The Supreme Court affirmed the trial court's order requiring disclosure of this information. The main issue resolved in *POST* was whether records that were not maintained by the employing agency itself but "obtained from" personnel records maintained by the employing agency were protected personnel records under Penal Code section 832.7. The Supreme Court ruled that they were not personnel records because the specific information the trial court ordered disclosed (the officers' names, employing agencies, and employment dates) did not fall into any of the categories of section 832.8(a)(1)–(6). It was not information obtained from protected personnel records, and in adopting sections 832.7 and 832.8, the Legislature did not appear to be "concerned with making

confidential the identities of peace officers or the basic fact of their employment" but with "linking a named officer to the private or sensitive information listed in section 832.8." (*Id.* at p. 295.) Judge Ohta interpreted this dictum from *POST* to mean that a person can *never* disclose a peace officer's name if doing so would reveal that the peace officer was subject to discipline.

Judge Ohta's interpretation of *POST* was erroneous. In *Long Beach Police Officers Assoc. v. City of Long Beach*, 59 Cal.4th 59 (2014), the Supreme Court clarified the language from *POST* that was misinterpreted by Judge Ohta. In *Long Beach*, a Los Angeles Times reporter made a California Public Records Act ("PRA") request for the names of two police officers involved in a fatal shooting. (*Id.* at p. 64.) The officers' union argued that the officers' names were "information obtained from" police officer personnel records relating to appraisal or discipline and therefore protected by section 832.7(a). (*Id.* at p. 67) Relying on the language from *POST* cited by Judge Ohta, the union contended that "disclosing the names of officers involved in on-duty shootings necessarily *links* the named officers to private or sensitive information in their personnel files" because every on-duty shooting is routinely investigated by the employing agency," making "the details of every incident (including the names of the officers involved) . . . 'records relating to' officer 'appraisal[] or discipline' . . . which, by definition, are confidential 'personnel records.'" (*Id.* at p. 71.) The Supreme Court in *Long Beach* rejected this argument and held that disclosing officers' names would not "link" their names to any confidential personnel matters because doing so would not necessarily suggest that the shootings resulted in disciplinary action. (*Id.* at 73.) The Court contrasted the facts before it to those in *Copley Press, Inc. v. Superior Court* (2006) 39 Cal.4th 1272, where the Los Angeles Times sought records of a Civil Service Commission's closed proceedings relating to a police officer's administrative appeal of a disciplinary matter.

(*Id.* at pp. 72–73.) Whereas "[t]he records sought in *Copley* linked the officer's name, not just to an on-duty shooting, but to a confidential disciplinary action involving the officer," disclosing the names of the officers involved in the shootings in *Long Beach* "would not *imply* that those shootings resulted in disciplinary actions against the officers." (*Ibid.* [emphasis added].) Thus, *Long Beach* clarified that disclosure of a peace officer's name is protected under section 832.7 only when, under the circumstances, doing so would reveal discipline that was otherwise not publicly known, but not if it revealed no confidential disciplinary action.

The circumstances of Ms. Teran's case involve "links" between Doe Deputy names and discipline determination they challenged in open court, and that "link" is therefore not confidential. The court documents shared with Ms. Revel were generated in the public writ proceedings, not the confidential Civil Service Commission administrative proceedings, as in *Copley*. As Judge Ohta found, they "were created based on the voluntary act of the disaffected county employee who filed a request for a writ of mandamus with the county court system pursuant to Code of Civil Procedure, section 1094.5." (Appx., Vol. 5, 851, RT: 685: 18-21.)

Sharing the writ documents with Ms. Revel did not "imply" that the deputies identified in those documents were subject to discipline. "To imply" means to "suggest something indirectly." (Merriam Webster's Collegiate Dict. (10th ed. 1997) p.583; *see also* "Imply," Oxford English Dictionary, https://doi.org/10.1093/OED/4997269149 [same].) The writ documents explicitly state that the deputies have been subject to disciplinary actions, and the deputies were parties to the public litigation challenging what would otherwise have been confidential. Because the fact of the deputies' discipline was already public information before Ms. Teran even received the writ documents, sharing the writ documents did not impliedly reveal something that would otherwise be confidential. The only information revealed was

information the deputies themselves had voluntarily disclosed to the public by choosing to litigate in the public forum of the Superior Court.

By challenging their disciplinary decisions in the Superior Court without asking the Court to seal the records or proceedings, the deputies waived any right to confidentiality in the matters disclosed in the filings made in those proceedings. (*See Berkeley Police Assn. v. City of Berkeley* (2008) 167 Cal.App.4th 385, 406, fn. 22 [an "officer who is the subject of a [Police Review Commission] proceeding may, of course, choose to waive the confidentiality protection of [Penal Code] section 832.7"]; *Tennis v. Civil Serv. Bd. of Sacramento* (2020) (No. 34-2019-80003242) 2020 Cal. Super. LEXIS 44831, at *3 (peace officer waived confidentiality of disciplinary records attached to unsealed writ petition); *see also* Cal. Rules of Court, Rule 8.47(c)(1) & Advisory Com. cmt. to subd. (c)(1) ["The reference in this provision to records that a party may choose [to] be kept confidential in reviewing court proceedings is intended to encompass situations in which a record may be subject to a privilege that a party may choose to maintain or choose to waive].)

Pasadena Police Officers Assn. v. Superior Ct. (2015) 240 Cal.App.4th 268, is directly on point. In *Pasadena*, the City of Pasadena retained an independent consultant to review its police department's policies after two officers shot and killed an unarmed teenager. (*Id.* at pp. 274, 276–77.) The teenager's mother filed a federal civil rights action against the officers, which settled, but only after the officers had answered questions about the incident in depositions and filed those transcripts publicly in their own defense. (*Id.* at p. 276.) In a parallel action, the Los Angeles Times, the teenager's family, and others made a PRA request for a copy of the consultant's report. (*Id*.) The officers and their union filed a reverse PRA action, and the trial court ordered the report released with redactions of information it found had been taken from the officers' personnel files that

was protected under section 832.7 and exempt from disclosure under the PRA. (*Id.* at p.275.)

The intervenors in *Pasadena* argued that the officers had waived any right to confidentiality when, in public filings, they attached portions of their deposition transcripts describing the shooting, which they voluntarily placed in the public domain. (*Id.* at p. 278.) Much of the same factual information was included in the consultant's report, but the consultant had obtained the information from the officers' personnel files. The Court in *Pasadena* held that what the officers filed publicly was not confidential or protected, but what came from their personnel files was protected even if it was essentially the same information. The officers filed their deposition testimony voluntarily, did not file the transcripts under seal, and did not seek a protective order, so the transcripts and filings in the civil rights action were court records, which are "'public records, available to the general public[.]'" (*Id.* at p. 293 [citing *Hurvitz v. Hoefflin* (2000) 84 Cal.App.4th 1232, 1246].) But "[t]he fact that information in an officer's personnel records may also be found in an unprotected source does not impact the confidentiality of the personnel records themselves." (*Ibid.*) Thus, "the officers' public revelation of confidential information does not constitute waiver as to privileged information in the report." (*Id.* at p. 293.)[5]

Pasadena establishes that the Doe Deputies in Mr. Teran's case who publicly linked their names to the discipline information they filed publicly are not entitled to any confidentiality protection to that public "link" they

[5] *Pasadena* also addressed a separate issue arising from the inadvertent public filing on appeal from the trial court's ruling of a reply brief that included verbatim excerpts from the report, which they subsequently asked the court to seal. (*Id.* at p. 279.) The intervenors argued that, to the extent the trial court ordered redactions of information in the report, the officers waived any exemption under the PRA. (*Id.* at p. 293.) The court of appeal disagreed because the public filing of the reply brief was inadvertent, not intentional.

created because "'public records [are] available to the general public[.]'" (*Id.* at p. 293.) Ms. Teran did not share any information not from public court files. The intervenors' argument in *Pasadena* for a "subject matter waiver" is not relevant to Ms. Teran's case because she did not share anything that the Doe Deputies themselves did not publicly and intentionally file. Ms. Teran only shared judicial decisions with Ms. Revel, not confidential personnel records. Judge Ohta adopted this interpretation of *Pasadena* expressly:

> The writ documents are . . . not personnel records. Instead, they are court records presumed to be open to the public under Rule 2.550(c). These documents (1) were created in connection with a public hearing, (2) were ultimately filed stamped and used in a public hearing, and, (3) continues [sic] to live in the public domain at this very moment. When the Deputy Does sought writ relief, each had to realize they were making public that which until then had been confidential. And, while *Pasadena Police Officers Association v. Superior Court* (2015) 240 Cal.App.4th 268 (Pasadena), makes clear that peace officers do not waive their right to confidentiality in the personnel records by litigating an issue in public courts unless expressly waived, *the information available in the public domain does not become confidential because it relates to a matter that is also in the confidential personnel files*. (*Id.* at 294.) As such, this court finds that the writ documents do not fall under Rule 2.550(a)(2) as *the documents themselves are not required to be kept confidential by law*.

(Appx., Vol. 5, 891-892, RT 725:21-726:11 [emphasis added].) Even the AG agreed with this interpretation of the law during the preliminary hearing:

> THE COURT: Yeah, there's no rule that says if you take a writ and [all] the writ proceedings disclosed is what happened in the discipline, that all that information is confidential. … There's no law that says that.
>
> MR. CHUNG: *That is correct*.

(Appx., Vol. 5, 879, RT 713:9-15 [emphasis added].).

Through Judge Ohta's legally unsupported liability theory , this case has been transformed from a factual dispute about whether the LASD owns the data that Ms. Teran "used" into a legal battle about whether sharing a public court record can be a "vehicle" for sharing information Ms. Teran carries in her head. That fact pattern is not charged in the Information and does not state a section 502(c)(2) offense because knowledge not shared is not "data" "used" without "permission." Judge Ohta determined that the AG "at least for purposes of the preliminary hearing, established a strong suspicion that the defendant went into the personnel records of Deputy Does 1, 2, 4, 7, 8, and 9 contemporaneous to when she was working on their discipline matters" (Appx., Vol. 5, 866, RT 700:8-12), but that conduct, even if true, is not a violation of section 502(c)(2). The only data Ms. Teran is alleged to have "used" in this case are public court records generated by judges in public writ proceedings voluntarily litigated in that public forum by the parties to those proceedings.

III. SECTION 502(h) BARS THIS PROSECUTION

Section 502(h)(1) carves out liability under section 502(c)(2) for "any acts" done by a person "within the scope of lawful employment." The United States constitution and California statutes require prosecutors to provide evidence potentially favorable to the defense and potentially impeaching information about peace officer witnesses to criminal defendants. (*Brady v. Maryland* (1963) 373 U.S. 83; *Giglio v. United States* (1972) 405 U.S. 150; Pen. Code, § 1054.1, subd. (e).) "A prosecutor's duty under *Brady* to disclose material exculpatory evidence extends to evidence the prosecutor—or the prosecution team—knowingly possesses or has the right to possess. The prosecution team includes both investigative and prosecutorial agencies and personnel." (*People v. Superior Ct. (Barrett)* (2000) 80 Cal.App.4th 1305, 1314–1315; *see also Kyles v. Whitley* (1995) 514 U.S. 419, 437 ["[T]he

individual prosecutor has a duty to learn of any favorable evidence known to the others acting on the government's behalf in the case, including the police."].)

A prosecutor's failure to disclose exculpatory or impeachment evidence under *Brady* or Penal Code section 1054.1 may violate Rule 3.4(b) of the California Rules of Professional Conduct ("A lawyer shall not … suppress any evidence that the lawyer … has a legal obligation to reveal or produce[.]") and Penal Code section 141, subdivision (c) (making it a felony for a prosecutor intentionally to withhold relevant any material or information relevant to the outcome of a case).

Brady/*Giglio* obligations "apply to a prosecutor even when the knowledge of the exculpatory evidence is in the hands of another prosecutor." (*Benn v. Lambert* (9th Cir. 2002) 283 F.3d 1040, 1053.) To ensure that relevant impeachment information which comes to the attention of the LADA can be known to all DDAs, the LADA created ORWITS. (Appx., Vol. 6, 1048 [Ex. D4, § 14.05.02].) ORWITS is a secure database maintained by DCU that contains summaries of potential impeachment information, and information likely to lead to potential impeachment information, for recurrent LADA witnesses. The summaries are work product and therefore not discoverable under Penal Code section 1054 or the California Public Records Act. (§ 1054.6; Gov. Code, § 6254, subd. (k).)

When a peace officer's name has been entered in ORWITS, DCU DDAs provide confidential notification to the peace officer and the head of his or her employing agency. (Appx., Vol. 6, 1048 [Ex. D4, § 14.05.01 & 14.05.02].) Peace officers may object to the inclusion of their information in ORWITS by submitting a letter to the Deputy in Charge of the DCU. (*Id.*, § 14.05.02.) The LADA's *Brady* database contains exculpatory evidence as well as impeaching information about recurrent law enforcement witnesses, such as criminal convictions and other sustained findings of misconduct

reflecting on an officer's credibility. (Appx., Vol. 6, 1074-1140 [Exs. D6–D8].) The ORWITS database is like the *Brady* database, except that it contains information that is likely to lead to potential impeachment evidence, but is not clearly subject to a *Brady* duty to disclose. (Appx., Vol. 6, 1074-1140 [Exs, D6–D8].) Both databases are maintained to assist prosecutors in complying with their *Brady* obligations. (Appx., Vol. 1, 232, RT 176; Vol. 2, 260-261, RT 203–204.)

There is no dispute that Ms. Teran's official duties for the LADA included maintaining the *Brady* and ORWITS databases. (Appx., Vol. 3, 553, 557, RT 486:12-14, RT 490:22-26.) There is also no dispute that Ms. Teran's email to Ms. Revel on April 26, 2021, was in furtherance of this duty. (Appx., Vol. 4, 596, RT 518:14-28.) This case does not present any tension between *Brady* obligations and the confidentiality requirements of Penal Code section 832.7 because the court decisions that Ms. Teran shared with Pamela Revel are not personnel records protected by Section 827.7, as both Judge Ohta and Judge Olmedo found. (Appx., Vol. 5, 974, 10/10/24 RT 24:24-25 ["And they clearly are not [personnel records], and I agree with that analysis."].) Because the documents Ms. Teran shared with Ms. Revel on April 26, 2021, are not confidential personnel records, Ms. Teran would have breached her employment duties to the LADA had she not ensured that public records in her possession were researched for possible inclusion in the databases she was responsible for maintaining. Because she was acting "within the scope of lawful employment" at the LADA at the time she shared the writ documents, section 502(h) protects her from this prosecution.

Judge Ohta rejected this argument, ruling that section 502(h)(1) did not apply because, where the "the personnel records of Peace Officers that are kept in PRMS" are concerned, the employer for purposes of section 502(h)(1) is the LASD, not the LADA. (Appx., Vol. 5, 865, RT 699:9-13.) There are several flaws in Judge Ohta's reasoning.

First, Judge Ohta's reference to "personnel records" exposes the error at the heart of his decision. As Judge Ohta ruled elsewhere, the writ documents that Ms. Teran shared with Ms. Revel were not "personnel records" but were instead public court records. (Appx., Vol. 5, 878, RT 712:15-18.)

Second, Judge Ohta's ruling ignored the broad language of section 502(h)(1). A person violates section 502(c)(2) only if she both accesses a computer database and then takes, copies, or makes use of data from that database. Section 502(h)(1) forecloses prosecution for "*any* acts" undertaken within the scope of one's lawful employment. Here, the AG charged Ms. Teran with (1) accessing data from personnel files in its PRMS database in or before 2018 when she was employed by LASD, and then (2) "using" that data in 2021 when employed by the LADA. In responding to Ms. Teran's section 502(h)(1) defense, Judge Ohta focused only on the use of the data in 2021, not on the access to the data in or before 2018. But when Ms. Teran allegedly accessed the PRMS database in or before 2018, she was employed by the LASD and acting "within the scope of her lawful employment." (Appx., Vol. 1, 223, RT 167:14-26 [Q: And is accessing the PRMS System necessary for that job function? A: Yes. I believe it would be."].) Ms. Teran was performing her job responsibilities both for the LASD and for the LADA, and section 502(h)(1) unambiguously applies to "any acts" undertaken within the scope of a person's lawful employment, including accessing a computer database. "The use of the broad word 'any' suggests the Legislature did not want the category of information protected under the statute to be narrowly construed." (*Pineda v. Williams-Sonoma Stores, Inc.* (2011) 51 Cal.4th 524, 533.) Judge Ohta erred by construing section 502(h)(1) too narrowly. There was neither unlawful "access" by Ms. Teran while employed by the LASD, nor unlawful "use" by Ms. Teran while employed by the LADA.

Third, Ms. Teran was a Los Angeles County employee while employed by both the LASD and the LADA, and Judge Ohta's interpretation of section 502(h) fails to acknowledge that "permission" was granted by a Los Angeles County entity: "The Los Angeles County District Attorney's office did not create or maintain this data [and] the employer referenced under the statute's legislative intent here is the Sheriff, not the District Attorney." (Appx., Vol. 5, 865, RT 699:8-13.)

Even if this Court concludes that Judge Ohta's interpretation of section 502(h)(1) was reasonable, Ms. Teran's interpretation of the statute—based on a compelling reading of the statute's plain language that is supported by Supreme Court authority for how to interpret statutes—is also reasonable. When "a statute defining a crime or punishment is susceptible of two reasonable interpretations," the rule of lenity requires courts to "adopt that interpretation more favorable to the defendant." (*People v. Avery* (2002) 27 Cal.4th 49, 57.) Thus, the Court must in this case apply the interpretation of section 502(h)(1) that precludes criminal liability for the alleged "access" which indisputably occurred within the scope of Ms. Teran's lawful employment at LASD. (*See People v. Reyes* (2020) 56 Cal.App.5th 972, 989; *see also Keeler v. Superior Court* (1970) 2 Cal.3d 619, 630 [declining to accept that a viable fetus was a "human being" within the meaning of California's murder statute and setting aside the information for lack of probable cause, explaining that "[i]t is the policy of this state to construe a penal statute as favorably to the defendant as its language and the circumstances of its application may reasonably permit; just as is the case of a question of fact, the defendant is entitled to the benefit of every reasonable doubt as to the true interpretation of words or the construction of language used in a statute"]; *People v. Spurlock* (2003) 114 Cal.App.4th 1122, 1132 ["[T]he canon of strict construction of criminal statutes, or rule of lenity, ensures fair warning by so resolving ambiguity in a criminal statute as to

apply it only to conduct clearly covered . . . . [I]t does not automatically grant potential defendants the benefit of the most restrictive interpretation given any statute by any court. Instead, it is a rule of statutory construction, which may apply in the absence of existing legislative or judicial resolutions of any ambiguity."].)

IV. JUDGE OHTA'S FINDINGS OF PROBABLE CAUSE LACKED SUFFICIENT EVIDENTIARY SUPPORT

Judge Ohta's probable cause determination relied exclusively on the factual inference that Ms. Teran had accessed the Doe Deputies' personnel files on PRMS because "one of the big tasks of the Constitutional Policing Advisor was to keep the Sheriff and his assistants apprised on matters related to deputy discipline and results of outside litigation." (Appx., Vol. 5, 858, RT 692:7-10.) Judge Ohta based this finding about the scope of the Constitutional Policing Advisor's duties on "email[s] lodged as exhibits in this case." (Appx., Vol. 5, 855-856, RT 689:26-690:2.)

At a preliminary hearing, the inferences drawn from the evidence must be reasonable and not based on "guesswork, speculation, or conjecture." (*Birt v. Superior Court (*1973) 34 Cal.App.3d 934, 938.) Judge Ohta's conclusions about both the duties and responsibilities of the Constitutional Policing Advisor, and the likelihood of Ms. Teran's accessing of the PRMS databases, based only on emails admitted in this case was mere speculation. Moreover, the evidence relating to whose duty it was to provide counsel to the Sheriff on writ proceedings was undisputed. Detective Bernstein testified that, with respect to appeals of disciplinary decisions before the Civil Service Commission and writ proceedings before the Los Angeles Superior Court, personnel within LASD's Advocacy Unit represented LASD and "hire[d] outside counsel to represent [LASD] on writ activities." (Appx., Vol. 1, 203, RT 147:9-14.)

A. Count One (Doe Deputy 1)

For example, Judge Ohta found that, for Count 1, a reasonable person could infer Ms. Teran accessed Deputy Doe 1's personnel file on PRMS based on Exhibit D, an October 3, 2017, email from LASD Legal Advisor Pirjo Ranasinghe to the Advocacy Unit and two others, Karyn Mannis and Alicia Ault. The email summarizes the Superior Court's tentative decision denying Deputy Doe 1's writ challenging his discipline on the basis that it was untimely. However, Ms. Ranasinghe did not send this email directly to Ms. Teran. She only forwarded the email to Ms. Teran the next day with the tentative writ decision attached. The AG offered no evidence that Ms. Teran accessed Deputy Doe 1's personnel records in PRMS after receiving Ms. Ranasinghe's email to view Deputy Doe 1's personnel records that were the subject of the writ decision. The AG also offered no evidence that Ms. Teran had ever advised the Sheriff about Deputy Doe 1's writ petition—no emails, no internal memoranda, no Outlook calendar data, no handwritten notes. The only basis for holding Ms. Teran over for trial on Count 1 was the inference that Ms. Teran accessed Deputy Doe 1's file in connection with these writ proceedings because she is presumably a diligent employee. Judge Ohta found that "it is logical to conclude, on a writ proceeding occurring when the Defendant was tasked with advising the Sheriff, any reasonable and competent advisor would have accessed Deputy Doe 1's personnel record to be thoroughly prepared." (Appx., Vol. 5, 858, RT 692:15-19.)

That inference is not reasonably supported by evidence. Even assuming that Ms. Teran's official duties included "keep[ing] the Sheriff and his assistants apprised on matters related to deputy discipline and results of outside litigation" (Appx., Vol. 5, 858, RT 692:8-10), informing the Sheriff about the status of litigation does not necessarily or even logically require accessing deputy personnel records. To determine the status and results of

litigation, one need review, at most, pleadings and rulings from the court files.

Moreover, Judge Ohta's inference is rebutted by the email itself. Ms. Ranasinghe's emails show that the responsibility to advise the Sheriff and/or his assistants on matters related to disciplinary writ proceedings fell to Ms. Ranasinghe and the Advocacy Unit. Indeed, Ms. Ranasinghe suggested to the Advocacy Unit in her October 3 email that they should have a discussion about "whether we want to use this ruling to calculate statute issues in the future differently when the employee is 'unavailable or otherwise incapacitated.'" (Appx., Vol. 7, 1243 [Ex. D].) This establishes that it was the Advocacy Unit or Ms. Ranasinghe who was advising personnel within LASD about the writ proceedings, and by extension the Sheriff, on any next steps relating to the tentative writ decision. It was therefore unreasonable to infer, as Judge Ohta did, that a diligent Constitutional Policing Advisor would go into PRMS to review the personnel records of Deputy Doe 1 in order to be fully prepared to advise the Sheriff about the writ decision after receiving it. (Appx., Vol. 5, 858, RT 692.) More importantly, because only the writ documents were shared, nothing else, reviewing personnel files after receiving the writ documents would not transform the writ decision itself into "*the vehicle through which the names were disclosed*." (Appx., Vol. 5, 865-866, RT 699:27-700:3 [emphasis added].)

B. Count Two (Doe Deputy 2)

On December 29, 2016, Liz Quesada from the Advocacy Unit sent Ms. Teran an email with three documents attached relating to two different writ proceedings involving Deputy Doe 2. (Appx., Vol. 7, 1245, 1247, 1274, 1282 [Exs. G, H, J, and L].) Later that same day, Ms. Teran forwarded the email and attachments to a group named "Advocacy and CPA Attorneys," asking about outside counsel's position on the writ documents and whether

outside counsel would recommend further litigation in the Court of Appeal. (Appx., Vol. 7, 1245 [Ex. G].) These same three documents were included in the email that Ms. Teran sent to Ms. Revel on April 26, 2021. (Appx., Vol. 2, 299-303, RT 242-246; Vol. 7, 1247-1300, 1427-1455 [Exs. H-M, OO-SS].)

There is no evidence that Ms. Teran contemporaneously went into PRMS to view Deputy Doe 2's discipline that was at issue in the writ documents, which Judge Ohta recognized. (Appx., Vol. 5, 859, RT 693:3-5.) While it can be reasonably inferred from the emails that Ms. Teran was tracking or monitoring the outcome of Deputy Doe 2's writ litigation, there is no evidence that she was charged with advising the Sheriff on next steps relating to that litigation. To the contrary, Ms. Teran's email on December 29, 2016, shows that she was actively seeking outside counsel's legal advice, and was not herself the advisor.

Additionally, despite the AG's efforts to establish at the preliminary hearing that the records of Deputy Doe 2's discipline were not public, the parties entered into a stipulation that the details of Deputy Doe 2's discipline were posted by the LASD on its website and resulted in Deputy Doe 2's name being placed in the LADA databases by Patricia Swain on March 10, 2023. (Appx., Vol. 4, 643-645, RT 565:13:-567:7; Vol. 6, 1204 [Ex. D49].) The information linking Doe Deputy 2's name to his discipline was made public by Doe Deputy 2 himself when he filed his writ petition in Superior Court, and by the LASD when it published the name and discipline conduct on it's website pursuant to a Public Records Act request. It is unreasonable to infer, as Judge Ohta did, that Ms. Teran would have accessed PRMS to review the administrative personnel records for Deputy Doe 2 that preceded the writ litigation in Superior Court in order to advise the Sheriff on that litigation. (Appx., Vol. 5, 859, RT 693:5-9.) And it is unreasonable for Judge Ohta to find "[t]he writ documents are the vehicle through which the names were

disclosed" when they were publicly disclosed on both the LASD website an in LASC case files. (Appx., Vol. 5, 865-866, RT 699:27-700:3.)

C. Count Four (Doe Deputy 4)

On March 30, 2015, following receipt of an email concerning Deputy Doe 4's return to work, Ms. Teran emailed Alan Wang with a request that he obtain a copy of an opinion from Deputy Doe 4's writ proceeding and send it to her. Ultimately, it was determined that the opinion had already been provided. This is all reflected in a single email thread. (Appx., Vol. 7, 1316 [Ex. R].)

The email thread does not contain any court documents relating to Deputy Doe 4's writ proceedings. A copy of a Notice of Ruling on Writ Petition with the tentative writ decision, however, was located in a drive within Mr. Wang's computer that Ms. Teran could access. (Appx., Vol. 1, 138, 141, RT 82, RT 85; Vol. 7, 1320 [Ex. U].) And a copy of that same Notice of Ruling with the tentative writ decision was forwarded by Ms. Teran to Ms. Revel on April 26, 2021. (Appx., Vol. 2, 299-303, RT 242-246; Vol. 7, 1320 [Ex. U]; Vol. 8, 1461-1477 [Exs. VV, WW].) However, Ms. Teran, according to the AG's evidence, was not an LASD employee at this time.

Judge Ohta refused to hold Ms. Teran over on Counts 3 and 5 because the writ process for those deputies had concluded before Ms. Teran took on the role of Constitutional Policing Advisor, and thus it was not reasonable to draw the inference that, due to her duties in that role, she would have accessed the personnel files in PRMS for those deputies. (Appx., Vol. 5, 862, RT 696.) The same is true for Deputy Doe 4. The email discussing the final decision in Deputy Doe 4's writ proceedings and his intention to return to work is from March 2015. (Appx., Vol. 7, 1316 [Ex. R].) Judge Ohta's ruling states that "[t]his may have been close in time to when the Defendant began to serve as the Constitutional Policing Advisor." (Appx., Vol. 5, 859, RT

693:20-22.) But that was pure speculation and is refuted by the evidence. The affidavit of Tony Baca in support of the arrest warrant in this case was admitted into evidence and affirmed by Agent Baca on the witness stand, and it states that Ms. Teran began as Constitutional Policing Advisor in November 2015. (Appx., Vol. 6, 1196 [Ex. D40, p.8 ¶ 8].) Thus, according to the AG's evidence, Ms. Teran did not occupy the position of Constitutional Policing Advisor "close in time" to Deputy Doe 4's writ proceedings, and the inference that, because of her duties as Constitutional Policing Advisor, she must have accessed Deputy Doe 4's personnel records in PRMS for the purpose of advising the Sheriff about those writ proceedings, is illogical.

The AG offered no evidence that, upon receiving an email concerning Deputy Doe 4's return to work, or upon receiving the writ opinion itself, Ms. Teran contemporaneously went into PRMS to view the documents underlying the discipline at issue in Deputy Doe 4's writ proceedings. The only "evidence" Judge Ohta found to hold Ms. Teran over on Court 4 was the inference that, to be thoroughly prepared to advise the Sheriff on Deputy Doe 4's writ proceeding, Ms. Teran would need to have accessed PRMS. (Appx., Vol. 5, 859, RT 693). This inference is unsupported by evidence and purely speculative.

D. Count Seven (Doe Deputy 7)

On September 15, 2016, Deputy County Counsel Wendy Sha, sent an email relating to Deputy Doe 7's writ proceeding to a number of individuals, including a group named "Advocacy and CPA Attorneys." (Appx., Vol. 7, 1301 [Ex. N].) A copy of the court's tentative decision granting the writ petition was attached to the email. (Appx., Vol. 7, 1304 [Ex. O].) Less than an hour later Ms. Teran forwarded the email and attached writ decision to Lieutenant Jason Skeen, who was the Executive Aide to Sheriff McDonnell.

The message in the forwarded email from Ms. Teran simply stated, "FYI." Lieutenant Skeen responded, "Thank you - I will brief him tomorrow." (Appx., Vol. 7, 1301 [Ex. N].) This email chain establishes that it was Lieutenant Skeen, not Ms. Teran, who advised the Sheriff about Doe Deputy 7's writ decision. Ms. Teran therefore would not have accessed Deputy Doe 7's personnel records on PRMS to thoroughly prepare to brief the Sheriff on his case, as Judge Ohta inferred.

No other evidence reasonably suggests that Ms. Teran accessed Deputy Doe 7's personnel records in connection with these writ proceedings. The PRMS access tracking log introduced by the AG indicates that on June 10, 2018, Ms. Teran accessed the subject tab in PRMS for Deputy Doe 7 but did not download any documents relating to his case. (Appx., Vol. 1, 155, RT 99:13-17; Vol. 3, 517, RT 450:1-17; Vol. 7, 1239 [Ex. C].) The AG also stipulated that Ms. Teran accessed Deputy Doe 7's personnel records on that occasion in connection with another case that was unrelated to the subject of the writ proceedings at issue in September 2016. (Appx., Vol. 1, 212-213, , RT 156:29-157:8.) A copy of the tentative decision was forwarded by Ms. Teran to Ms. Revel on April 26, 2021, and could not possibly have been a vehicle for sharing confidential personnel record information that Ms. Teran never viewed. (Appx., Vol. 2, 299-303, RT 242-246; Vol. 7, 1304-1315 [Exs. O-P]; Vol. 8, 1494-1505 [Exs. ZZ, AAA].)

E. Counts Eight and Nine (Does Deputies 8 and 9)

Judge Ohta ruled that, for Counts 8 and 9, "the logical inference of access is based on Exhibit 7," an August 20, 2014, email from Liz Quesada, in the Advocacy Unit, to several recipients, including Ms. Teran, attaching proposed decisions from the Civil Service Commission for Deputy Does 8 and 9. (Appx., Vol. 7, 1335-1375 [Exs. Y, Z, and AA].) Two years later, in 2016, a tentative decision was issued in a subsequent writ proceeding

involving Deputy Doe 8. (Appx., Vol. 8, 1506 [Ex. BBB].) In 2017 a tentative decision was issued, a judgment was filed and a certificate of mailing was issued in a writ proceeding involving Deputy Doe 9. (Appx., Vol. 8, 1524, 1531 [Exs. DDD and FFF].) Ms. Teran shared a copy of these court documents with Ms. Revel on April 26, 2021. (Appx., Vol. 2, -299-303, RT 242-46; Vol.8, 1506-1542 [Exs. BBB-GGG].) Judge Ohta found that the writ proceedings for these two deputies occurred while Ms. Teran was serving as Constitutional Policing Advisor, and thus that it was logical to infer she had accessed the deputies' personnel files via PRMS to prepare herself to advise the Sheriff about the cases. (Appx., Vol. 5, 861, RT 695:17-22.)

This inference cannot be drawn from the Quesada email, and there is no evidence that, upon receiving the email, Ms. Teran went into PRMS to access information related to their discipline. Also, in 2014, when the email was sent, Ms. Teran was not a Constitutional Policing Advisor, and thus the inference that her duties in that role likely required her to access the deputies' personnel files is unreasonable. The AG offered no other evidence that Ms. Teran accessed these deputies' personnel records in PRMS, or that she otherwise monitored or advised the Sheriff about these cases at any time.

In addition, a media article discussing the misconduct involved in the commission proceedings and writ documents were published in 2010 about Deputy Doe 8, and in 2013 a media article about other misconduct involving Deputy Doe 9 was published. (Appx., Vol. 6, 1141-1188 [Exs. D33, D34].) Deputy Doe 9 had in fact been entered into the LADA databases long before April 26, 2021. (Appx., Vol. 4, 693-694, RT 615:20-616:4.) There was simply no evidence to support an inference that Ms. Teran reviewed personnel records related to Deputy Does 8 or 9 to provide advice to the Sheriff about them, and then used the writ documents as vehicles for sharing confidential personnel record information that Ms. Teran never viewed.

(Appx., Vol. 5, 861, RT 695:17-22.) Further, there was no evidence that any of the public records relating to Doe Deputies 8 and 9 shared with Ms. Revel in 2021 were even received by Ms. Teran while employed by LASD.

V. SECTION 502(c)(2) IS UNCONSTITUTIONAL AS APPLIED IN THIS CASE

Section 502(c)(2) is unconstitutional as applied to the conduct charged in this case.[6] "A penal statute must define the offense with sufficient precision that ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement." (*Tobe v. City of Santa Ana* (1995) 9 Cal.4th 1069, 1106 (quotations and citation omitted).) The constitutional interest implicated in questions of statutory vagueness is that no person be deprived of "life, liberty, or property without due process of law," as assured by both the federal Constitution (U.S. Const., Amends. V, XIV) and the California Constitution (Cal. Const., art. I, § 7). "To satisfy the constitutional command, a statute must meet two basic requirements: (1) The statute must be sufficiently definite to provide adequate notice of the conduct proscribed; and (2) the statute must provide sufficiently definite guidelines for the police in order to prevent arbitrary and discriminatory enforcement." (*Tobe*, 9 Cal.4th at 1106–1107.)

Judge Ohta repeatedly noted the unprecedented nature of the AG's charges in this case. He called this "a case of first impression." (Appx., Vol. 3, 433, RT 366:11-16 ["There is no precedent for this case. There's no decisional law either—published or unpublished. There is nothing out there. . . . So we're all operating in . . . uncharted territory."].) Judge Ohta repeatedly characterized the case as "complicated" in nature (Appx., Vol. 3,

[6] Review of this nonstatutory challenge under section 999a is proper. (*See Walker v. Superior Court* (1988) 47 Cal.3d 112, 141-144 (reviewing defendant's constitutional challenges to her prosecution).

421, 443, RT 354:18-20, RT 376:4-5; Vol. 5, 857, RT 691:18.) He observed that there was no precedent to guide him in applying the statute to the facts: "The Court and counsel's research have not turned up any decisional law applying section 502, subd. (c)(2) to facts like this prosecution." (Appx., Vol. 5, 832-833, RT 666:28-667:2.) He remarked more than once that, with the charges in this case, the Attorney General had strayed into "uncharted territory." (Appx., Vol. 1, 87, RT 31:4; Vol. 3, 433, RT 366:15; Vol. 5, 833, RT 667:3.) He admitted that he does not have perfect confidence in his position and another judge could reasonably disagree with him (Appx., Vol. 5, 895, 900, RT 729:26, RT 734:21-25), and said of section 502 "it's not very well written" (Appx., Vol. 1, 68, RT 12:15). He also advised the AG at the outset of the preliminary hearing, "You're attempting to put something into the statute, which I'm not sure the legislature had thought about that scenario when they crafted the statute." (Appx., Vol. 1, 69, RT 13:1-4.)

This is an unprecedented prosecution where the key factual and legal issues lie at the complex intersection of multiple criminal statutes, federal constitutional law, County policies and agency relationships, the Rules of Professional Conduct, and the Rules of Court. There has never been a section 502(c)(2) case advanced on the joint theories that (1) the alleged "access" to the computer can occur years before the alleged "use" of the data accessed, and (2) section 502(h)(1)'s clear statement that section 502(c)(2) does not apply to "any acts" taken within the "scope of lawful employment" has no application when the access-act and the use-act occur at different jobs. The AG has twisted and stretched a criminal statute to fit an unintended use, which due process prohibits. (*See, e.g.*, *Spurlock*, 114 Cal.App.4th at 1132 ("[T]he vagueness doctrine bars enforcement of a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application.") (quotations and citation omitted); *People v. Acosta* (2014) 226

Cal.App.4th 108, 116-117 ("A statute is not unconstitutionally vague if the accused can reasonably be held to understand by the terms of the statute that his conduct is prohibited. A statute must be definite enough to provide a standard of conduct for its citizens and guidance for the police to avoid arbitrary and discriminatory enforcement."); *Hawkins*, 98 Cal.App.4th at 1439 ("To satisfy the constitutional command, a statute must meet two basic requirements: (1) The statute must be sufficiently definite to provide adequate notice of the conduct prescribed; and (2) the statute must provide sufficiently definite guidelines for the police in order to prevent arbitrary and discriminatory enforcement.").)

A statute that may be applied lawfully under some circumstances can still be unconstitutionally vague as applied in a different context. (*People v. Agnelli* (2021) 283 Cal.Rptr.3d 777, 780 ("Unlike a facial challenge, where the defendant must show the statute is impermissibly vague in all its application, the defendant making an as applied challenge must show that the statute is impermissibly vague as it was enforced against him in light of the facts and circumstances of his particular case."); *Allen v. City of Sacramento* (2015) 234 Cal.App.4th 41, 56 ("An as-applied challenge asserts that the manner of enforcement against an individual or class of individuals or the circumstances in which the ordinance is applied is unconstitutional . . . . When a criminal defendant claims that a facially valid statute or ordinance has been applied in a constitutionally impermissible manner to the defendant, the court evaluates the propriety of the application on a case-by-case basis to determine whether to relieve the defendant of the sanction.").)

The AG's theory of liability under section 502(c)(2) requires so many unique modifications to the plain meaning of statute's words that the application argued is unconstitutional as applied. Ms. Teran was not provided fair notice that it would be a crime for her to use PDFs of public court records in 2021 to fulfill her employment duties as supervisor of the DCU, and

constitutional, statutory and ethical duties as a prosecutor, when she asked Ms. Revel to do research to determine whether data should be entered into the internal, non-public Brady and ORWITS databases at the LADA. The AG's novel and unprecedented theory of criminal liability in this case would violate Ms. Teran's due process rights because no reasonable person could read section 502(c)(2) to have the meaning the AG argues in support of a finding of guilt in this case.

Judge Ohta responded to this argument with the observation that, upon logging into PRMS, "a person necessarily encounters a splash screen warning of possible prosecution under section 502." (Appx., Vol. 5, 869, RT 703:11-13.) In fact, there was no evidence to support this finding. The testimony at the preliminary hearing was that the splash screen warns that release of information from PRMS "could be a violation of statutes." (Appx., Vol. 1, 173, 175, , RT 117:26, 119:26-28.) But even if a person who read the splash screen Judge Ohta described took the initiative to look up section 502(c)(2) in the code books, that person could not reasonably be on notice that it would make the conduct charged in this case—sharing copies of public court records—unlawful. To the contrary, no reasonable person would ever suspect that, under section 502(c)(2), it can be unlawful to share public decisions by Los Angeles Superior Court judges without first obtaining permission from the LASD, especially when that person did not obtain the decisions from the confidential personnel records database that contained the splash screen vaguely described at the preliminary hearing.

As Judge Ohta found "[t]he writ documents are in the public domain. That's where they live. They've always lived there. They began there. They were born. They still live there." (Appx., Vol. 5, 878, RT 712:15-18.) "[I]nformation available in the public domain does not become confidential because it relates to a matter that is also in the confidential personnel files." (Appx., Vol. 5, 892, RT 726:6-8.) Judge Ohta made these findings, but found

probable cause to hold Ms. Teran for trial based on a speculative inference that she reviewed personnel files to prepare to advise the Sheriff, encountered a splash screen of some type while doing so, learned the name of a Doe Deputy that already appears on the face of the writ decision, and used the writ decision as a vehicle to link the Doe Deputy name to discipline when the substance of the writ decision is about that discipline. Such an interpretation of a criminal statute is unconstitutional as applied.

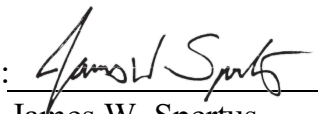
CONCLUSION

For the foregoing reasons, Ms. Teran respectfully seeks a writ of prohibition vacating the order denying Ms. Teran's section 995 motion and directing Respondent to enter a new order granting the motion. Alternatively, Ms. Teran respectfully seeks an alternative writ directing Respondent to vacate its order denying Ms. Teran's section 995 motion or to show cause why the order should not be vacated. Alternatively, Ms. Teran respectfully seeks any other relief that may be just and proper.

October 24, 2024

Respectfully submitted,

SPERTUS, LANDES & JOSEPHS, LLP

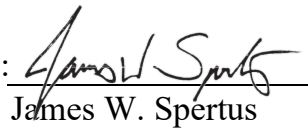
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RULE 8.204(C)(1) CERTIFICATION

Pursuant to rule 8.204(c) of the California Rules of Court, I hereby certify that this brief contains 13,494 words, including footnotes. In making this certification, I have relied on the word count of the computer program used to prepare the brief.

October 24, 2024 BY: 

James W. Spertus

PROOF OF SERVICE

Diana Maria Teran, Petitioner and Defendant, v.
Los Angeles Superior Court, Respondent;

California Attorney General, Real Party in Interest.

Case No: _____

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 1990 South Bundy Dr., Suite 705, Los Angeles, CA 90025. My email address is jcorbin@spertuslaw.com. On the date indicated below, I caused to be served the foregoing document described as:

PETITION FOR WRIT OF PROHIBITION (PEN.CODE §999a);
MEMORANDUM OF POINTS AND AUTHORITIES;
EXHIBIT VOLUMES 1-8

on the interested parties in this action by causing a true and correct copy of the above-described document(s) to be transmitted from an Electronic Filing Service Provider (EFSP) on the date listed below:

California Attorney General's Office

Charles Chung (charles.chung@doj.ca.gov)
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I further caused the same the foregoing document(s) to be placed in the United States mail, with postage thereon fully prepaid, for delivery by the United States Postal Service to the following recipients:

Clerk of the Court
Los Angeles Superior Court
Civil Appeals Unit
111 North Hill Street, Room 111A
Los Angeles, CA 90012

Hon. Sam Ohta - Department 108
Clara Shortridge Foltz
Criminal Justice Center
210 West Temple Street
Los Angeles, CA 90012

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on October 24, 2024, at Los Angeles, California.

Julia R Corbin

Julia R. Corbin