



January 5, 2021

California Department of Social Services
Legal Division, ATTN: PRA Request
744 P Street, MS 8-5-161
Sacramento, CA 95814
PRAResult@dss.ca.gov

Sent via email

Re: Public Records Act request regarding use of predictive risk modeling in the California Child Welfare System

To Whom It May Concern:

We write on behalf of the American Civil Liberties Union of Northern California (“ACLU”) to request records relating to the use of predictive risk modeling in the California Child Welfare System (“CWS”). This request is made pursuant to the California Public Records Act (California Government Code § 6250 et seq.) and Article I, § 3 of the California Constitution.

The ACLU seeks records¹ relating to the California Department of Social Services’ Child Welfare System’s plans for, acquisition of, and past and present uses of predictive risk modeling (“PRM”),² including but not limited to tools like Structured Decision Making, and/or products and services developed by data analytics vendors SAS, SAP, Oracle, and IBM. We ask that you direct this request to all appropriate offices, components, divisions, and/or directorates within CDSS involved with developing and overseeing programs and services for at-risk children and families, including but not limited to the Children and Family Services Division, the Information Systems Division, and the Research, Automation, and Data Division.

¹ Throughout this request, the term “records” includes but is not limited to any paper or electronic information, reports, evaluations, memoranda, correspondence, letters, emails, charts, graphs, flyers, meeting agendas, meeting minutes, training materials, diagrams, forms, DVDs, tapes, CDs, notes, or other similar materials.

² For purposes of this request, “predictive risk modeling,” also known as predictive analytics, means the use of algorithms that rely on existing administrative data collected from child welfare and other sectors to predict the likelihood of future outcomes.

There is a substantial public interest³ in understanding how predictive risk modeling is utilized to make or inform decisions related to child welfare, including whether to investigate reports of child abuse and neglect received via child protection hotlines, and whether and how to intervene once reports of child abuse and neglect have been substantiated. Many stakeholders are concerned that the use of PRM may infringe on civil rights and civil liberties, and exacerbate racial disproportionality and disparities in child welfare. Accordingly, this request seeks records that will provide the public with a greater understanding of how child welfare agencies use predictive risk modeling when addressing issues of child abuse and neglect.

Records Requested

The ACLU requests the following records that were created or were operative on or after January 1, 2018, except where another date is specified:

1. Vendor Communications: Records reflecting any communications between any representative of CDSS and any representative of any vendor offering PRM products and service, including sales materials and emails relating to those products.
2. Purchase Records and Agreements: Any and all records indicating an agreement for CDSS' purchase, acquisition, or licensing of, or permission to use, test, or evaluate a PRM product or service, including but not limited to any product or service offered by SAS, SAP, Oracle, and IBM. Please include purchase orders, RFPs, licensing agreements, invoices, budget requests, grant applications and contracts related to any PRM product or service.
3. Data and Research Partnerships: Records relating to CDSS' collaboration with educational institutions, non-profit organizations, and/or philanthropic foundations for purposes of developing and researching PRM including but not limited to communications, grant applications, and memoranda of understanding.
4. Policies Governing Use: Any manuals, training materials, policies, procedures and practices governing the use of PRM tools or services or related information or databases, including materials intended for employees or representatives of CDSS and/or employees

³ See Naomi Schaefer Riley, *Op-Ed: Could big data have saved Anthony Avalos' life?* LOS ANGELES TIMES, <https://www.latimes.com/opinion/op-ed/la-oe-riley-anthony-avalos-predictive-analytics-20180626-story.html> (June 26, 2018); Daniel Heimpel, *Managing the Flow: Predictive Analytics in Child Welfare*, THE IMPRINT, <https://imprintnews.org/analysis/managing-flow-predictive-analytics-child-welfare/25871>. (Apr. 6, 2017).

Daily News, *California bets on big data to predict child abuse*, DAILY NEWS, <https://www.dailynews.com/2017/01/23/california-bets-on-big-data-to-predict-child-abuse/> (Jan. 23, 2017); Yvonne Humenay Roberts, Kirk O'Brien, & Peter J. Pecora, *Considerations for Implementing Predictive Analytics in Child Welfare*, CASEY FAMILY PROGRAMS, <https://caseyfamilypro-wpengine.netdna-ssl.com/media/Considerations-for-Applying-Predictive-Analytics-in-Child-Welfare.pdf> (April 2018).

or representatives of any of the 58 individual county-level child protection programs for which CDSS provides regulatory oversight.

5. Data/Information Inputs: Records regarding what data may be, and/or actually is, used by or supplied to PRM vendors and researchers for purposes of developing PRM tools, including but not limited to CWS data and any other external data sources, whether public or private. Please also include records regarding any weighting used and all available details about the data, and any records related to research that informed the decision to include (or exclude) PRM tools' various data inputs.
6. How it Works: Records regarding how PRM tools or services utilize any input data to create outputs, the algorithms or machine learning used, the possible or actual outputs, and how CDSS and any of the 58 individual county-level child protection programs for which CDSS provides regulatory oversight use the tool to inform or make decisions.
7. Democratic Process: Records relating to any public process or debate about any PRM product or service, including but not limited to meeting agendas or minutes, public notice, analyses, or communications between CDSS and elected leaders or county officials.
8. Audits of Past Uses: Records related to the utilization, testing, or evaluation of PRM tools and services, including records indicating the number of child welfare investigations in which PRM tools or services have been used, and the number of those investigations that have resulted in CWS interventions, including but not limited to the removal of a child from the home. Please also include records indicating the number of instances where a "risk score" or other PRM output erroneously resulted in an investigation or other CWS intervention.
9. Additional Audits and Ethical Reviews: Any records related to audits not accounted for in Request #8, and internal reviews and evaluations of PRM tools or services, including ethical reviews.
10. Nondisclosure Agreements: Any records of, or communications regarding, any agreement that creates nondisclosure or confidentiality obligations governing CDSS contact with a vendor of PRM tools or services.

Since we are a non-profit organization and this request regards a matter of public concern⁴ we request a fee waiver. We also request that documents be provided in electronic format if possible. Doing so would eliminate the need to copy the materials and provides another basis for our requested fee waiver. However, if such a waiver is denied, please provide a signed

⁴ *Id.*

notification citing the legal basis for the denial. Please also inform us of the reasonable costs prior to copying any materials.

Should you find any records exempt from disclosure, the ACLU recognizes that a public body bears the burden of demonstrating that an exemption applies and respectfully requests a written communication explaining the legal authority relied upon to deny the requested records. We ask that you redact exempt records for the time being and make the rest available as requested. We also request that the explanation include the interests relied upon to find the public interest is outweighed in the context of any conditional exemption or denial of a fee waiver.

According to the California Public Records Act (California Government Code § 6253(c)), a response is required within 10 days. If we can provide any clarification that will help expedite your attention to our request, please contact me at (415) 293-6319 or jjones@aclunc.org. Thank you for your prompt attention to this matter. Please furnish all applicable records to us at jjones@aclunc.org if in electronic format or, if in physical form, at 39 Drumm St, San Francisco, CA 94111. Thank you in advance for your timely cooperation.

Sincerely,



Jennifer Jones
Technology & Civil Liberties Fellow
ACLU Foundation of Northern California



Armeta Rogers
Gender, Sexuality & Reproductive Justice Director
ACLU Foundation of Northern California

/Veena Gursahani/

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