

SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS

This Settlement Agreement and Release of All Claims (“Agreement”) is between the Petitioner **AMERICAN CIVIL LIBERTIES UNION OF NORTHERN CALIFORNIA** (“ACLU-NC”) and Respondent **STOCKTON UNIFIED SCHOOL DISTRICT** (“District”) (collectively referred to as the “Parties”).

RECITALS

A. On or about January 19, 2016, ACLU-NC submitted a written request for records and information to the District pursuant to the California Public Records Act (“Request”);

B. On or about January 29, 2016, the District timely responded to the Request in writing stating that responsive, non-exempt records in the District’s possession would be made available.

C. Thereafter, the ACLU-NC disputed the application of certain exemptions claimed by the District. The ACLU-NC also disputed, among other things, the District’s position that the District was not required to create documents from District computerized databases. The Parties met and conferred, but were unable to resolve the dispute.

D. On or about June 28, 2016, ACLU-NC filed a Verified Petition for Writ of Mandate against the District in the Superior Court of California, County of San Joaquin, Case Number STK-CV-UWM-2016-6258 (“Petition”). In the Petition, the ACLU-NC alleged that the District had not complied with its obligations under the California Public Records Act (“PRA”).

E. On or about, July 29, 2016, the District filed a timely Answer to the Petition. The Parties wish to resolve any and all disputes between them and to provide for the settlement and release of any and all disputes and/or controversies which have arisen or may hereafter arise between the Parties related to any and all complaints, claims or grievances arising out of, or in any way related to the Request and/or the Petition.

F. Thereafter, the Parties engaged in a meet and confer process. The result of that process is a resolution of the dispute. Therefore, Parties wish to resolve any and all disputes between them and to provide for the settlement and release of any and all disputes and/or controversies which have arisen or may hereafter arise between the Parties in connection with or arising out of those claims in the Request and/or the Petition, including without limitation any and all complaints, claims or grievances arising out of, or in any way related to the Request and/or the Petition.

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AGREEMENT AND RELEASE

NOW THEREFORE, for good and valuable consideration, including the general release described and contained below, and the compromise, settlement and dismissal of the Petition, the Parties hereby agree as follows:

1. The District to Produce Documents.

Pursuant to the agreement of the Parties and in full and complete satisfaction of any and all obligations the District may have under the PRA in response to the Request, the District shall produce the following information in a table substantially similar to the table attached to this Agreement as Attachment A which references the ACLU-NC's March 7, 2016 letter to the District which is attached hereto as Attachment B. The District will also produce definitions for the codes utilized in the production. The District will produce the documents no later than December 16, 2016 provided that the ACLU-NC has executed this Agreement and provided a copy of the same to District legal counsel, Ronald J. Scholar no later than December 15, 2016. If the ACLU-NC has not executed this Agreement and provided a copy of the same to District legal counsel, Ronald J. Scholar by December 15, 2016, then the District shall have three (3) business days after receipt of the same from the ACLU-NC to produce the documents.

2. Payment from the District to the ACLU-NC.

Pursuant to the agreement of the Parties and in full and complete satisfaction of any and all claims made by the ACLU-NC and/or obligations the District may have for attorney's fees and/or costs under the PRA, case law, common law or any other statute, law and/or regulation relating to the Request and/or the Petition, the District shall make a one-time payment to the ACLU-NC in the amount of Forty Thousand Dollars and No Cents (\$40,000.00). The District will mail the payment no later than January 16, 2017 provided that the ACLU-NC has executed this Agreement and provided a copy of the same to District legal counsel, Ronald J. Scholar no later than January 3, 2017. If the ACLU-NC has not executed this Agreement and provided a copy of the same to District legal counsel, Ronald J. Scholar by January 3, 2017, then the District shall have three (3) business days after receipt of the same from the ACLU-NC to mail the payment.

3. Dismissal of the Petition with Prejudice.

Within five (5) business days of the full and complete execution of this Agreement, and the District's obligations set forth in paragraphs 1 and 2 above, the ACLU-NC will dismiss the Petition in its entirety and with prejudice.

4. Mutual Waiver of All Fees and Costs.

Except as otherwise expressly provided for in this Agreement, the Parties mutually agree to a waiver of recovery of any and all fees and costs, including, but not limited to attorney's fees, expert fees and arbitration costs incurred in relation to the matters set forth in the Recitals above and described in this Agreement.

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5. No Admission of Wrongdoing.

No Party admits to any wrongdoing or any liability. All such liability is expressly denied. The entry into and execution of this Agreement shall not be construed to be an admission of any liability or unlawful or wrongful act on the part of the ACLU-NC and/or the District.

6. Mutual General Release of All Claims, Known or Unknown.

Excepting the obligations and limitations expressly set forth in this Agreement, the Parties shall and hereby do release and forever discharge each other and each other's past, present or future predecessors, successors, agents, employees, officers, elected officials, attorneys, and all of them, as well as any and all persons acting or allegedly acting by, under, through or in concert with any of them (hereinafter "Releasees"), against any and all claims, damages, actions, causes of action, liabilities, judgments, liens, rights, obligations, promises, acts, costs and expenses (including, but not limited to, attorneys' fees) in connection with or arising out of the Request and/or the Petition, whether known or unknown, suspected or unsuspected, foreseen or unforeseen, fixed or contingent, or ever filed or prosecuted (hereinafter, collectively referred to as "Claims") which the Parties may now have, or claim to have, or any time previously had, or claimed to have had, against each other, as a result of things undertaken, said, stated, done or admitted to be done up to and including the date of this Agreement, related to the Claims presented in the Request and/or the Petition.

7. Waiver of Unknown and Unanticipated Claims.

It is understood and agreed that the releases as referred to herein are full and final releases by the Parties and that such full and final releases include, without limitation, all unknown and unanticipated claims, injuries, debts, or damages, as well as those now known or disclosed, in connection with or arising out of those claims in the Request and Petition. With respect to any claims by and between the Parties, the Parties expressly waive the provisions of California Civil Code section 1542, which provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

The Parties acknowledge that this release has been negotiated and agreed upon and that in consideration for the rights and benefits under this Agreement, the Parties intend and hereby do release, acquit and forever discharge each other from any and all Claims in connection with or arising out of the Request and/or the Petition, including those that are unknown, unsuspected or unforeseen or that are presently unknown and unanticipated.

8. Modifications, Amendment and Waiver.

No amendments or modifications to this Agreement shall be of any force or effect unless contained in a writing signed by each Party affected by such modification. No waiver of any of the provisions hereof shall constitute a waiver of any other provision, nor shall any waiver

constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making such waiver.

9. Representation by Counsel.

This Agreement has been carefully read by the Parties and the contents hereof are known and understood by them. The Parties have had the opportunity to receive independent legal advice from attorneys of their choice with respect to the preparation, review and advisability of executing this Agreement. The Parties acknowledge that they have executed this Agreement after independent investigation and without fraud, duress or undue influence.

10. Attorneys' Fees Relating to the Enforcement of this Agreement.

In the event that a dispute arises concerning enforcement of this Agreement, or the interpretation of any of the terms or provisions herein, and an action is commenced (including a declaratory relief action or action for specific performance) or a motion filed to enforce this Agreement, or to obtain such interpretation, the prevailing party in such action shall be entitled to, in addition to such other relief as may be appropriate under the circumstances, an award by a court of competent jurisdiction of reasonable attorneys' fees and costs in the prosecution or defense of such an action.

11. Severability.

Should any part of this Agreement be declared invalid, void or unenforceable, all remaining parts shall remain in full force and effect and shall in no way be invalidated or effected.

12. No Precedent.

The Parties to this Agreement understand and agree that the execution of this document shall not be, and shall not be deemed or construed to be, a precedent or model for the resolution or settlement of any future charge, claim, grievance, complaint, or lawsuit resulting from the same, similar or different circumstances.

13. Interpretation and Construction.

The paragraph headings contained in this Agreement are for convenience only and shall not be used when interpreting this Agreement. In interpreting this Agreement, the normal rule of construction, which is that any ambiguities in the document are resolved against the drafting party, shall not be employed.

14. Entire Agreement.

This Agreement contains the entire agreement regarding the matters set forth herein. Any prior agreements, promises, negotiations, or representations, either oral or written, relating to the matters set forth herein, not expressly set forth in this Agreement, are of no force or effect. Any changes in this Agreement, whether by additions, deletions, waivers, amendments or modifications, may only be made in a signed writing.

15. Governing Law and Enforceability.

The rights and obligations of the parties, and the interpretation and performance of this Agreement, shall be governed by the laws of the State of California, excluding its conflict of law rules. To the maximum extent permitted by law, the Parties agree that all actions or proceedings arising in connection with this Agreement shall be tried and determined in the Superior Court of the State of California, in and for the County of San Joaquin.

16. Counterparts and Facsimile / Scanned / Photocopied Signatures.


This Agreement may be executed in counterparts, each of which shall constitute an original and all of which shall be considered one and the same instrument. Facsimile and/or photocopied or scanned signatures shall be accepted as original signatures.

PLEASE READ CAREFULLY: This Agreement includes a release of all known and unknown claims.

IN WITNESS WHEREOF, the ACLU-NC and the District execute this Agreement.

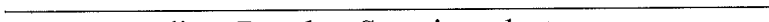
Dated: December 13, 2016

AMERICAN CIVIL LIBERTIES UNION OF
NORTHERN CALIFORNIA


By: Christine Sun, Associate Director

Dated: December ____, 2016

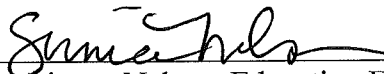
STOCKTON UNIFIED SCHOOL DISTRICT


By: Dr. Eliseo Davalos, Superintendent

APPROVED AS TO FORM


Dated: December 13, 2016

AMERICAN CIVIL LIBERTIES UNION OF
NORTHERN CALIFORNIA


By: Linnea Nelson, Education Equity Staff Attorney
Sylvia Torres- Guillén, Director of Education
Equity

Dated: December ____, 2016

COTA COLE LLP


By: Ronald J. Scholar
Attorneys for the Stockton Unified School District

Attachment A

Irrespective of its legal requirement to do so, the District will search for and compile its own data and produce the following information in documentary form, organized by the number and letters set forth in the American Civil Liberties Union of Northern California’s March 7, 2016 letter to Interim Superintendent Julie Penn. The following records draw from the Stockton Unified School District’s (“SUSD”) student information management system “Synergy” and the SUSD Police Department’s (“District Police”) Automated Records Management System (“ARMS”), and represent the time period between the 2012-2013 academic year until the present, or July 1, 2012 through November 30, 2016.

Document Request #1

Documents containing data regarding arrests, referrals for arrests of SUSD students will be produced in the following excel sheet format:

Arrest Identifier	Student Identifier	Type/ name of offense committed	Student Age	Disability Status	Student Race/ Ethnicity	Student Gender	Incident Location	Incident Time	Arrest Date	Arrest Disposition
Anonymized identifier representing the arrest of an SUSD student (See Arrest Disposition column for definition)	Anonymized identifier of SUSD student arrestee	Offense types and names in California Monthly Arrest and Citation Register (MACR) reporting system standards	Student age on date of arrest	Disability status of student on date of arrest			Location of incident resulting in arrest. Incidents occurring on SUSD sites will specify school name	Start time of incident resulting in arrest	Date of arrest between 7/1/2012 and 11/30/2016	Arrest dispositions corresponding to the Federal Bureau of Investigations Uniform Crime Reporting (UCR) arrest dispositions of citation, custodial booking, or referral

Document Request #2

Documents and data relating to referrals to probation or other branch of juvenile justice system. This information will be provided in response to Document Request #1, where the data field of “Arrest Disposition” will include any such referrals.

Document Request #3

Documents and data relating to students who have been issued citations. This information will be provided in response to Document Request #1, where the data field of “Arrest Disposition” will include any such citations. Arrest disposition data draw from ARMS automated UCR reports, which comply with the hierarchy rule regarding offense information.

Attachment B



March 7, 2016

Via email and U.S. Mail

Julie Penn, Interim Superintendent
Stockton Unified School District
701 N. Madison Street
Stockton, CA 95202
jpenn@stocktonusd.net

RE: ACLU-CA Public Records Act Request to Stockton Unified School District

Dear Superintendent Penn:

The American Civil Liberties Union of Northern California (ACLU-NC) is interested in obtaining information about the presence and practices of law enforcement officers at all schools in Stockton Unified School District (SUSD). Accordingly, we submit the following request for records, pursuant to the California Public Records Act (CPRA), California Government Code §6250 *et seq.* As you know, the CPRA requires agencies to provide a response to Public Record Act requests within ten days of receipt of a request. Pursuant to this legal requirement, I look forward to your prompt response and timely disclosure of the following documents.

Definitions Used in this Request

The term “documents” includes, but is not limited to, any electronic information, reports, evaluations, memoranda, correspondence, letters, emails, charts, graphs, flyers, meeting agendas and minutes, diagrams, forms, DVDs, tapes, CDs, notes, and other similar materials.

The term “school police officer” or “SUSD PD officer” means any and all individuals employed by the SUSD Police Department (“SUSD PD”) for the purposes of engaging in security, emergency preparedness, or law enforcement on behalf of SUSD or in its schools, which can include but is not limited to School Police Officers I and II or Peace Officers I and II.

The term “school” includes all elementary, middle, and high schools in SUSD as well as any alternative schools, including but not limited to continuation high schools.

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- f. Gender of student
3. Any and all documents containing data collected regarding SUSD students who have been given a citation for infraction or a misdemeanor by school police officers, including but not limited to any and all lists of SUSD students given a citation for an infraction or a misdemeanor by school police officers which list or record includes any or all of the following information:
 - a. Type/name of offense committed
 - b. Grade level of student
 - c. Race/ethnicity of student
 - d. Disability status of student
 - e. Gender of student
 - f. Location of incident: school-site v. off-school site
 - g. If school-site, name of school where the incident occurred
 - h. Time of incident
 - i. Final outcome of citation (e.g., charge sustained or not sustained, etc.)
4. Any and all documents reflecting the total district-wide number of requests or calls made by school staff for SUSD PD officer presence or intervention at a school site, including but not limited to a numerical break-down of those requests by any of the following factors:
 - a. Offense type
 - b. Number of requests made by a teacher
 - c. Number of requests made by principal
 - d. Number of requests made by administrator
5. Any and all documents reflecting the number of requests or calls for SUSD PD officer presence or intervention originating from each SUSD school and a breakdown of those calls for officer presence based on offense type. This category of records includes but is not limited to a list of any or all schools in SUSD with a numerical breakdown of "calls for service" by school;
6. Metadata, or documentation describing the file structure and layout of fields within files, for the Arrest and Referral data listed in the preceding items 1-5, including any explanation of field names and their definitions, and a list of possible values (or a range of values) for each field and their definitions.

We understand that some of the documents we have requested may contain information that would identify individual students if produced in unredacted form. We both expect and encourage the District to comply with its obligation to protect the privacy of its students. We therefore request that, where necessary, responsive documents be redacted to replace student

If you have any questions, please do not hesitate to contact me at (415) 621-2493 or by email at lnelson@aclunc.org.

Sincerely,



Linnea Nelson
Education Equity Staff Attorney
ACLU of Northern California

cc: Chief Bryan Gustafson, Stockton Unified School District Police Department
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Stockton, CA 95202
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