



DIVISION OF LAW ENFORCEMENT  
P.O. BOX 903281  
SACRAMENTO, CA 94203-2810  
Telephone: (916) 319-8248  
Fax: (916) 731-2100

July 11, 2016

Lindsey Barrett  
Electronic Privacy Information Center  
1718 Connecticut Ave. NW  
Suite 200  
Washington, DC 20009

Re: California Public Records Act Request

Dear Ms. Barrett:

This letter is in response to your correspondence submitted to the California Department of Justice (DOJ) in which you requested a number of records pursuant to the California Public Records Act as set forth in Government Code section 6250 et seq. Pursuant to your request, DOJ waives the fee ordinarily due by the requestor, and provides the records saved on the enclosed compact disc, at no cost to you. The following is a summary of DOJ's response to the six enumerated requests.

1. *Any California DNA Casework Technical Procedures Manual referencing MixMaster, particularly but not limited (to) the manual from 2015, and the manual from 2016, and including any guidance indicating the particular variables used, and the settings for those variables, such as, (but not limited to) the peak height ratio, (PHr), minimum peak height (mPH), minimum proportion (mP), homozygote threshold (HT), stutter percentage, stochastic effects, allele overlap, the probability of allele drop-out or drop-in, and any other mixture interpretation settings;*

The California Department of Justice is providing the following:

DNA Casework Technical Procedures, TP-6, Rev. 14, 7/2/2012, (620 pages)  
DNA Casework Technical Procedures, TP-6, Rev. 15, 1/2/2013, (716 pages)  
DNA Casework Technical Procedures, TP-6, Rev. 16, 6/26/2013, (827 pages)  
DNA Casework Technical Procedures, TP-6, Rev. 17, 12/23/2013, (576 pages)  
DNA Casework Technical Procedures, TP-6, Rev. 18, 10/10/2014, (558 pages)  
DNA Casework Technical Procedures, TP-6, Rev. 19, 1/29/2015, (558 pages)  
DNA Casework Technical Procedures, TP-6, Rev. 20, 9/30/2015, (480 pages)  
DNA Casework Technical Procedures, TP-6, Rev. 21, 1/5/2016, (529 pages)  
DNA Casework Technical Procedures, TP-6, Rev. 22, 3/1/2016, (561 pages)

2. *All evaluation report materials relating to the CalDOJ's decision whether to purchase, implement, or create a deconvolution method using Excel, including but not limited to MixMaster;*

See Item Number 3 below. Please note that the MixMaster software program was created and developed by the Department of Justice using Microsoft Excel and validated internally.

3. *All validation studies on MixMaster, conducted by the CalDOJ;*

The California Department of Justice is providing the following:

BFS Identifiler Mixture Validation Summaries – Mx, Tiered PHRs, and MixMaster, 6/27/2012, (15 pages)  
MixMaster Performance Check: Validation and Release Versions, 7/5/2012, (20 pages)

Lindsey Barrett  
July 11, 2016  
Page 2

MixMaster IDP Performance Check: Release Version 1.0, 12/21/2012, (3 pages)  
Identifiler Plus Mixture Summaries: Supplemental Validation for Mx and Tiered PHRs and Performance Check for MixMaster IDP Version 1, 12/21/2012, (10 pages)  
MixMaster IDP 3500 (Rel. 1.1) Performance Check, 6/30/2013, (14 pages)  
Supplemental Validation of MixMaster (Rel. 1.1).xlt (Identifiler) and MixMaster IDP (Rel. 1.1).xlt (Identifiler Plus), 2/21/2013, (56 total pages, 1-55 plus II-1)  
Validation Summaries for N+4 Percentage Tiers for Identifiler Plus 3500/3500xl Genetic Analyzer Data and MixMaster IDP 3500 (Rel. 1.2), 9/18/2014, (3 pages)  
MixMaster IDP 3500 (Rel. 1.3).xltm, Description and Performance Check, 10/28/2014, (15 pages)

4. *A copy of the Excel file used for MixMaster, including macros;*

The Department of Justice is unable to provide this material. California law provides that “[c]omputer software developed by a state or local agency is not itself a public record” for purposes of Public Records Act disclosure. (Gov. Code, § 6254.9, subd. (a).) “Computer software” includes all “computer programs.” (Gov. Code, § 6254.9, subd. (b).) The MixMaster program is computer software internally and exclusively developed and validated by the Department of Justice. Its public dissemination would possibly, or even likely, result in its marketing for commercial gain by an unauthorized third party, thus depriving the Department of copyright protection. (See *County of Santa Clara v. Superior Court* (2009) 170 Cal.App.4th 1301, 1334 [“By the express terms of section 6254.9, the Legislature has demonstrated its intent to acknowledge copyright protection for software”].) Accordingly, and pursuant to controlling law, we are unable to provide this item in response to your request.

5. *All technical specifications, contracts, and statements of work for MixMaster purchases and acquisitions by the CalDOJ;*

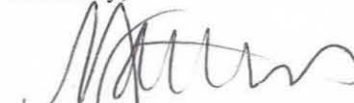
Not applicable, since the MixMaster software program was created and developed by the Department of Justice using Microsoft Excel and validated internally.

6. *All policies and procedures for the collection, storage, analysis, use, sharing, retention, and/or deletion of data used in conjunction with MixMaster.*

In addition to the DNA Casework Technical Procedures provided in Item Number 1 (above), the California Department of Justice is providing the following:

Bureau of Forensic Services Quality Manual, Rev. 16, 7/16/2015, (118 pages)

Sincerely,



S. PATTERSON  
Staff Services Manager II  
Office of the Director  
Division of Law Enforcement

For KAMALA D. HARRIS  
Attorney General

Enclosure