

File No. 140922

Committee Item No. 5

Board Item No. 7

### COMMITTEE/BOARD OF SUPERVISORS

#### AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance

Date September 10, 2014

Board of Supervisors Meeting

Date September 16, 2014

#### Cmte Board

- |                                     |                                     |                                              |
|-------------------------------------|-------------------------------------|----------------------------------------------|
| <input type="checkbox"/>            | <input type="checkbox"/>            | Motion                                       |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution                                   |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Ordinance                                    |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Youth Commission Report                      |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Introduction Form                            |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/>            | MOU                                          |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Grant Information Form                       |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Subcontract Budget                           |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Form 126 – Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Application                                  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Public Correspondence                        |

#### OTHER (Use back side if additional space is needed)

<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____

Completed by: Victor Young Date September 5, 2014

Completed by: L.w. Date September 11, 2014

1 [Accept In-Kind Gift - Vera Institute of Justice - Prosecution and Racial Justice Program  
2 Technical Assistance - \$408,654]

3 **Resolution retroactively authorizing the Office of the District Attorney to accept an**  
4 **in-kind gift of Prosecution and Racial Justice Program technical assistance valued**  
5 **at \$408,654 from the Vera Institute of Justice for the grant period of January 1,**  
6 **2014, through June 30, 2015.**

7  
8 WHEREAS, The City and County of San Francisco Office of the District Attorney is  
9 designated as chair for the San Francisco Sentencing Commission; and

10  
11 WHEREAS, The Vera Institute of Justice (Vera), an independent, nonpartisan,  
12 nonprofit center for justice policy and practice that combines expertise in research,  
13 demonstration projects, and technical assistance to help leaders in government and civil  
14 society improve the systems people rely on for justice and safety, in partnership with the  
15 San Francisco District Attorney's Office (SFDA), will provide research and program  
16 planning services under the Prosecution and Racial Justice Program; and

17  
18 WHEREAS, Vera has proposed to provide the City with an in-kind gift of technical  
19 assistance valued at \$408,654 for the San Francisco District Attorney's Office and any  
20 indirect costs are born by the provider and no actual or indirect costs will be incurred by  
21 the District Attorney's Office; and

22  
23 WHEREAS, The District Attorney proposes to maximize use of available grant  
24 funds on program expenditures by not including indirect costs in the grant budget; and

25  
26 WHEREAS, The gift does not require an ASO Amendment; now, therefore, be it

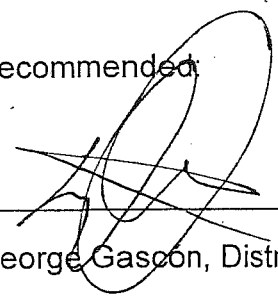
27  
28 ///

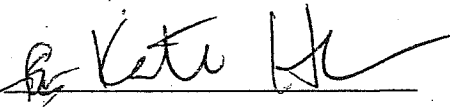
29  
30 ///

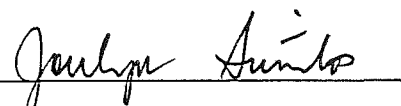
1 RESOLVED, That the Board of Supervisors hereby authorizes the District Attorney  
2 of the City and County of San Francisco to accept the in-kind gift, valued at \$408,654,  
3 from Vera for research and program planning services; and be it

4 FURTHER RESOLVED, That the Board of Supervisors hereby waives inclusion of  
5 indirect costs in the grant budget.  
6  
7

8 Recommended:

9   
10 \_\_\_\_\_ *George Gascon*  
11 George Gascon, District Attorney

Approved:   
12 *for* Edwin M. Lee, Mayor

Approved:   
13 *for* Ben Rosenfield, Controller  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



**TO:** Angela Calvillo, Clerk of the Board of Supervisors  
**FROM:** Maria McKee, Policy & Grants Manager, DA's Office  
**DATE:** July 11, 2014  
**SUBJECT:** Accept In-Kind Gift Resolution  
**GRANT TITLE:** Vera Institute of Justice, Prosecution and Racial Justice Program Technical Assistance In-Kind Gift

---

Attached please find the original and ~~4~~<sup>3</sup> copies of each of the following:

- Proposed grant resolution; original signed by Department, Mayor, Controller
- Grant information form, including disability checklist
- Grant budget
- Grant application
- Grant award letter from funding agency
- Ethics Form 126 (if applicable)
- Contracts, Leases/Agreements (if applicable)
- Other (Explain): *Letter describing in-kind service to be provided  
Memorandum of Understanding and Data Use Agreement  
Letter estimating value of Technical Assistance costs*

**Special Timeline Requirements:**

Please schedule at the earliest available date.

**Departmental representative to receive a copy of the adopted resolution:**

Name: Sheila Arcelona Phone: 734-3018

Interoffice Mail Address: DAT, 850 Bryant Street, Room 322

Certified copy required Yes  No

(Note: certified copies have the seal of the City/County affixed and are occasionally required by funding agencies. In most cases ordinary copies without the seal are sufficient).

**File Number:** \_\_\_\_\_  
(Provided by Clerk of Board of Supervisors)

**Grant Resolution Information Form**  
(Effective July 2011)

Purpose: Accompanies proposed Board of Supervisors resolutions authorizing a Department to accept and expend grant funds.

The following describes the grant referred to in the accompanying resolution:

1. Grant Title: **Vera Institute of Justice, Prosecution and Racial Justice Program Technical Assistance**

2. Department: **District Attorney**

3. Contact Person: **Maria McKee** Telephone: **415-553-1189**

4. Grant Approval Status (check one):

Approved by funding agency  Not yet approved

5. Amount of Grant Funding Approved or Applied for: **\$408,654**

6a. Matching Funds Required: **N/A**

b. Source(s) of matching funds (if applicable):

7a. Grant Source Agency: **Vera Institute of Justice**

b. Grant Pass-Through Agency (if applicable):

8. Proposed Grant Project Summary:

**This in-kind services grant is for technical support, research and data analysis. This includes performing quantitative and qualitative research that builds on and supplements existing data reports and analyses conducted by the state, other jurisdictions, and/or organizations.**

9. Grant Project Schedule, as allowed in approval documents, or as proposed:

Start-Date: **January 1, 2014**

End-Date: **June 30, 2015**

10a. Amount budgeted for contractual services: **N/A**

b. Will contractual services be put out to bid? **N/A**

c. If so, will contract services help to further the goals of the Department's Local Business Enterprise (LBE) requirements? **N/A**

d. Is this likely to be a one-time or ongoing request for contracting out? **N/A**

11a. Does the budget include indirect costs?  Yes  No

b1. If yes, how much? **N/A**

b2. How was the amount calculated? **N/A**

c1. If no, why are indirect costs not included?

Not allowed by granting agency

To maximize use of grant funds on direct services

Other (please explain):

c2. If no indirect costs are included, what would have been the indirect costs?

The budget for the in-kind grant is provided to reflect the service being provided by Vera and any indirect costs are born by the provider and no actual or indirect costs will be incurred by the District Attorney's Office.

12. Any other significant grant requirements or comments: None

**\*\*Disability Access Checklist\*\*\*(Department must forward a copy of all completed Grant Information Forms to the Mayor's Office of Disability)**

13. This Grant is intended for activities at (check all that apply):

- |                                                      |                                                     |                                                                  |
|------------------------------------------------------|-----------------------------------------------------|------------------------------------------------------------------|
| <input checked="" type="checkbox"/> Existing Site(s) | <input type="checkbox"/> Existing Structure(s)      | <input type="checkbox"/> Existing Program(s) or Service(s)       |
| <input type="checkbox"/> Rehabilitated Site(s)       | <input type="checkbox"/> Rehabilitated Structure(s) | <input checked="" type="checkbox"/> New Program(s) or Service(s) |
| <input type="checkbox"/> New Site(s)                 | <input type="checkbox"/> New Structure(s)           |                                                                  |

14. The Departmental ADA Coordinator or the Mayor's Office on Disability have reviewed the proposal and concluded that the project as proposed will be in compliance with the Americans with Disabilities Act and all other Federal, State and local disability rights laws and regulations and will allow the full inclusion of persons with disabilities. These requirements include, but are not limited to:

1. Having staff trained in how to provide reasonable modifications in policies, practices and procedures;
2. Having auxiliary aids and services available in a timely manner in order to ensure communication access;
3. Ensuring that any service areas and related facilities open to the public are architecturally accessible and have been inspected and approved by the DPW Access Compliance Officer or the Mayor's Office on Disability Compliance Officers.

If such access would be technically infeasible, this is described in the comments section below:

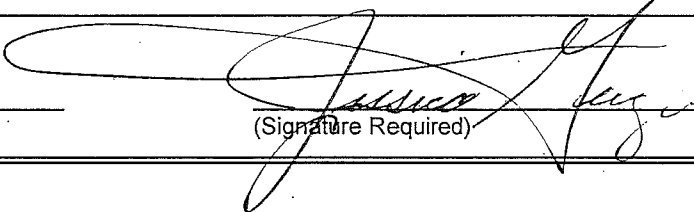
Comments:

Departmental ADA Coordinator or Mayor's Office of Disability Reviewer:

Jessica Geiger  
(Name)

Fiscal Division Analyst  
(Title)

Date Reviewed: 7/14/14

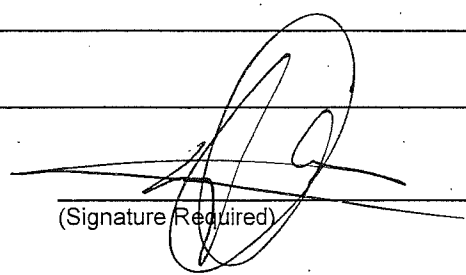
  
(Signature Required)

Department Head or Designee Approval of Grant Information Form:

Eugene Clendinen  
(Name)

Chief Administrative & Financial Officer  
(Title)

Date Reviewed: 7/15/14

  
(Signature Required)

*Vera Institute of Justice, Inc.*

Projected Two Year Budget  
**BUDGET SUMMARY**

<u>Budget Category</u>	Year 1	Year 2	<u>TOTAL</u>
A. Personnel	155,990	79,829	\$ 235,819
B. Fringe Benefits	42,117	21,554	63,671
C. Travel	9,171	9,171	18,342
D. Equipment	-	-	-
E. Supplies	245	1,050	1,295
F. Construction	-	-	-
G. Consultants/Contracts	-	-	-
H. Other	1,981	11,131	13,112
Total Direct Costs	209,504	122,735	332,239
I. Indirect Costs	48,186	28,229	76,415
TOTAL PROJECT COSTS	\$ 257,690	\$ 150,964	\$ 408,654
Federal Request			
Non-Federal Request	\$ 257,690	\$ 150,964	\$ 408,654



233 Broadway, 12th Floor  
New York, NY 10279

Tel: (212) 334-1300  
Fax: (212) 941-9407  
www.vera.org



June 13, 2014

The Honorable George Gascón  
District Attorney  
City and County of San Francisco  
850 Bryant Street, Room 322  
San Francisco, CA 94103

Dear Mr. Gascón:

Many thanks again for meeting with us in April. My colleagues and I appreciated the opportunity to speak with you, and we are excited that our work together is moving forward.

I am writing regarding the resolution between the District Attorney's Office (SFDA) and the City and County of San Francisco in connection with work valued in excess of \$100,000. I have been asked to provide reasons why PRJ invited SFDA to participate in this initiative, a description of the nature of the technical assistance being provided by PRJ, and the estimated financial value of the work.

SFDA is committed to adhering to values of justice and equity in protecting the safety and rights of the people it serves. It was due to the office's leadership in this regard, as well as its size, data management capacity and willingness to use innovative, data-driven strategies, that PRJ invited SFDA to partner on the initiative described below.

PRJ will provide in-kind research to enhance prosecutorial accountability and performance within SFDA. Through this partnership, PRJ will work collaboratively with SFDA to analyze data about the exercise and impacts of prosecutorial discretion, develop routine policies and practices that promote fairness, efficiency and professionalism in prosecution, and provide technical assistance to help prosecutors implement those measures. By partnering with PRJ, SFDA stands to gain additional mechanisms for monitoring the exercise of prosecutorial discretion and promoting racial equity in its daily operations. The technical assistance provided by PRJ is valued at an estimated \$408,000 for an 18 month work period.

Please let me know if you should require any further information or documentation.

Very truly yours,

A handwritten signature in black ink, appearing to read "Whitney Tymas". The signature is written in a cursive style with some loops.

Whitney Tymas  
Director, Prosecution and Racial Justice Program

**DATA USE AGREEMENT**  
**BETWEEN**  
**THE SAN FRANCISCO DISTRICT ATTORNEY'S OFFICE**  
**AND**  
**THE VERA INSTITUTE OF JUSTICE**  
**REGARDING DATA USE AND CONFIDENTIALITY**

FOR THE DEVELOPMENT OF A STUDY SAMPLE FOR THE  
PROSECUTION AND RACIAL JUSTICE PROGRAM

This Data Use Agreement ("Agreement" or "DUA") is hereby made and entered into by and between the San Francisco District Attorney's Office ("SFDA") and the Vera Institute of Justice ("Vera").

**I. TERM OF AGREEMENT**

This Agreement shall be effective upon execution by all parties, and continue for 3 years thereafter, unless terminated earlier by either party pursuant to [Section IX "Termination"].

**II. BACKGROUND & PURPOSE**

1. **Project Description.** Vera is proposing to place two researchers at SFDA for a period of eighteen to twenty-four months in order to identify any racial or ethnic disparities in case outcomes, to work with SFDA to discern and review what factors and/or specific practices, if any, may influence such outcomes, and together to develop protocols or management processes that will assist prosecutors in reducing or eliminating unwarranted racial and ethnic disparities in case outcomes. This work will hereinafter be referred to as "the Work" or "the Project."

2. Through this collaborative process, Vera's Prosecution and Racial Justice Program ("PRJ"), will help SFDA to establish internal, data-driven management of discretionary decisions to the extent these strategies appear likely address the outcome disparities described in Paragraph 1. The San Francisco District Attorney's Office, in turn, will provide Vera with practitioner-based knowledge of the various key factors and considerations that influence decision-making, in order to contribute to a more accurate interpretation of the data findings. As SFDA is a nationally recognized leader in the prosecutorial field, by participating in this Project it can serve as a model of how to deploy and manage discretion in an equitable manner for prosecutors' offices around the nation.

3. **About Vera.** The Vera Institute of Justice combines expertise in research, demonstration projects, and technical assistance to help leaders in government and civil society improve the systems people rely on for justice and safety.

Vera is an independent, nonpartisan, nonprofit center for justice policy and practice, with offices in New York City, Washington, DC, Los Angeles, and New Orleans. Vera's projects and reform initiatives, typically conducted in partnership with local, state, or national officials, are located across the United States and around the world.

4. **Collecting and analyzing data.** After working with the San Francisco District Attorney's Office to determine which prosecution units will provide the most representative and greatest depth and quality of information, Vera will use administrative data from that office's case management system and will collect supplemental data from randomly selected case files. Additionally, Vera will interview prosecutors to ensure that it has a full understanding of case processing and to inform the interpretation of data. The goal of these interviews is to provide Vera with an overall picture of the various factors prosecutors consider, as well as other factors that influence case outcomes. In addition, Vera will use these ongoing exchanges to coach prosecutors in supervisory and managerial roles on how to use data to identify outcome patterns that require further attention or that indicate good practices.

5. Vera research that involves the acquisition of private, individual-level data is required to follow the common federal rule for the protection of human subjects of research. These guidelines are spelled out in Title 45, Part 46, of the Code of Federal Regulations (45 CFR 46) and in Vera's Federalwide Assurance (FWA) for the Protection of Human Subjects. The acquisition, storage, analysis, and destruction of data related to this Project will be overseen by Vera's Institutional Review Board for human subjects research.

6. **Funding.** Vera will be primarily responsible for securing funding to support the Work set forth in this agreement. SFDA will cooperate with Vera's efforts to promote the Project to funders, and may if it so chooses contribute funding to the Project. All obligations and representations made here are contingent upon the award of sufficient funds to undertake the work

7. **Provide Vera researchers access to data necessary for the analyses of discretion reports.** The San Francisco District Attorney's Office will provide Vera researchers with access to administrative data, as outlined in Appendix A. To supplement this administrative data with information about decision-making processes, the San Francisco District Attorney's Office will also provide access to an agreed-upon random selection of approximately 2,000-3,000 case files and will allow informational interviews with a selected group of Assistant District Attorneys. These interviews are intended to provide Vera with a better understanding of how cases are handled in the office, and will be coordinated by the San Francisco District Attorney's Office.

8. **Provide in house office space and administrative support for two Vera researchers for the study period.** These accommodations will include secure locations where confidential information can be stored. The SFDA Office will not provide computers and other office supplies the researchers will require. Researchers will be employed by Vera, maintain a Vera e-mail address, and be subject to all of Vera's

personnel policies, confidentiality protocols, and training requirements while working in the San Francisco District Attorney's office.

9. **Availability of staff of the San Francisco District Attorney's Office to Vera.** The San Francisco District Attorney's Office will create a PRJ project team of select prosecutors and other necessary staff to assist and guide Vera in understanding how cases are handled and the factors that influence decision-making and outcomes. The project team should include a prosecutor to function as the primary contact person, and an information technology specialist to guide Vera in its work with the San Francisco District Attorney's Office's case management system. Furthermore, the San Francisco District Attorney's office will coordinate regularly scheduled data briefings at which researchers and PRJ staff will present findings to senior and executive staff.

10. **Participate in Vera's report-drafting process.** While responsibility for writing the initial drafts of the technical report and policy brief is Vera's (see above), the San Francisco District Attorney's Office will play an integral role in this process and will review and comment on draft reports.

11. **Work with Vera to disseminate any resulting publications.** The San Francisco District Attorney's Office will collaborate with Vera to develop a dissemination strategy that encompasses researcher, practitioner, and lay audiences. The San Francisco District Attorney's Office will also disseminate and publish any resulting publications authored by Vera (see below) as it sees fit. The term "publications" is understood not to include any reports or memoranda written by Vera for the internal review of SFDA, Vera leadership or a project funder.

### III. DATASET REQUESTED & DATA MATCHING PROCESS

For a description of the data requested the reasons for the information requested, and the data matching process, see Appendix A, "PRJ" Evaluation: Data Request & Matching Process".

### IV. CONFIDENTIALITY OF DATASET AND AUTHORITY TO DISCLOSE DATA TO VERA

1. The parties acknowledge that the dataset requested under this Agreement does contain "criminal offender record information" ("CORI") as defined in California Penal Code Section 13102, that under Sections 13201 and 13202 only individuals and agencies specifically authorized by law may have access to CORI. Examples of CORI include but are not limited to: any identifying information regarding an individual arrested, the fact and date of the arrest, and/or the underlying charges.

2. The SFDA is a "criminal justice agency" as defined by Penal Code §13101 and is authorized to collect CORI for "purposes of identifying criminal offenders and of maintaining as to each such offender a summary of arrests, pretrial proceedings, the

nature and disposition of criminal charges, sentencing, incarceration, rehabilitation, and release." Penal Code § 13102.

3. The parties further acknowledge that any individually identifiable CORI compiled by the SFDA constitutes "local summary criminal history information" as defined under Penal Code section 13300, that the state constitutional right to privacy under Article 1, section 1 extends to such information, that under the statutory scheme regulating the disclosure of criminal history, nondisclosure is the general rule, and that this rule of non-disclosure applies not only to members of the public, but also to non-criminal justice agencies and other government officials. Exceptions to the rule are to be narrowly construed and all doubts resolved against disclosure. Furnishing a criminal history record or information obtained from that record to a person not authorized by law to receive it is a crime under California law. See Penal Code §§ 13302-13304.

4. Vera is a "bona fide research body immediately concerned with the prevention or control of crime, the quality of criminal justice, or the custody or correction of offenders" authorized to receive CORI for research purposes pursuant California Penal Code Section 13202. Vera acknowledges that per that section, its use of CORI must be limited to research and statistical purposes, and that any reports or publications derived from its research must not identify specific individuals.

## V. SECURE TRANSMISSION OF DATASET

1. All written and electronic data collected during the course of this evaluation will be safely stored by Vera researchers. All survey questionnaires will be stored in locked cabinets and any resulting data will be stored on Vera's secure research X:\ drive. All electronic data will be transferred electronically to Vera using a secured and password-protected file transfer protocol. Case file information will be collected at the SFDA office using a data collection instrument directly on a Vera-issued password protected laptop, and stored directly onto Vera's secure research X:\ drive via secure remote access. Paper files provided by SFDA for this data collection will not leave SFDA; researchers will keep them in locked cabinets at the SFDA office and return them as soon as they complete data entries from paper files. Electronic databases will be password protected and stored on Vera's secure research X:\ drive. All data will be accessible only to specifically designated researchers, with access codes unique to each user on the study who are trained to maintain the confidentiality of the data.

2. All electronic data transfer will be conducted using a Secure Socket Layer (SSL) certified, password protected file sharing system called "FileShare" that is used for secure data exchange. The Project staff will be assigned individual usernames and passwords that will limit individual access to specific project folders.

3. Vera's network is managed by its IT department, which is led by the Director of Information Technology who reports to Vera's Chief Operating Officer/Chief Financial Officer. The Director of IT is assisted by a Network Manager/Administrator, Network

Support Specialist and Junior Network Engineer. In addition to maintaining the network, the IT staff is responsible for purchasing new software and equipment, and providing user training and technical support to all staff as needed. Vera routinely works with sensitive data including criminal justice and juvenile justice data. Therefore ensuring the security and privacy of this data is a fundamental concern for the institute. All staff members who have access to sensitive data are trained on data security, confidentiality, and privacy when they are hired and legal staff regularly update and reinforce confidentiality and security policies.

4. Vera shall only transmit data related to this project for the purposes described in this Agreement. When transmitting data, Vera shall use a secure means of transmission. If information is transferred by common carrier, a carrier that can track parcels shall be used, and the media on which the data is stored shall be encrypted and password protected. If information is transferred electronically, industry standard encryption algorithms shall be used.

## **VI. SECURE STORAGE OF DATASETS**

1. A Vera staff member assigned to this Project will load the Final Dataset (see description in Appendix A) onto its secure research X:\ drive located at 233 Broadway 12th Floor, New York, NY 10279. All servers are kept in a locked server room and access is limited to the IT staff, COO/CFO & Facilities Manager. Access to Vera's office is protected by building security staff and Vera's receptionist. After-hours access requires a security card to enter the space; these cards are distributed by Vera's Facilities department. The media containing the original Dataset, and any other datasets provided by the SFDA or other agencies that contain individually identifying data elements, will be locked in a storage cabinet at the SFDA's offices until the completion of data collection, at which time they will be securely transferred to Vera premises. Vera shall allow access to the raw data only by staff members assigned to the Project whose duties require it. This Project will be subject to the Vera Research Department's policy regarding disposition of data. Under that policy, three years after the release of the final report or product, data and identifiers must be stored separately and securely, or identifiers must be destroyed and only non-identifiable statistical information retained.

2. Vera will not store any data used in this Project on laptop computers or other portable computing devices or media (with the possible exception of the original copy of the Dataset provided by the City, which may be provided on CD, DVD or flash drive before being transmitted to Vera's secure research X:\ drive electronically).

## **VII. ACCESS TO DATASETS BY VERA'S AUTHORIZED STAFF**

1. Vera will provide a list to the SFDA of the names and job titles of all Vera staff members who will have access to the datasets for this Project (hereafter referred to as "Authorized Staff"), and will limit the number of staff with access to those necessary to

accomplish the Project. All members of the Authorized Staff will conduct California Department of Justice Live Scan Background Checks, or comparable, on all members of the Authorized Staff, and provide the results to SFDA prior to accessing Project data. Authorized Staff members will be removed from this project if the SFDA determines that information obtained during the background check legally precludes them from having access to CORI. SFDA will not use the results of the Live Scan in any way that violates privacy rights.

2. Vera will limit access, use or disclosure of the information in the datasets associated with this Project to Authorized Staff. Each member of the authorized staff will be assigned a unique user name and password which must be entered in order to access the data. Vera will maintain a log establishing an audit trail of who has accessed the data. Vera will not share information from the Dataset (or any other dataset associated with this Project) with anyone other than the Authorized Staff, except as permitted in Appendix A of this Agreement.

3. Vera will instruct all members of the Authorized Staff about the requirements for handling confidential information, including summary criminal history information and CORI, and about the potential sanctions for unauthorized disclosure or use of this information. Upon request, Vera will provide SFDA with copies of signed acknowledgments from the Authorized Staff that acknowledge that they have been informed of the procedures they must follow to maintain the confidentiality of the data and that unauthorized dissemination or use of the data is a crime and could lead to civil and criminal penalties. Vera will apply appropriate sanctions against any staff member that uses or discloses the data in violation of this Agreement. Vera will document any sanctions applied and mitigate the effects of any violation. Vera will report to the SFDA any unauthorized use or disclosure of the information of which it becomes aware.

#### VIII. ADDITIONAL LIMITATIONS ON USE OF DATA

1. Vera will not match or link any of the data provided in the Dataset with any other dataset, except as provided in this Agreement.

2. Under no circumstances will any version of the datasets associated with this Project be used to examine the data profile of an identifiable individual subject.

3. Vera will not contact any individual whose records are contained in the Dataset or any other dataset associated with this Project.

## **IX. TERMINATION OF AGREEMENT**

SFDA shall have the option to terminate this Agreement immediately in the event of a material breach, including but not limited to disclosure of confidential data, failure to store data securely, conducting analyses and/or failure to comply with Section XII, Paragraph 2 of this agreement ("Publication of Reports Based on Data Analysis"). SFDA shall exercise this option by giving Vera written notice of termination. The notice shall specify the date on which termination shall become effective.

## **X. DESTRUCTION OF DATA**

1. In the event of early termination of this Agreement pursuant to [Section VIII supra], Vera will destroy all remaining datasets in its possession immediately. Otherwise, if the Agreement terminates as contemplated in [Section I] data will be disposed of in accordance with the terms of Project funding. In the absence of funder requirements, or if such requirements are less stringent than those of Vera's Research Department policy on the retention and destruction of data, the policy of Vera's Research Department will govern; this policy provides that three years after the release of the final report or product, data and identifiers must be stored separately and securely, or any identifiers collected, must be destroyed and only non-identifiable statistical information retained.

2. Vera shall use an approved method of confidential destruction, including shredding, burning or certified/witnessed destruction for physical materials and verified erasure of magnetic media using approved methods of electronic file destruction.

## **XI. OTHER SECURITY AND CONFIDENTIALITY MEASURES**

Vera designates Siobhan Carney, Chief of Staff and Acting Research Director as the person responsible for the security and confidentiality of the data associated with this Project and will notify the Gonzalo Gonzalez, Chief Information Officer at SFDA immediately in writing of any change in designee.

## **XII. GENERAL TERMS**

1. **Ownership of Data.** The SFDA retains ownership of the administrative data provided to Vera and hereby grants Vera a royalty-free, non-exclusive license to use such data "AS IS" solely for the purposes of this Agreement and according to its terms. The parties mutually agree that Vera does not obtain any right, title, or interest in any of the data furnished by the SFDA. The parties further agree that the City makes no representation or warranty, either implied or express, with respect to the accuracy of any data in the limited data set file(s). Interview data collected during the course of this Project shall contain no direct or indirect identifiers and be the property of Vera.



2. **Publication of Reports Based on Data Analysis.** Vera is permitted to pursue the writing of articles, reports, presentations or other publications using aggregate level data only. No data will be reported in a manner that permits direct or indirect identification of any individual. This paragraph shall survive the termination of this Agreement.

Vera shall not publish, release, and/or disseminate the study, any part of the study or any results of the study or monographs, reports, articles, presentations or other publications without prior review of authorized representatives of the SFDA. SFDA will have 30 days for its review to raise questions about the level of data included in the publication to ensure use of aggregate level data only. The SFDA will make every effort to work with Vera representatives to resolve outstanding questions. Vera will interpret the absence of feedback from the SFDA within that 30-day period as tacit permission to publish, release, and/or disseminate the study. Any publication resulting from the data must indicate that the data was provided by SFDA and will include a disclaimer to the effect that published material does not necessarily reflect the views of the SFDA. The SFDA reserves the right to issue a statement of comments or concerns on a publication that includes the SFDA's data if there are program, policy, or other questions involving the way in which the SFDA's data are portrayed that cannot be resolved with Vera representatives.

3. **Ownership of Results.** Any interest in studies, reports, memoranda, or the final data analysis prepared by Vera ("Results") shall be owned by Vera. Vera hereby grants SFDA with a non-exclusive, irrevocable, royalty-free, paid-up, worldwide license to use, display, reproduce, copy, and distribute, for non-commercial purposes, the Results, provided such use, display, etc., entails no substantial alteration of said Results. Vera acknowledges that it has no ownership interest in the data provided by the SFDA and agrees that it will treat all datasets created using this data in the manner described in [Section X supra], "Destruction of Data".

4. **Notices to the Parties.** Unless otherwise indicated elsewhere in this Agreement, all written communications sent by the parties may be by U.S. mail, e-mail or by fax, and shall be addressed as follows:

To San Francisco District Attorney's  
Office:

District Attorney George Gascón  
City and County of San Francisco  
850 Bryant Street, Room 322  
San Francisco, CA 94103  
T. (415)553-1742  
F.(415) 575-8815  
[George.Gascon@sfgov.org](mailto:George.Gascon@sfgov.org)

To Vera:

Vera Institute of Justice  
Nick Turner 233 Broadway, 12th Floor  
New York, NY 10279  
T. (212) 334-1300  
F. (212) 941-9407  
[nturner@vera.org](mailto:nturner@vera.org)

Any Notice of Termination must be sent by U.S. mail in addition to any other method of transmission.

6. This Agreement shall be governed by and construed under the laws of the State of California.

7. Any waiver by any party of the violation of any provision of this Agreement shall not bar any action for subsequent violations of the Agreement.

8. If any provision of this Agreement becomes or is declared illegal, invalid or unenforceable, such provision will be severed from this Agreement and will be deemed deleted. If such deletion substantially alters the Agreement, the parties will negotiate in good faith to amend the provisions of this Agreement to give effect to the original intent of the parties.

9. Vera or any agent or employee of Vera shall be deemed at all times to be independent contractors and are wholly responsible for the manner in which they perform the services and work requested by City under this Agreement. Vera or any agent or employee of Vera shall not have employee status with City, nor be entitled to participate in any plans, arrangements, or distributions by City pertaining to or in connection with any retirement, health or other benefits that the City may offer its employees. To the extent required by law, Vera or any agent or employee of Vera is liable for the acts and omissions of itself, its employees and its agents. Vera shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to Vera's performing services and work, or any agent or employee of Vera providing same. Nothing in this Agreement shall be construed as creating an employment or agency relationship between the City and Vera or any agent or employee of Vera. Any terms in this Agreement referring to direction from the City shall be construed as providing for direction as to policy and the result of Vera's work only, and not as to the means by which such a result is obtained.

**10. Technology Errors and Omissions Insurance.**

Vera shall obtain and maintain throughout the duration of the contract personal liability coverage with limits of \$1,000,000 per occurrence/loss. The policy shall at a minimum cover professional misconduct or lack of the requisite skill required for the performance of services defined in the contract and shall also provide coverage for the following risks:

a. Liability arising from theft, dissemination, and/or use of confidential information, including but not limited to, bank and credit card account information or

personal information, such as name, address, social security numbers, stored or transmitted in electronic form.

b. Network security liability arising from the unauthorized access to, use of, or tampering with computers or computer systems, including hacker attacks.

c. Liability arising from the introduction of a computer virus into, or otherwise causing damage to the District's or third person's computer, computer system, network, or similar computer related property and the data, software, and programs thereon.

If coverage is maintained on a claims-made basis, Vera shall maintain such coverage for an additional period of three (3) years following termination of the contract.

## **11. Indemnity**

Vera shall indemnify and save harmless the City and its officers, agents and employees from, and, if requested, shall defend them against any and all loss, cost, damage, injury, liability and claims thereof for injury to or death of a person, including employees of Vera or loss of or damage to property, arising directly or indirectly from Vera's negligence or willful misconduct in the performance of this Agreement, including, but not limited to, Vera's use of facilities or equipment provided by City or others except to the extent that such indemnity is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this Agreement, and except to the extent such loss, damage, injury, liability or claim is the result of the negligence or willful misconduct of the City. The foregoing indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's and Vera's costs of investigating any claims against the City or Vera.

In addition to Vera's obligation to indemnify the City, Vera specifically acknowledges and agrees that it has an immediate and independent obligation to defend the City from any claim which actually or potentially falls within this indemnification provision.

Vera shall indemnify and hold the City harmless from all loss and liability, including attorneys' fees, court costs and all other litigation expenses for any infringement of the patent rights, copyright, trade secret or any other proprietary right or trademark, and all other intellectual property claims of any person or persons in the consequence of the use by City or Vera, or any of their respective trustees, officers or agents, of articles or services to be supplied by Vera in the performance of this Agreement.

## **12. Protection of Private Information**

Vera has read and agrees to the terms set forth in San Francisco Administrative Code Sections 12M.2, "Nondisclosure of Private Information," and 12M.3, "Enforcement" of Administrative Code Chapter 12M, "Protection of Private Information," which are incorporated herein as if fully set forth. Vera agrees that any failure of Vera to comply with the requirements of Section 12M.2 of this Chapter shall be a material breach of the Agreement. In such an event, in addition to any other remedies available to it under

equity or law, the City may terminate the Agreement, bring a false claim action against the Vera pursuant to Chapter 6 or Chapter 21 of the Administrative Code, or debar Vera.


**6. Modification of Terms**

This Agreement contains the entire understanding of the parties and may be amended only in writing signed by the parties. This Agreement and any rights and obligations under it may not be assigned by any of the parties without the prior written consent of the other parties.

My signature below indicates my agreement to comply with the above-stated statutorily-based requirements.


Signed:

SAN FRANCISCO DISTRICT ATTORNEY'S OFFICE

  
\_\_\_\_\_  
District Attorney George Gascón

  
\_\_\_\_\_  
Date

VERA INSTITUTE OF JUSTICE

  
\_\_\_\_\_  
Karen Goldstein, VP and General Counsel

  
\_\_\_\_\_  
Date

## Appendix A: Data Request Protocol

---

The proposed Project will examine a select number of felony and misdemeanor cases closed in 2010-2012. The project will measure the impact of defendants' and/or victims' race and ethnicity on prosecutorial decision-making. No direct or indirect identifiable information about defendants, victims, witnesses, arresting officers, defense lawyers or assistant district attorneys will be collected.

This Project entails the following research activities:

1. **Administrative data collection.** Vera will request data from SFDA's electronic case management system for approximately 27,000 cases. Before data are provided to Vera's research staff, personally identifiable information will be stripped from the records by SFDA staff. Information that will be removed includes: defendant's name and date of birth (should include only year but not month/day), victim's name and date of birth, arresting officers' and reviewing/ assigned prosecutors' name, or other individual identifiers. No other Vera staff, specifically including researchers on this study, will have access to identifiable SFDA data. Records will be distinguished from one another using unique case numbers, which will also serve the purpose of matching records from this dataset to records from the physical case file review. Vera will provide necessary training to SFDA staff, as needed, on how to ensure the confidentiality of records (e.g., how to remove identifiers from spreadsheets and use unique case numbers).
2. **Data collection from case files.** Working on the assumption that there will be useful data recorded in case files that is not in administrative data provided by SFDA, researchers will review a subset of 2,000-3,000 physical (or electronically stored) case files. Research staff will collect data using an instrument that includes a predetermined list of factors, none of which constitutes personally identifiable information. Vera will provide SFDA a list of randomly selected cases and SFDA will pull those cases from various locations to provide the files to Vera.
3. **Informational interviews with prosecutors.** These interviews are designed to understand the prosecutorial process by unit – their system, organization, case processes, and data limitations – so that statistical analyses and interpretation of research findings reflect actual case processing in the DA's

office. Because this is to inform researchers' knowledge of the SFDA system, not to collect specific data for analysis, questions will be open-ended. The interview is about case processing in SFDA and it will include questions about (1) the differences in case processing across SFDA units/bureaus and the possible ways these differences may affect data collection and analyses; (2) the factors that may influence prosecutorial discretion and whether data on those factors are readily available or need to be collected from case files and other criminal justice agencies; (3) charging decisions and specific circumstances under which charges are reduced or increased; (4) felony and misdemeanor offenses for which prosecutors exercise greater discretion (in order to inform our decision of selecting categories of felony and misdemeanor cases for analysis); and (5) all variables and their categories included in SFDA's case management system. No names or individual identifiers will be recorded with subject responses. Vera will request the names and contact information of 20-40 prosecutors and then randomly select potential respondents from this group. This way, SFDA will not know which of the prosecutors have been interviewed to ensure the confidentiality of respondents.

All individuals working on this Project who will handle data have signed and agreed to comply with Vera's Confidentiality Protocol, and have been appropriately trained in human subjects protection.

## Appendix B: Sample Variable List

Category	Potential Variables
<i>Defendant</i>	Age (continuous)
	Race (white, black, Other, etc.)
	Gender (female, male)
	Zip code of residence (proxy for socio-economic status)
	Location of arrest (by District Station)
	Employment status (employed at a time of arrest, not employed)
	Marital status (single, married, separated, widowed)
	Number of children (continuous)
	Education (less than high school, high school, some college, college)
	Number of prior arrests (continuous)
	Number of prior convictions (continuous)
	Seriousness of prior convictions by top charge (Felony and misdemeanor levels)
	Probation status (on probation or not at a time of arrest)
	<i>Victim</i>
Age (continuous)	
Gender (female, male)	
Relationship to defendant (intimate, stranger, acquaintance)	
Willingness to cooperate (yes, no)	
Injury Severity	
<i>Case</i>	Offense type (persons, property, drug, domestic violence, etc.)
	Offense level (Class A felony – Class B misdemeanor)
	Pretrial detention status (in custody or not in custody at some point)
	Pretrial detention length (continuous)
<i>Courtroom Workgroup</i>	Type of defense counsel (court-appointed or private)
<i>Arresting Agency</i>	Arresting agency (SFPD or not)
	Arresting officer's gender (female, male)
	Arresting officer's race (white, black, Latino, etc.)
<i>Prosecutor</i>	Gender (female, male)
	Race (white, black, Latino, etc.)
	Experience (continuous)
	Caseload (continuous)
	Unit (nominal)

233 Broadway, 12th Floor  
New York, NY 10279

Tel: (212) 334-1300  
Fax: (212) 941-9407  
www.vera.org



May 9, 2014

Tara Regan Anderson, MPP  
Policy & Grants Manager  
The Office of District Attorney George Gascón  
City and County of San Francisco  
850 Bryant Street, Room 322  
San Francisco, CA 94103

Dear Ms. Anderson:

As per your request, in order that the San Francisco District Attorney's Office (SFDA) may complete a Resolution with the City and County of San Francisco in connection with work valued in excess of \$100,000.00, I am writing to provide your office a description of the nature of technical assistance being provided by the Vera Institute of Justice's Prosecution and Racial Justice Program (PRJ) to SFDA, and the estimated financial value of this work.

PRJ will provide in-kind research to enhance prosecutorial accountability and performance within SFDA. Through this partnership, PRJ will work collaboratively with SFDA to analyze data about the exercise and impacts of prosecutorial discretion, develop routine policies and practices that promote fairness, efficiency and professionalism in prosecution, and provide technical assistance to help prosecutors implement those measures. By partnering with PRJ, SFDA stands to gain additional mechanisms for monitoring the exercise of prosecutorial discretion and promoting racial equity in its daily operations. The technical assistance provided by PRJ is valued at an estimated \$408,000 for an 18 month work period.

Please let me know if you should require any further information or documentation.

Very truly yours,

A handwritten signature in cursive script that reads "Whitney Tymas".

Whitney Tymas  
Director, Prosecution and Racial Justice Program