

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT  
IN AND FOR BROWARD COUNTY, FLORIDA

AMERICAN CIVIL LIBERTIES UNION OF  
FLORIDA, INC.,

Plaintiff

v.

CLERK OF COURT FOR BROWARD  
COUNTY, FLORIDA; SHERIFF FOR  
BROWARD COUNTY, FLORIDA;  
FLORIDA DEPARTMENT OF  
CORRECTIONS; and FLORIDA  
DEPARTMENT OF LAW  
ENFORCEMENT,

Case No.:

Defendants.

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**COMPLAINT**

Plaintiff American Civil Liberties Union of Florida, Inc., (“ACLU”), sues Defendants Clerk of Court for Broward County, Florida (“Clerk”); Sheriff for Broward County, Florida (“Sheriff”); Florida Department of Corrections (“FDOC”); and Florida Department of Law Enforcement (“FDLE”) (collectively, “Defendants”) and alleges as follows:

**INTRODUCTION**

1. In 2018, the Florida Legislature passed—with only a single “nay” vote—Senate Bill 1392, a criminal justice data collection bill that was then signed into law (Ch. 2018-127, Laws of Fla. (the “CJDT Law”)).

2. The Florida Legislature intended the CJDT Law to be “a model of uniform criminal justice data collection” and to “mak[e] such data available to the public.”<sup>1</sup>

3. The CJDT Law was hailed as a groundbreaking achievement for transparency in that it **requires** (covered agencies “shall collect” (§ 900.05(3)(a), (d), and (e), Fla. Stat.)) “local and state criminal justice agencies to report complete, accurate, and timely data” on criminal cases to FDLE for publishing to the public. (*See* § 900.05(1), Fla. Stat.).

4. The specific electronic data fields that must be reported are defined in the CJDT Law. (§ 900.05(2), Fla. Stat. (“Criminal Justice Data”).

5. In addition, the CJDT Law requires that Criminal Justice Data be reported to FDLE “on a monthly basis.”<sup>2</sup> FDLE is required to publish this Criminal Justice Data and make it publicly searchable and accessible.<sup>3</sup>

6. The obligation to collect Criminal Justice Data is not dependent on whether FDLE has the means to publish it or actually publishes it.

7. Defendant FDLE’s website describes the CJDT Law as “establishing a framework for an expanded criminal justice data collection and sharing” and as

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<sup>1</sup> Fla. Stat. § 900.05(1) (2018–present); *see also* Jason Tashea, *Liberating criminal justice data: How a Florida law provides a blueprint for the nation*, ABA Journal (June 18, 2019, 6:30 AM), <https://www.abajournal.com/web/article/liberating-criminal-justice-data-how-a-florida-law-offers-a-blueprint-for-the-nation>; Amy Bach, *Missing: Criminal Justice Data*, N.Y. Times (Mar. 21, 2018), <https://www.nytimes.com/2018/03/21/opinion/missing-criminal-justice-data.html>; Issie Lapowsky, *Florida Could Start a Criminal-Justice Data Revolution*, Wired (Mar. 13, 2018, 4:33 PM), <https://www.wired.com/story/florida-criminal-justice-data-sharing/>.

<sup>2</sup> Fla. Stat. § 900.05(3) (2018–present).

<sup>3</sup> Fla. Stat. § 900.05(4) (2018–present).

“direct[ing] FDLE to maintain this data and to provide access to it in a modern, open, electronic format, readily accessible through FDLE’s public website.”<sup>4</sup>

8. Although the CJDT Law *should* “educate[] the public about how criminal justice processes are handled in each county and what resources are devoted to each of these processes” and *should* “provide[] policymakers with the data they need to make informed policy decisions and to evaluate how effectively their policy decisions are being implemented,”<sup>5</sup> Defendants’ failure to comply with their respective obligations have rendered the CJDT Law as nothing more than words on a page.

9. When it comes to the CJDT Law, legal mandates, aspirations, and expectations have become divorced from reality.

10. Many law enforcement agencies are either not collecting the data or not reporting the data to FDLE.<sup>6</sup>

11. FDLE has, despite many years and many millions of dollars in taxpayer funding, failed to implement the database required by the CJDT Law.<sup>7</sup>

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<sup>4</sup> See Florida Department of Law Enforcement, “Criminal Justice Data Transparency,” <http://www.fdle.state.fl.us/FSAC/CJAB-Home/FSAC/CJDT-Home>.

<sup>5</sup> *Id.*

<sup>6</sup> See generally Andrew Pantazi, *A new law was supposed to make Florida’s criminal justice data radically transparent. It failed.*, Tallahassee Democrat (July 2, 2020, 3:28 PM), <https://www.tallahassee.com/story/news/2020/07/02/floridas-criminal-justice-new-law-make-data-transparent-has-failed/5366764002/>.

<sup>7</sup> Ch. 2018-127 § 6, Laws of Fla. (“For the 2018-2019 fiscal year, nine full-time equivalent positions with an associated total salary rate of 476,163 are authorized and the **recurring sum of \$665,884 and the nonrecurring sum of \$1,084,116** . . . to the Department of Law Enforcement for the purposes of implementing ss. 900.05(4) and 943.687, Florida Statutes.”) (emphasis added); Ch. 2020-111, Laws of Fla. (“**\$1,830,000 in recurring funds and \$1,737,175 in nonrecurring funds** . . . is provided to the Department of Law Enforcement to

12. Criminal Justice Data is indisputably subject to Chapter 119, Fla. Stat. (the “Public Records Law”).<sup>8</sup>

13. Pursuant to the Public Records Law, the ACLU has repeatedly requested records, including Criminal Justice Data, demonstrating compliance with the CJDT Law but has repeatedly been told that no such records exist, that culling the records would be exorbitantly expensive, and/or that no such database—i.e., the database mandated by the Florida Legislature in 2018—has been created by FDLE.

14. The ACLU seeks copies of public records that should exist under the CJDT Law (whether that is Criminal Justice Data already collected by the respective agencies or Criminal Justice Data submitted to FDLE), and to enforce the mandates of the CJDT Law (by compelling agencies to *submit* Criminal Justice Data to FDLE and/or compelling FDLE to *publish* the Criminal Justice Data submitted to it).

15. Accordingly, the ACLU seeks injunctive, mandamus, and/or declaratory relief under the Public Records Law, the CJDT Law, and Chapter 86, Fla. Stat.

## PARTIES

### A. Plaintiff ACLU

16. Plaintiff American Civil Liberties Union of Florida, Inc. (“ACLU”) is a Florida nonprofit corporation.

17. The ACLU is a statewide, nonprofit, nonpartisan organization committed to defending the principles embodied in the U.S. Constitution and our nation’s civil rights laws. One of its missions is to reform the criminal justice system in Florida. In particular, it seeks to reduce the number of people detained and the racial disparity of those detained through work through the courts, legislature, and education of the public.

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implement criminal justice data collection and reporting that complies with sections 900.05 and 943.6871, Florida Statutes.”) (emphasis added).

<sup>8</sup> Fla. Stat. § 119.01; *see* Fla. Stat. § 900.05(1), (4); Fla. Stat. § 943.6871(3).

18. Critical to the ACLU's mission of criminal justice reform is identification of what aspects of our system and which jurisdictions need the most reform. The ACLU relies on publicly accessible information to inform its strategic decisions.

19. Obtaining the data required to be collected pursuant to § 900.05, Fla. Stat., would greatly advance the ACLU's mission. Without this data, the ACLU is unable to focus its resources on the most pressing area(s) of reform.

20. Because the Clerk, Sheriff, and FDOC have failed to collect and report to FDLE the Criminal Justice Data, the ACLU has been and will be specially injured. To achieve its mission goals, the ACLU will be forced to seek out this data from individual criminal justice agencies and pay the demanded costs associated with providing a "special" extraction of their data or filing a lawsuit to compel the reasonable access to public records.

21. Because FDLE has failed to publish Criminal Justice Data on the Internet and make it publicly accessible at no cost, the ACLU has been and will be specially injured. To obtain Criminal Justice Data from multiple jurisdictions in order to access needed criminal justice reform, the ACLU must submit multiple public records requests to multiple jurisdictions. This impairs the ACLU's ability to achieve its mission goals.

## **B. Defendant Clerk**

22. Defendant Clerk for Broward County, Florida ("Clerk") is the elected Clerk.

23. The Clerk is an "agency" as defined in § 119.011(2), Fla. Stat. *See id.* (defining an agency to include "any state, county, district, authority, or municipal officer").

24. The Clerk is required to comply with the provisions of the Public Records Law, Ch. 119, Fla. Stat., and Art. I, § 24(a), Fla. Const.

25. The Clerk is required to comply with the provisions of § 900.05, Fla. Stat., as they relate to the "clerk of court."

26. The Clerk is required to collect the data specified in § 900.05(3)(a), Fla. Stat. This obligation began on Jan. 1, 2019. *See* Ch. 2018-127, § 2, at 3. It has remained in force since this time. *See* § 900.05(3), Fla. Stat.

27. The Clerk is required to report this collected data to FDLE on a monthly basis. *See* § 900.05(3), Fla. Stat.

### **C. Defendant Sheriff**

28. Defendant Sheriff for Broward County, Florida (“Sheriff”) is the elected Sheriff.

29. The Sheriff is an “agency” as defined in § 119.011(2), Fla. Stat. *See id.* (defining an agency to include “any state, county, district, authority, or municipal officer”).

30. The Sheriff is required to comply with the provisions of the Public Records Law, Ch. 119, Fla. Stat., and Art. I, § 24(a), Fla. Const.

31. Broward County has designated the Sheriff as the chief correctional officer of the county correctional system. *See* § 951.061(2), Fla. Stat.

32. The Sheriff is the administrator of the county detention facilities within Broward County’s correctional system. *See* § 900.05(3)(d), Fla. Stat.

33. The Sheriff is required to comply with the provisions of § 900.05, Fla. Stat., as they relate to the “administrator of each county detention facility.”

34. The Sheriff is required to collect the data specified in § 900.05(3)(d), Fla. Stat. This obligation began on Jan. 1, 2019. *See* Ch. 2018-127, § 2, at 3. It has remained in force since this time. *See* § 900.05(3), Fla. Stat.

35. The Sheriff is required to report this collected data to FDLE on a monthly basis. *See* § 900.05(3), Fla. Stat.

### **D. Defendant FDOC**

36. Defendant Florida Department of Corrections (“FDOC”) is a department of the Florida State government.

37. FDOC is an “agency” as that term is defined in § 119.011(2), Fla. Stat.

38. FDOC is required to comply with the provisions of the Public Records Law, Ch. 119, Fla. Stat., and Art. I, § 24(a), Fla. Const.

39. FDOC is required to comply with the provisions of § 900.05, Fla. Stat., as they relate to the “Department of Corrections.”

40. FDOC is required to collect the data specified in § 900.05(3)(e), Fla. Stat. This obligation began on Jan. 1, 2019. *See* Ch. 2018-127, § 2, at 3. It has remained in force since this time. *See* § 900.05(3), Fla. Stat.

41. FDOC is required to report this collected data to FDLE on a monthly basis. *See* § 900.05(3), Fla. Stat.

### **E. Defendant FDLE**

42. Defendant Florida Department of Law Enforcement (“FDLE”) is a department of the Florida State government.

43. FDLE is an “agency” as defined in § 119.011(2), Fla. Stat.

44. FDLE is required to comply with the provisions of the Public Records Law, Ch. 119, Fla. Stat., and Art. I, § 24(a), Fla. Const.

45. FDLE is required to comply with the provisions of § 900.05, Fla. Stat., as they relate to the “Department of Law Enforcement.”

46. FDLE is required to publish Criminal Justice Data collected and reported to it on the Internet, *see* § 943.6871(3), Fla. Stat., in “a modern, open, electronic format that is machine-readable and readily accessible by the public on the department’s website,” *see* § 900.05(4), Fla. Stat. This obligation began on Jan. 1, 2019. *See* Ch. 2018-127, § 2, at 3. On June 28, 2019, the start date of the obligation was changed to commence on March 1, 2019, with all received Criminal Justice Data being published no later than Jan. 1, 2020. *See* Ch. 2019-167, § 46, at 67. This obligation has remained in force since then. *See* § 900.05(3), Fla. Stat.

47. FDLE is prohibited from charging a fee to access or receive Criminal Justice Data through its Internet webpage. *See* § 943.6871(3), Fla. Stat.

48. FDLE is required to “[c]ollect, compile, maintain, and manage the data submitted by local and state entities pursuant to s. 900.05 and coordinate related activities to collect and submit data.” *See* § 943.6871(1), Fla. Stat.

49. FDLE is required to establish by administrative rule requirements, a data catalog, and explanation of how the FDLE will implement and monitor compliance with § 900.05, Fla. Stat. *See* § 943.6871(5)(a), Fla. Stat.

50. FDLE enacted Fla. Admin. Code r. 11C-11.001. The rule fails to comply with the law, provides little guidance, and directs the public, as well as the agencies who are supposed to submit Criminal Justice Data, to nonfunctioning webpages for more information.

### **JURISDICTION & VENUE**

51. This Court has subject matter jurisdiction over this equitable action pursuant to § 26.012(2)(c), Fla. Stat., and Fla. Const. art. V, § 5.

52. Venue is proper in this judicial circuit and county pursuant to §§ 47.011 & 47.021, Fla. Stat., as the Sheriff and Clerk reside in Broward County, Florida.

### **FACTUAL ALLEGATIONS**

#### **A. Clerk**

53. On March 30, 2021, the ACLU submitted a public records request to the Clerk seeking:<sup>9</sup>

All data identified in § 900.05, Fla. Stat., that the Broward County Clerk of Courts had a duty to collect and report, regardless of whether the Broward County Clerk of Courts actually collected the data to transmit to Florida Department of Law Enforcement.

54. The Clerk has much, if not all, of the requested data, which is inherently limited to the timespan during which there was a duty to collect it—Jan. 1, 2019, through today.

55. In response the Clerk identified two sources of records that contain the requested data: (a) The Clerk had Offender Based Transaction System (OBTS) transmissions sent to the Office of the State Courts Administrator. Yet, the Clerk explained that the OBTS transmissions contained much, but not all, of the requested Criminal Justice Data, some information would need to be redacted. Additionally, (b) the Clerk offered to extract the requested data from its case

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<sup>9</sup> See March 30, 2021 Public Records Request to Clerk (**Exhibit 1**).



management system. The Clerk demanded the ACLU pay the cost for necessary redactions or extractions, which were anticipated to be substantial.

56. The ACLU requested the Clerk extract from its case management database all of the requested data identified in § 900.05. It demanded the Clerk provide the requested data at no cost.

57. The Clerk demanded the ACLU pay for excessive extraction and redaction of the requested data. The ACLU refused to pay.

58. The Clerk's refusal to provide the requested data at no or minimal cost is an unreasonable denial of access to public records. After all, the Clerk already has a duty to collect and report the requested data to FDLE. Thus, the Clerk's burden and cost of complying with § 900.05, Fla. Stat., by extracting a report of the requested data should not be borne by the ACLU or the public.

59. To date, the Clerk has failed to provide access to the requested data in its possession.

60. The Clerk asserted no exemption that would apply to the requested access to public records other than the fact that "sealed and confidential court cases" would need to be redacted. Otherwise, none of the data fields in § 900.05(3)(a), Fla. Stat., appear to contain confidential or exempt information.

61. On August 9, 2021, pursuant to § 119.12(1)(b), Fla. Stat., the ACLU "provided written notice identifying the public record request to [this] agency's custodian of public records" and its intent to file a civil action to enforce the provisions of Ch. 119, Fla. Stat. The Clerk received the ACLU's notice no later than August 11, 2021.

## **B. Sheriff**

62. On March 30, 2021, the ACLU submitted a public records request to the Sheriff seeking:<sup>10</sup>

All data identified in § 900.05, Fla. Stat., that the Broward Sheriff's Office had a duty to collect and report,

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<sup>10</sup> See March 30, 2021 Public Records Request to Sheriff (**Exhibit 2**).

regardless of whether the Broward Sheriff's Office actually collected the data to transmit to Florida Department of Law Enforcement.

63. The Sheriff has much, if not all, of the requested data, which is inherently limited to the timespan during which there was a duty to collect it—Jan. 1, 2019, through today.

64. In particular, the Sheriff has data of weekly admissions, *see* § 900.05(3)(d)(2-3), Fla. Stat., and daily population counts, § 900.05(3)(d)(4), Fla. Stat.

65. Initially, the Sheriff responded that it had no responsive data or records.

66. Then, on June 24, 2021, the Sheriff provided *some* data which pertained to an unspecified year, month, week, day or other time period (except the daily number of correction officers, which was as of May 7, 2021). It excluded any data about the weekly admission for a revocation of pretrial release. *See* § 900.05(3)(d)(3), Fla. Stat.

67. To date, the Sheriff has failed to provide access to any additional requested data in his possession. The Sheriff has substantially more requested data and has failed to provide it.

68. The Sheriff has unjustifiably delayed providing access to additional requested data in its possession.

69. The Sheriff asserted no exemption that would apply to the requested access to public records.

70. The Sheriff has not asserted that it has no additional responsive records.

71. The Sheriff has not requested the ACLU make any advance payment to offset the cost of providing the requested records.

72. On August 9, 2021, pursuant to § 119.12(1)(b), Fla. Stat., the ACLU “provided written notice identifying the public record request to [this] agency’s custodian of public records” and its intent to file a civil action to enforce the provisions of Ch. 119, Fla. Stat. The Sheriff received the ACLU’s notice no later than August 11, 2021.

### C. FDOC

73. Since March 2020, the ACLU has three times requested access from FDOC to its § 900.05 data. In March 2020, January 2021, and most recently on March 25, 2021,<sup>11</sup> the ACLU submitted public records requests to FDOC seeking the exact same data:

All data that the Florida Department of Corrections has collected as required pursuant to § 900.05, Fla. Stat.

74. FDOC has much, if not all, of the requested data, which is inherently limited to the timespan during which there was a duty to collect it—Jan. 1, 2019, through today.

75. In response to the March 2020 and January 2021 requests, FDOC denied having any responsive data.

76. In response to the March 2021 request, FDOC speculated that it may have to extract the requested data from its OBIS computer system. Despite repeated requests by the ACLU, FDOC provided no additional information for months.

77. To date, FDOC has failed to provide access to the requested data in its possession.

78. FDOC has unjustifiably delayed providing access to the requested data in its possession.

79. FDOC asserted no exemption that would apply to the requested access to public records (other than to generally assert that *some* of its data *may* be confidential or exempt).

80. FDOC has not asserted that it has no responsive records.

81. On August 20, 2021 (and only in response to the ACLU's notice of intent to file a civil action), FDOC responded: "The estimate for this request is 920.4 hours at \$85 per hour. The total is \$78,234.00. Please let me know if you

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<sup>11</sup> See March 25, 2021 Public Records Request to FDOC (**Exhibit 3**).

have any questions. As soon as payment is received we can begin record extraction.” The ACLU refused to pay this excessive charge.

82. On August 9, 2021, pursuant to § 119.12(1)(b), Fla. Stat., the ACLU “provided written notice identifying the public record request to [this] agency’s custodian of public records” and its intent to file a civil action to enforce the provisions of Ch. 119, Fla. Stat. FDOC received the ACLU’s notice no later than August 16, 2021.

#### **D. FDLE**

83. On April 1, 2021, the ACLU submitted a public records request to FDLE seeking:<sup>12</sup>

All data that was collected pursuant to § 900.05, Fla. Stat.

84. FDLE has the requested data. Pinellas, Pasco, and other counties have transmitted Criminal Justice Data to FDLE.

85. Despite repeated requests by the ACLU in May and June 2021, FDLE provided no additional information or updates until August 10, 2021 (and only then in response to the ACLU’s notice of intent to file a civil action).

86. Even then, FDLE provided manifestly incomplete data, which, among other issues, was inconsistent with the data reporting criteria set forth in § 900.05, Fla. Stat.

87. To date, FDLE has failed to provide access to any additional requested data in its possession. FDLE has substantially more requested data and has failed to provide it.

88. FDLE has unjustifiably delayed providing access to the requested data in its possession.

89. FDLE asserted no written exemption that would apply to the requested access to public records.

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<sup>12</sup> See April 1, 2021 Public Records Request to FDLE (**Exhibit 4**).

90. FDLE has not requested the ACLU to make any advance payment to offset the cost of providing the requested records.

91. On August 9, 2021, pursuant to § 119.12(1)(b), Fla. Stat., the ACLU “provided written notice identifying the public record request to [this] agency’s custodian of public records” and its intent to file a civil action to enforce the provisions of Ch. 119, Fla. Stat. FDLE received the ACLU’s notice no later than August 12, 2021.

## CAUSES OF ACTION

### Count 1 – Provisions of Public Records (All Defendants)

92. Paragraphs 1–91 of this Complaint are incorporated by reference as if specifically set forth herein.

93. The ACLU has a right to access, inspect, and copy public records. *See* Art. I, § 24(a), Fla. Const.; § 119.01(1), Fla. Stat.; § 119.07(3)(a), Fla. Stat.

94. The requested data exist.

95. Criminal Justice Data identified in § 900.05, Fla. Stat., are “public records” within the meaning of § 119.011(12), Fla. Stat.

96. Defendants have a legal duty to provide access to the requested records. *See* § 119.01(1), Fla. Stat.; § 119.07(1)(a), Fla. Stat.

97. Each agency must provide reasonable public access to records electronically maintained. *See* Fla. Stat. § 119.01(2)(a).

98. Defendants have breached that legal duty by failing to provide the requested public records or, alternatively, by failing to provide reasonable access.

99. The ACLU has no adequate remedy at law. A money judgment cannot remedy a denial of access to public records. The ACLU will suffer irreparable harm absent equitable relief.

**WHEREFORE, the ACLU respectfully requests the following relief:**

- A. A writ of mandamus, or in the alternative a mandatory injunction, commanding each Defendant to promptly provide the requested records;
- B. An order retaining the Court’s jurisdiction of this matter to enforce the terms of the Court’s injunction and/or any related orders;
- C. An award to the ACLU of its reasonable attorneys’ fees and costs incurred in connection with this action pursuant to § 119.12, Fla. Stat.; and
- D. Such other and further relief as this Court may deem just, proper, and equitable.

**Count 2 – Transmittal of Data to FDLE**  
**(Against Defendants Clerk, Sheriff, & FDOC)**

100. Paragraphs 1–60, 62–71, and 73–81 of this Complaint are incorporated by reference as if specifically set forth herein.

101. Each Defendant (Clerk, Sheriff, and FDOC) has a legal duty to “collect” Criminal Justice Data. *See* § 900.05(3), Fla. Stat. This duty is an operational function over which they have no discretion to refuse to comply with the law.

102. Each Defendant (Clerk, Sheriff, and FDOC) has a legal duty to “report” and transmit the Criminal Justice Data to FDLE. *See id.* This duty is an operational function over which they have no discretion to refuse to comply with the law.

103. Each Defendant (Clerk, Sheriff, and FDOC) has failed to perform their nondiscretionary statutory duties.

104. ACLU, as a member of the public, has a clear legal and constitutional right to access Criminal Justice Data collected by FDLE. It has a right to access the data free of charge through the Internet. Each Defendant’s (Clerk, Sheriff, and FDOC) failure to collect and report the Criminal Justice Data to FDLE interferes with the ACLU’s rights and results in a bona fide dispute between Defendants and the ACLU.

105. Insofar as Clerk, Sheriff, and FDOC have failed to comply with the CJDT Law, the ACLU is in doubt as to the legality of their non-compliance. The ACLU presents a justiciable question.

106. The ACLU has no other adequate remedy available. The ACLU will suffer irreparable harm absent equitable relief.

107. Alternatively, there is a bona fide, actual, present need for this Court to declare that Defendants (Clerk, Sheriff, and FDOC) are non-compliant with the CJDT Law.

**WHEREFORE, the ACLU respectfully requests the following relief:**

- A. A writ of mandamus, or in the alternative a mandatory injunction, commanding Clerk, Sheriff, and FDOC to promptly collect, report, and transmit Criminal Justice Data to FDLE as required by § 900.05(3), Fla. Stat.;
- B. A declaratory judgment that Clerk, Sheriff, and FDOC are in violation of § 900.05(3), Fla. Stat.; and
- C. Such other and further relief as this Court may deem just, proper, and equitable.

**Count 3 – Publication of Data**  
**(Against Defendant FDLE)**

108. Paragraphs 1–52 and 83–90 of this Complaint are incorporated by reference as if specifically set forth herein.

109. The CJDT Law requires FDLE to publish Criminal Justice Data it has received on the Internet and make it publicly assessable at no cost. FDLE’s duty is an operational function over which it has no discretion to refuse to comply with the law.

110. FDLE has failed to perform its nondiscretionary statutory duties.

111. ACLU, as a member of the public, has a clear legal and constitutional right to access Criminal Justice Data collected by FDLE. It has a right to access the data free of charge through the Internet. FDLE’s failure to publish the Criminal Justice Data on the Internet and make it available at no cost to the ACLU interferes

with the ACLU's rights and results in a bona fide dispute between FDLE and the ACLU.

112. Insofar as FDLE has failed to comply with the CJDT Law, the ACLU is in doubt as to the legality of FDLE's non-compliance. The ACLU presents a justiciable question.

113. The ACLU has no other adequate remedy available. The ACLU will suffer irreparable harm absent equitable relief.

114. Alternatively, there is a bona fide, actual, present need for this Court to declare that FDLE is non-compliant with the CJDT Law.

**WHEREFORE, the ACLU respectfully requests the following relief:**

- A. A writ of mandamus, or in the alternative a mandatory injunction, commanding FDLE to promptly publish Criminal Justice Data as required by § 900.05, Fla. Stat.;
- B. A declaratory judgment that FDLE is in violation of § 900.05(4), Fla. Stat.; and
- C. Such other and further relief as this Court may deem just, proper, and equitable.

**DEMAND FOR JURY TRIAL**

The ACLU demands a trial by jury on all issues to triable.



Dated: August 24, 2021.

Respectfully submitted,

/s/ Scott E. Allbright, Jr.

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*Co-Counsel for Plaintiff*

# **EXHIBIT 1**

March 30, 2021 Public Records Request to Clerk



AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION

Florida

March 30, 2021

Transmitted via email to [Redactarchives@browardclerk.org](mailto:Redactarchives@browardclerk.org);  
[records@browardclerk.org](mailto:records@browardclerk.org); [Eclerk@browardclerk.org](mailto:Eclerk@browardclerk.org)

Broward County Clerk of Courts  
ATTN: Public Records Unit  
201 SE 6th Street Room: 18150  
Fort Lauderdale, FL 33301

AMERICAN CIVIL  
LIBERTIES UNION  
FOUNDATION OF  
FLORIDA

4023 N. Armenia Ave., Suite  
450, Tampa, FL 33607  
WWW.ACLUFL.ORG

**Re: Public Records Request: §900.05 Information**

To Whom it May Concern,

Pursuant to the Florida Public Records Law, Chapter 119, Florida Statutes, the American Civil Liberties Union of Florida, Inc., (ACLU of Fla.) hereby requests criminal justice data (§900.05, Fla. Stat.). We welcome the opportunity to answer any questions you might have about this request in order to better facilitate the production of the public records.

**PUBLIC RECORDS REQUESTED**

We request that you produce the following materials created from July 1, 2018, through the present:

- (1) All data identified in § 900.05, Fla. Stat., that the Broward County Clerk of Courts had a duty to collect and report, regardless of whether the Broward County Clerk of Courts actually collected the data to transmit to Florida Department of Law Enforcement.

**INFORMATION ABOUT THE REQUEST**

**Acknowledgement:** *As required by law, please acknowledge that you have received this public records request and provide an estimated timeframe in which you believe that you will be able to provide the requested information. See § 119.07(1)(c), Fla. Stat. (“A custodian of public records*

and his or her designee must acknowledge requests to inspect or copy records promptly and respond to such requests in good faith.”).

**Costs:** The ACLU of Florida is a non-profit tax-exempt organization dedicated to the protection of civil liberties and constitutional rights of all people. The ACLU serves an important public education function, regularly disseminating information of interest to the public through newsletters, news briefings, right-to-know brochures, and other public education materials. The disclosure of the requested information will “promote public awareness and knowledge of governmental actions in order to ensure that governmental officials and agencies remain accountable to the people.” *Forsberg v. Housing Authority of the City of Miami Beach*, 455 So.2d 373, 378 (Fla. 1984). **Therefore, we request that you produce the requested records free of charge.** However, if you are unable to do so, the ACLU will reimburse you for the reasonable costs associated with fulfilling this request, if your office has a policy of requiring the payment of a copying charge for such records. The fees and costs you may charge are governed by Section 119.07(4), Fla. Stat. If you challenge our entitlement to a waiver of fees and anticipate that the total costs associated with fulfilling this request will exceed \$100, please contact me promptly with an estimate of the likely cost before any charges are incurred.

**Justify Exemptions:** If you are unable or refuse to provide part or all of the requested public information, please explain in writing and with particularity the reasons for not providing the requested public information in its entirety, as required by Section 119.07(1)(f), Fla. Stat. If any exemption that you assert applies to only a portion of the records (as opposed to the entire record), please redact the portion you claim is exempt, provide copies of the remainder of the record or records, and detail your reasons for the modification as required by Section 119.07(1)(d-e), Fla. Stat.

**Entire Records:** We request that you produce responsive materials in their entirety, including all attachments, appendices, enclosures and/or exhibits. To the extent that a response to this request would require you to provide multiple copies of identical material, the request is limited so that only one copy of the identical material is requested.

**Record Format:** **If any of the requested records are maintained in a common-format electronic-medium, please provide these records in such native electronic medium and not in paper form.** See § 119.083(5), Fla. Stat. (“An agency must provide a copy of the record in the medium requested if the agency maintains the record in that medium”). For purposes

of this request, common electronic formats include (1) American Standard Code for Information Interchange (“ASCII”), (2) files formatted in one of the Microsoft Office Suite, Corel Suite, OpenOffice Suite, or IBM’s Lotus Suite applications (.doc, .xls, .ppt, .mdb, .wpd, etc.), (3) a text file (.txt), (4) hypertext markup language (.html) or similar web page language, or (5) common media file formats, including mp3, mp4, wma, wav. These common formats are the preferred electronic mediums for production. However, if any of the requested records are only maintained or only can be produced as electronic images, for example a portable document format (.pdf), (n.b., it is possible to print documents into a PDF format either by using Acrobat Professional or a free PDF driver like cutePDF.com), then as an alternative, we request an electronic-image format, preferably PDF. See § 119.01(2), Fla. Stat.

**Preservation: Section 119.07(1)(h-i), Fla. Stat., prohibits the destruction of any of the requested records, including any which you may claim are exempt, for a period after the date on which you receive this written request.** If we institute a civil action to enforce the Florida Public Records Law with respect to the requested records, you may not dispose of the records except by court order after notice to all affected parties.

Thank you for your prompt attention to this request. If you have any questions, wish to obtain further information about the nature of the records in which we are interested, or need more information in order to expedite this request, please do not hesitate to contact me at [jazis@aclufl.org](mailto:jazis@aclufl.org).

Sincerely,

Jacqueline Azis

# **EXHIBIT 2**

March 30, 2021 Public Records Request to Sheriff



AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION

Florida

March 30, 2021

Transmitted via email to erin\_foley@sheriff.org

Broward's Sheriff's Office  
ATTN: Public Records Unit  
2601 West Broward Boulevard  
Fort Lauderdale, FL 33312

AMERICAN CIVIL  
LIBERTIES UNION  
FOUNDATION OF  
FLORIDA

4023 N. Armenia Ave., Suite  
450, Tampa, FL 33607  
WWW.ACLUFL.ORG

**Re: Public Records Request: §900.05 Information**

To Whom it May Concern,

Pursuant to the Florida Public Records Law, Chapter 119, Florida Statutes, the American Civil Liberties Union of Florida, Inc., (ACLU of Fla.) hereby requests criminal justice data (§900.05, Fla. Stat.). We welcome the opportunity to answer any questions you might have about this request in order to better facilitate the production of the public records.

**PUBLIC RECORDS REQUESTED**

We request that you produce the following materials created from July 1, 2018, through the present:

- (1) All data identified in § 900.05, Fla. Stat., that the Broward Sheriff's Office had a duty to collect and report, regardless of whether the Broward Sheriff's Office actually collected the data to transmit to Florida Department of Law Enforcement.

**INFORMATION ABOUT THE REQUEST**

**Acknowledgement:** *As required by law, please acknowledge that you have received this public records request and provide an estimated timeframe in which you believe that you will be able to provide the requested information. See § 119.07(1)(c), Fla. Stat. ("A custodian of public records and his or her designee must acknowledge requests to inspect or copy records promptly and respond to such requests in good faith.")*

**Costs:** The ACLU of Florida is a non-profit tax-exempt organization dedicated to the protection of civil liberties and constitutional rights of all people. The ACLU serves an important public education function, regularly disseminating information of interest to the public through newsletters, news briefings, right-to-know brochures, and other public education materials. The disclosure of the requested information will “promote public awareness and knowledge of governmental actions in order to ensure that governmental officials and agencies remain accountable to the people.” *Forsberg v. Housing Authority of the City of Miami Beach*, 455 So.2d 373, 378 (Fla. 1984). **Therefore, we request that you produce the requested records free of charge.** However, if you are unable to do so, the ACLU will reimburse you for the reasonable costs associated with fulfilling this request, if your office has a policy of requiring the payment of a copying charge for such records. The fees and costs you may charge are governed by Section 119.07(4), Fla. Stat. If you challenge our entitlement to a waiver of fees and anticipate that the total costs associated with fulfilling this request will exceed \$100, please contact me promptly with an estimate of the likely cost before any charges are incurred.

**Justify Exemptions:** If you are unable or refuse to provide part or all of the requested public information, please explain in writing and with particularity the reasons for not providing the requested public information in its entirety, as required by Section 119.07(1)(f), Fla. Stat. If any exemption that you assert applies to only a portion of the records (as opposed to the entire record), please redact the portion you claim is exempt, provide copies of the remainder of the record or records, and detail your reasons for the modification as required by Section 119.07(1)(d-e), Fla. Stat.

**Entire Records:** We request that you produce responsive materials in their entirety, including all attachments, appendices, enclosures and/or exhibits. To the extent that a response to this request would require you to provide multiple copies of identical material, the request is limited so that only one copy of the identical material is requested.

**Record Format:** **If any of the requested records are maintained in a common-format electronic-medium, please provide these records in such native electronic medium and not in paper form.** See § 119.083(5), Fla. Stat. (“An agency must provide a copy of the record in the medium requested if the agency maintains the record in that medium”). For purposes of this request, common electronic formats include (1) American Standard Code for Information Interchange (“ASCII”), (2) files formatted in one of the Microsoft Office Suite, Corel Suite, OpenOffice Suite, or IBM’s Lotus



Suite applications (.doc, .xls, .ppt, .mdb, .wpd, etc.), (3) a text file (.txt), (4) hypertext markup language (.html) or similar web page language, or (5) common media file formats, including mp3, mp4, wma, wav. These common formats are the preferred electronic mediums for production. However, if any of the requested records are only maintained or only can be produced as electronic images, for example a portable document format (.pdf), (n.b., it is possible to print documents into a PDF format either by using Acrobat Professional or a free PDF driver like cutePDF.com), then as an alternative, we request an electronic-image format, preferably PDF. See § 119.01(2), Fla. Stat.

**Preservation: Section 119.07(1)(h-i), Fla. Stat., prohibits the destruction of any of the requested records, including any which you may claim are exempt, for a period after the date on which you receive this written request.** If we institute a civil action to enforce the Florida Public Records Law with respect to the requested records, you may not dispose of the records except by court order after notice to all affected parties.

Thank you for your prompt attention to this request. If you have any questions, wish to obtain further information about the nature of the records in which we are interested, or need more information in order to expedite this request, please do not hesitate to contact me at [jazis@aclufl.org](mailto:jazis@aclufl.org).

Sincerely,

Jacqueline Azis

# **EXHIBIT 3**

March 25, 2021 Public Records Request to FDOC



AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION

Florida

March 25, 2021

Transmitted via email to Jamie.Scarbrough@fdc.myflorida.com

Florida Department of Corrections  
ATTN: Public Records Unit  
501 South Calhoun Street  
Tallahassee, FL 32399-2500

AMERICAN CIVIL  
LIBERTIES UNION  
FOUNDATION OF  
FLORIDA

4023 N. Armenia Ave., Suite  
450, Tampa, FL 33607  
WWW.ACLUFL.ORG

**Re: Public Records Request: §900.05 Information**

To Whom it May Concern,

Pursuant to the Florida Public Records Law, Chapter 119, Florida Statutes, the American Civil Liberties Union of Florida, Inc., (ACLU of Fla.) hereby requests criminal justice data (§900.05, Fla. Stat.). We welcome the opportunity to answer any questions you might have about this request in order to better facilitate the production of the public records.

**PUBLIC RECORDS REQUESTED**

We request that you produce the following materials created from July 1, 2018, through the present:

- (1) All data that the Florida Department of Corrections has collected as required pursuant to § 900.05, Fla. Stat.

**INFORMATION ABOUT THE REQUEST**

**Acknowledgement:** *As required by law, please acknowledge that you have received this public records request and provide an estimated timeframe in which you believe that you will be able to provide the requested information. See § 119.07(1)(c), Fla. Stat. (“A custodian of public records and his or her designee must acknowledge requests to inspect or copy records promptly and respond to such requests in good faith.”).*

**Costs:** The ACLU of Florida is a non-profit tax-exempt organization dedicated to the protection of civil liberties and constitutional rights of all people. The ACLU serves an important public education function, regularly disseminating information of interest to the public through newsletters, news briefings, right-to-know brochures, and other public education materials. The disclosure of the requested information will “promote public awareness and knowledge of governmental actions in order to ensure that governmental officials and agencies remain accountable to the people.” *Forsberg v. Housing Authority of the City of Miami Beach*, 455 So.2d 373, 378 (Fla. 1984). **Therefore, we request that you produce the requested records free of charge.** However, if you are unable to do so, the ACLU will reimburse you for the reasonable costs associated with fulfilling this request, if your office has a policy of requiring the payment of a copying charge for such records. The fees and costs you may charge are governed by Section 119.07(4), Fla. Stat. If you challenge our entitlement to a waiver of fees and anticipate that the total costs associated with fulfilling this request will exceed \$100, please contact me promptly with an estimate of the likely cost before any charges are incurred.

**Justify Exemptions:** If you are unable or refuse to provide part or all of the requested public information, please explain in writing and with particularity the reasons for not providing the requested public information in its entirety, as required by Section 119.07(1)(f), Fla. Stat. If any exemption that you assert applies to only a portion of the records (as opposed to the entire record), please redact the portion you claim is exempt, provide copies of the remainder of the record or records, and detail your reasons for the modification as required by Section 119.07(1)(d-e), Fla. Stat.

**Entire Records:** We request that you produce responsive materials in their entirety, including all attachments, appendices, enclosures and/or exhibits. To the extent that a response to this request would require you to provide multiple copies of identical material, the request is limited so that only one copy of the identical material is requested.

**Record Format:** **If any of the requested records are maintained in a common-format electronic-medium, please provide these records in such native electronic medium and not in paper form.** See § 119.083(5), Fla. Stat. (“An agency must provide a copy of the record in the medium requested if the agency maintains the record in that medium”). For purposes of this request, common electronic formats include (1) American Standard Code for Information Interchange (“ASCII”), (2) files formatted in one of the Microsoft Office Suite, Corel Suite, OpenOffice Suite, or IBM’s Lotus

Suite applications (.doc, .xls, .ppt, .mdb, .wpd, etc.), (3) a text file (.txt), (4) hypertext markup language (.html) or similar web page language, or (5) common media file formats, including mp3, mp4, wma, wav. These common formats are the preferred electronic mediums for production. However, if any of the requested records are only maintained or only can be produced as electronic images, for example a portable document format (.pdf), (n.b., it is possible to print documents into a PDF format either by using Acrobat Professional or a free PDF driver like cutePDF.com), then as an alternative, we request an electronic-image format, preferably PDF. See § 119.01(2), Fla. Stat.

**Preservation: Section 119.07(1)(h-i), Fla. Stat., prohibits the destruction of any of the requested records, including any which you may claim are exempt, for a period after the date on which you receive this written request.** If we institute a civil action to enforce the Florida Public Records Law with respect to the requested records, you may not dispose of the records except by court order after notice to all affected parties.

Thank you for your prompt attention to this request. If you have any questions, wish to obtain further information about the nature of the records in which we are interested, or need more information in order to expedite this request, please do not hesitate to contact me at [jazis@aclufl.org](mailto:jazis@aclufl.org).

Sincerely,

Jacqueline Azis

# **EXHIBIT 4**

April 1, 2021 Public Records Request to FDLE



AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION

Florida

April 1, 2021

Transmitted via email to [publicrecords@fdle.state.fl.us](mailto:publicrecords@fdle.state.fl.us)

Florida Department of Law Enforcement  
Attn: Office of General Counsel Public Records  
P.O. Box 1489  
Tallahassee, FL 32302-1489

AMERICAN CIVIL  
LIBERTIES UNION  
FOUNDATION OF  
FLORIDA

4023 N. Armenia Ave., Suite  
450, Tampa, FL 33607  
WWW.ACLUFL.ORG

**Re: Public Records Request: §900.05 Information**

To Whom it May Concern,

Pursuant to the Florida Public Records Law, Chapter 119, Florida Statutes, the American Civil Liberties Union of Florida, Inc., (ACLU of Fla.) hereby requests criminal justice data (§900.05, Fla. Stat.). We welcome the opportunity to answer any questions you might have about this request in order to better facilitate the production of the public records.

**PUBLIC RECORDS REQUESTED**

We request that you produce the following materials created from July 1, 2018, through the present:

- (1) All data that was collected pursuant to § 900.05, Fla. Stat.

**INFORMATION ABOUT THE REQUEST**

**Acknowledgement:** *As required by law, please acknowledge that you have received this public records request and provide an estimated timeframe in which you believe that you will be able to provide the requested information. See § 119.07(1)(c), Fla. Stat. (“A custodian of public records and his or her designee must acknowledge requests to inspect or copy records promptly and respond to such requests in good faith.”).*

**Costs:** The ACLU of Florida is a non-profit tax-exempt organization dedicated to the protection of civil liberties and constitutional rights of all

people. The ACLU serves an important public education function, regularly disseminating information of interest to the public through newsletters, news briefings, right-to-know brochures, and other public education materials. The disclosure of the requested information will “promote public awareness and knowledge of governmental actions in order to ensure that governmental officials and agencies remain accountable to the people.” *Forsberg v. Housing Authority of the City of Miami Beach*, 455 So.2d 373, 378 (Fla. 1984). **Therefore, we request that you produce the requested records free of charge.** However, if you are unable to do so, the ACLU will reimburse you for the reasonable costs associated with fulfilling this request, if your office has a policy of requiring the payment of a copying charge for such records. The fees and costs you may charge are governed by Section 119.07(4), Fla. Stat. If you challenge our entitlement to a waiver of fees and anticipate that the total costs associated with fulfilling this request will exceed \$100, please contact me promptly with an estimate of the likely cost before any charges are incurred.

**Justify Exemptions:** If you are unable or refuse to provide part or all of the requested public information, please explain in writing and with particularity the reasons for not providing the requested public information in its entirety, as required by Section 119.07(1)(f), Fla. Stat. If any exemption that you assert applies to only a portion of the records (as opposed to the entire record), please redact the portion you claim is exempt, provide copies of the remainder of the record or records, and detail your reasons for the modification as required by Section 119.07(1)(d-e), Fla. Stat.

**Entire Records:** We request that you produce responsive materials in their entirety, including all attachments, appendices, enclosures and/or exhibits. To the extent that a response to this request would require you to provide multiple copies of identical material, the request is limited so that only one copy of the identical material is requested.

**Record Format:** **If any of the requested records are maintained in a common-format electronic-medium, please provide these records in such native electronic medium and not in paper form.** See § 119.083(5), Fla. Stat. (“An agency must provide a copy of the record in the medium requested if the agency maintains the record in that medium”). For purposes of this request, common electronic formats include (1) American Standard Code for Information Interchange (“ASCII”), (2) files formatted in one of the Microsoft Office Suite, Corel Suite, OpenOffice Suite, or IBM’s Lotus Suite applications (.doc, .xls, .ppt, .mdb, .wpd, etc.), (3) a text file (.txt), (4) hypertext markup language (.html) or similar web page language, or (5)



common media file formats, including mp3, mp4, wma, wav. These common formats are the preferred electronic mediums for production. However, if any of the requested records are only maintained or only can be produced as electronic images, for example a portable document format (.pdf), (n.b., it is possible to print documents into a PDF format either by using Acrobat Professional or a free PDF driver like cutePDF.com), then as an alternative, we request an electronic-image format, preferably PDF. See § 119.01(2), Fla. Stat.

**Preservation: Section 119.07(1)(h-i), Fla. Stat., prohibits the destruction of any of the requested records, including any which you may claim are exempt, for a period after the date on which you receive this written request.** If we institute a civil action to enforce the Florida Public Records Law with respect to the requested records, you may not dispose of the records except by court order after notice to all affected parties.

Thank you for your prompt attention to this request. If you have any questions, wish to obtain further information about the nature of the records in which we are interested, or need more information in order to expedite this request, please do not hesitate to contact me at [jazis@aclufl.org](mailto:jazis@aclufl.org) or (786) 363-2708.

Sincerely,

Jacqueline Azis