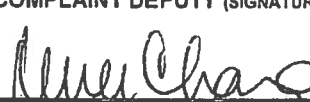
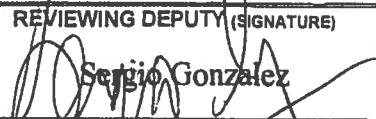


**LOS ANGELES COUNTY DISTRICT ATTORNEY
CHARGE EVALUATION WORKSHEET**

| | | | |
|--|--|--------------------------------------|--|
| <input checked="" type="checkbox"/> FELONY <input type="checkbox"/> MISDEMEANOR | AGENCY NAME LAPD - INTERNAL AFFAIRS | DA CASE NO. 32574042 | DATE 05/14/2012 |
| | AGENCY FILE NO. (DR OR URN) 10-002402 | DA OFFICE CODE J.S.I.D. #10-0906R | VICTIM ASSISTANCE REFERRAL <input type="checkbox"/> YES - NOTIFY VWAP <input type="checkbox"/> NO |

| SUSP NO. | SUSPECT | | | | CHARGES | | | |
|----------|---|----------------|-------------|------------------|----------------------------------|--------------|-------------------------|-------------|
| | | | | | CODE | SECTION | OFFENSE DATE | REASON CODE |
| 1 | NAME (LAST, FIRST MIDDLE) MORALES, GABRIEL SANCHEZ | | | | PC | 502(C)(2) | 08/08/2010 | B |
| | DOB | SEX (M/F) M | BOOKING NO. | VIP -- Yes X No | | | | |
| | Gang Member Name of Gang | | | | Victim Gang Member Name of Gang: | | | |
| | Victim Name: | | | | Victim DOB: | | | |
| 2 | NAME (LAST, FIRST MIDDLE) BINDER, ARLENE | | | | PC | 1054.2(A)(1) | 08/11/2009 - 08/08/2010 | B |
| | DOB | SEX (M/F) F | BOOKING NO. | VIP -- Yes X No | | | | |
| | Gang Member Name of Gang | | | | Victim Gang Member Name of Gang: | | | |
| | Victim Name: | | | | Victim DOB: | | | |
| 3 | NAME (LAST, FIRST MIDDLE) | | | | | | | |
| | DOB | SEX (M/F) | BOOKING NO. | VIP -- Yes -- No | | | | |
| | Gang Member Name of Gang | | | | Victim Gang Member Name of Gang: | | | |
| | Victim Name: | | | | Victim DOB: | | | |

Comments
SEE ATTACHED.

| | | | |
|--|---|-------------------------|---|
| COMPLAINT DEPUTY (print) RENEE CHANG/ap | COMPLAINT DEPUTY (SIGNATURE)  | STATE BAR NO. 174474 | REVIEWING DEPUTY (SIGNATURE)  |
|--|---|-------------------------|---|

I have conveyed all relevant information to the above-named Deputy District Attorney to be used in consideration of a filing decision.

FILING OFFICER (PRINT): ROSA GARRETT FILING OFFICER (SIGNATURE): Mailed 5/18/12 SERIAL #: 3448

| | | | |
|--|--|--|--|
| DEPARTMENT OF JUSTICE REASON CODES (FORM 8715) Lack of Corpus Lack of Sufficient Evidence C. Inadmissible Search/Seizure | D. Victim Unavailable/Declines To Testify E. Witness Unavailable/Declines to Testify F. Combined with Other Counts/Cases G. Interest of Justice | H. Other (indicate the reason in Comments section) I. Referred to Non-California Jurisdiction J. Deferred for Revocation of Parole K. Further Investigation | L. Prosecutor Prefiling Deferral DISTRICT ATTORNEY'S REASON CODES M. Probation Violation filed in lieu of N. Referred to City Attorney for Misdemeanor Consideration |
|--|--|--|--|

LAST NAME: MORALES

FIRST NAME: GABRIEL

DA CASE NUMBER: 32574042

DECLINATION MEMORANDUM

TO: JSID #10-0906R

THROUGH: SERGIO GONZALEZ, Head Deputy
Justice System Integrity Division

FROM: RENEE CHANG, Deputy District Attorney
Justice System Integrity Division

SUBJECT: LAPD Officer Gabriel Sanchez Morales
Attorney Arlene Binder

DATE: May 9, 2012

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of allegations that Los Angeles Police Department (LAPD) Officer Gabriel Sanchez Morales illegally accessed computer information in violation of Penal Code section 502(c)(2) and that attorney Arlene Binder disclosed confidential information in violation of Penal Code section 1054.2(a)(1). For the reasons set forth below, this office declines to initiate criminal proceedings.

The following analysis is based on reports submitted to this office by LAPD Detective Rosa Garrett, additional investigation by District Attorney Senior Investigator Sean Robinson, and statements by Deputy District Attorney Andrea Potts. No compelled statements were considered in this analysis.

FACTUAL ANALYSIS

Gabriel Sanchez Morales

On August 11, 2009, Matthew Turner was arrested for murder.¹ He was charged with murder, attempted murder and possession of a weapon in case BA360333. On April 20, 2010, following a jury trial, the court declared a mistrial because the jury could not reach a unanimous verdict on any charge. On July 30, 2010, a retrial commenced. On August 6, 2010, the jury convicted Turner of all counts.

While pending retrial, LAPD detectives monitored Turner's jailhouse phone calls. During several calls, Turner spoke with family members about "Gabriel" and how he had graduated from the police academy. On August 8, 2010, Turner spoke with his father, Wayne Turner. During the conversation, Wayne Turner stated, "I have Gabriel working on those tattoo guys." The "tattoo guys" were two witnesses who testified during Turner's retrial, Ernesto Olguin and Alfred Vilchis.

¹ Turner was a documented member of the "Avenues" criminal street gang.

"Gabriel" was identified as Gabriel Sanchez Morales. He was dating and living with his longtime girlfriend, Stephanie Turner, Matthew Turner's sister. Morales entered the LAPD academy on April 27, 2009. He was sworn in as a peace officer on September 11, 2009. He did not attend either of Turner's jury trials. However, he was updated by his girlfriend and her family. Two days after the guilty verdicts were rendered, on August 8, 2010, Morales accessed LAPD's Network Communication System (NECS) to run criminal histories for Olguin and Vilchis.

He stated that he queried the two witnesses so that he could locate them in an attempt to help Turner. He denied disseminating the information to anyone else, including Turner's family members. Morales stated that he shredded the results of his search and did not keep copies. However, during a search of Morales' residence, LAPD officers recovered NECS printouts for Olguin and Vilchis. Following the investigation by LAPD Internal Affairs Division (IAD) for the charges alleged in this case, Morales resigned from the LAPD on September 2, 2010.

Stephanie Turner stated that following the convictions, she heard one of the "tattoo guys" state, "you got the wrong guy." She admitted that she had asked Morales to find Olguin and Vilchis. She wanted to help her brother and provide this information to his attorney. She stated that Morales showed her some computer printouts relating to these witnesses and said, "This is what I found." However, she did not recall the contents of the printout. When shown the NCS printouts regarding Olguin and Vilchis that were found in their residence, Stephanie Turner did not definitively state that they were the printouts Morales showed her.

Arlene Binder

Arlene Binder was Turner's defense attorney for both trials. According to LAPD Detective Governo, the investigating officer on the murder case, the defense was provided with a redacted copy of the murder book which did not contain the names and addresses of the victim or witnesses. During her preparation of both trials, she gave copies of the discovery to Turner's father, Wayne Turner. When Andrea Potts, the DDA assigned to the case, found out, she brought it to the attention of the court that was handling the case.² Wayne Turner admitted that Binder gave him the murder book, all DVD's of witness interviews, and all transcripts of the case. The court ordered Wayne Turner to return the discovery items he received to Binder.³ All subsequent discovery was turned over to Binder with a protective order that specified that Turner's family was not to receive any copies.

² Wayne Turner approached one witness, Juan Velasquez, at a bus stop prior to the first trial. He told Velasquez, "You need to do the right thing. Quit lying about my son. You know he didn't do it."

³ DDA Potts requested that the items be returned to the court or placed in a sealed envelope. The court did not grant her request.

CONCLUSION

Penal Code section 502(c)(2) provides that any person who knowingly accesses and without permission takes, copies, or makes use of any data from a computer, computer system, or computer network is guilty of a crime. Section 502 defines "access" in terms redolent of "hacking" or breaking into a computer. *Chrisman v. City of Los Angeles*, (2007) 155 Cal. App 4th 29, 34. "'Access' means to gain entry to, instruct, or communicate with the logical, arithmetical, or memory function resources of a computer, computer system, or computer network." Penal Code section 502(b)(1). The legislative intent of section 502 is to punish computer hackers, underscoring that "accessing" a computer's "logical, arithmetical, or memory function" is different from the ordinary, everyday use of a computer to which people are accustomed when they speak of "using" a computer. *Chrisman* at 34.

Penal Code section 13302 provides that any employee of the local criminal justice agency who knowingly furnishes a record or information to a person who is not authorized by law to receive the record or information is guilty of a misdemeanor.

The evidence examined shows that Morales used the NECS system to query two individuals who were witnesses in Turner's murder trial. Though his inquiries were clearly improper, Morales did not "hack" into the system. He was a sworn LAPD officer with authorization to access the NECS system. Under *Chrisman*, his use of the NECS system would be considered within the scope of his employment as a police officer.

Stephanie Turner, Morales' girlfriend, stated that Morales showed her some computer printouts relating to the "tattoo guys." However, she could not positively identify the NECS printouts regarding Olguin and Vilchis that were found in their residence as the ones shown to her.

Penal Code section 1054.2(a)(1) states that no attorney may disclose or permit to be disclosed to a defendant, members of the defendant's family, or anyone else, the address or telephone number of a victim or witness whose name is disclose to the attorney pursuant to subdivision (a) of Section 1054.1, unless specifically permitted to do so by the court after a hearing and a showing of good cause.

Wayne Turner stated that Arlene Binder gave him a copy of the murder book and DVD's containing witness interviews. Frank Mackey, the defense investigator, stated that he observed Binder showing these videos to Wayne Turner and other family members. Mackey also saw some family members with copies of documents that appeared to be part of the murder book. Neither Turner nor Mackey stated that the discovery contained the addresses or phone numbers of the witnesses. Additionally, Detective Governo stated that the defense was provided with a redacted copy of the murder book which did not contain the names and addresses of the victim or witnesses.

Based on the available evidence, it cannot be proven beyond a reasonable doubt that Gabriel Sanchez Morales furnished information from an NCES query to Stephanie Turner in violation of Penal Code section 13302 or that Arlene Binder disclosed the

addresses or telephone numbers of the witnesses in violation of Penal Code section 1054.3. We also find that Morales did not illegally access computer information within the meaning of Penal Code section 502(c)(2). Therefore, we are closing our file and will take no further action in this matter.