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Attorney for Petitioners,
American Civil Liberties Union
and
American Civil Liberties Union
of Northern California

**ELECTRONICALLY
FILED**
*Superior Court of California,
County of San Francisco*
09/15/2016
Clerk of the Court
BY: ANNA TORRES
Deputy Clerk

SUPERIOR COURT OF CALIFORNIA

CITY AND COUNTY OF SAN FRANCISCO

American Civil Liberties Union,
American Civil Liberties Union of Northern
California,

Petitioners,

v.

California Department of Corrections and
Rehabilitation,

Respondent.

) Case No. CPF-16-515083
)
)
) Declaration of Micaela Davis in
) Support of Motion for Writ of
) Mandate
)
) Date: October 13, 2016
) Time: 9:30 am
) Judge: Hon. Harold Kahn
) Department: 302
) Reservation Number: 08241013-05
)
) Trial date: None set.
) Date filed: June 7, 2016
)

1 I, Micaela Davis, declare:

2 1. I am an attorney licensed to practice in the state of California and am employed at the American
3 Civil Liberties Union Foundation of Northern California. I have personal knowledge of the facts set
4 forth in this Declaration and, if called upon, could testify to those facts.

5 2. Phillips Black, a public interest law firm, submitted a request under the California Public
6 Records Act (“PRA”) to the California Department of Corrections and Rehabilitation (“Department” or
7 “CDCR”) seeking records about inmates in the Department’s custody serving life sentences without the
8 possibility of parole for crimes committed as juveniles (“juvenile LWOP inmates”). Petitioner American
9 Civil Liberties Union of Northern California (“ACLU-NC”) received from Phillips Black the email
10 chain showing Phillips Black’s PRA requests and the Department’s partial responses, which is attached
11 as Exhibit A to this Declaration.

12 3. Specifically, Phillips Black sought the following information about juvenile LWOP inmates:
13 names, dates of conviction, counties of conviction, current places of confinement, sentence dates, race,
14 gender and date of birth. Exhibit A at 9, 7, 4-5, 2-3 (July 8, 2015 email from A. Dorn to M. Tuntakit and
15 J. Callison; July 22, 2015 email from A. Dorn to J. DeVoe; Aug. 17, 2015 email from A. Dorn to J.
16 DeVoe; Sept. 18, 2015 email from A. Dorn to J. DeVoe).

17 4. The Department told Phillips Black that it could not produce the information about ethnicity and
18 gender because Title 15 of the California Code of Regulations § 3261.2 “d[id] not include ethnicity and
19 gender as types of personal information that CDCR may release.” Ex. A at 6 (July 22, 2015 email from
20 J. DeVoe to A. Dorn).

21 5. The Department also told Phillips Black that it could not provide the inmates’ dates of birth “Per
22 Title 15, Section 3261.2, and Government Code § 6254(c) and (k).” Ex. A at 2-3 (Sept. 18, 2015 email
23 from J. DeVoe to A. Dorn).

24 6. The Department sent a response letter to Phillips Black producing most of the requested
25 information for 289 inmates, including name, offense date, sentence begin date, age at offense, county of
26 conviction and institution, but did not produce the inmates’ dates of birth, dates, race, gender or dates of
27 conviction. The ACLU-NC received from Phillips Black the response letter from the Department, which
28

1 is attached as Exhibit B to this Declaration.

2 7. The Department also stated there were 16 additional juvenile LWOP inmates for whom the
3 Department would not be disclosing *any* information, because it “ha[d] determined that release of their
4 information may pose a safety and security issue to themselves or to CDCR.” Ex. B.

5 8. Petitioner ACLU-NC sent a follow-up letter on behalf of the ACLU-NC and Phillips Black,
6 requesting that the Department reconsider its refusal to release any information about the 16 inmates
7 and to withhold the race, sex, and date of birth of all of the inmates. A true and correct copy of that
8 letter is attached as Exhibit C to this Declaration. This letter asked that the Department release
9 documents containing that information, as well as inmate numbers for the juvenile LWOP inmates.

10 9. The Department sent the ACLU-NC a letter denying this request, again citing Government
11 Code §§ 6254(c) and (k) and 15 C.C.R. § 3261.2, and also citing Government Code § 6254(f). A true
12 and correct copy of this letter is attached as Exhibit D to this Declaration. The Department asserted
13 that the requested information about the inmates’ identities and underlying convictions constitutes
14 “criminal offender record information,” which cannot lawfully be released to the public, that the
15 information on the 16 inmates was exempt from disclosure under Government Code § 6254(f), and
16 that information on race, sex, date of birth and inmate number was exempt under Government Code
17 §§ 6254(c) and (k). *Id.* In explaining why it had released much of the information for 289 prisoners,
18 the Department asserted that 15 C.C.R. § 3261.2 gives it “some discretion” to release or withhold this
19 information. *Id.*

20 10. The Department has an inmate locator function on its website that allows the public to input
21 names and find corresponding inmate numbers, age, admission date and current institution for most
22 inmates. The public may also do the reverse and input an inmate number and pull up name, age,
23 admission date and current institution. The sex of an inmate is also revealed in that a W is placed in
24 front of female inmates’ CDCR numbers. The inmate locator website is available at
25 <http://inmatelocator.cdcr.ca.gov/>.

26 11. The Department has an Operations Manual in which it sets forth rules governing the
27 Department’s Adult Institutions, Programs and Parole. *See* California Department of Corrections and
28

Rehabilitation, Adult Institutions, Programs and Parole, “Operations Manual,” (2016), *available at*: http://www.cdcr.ca.gov/Regulations/Adult_Operations/docs/DOM/DOM%202016/2016_DOM.PDF. Section 13010.9 of the Operations Manual provides that in the event of an escape, the Department releases information on escaped inmates to the public, including the individual’s name, CDCR number, date of birth, race, sex, and commitment offense. *Id.* § 13010.9. Section 13030.23.3 lists the information about inmates that is not exempt from disclosure which include date of birth, race, and CDCR number, among other things. *Id.* § 13030.23.3. Section 86060.5 lists the types of non-personal information that can made disclosed to the public or news media and similarly includes date of birth, race and CDCR number. *Id.* § 86060.5.

12. Petitioners ACLU-NC and American Civil Liberties Union (“ACLU”) filed the Verified Petition for Writ of Mandate (“Petition”) in this matter requesting that the Court issue a writ of mandate 1) requiring the Department to produce the records requested by both petitioners; 2) prohibiting the Department from relying on 15 California Code of Regulations § 3261.2 to deny requesters access to records subject to disclosure under the PRA; and 3) prohibiting the Department from requiring requesters to submit to the Department’s research review process in order to get records otherwise publicly available under the PRA. A true and correct copy of the June 7, 2016 Petition is attached as Exhibit E to this declaration.

13. The Department filed an Answer to the Petition. A true and correct copy of the Department’s July 20, 2016 Answer is attached as Exhibit F to this Declaration.

14. After Petitioners filed the Petition, counsel for the Department, Deputy Attorney General Michelle Mitchell agreed to produce the statistical and demographic information requested by Petitioner ACLU. Ms. Mitchell also stated that she would get back to Petitioners with an answer as to whether the Department would produce the remainder of the documents demanded through the writ. A true and correct copy of my email to Ms. Mitchell memorializing the conversation in which these matters were discussed is attached as Exhibit G to this Declaration.

15. I told Ms. Mitchell that Petitioners remained concern that the CDCR’s withholding of documents otherwise available under the PRA based on its research review protocol or its reliance on

1 15 C.C.R. section 3261.2 were ongoing problems that needed to be resolved with a binding settlement
2 agreement or court order. Ex. G.

3 16. The Department sent me an email with the letter and responsive documents for the ACLU. A
4 true and correct copy of the email and attached letter containing the responsive documents from Ms.
5 Mitchell to myself is attached as Exhibit H to this Declaration.

6 17. I responded to Ms. Mitchell and let her know that we would like to know the status of the
7 remaining requests as soon as possible. A true and correct copy of my email to Ms. Mitchell is
8 attached as Exhibit I to this Declaration.

9 18. Ms. Mitchell sent an email approximately two weeks later and stated that “she had discussed
10 the remaining issues raised in the petition for writ of mandate regarding the PRA request,” and that the
11 “CDCR continues to assert that the information withheld is exempt from disclosure.” A true and
12 correct copy of Ms. Mitchell’s email to me is attached as Exhibit J to this Declaration.

13 19. I responded to Ms. Mitchell and stated that I wanted to confirm that the CDCR was “asserting
14 that 1) it will not agree to stop requiring requesters to go through the research review process to obtain
15 records or information that is subject to release under the PRA and 2) that it will not agree to stop
16 relying upon 15 C.C.R. 3261.2 to deny release of records subject to release under the PRA. A true and
17 correct copy of my email to Ms. Mitchell is attached as Exhibit K to this Declaration.

18 20. Ms. Mitchell responded to me that: “The only relevant issue is whether the CDCR has withheld
19 information or records to which you are entitled under the law. The rest is relief to which you are not
20 entitled via a writ of mandate.” A true and correct copy of Ms. Mitchell’s email to me is attached as
21 Exhibit L to this Declaration.

22 I declare under penalty of perjury under the laws of the State of California that the foregoing is
23 true and correct.

24 Executed this 14th day of September, 2016 in San Francisco, California.

25
26 By:

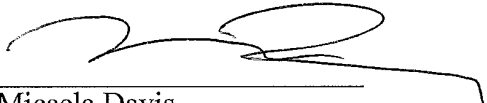

Micaela Davis
Staff Attorney
ACLU Foundation of Northern California

Exhibit A



Anna Dorn <a.dorn@phillipsblack.org>

Public Records Request

DeVoe, June@CDCR <June.DeVoe@cdcr.ca.gov>
To: Anna Dorn <a.dorn@phillipsblack.org>

Thu, Sep 24, 2015 at 2:07 PM

We received Ms. Dorn's cashier's check. David has her PRA to work on.

June DeVoe

Research Manager I

Data Analysis Unit

Estimates and Statistical Analysis Section

Offender information Services Branch

V-mail (916) 322-4255

E-mail June.DeVoe@CDCR.ca.gov

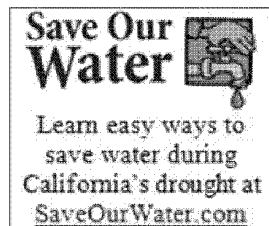
From: Anna Dorn [mailto:a.dorn@phillipsblack.org]
Sent: Tuesday, September 22, 2015 4:42 PM
To: Atkinson, Jay@CDCR
Cc: DeVoe, June@CDCR; Donahue, Michael@CDCR; Beaty, Dennis@CDCR
Subject: Re: FW: Public Records Request

Thanks very much, Mr. Atkinson!

On Tue, Sep 22, 2015 at 3:58 PM, Atkinson, Jay@CDCR <Jay.Atkinson@cdcr.ca.gov> wrote:

We will let you know when we receive it, and when we can get you the data.

Jay Atkinson, Chief
Offender Information Services Branch,
Office of Research
E-Mail: Jay.Atkinson@cdcr.ca.gov
Phone: (916) 324-8810
Fax: (916) 327-5836



From: Anna Dorn [mailto:a.dorn@phillipsblack.org]
Sent: Tuesday, September 22, 2015 1:53 PM
To: DeVoe, June@CDCR <June.DeVoe@cdcr.ca.gov>

Cc: Atkinson, Jay@CDCR <Jay.Atkinson@cdcr.ca.gov>; Donahue, Michael@CDCR <Michael.Donahue@cdcr.ca.gov>; Beaty, Dennis@CDCR <Dennis.Beaty@cdcr.ca.gov>
Subject: Re: FW: Public Records Request

Hi Mr. Atkinson,

I mailed out the check this morning. Please let me know when it arrives.

Best,

Anna

On Mon, Sep 21, 2015 at 9:11 AM, Anna Dorn <a.dorn@phillipsblack.org> wrote:

Hi Mr. Atkinson,

I apologize for the delay getting back to you -- I had to confer with my supervisor. We would like to just add date of sentence to the request, per the last letter. I will send a cashier's check for \$351.28 today.

Thanks,

Anna

On Mon, Sep 21, 2015 at 7:30 AM, DeVoe, June@CDCR <June.DeVoe@cdcr.ca.gov> wrote:

Jay,

In the attached email, Ms. Dorn requested the sentence date and DOB on Monday, August 17th. I called her that day and explained we could not provide DOB which is why she sent another email on August 19th asking for the sentence date. In that second email she also requested clarification on the ages of two individuals listed on our initial response. The cost letter that was sent on the 24th (sent to you in an earlier email this morning) was in response to her request of August 19th.

I heard nothing from Ms. Dorn since then.

June DeVoe

Research Manager I

Data Analysis Unit

Estimates and Statistical Analysis Section

Offender Information Services Branch

V-mail (916) 322-4255

E-mail June.DeVoe@CDCR.ca.gov

From: Atkinson, Jay@CDCR
Sent: Friday, September 18, 2015 1:34 PM
To: Anna Dorn; DeVoe, June@CDCR
Cc: Donahue, Michael@CDCR; Beaty, Dennis@CDCR
Subject: RE: FW: Public Records Request

Importance: High

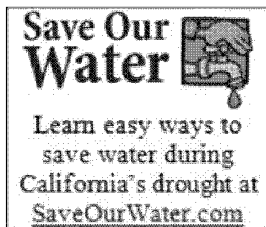
Anna, I have reviewed all e-mails and documents, related to your requests, and have the following comments:

1. Attached please find a signed cost letter, dated August 24, 2015, for adding the "date of sentence" to the list of LWOPs that we had previously sent you. I will follow-up with June on Monday, as to why you did not receive a copy of it.
2. Although, the attached cost letter does not address your request for date of birth (DOB), which we cannot provide you anyway, Per Title 15, Section 3261.2, and Government Code § 6254 (c) and (k), I can have June revise the cost letter on Monday to include the inmates' age at the time of the commitment offense, for which they received the LWOP sentence for, in lieu of DOB.

Please let me know what your preference is, and we will follow-up with you again on Monday.

Thanks,

Jay Atkinson, Chief
Offender Information Services Branch,
Office of Research
E-Mail: Jay.Atkinson@cdcr.ca.gov
Phone: (916) 324-8810
Fax: (916) 327-5836



From: Anna Dorn [mailto:a.dorn@phillipsblack.org]
Sent: Friday, September 18, 2015 11:26 AM
To: DeVoe, June@CDCR <June.DeVoe@cdcr.ca.gov>
Cc: Atkinson, Jay@CDCR <Jay.Atkinson@cdcr.ca.gov>; Donahue, Michael@CDCR <Michael.Donahue@cdcr.ca.gov>
Subject: Re: FW: Public Records Request

Hi Ms. DeVoe,

I'm just circling back about the following:

- (1) Do you think it would be possible to provide date of sentence for the inmates?
- (2) Same re date of birth?

Thanks!

Anna

On Mon, Aug 24, 2015 at 1:35 PM, DeVoe, June@CDCR <June.DeVoe@cdcr.ca.gov> wrote:

Ms. Dorn,

Another cost estimate letter will be forthcoming.

Regarding the two individuals:

Sam Savin was less than a month shy of his 18th birthday at the time of the Life WithOut the possibility of Parole (LWOP) offense.

Isaac Martinez was 17 at the time of his first LWOP offense.

June DeVoe

Research Manager I

Data Analysis Unit

Estimates and Statistical Analysis Section

Offender information Services Branch

V-mail (916) 322-4255

E-mail June.DeVoe@CDCR.ca.gov

From: Anna Dorn [mailto:a.dorn@phillipsblack.org]

Sent: Wednesday, August 19, 2015 10:30 AM

To: DeVoe, June@CDCR

Subject: Re: FW: Public Records Request

Hi Ms. DeVoe,

I'm just following up regarding our conversation on Monday. I was hoping you could provide the sentence dates for the inmates you provided. I've included my spreadsheet of the data as well as the pdf you provided for your reference. If you could provide the information in excel form, I'd greatly appreciate it.

Also, I have questions about (1) Savin Sam; and (2) Issac Martinez. The pdf you've provided indicates both were over 18 at the time of their offense, so I wanted to confirm that they were included erroneously.

Thanks!

Anna

On Mon, Aug 17, 2015 at 2:06 PM, Anna Dorn <a.dorn@phillipsblack.org> wrote:

Hi Ms. DeVoe,

Thank you so much for providing the data. Two quick questions --

(1) Do you think it would be possible to provide date of sentence for the inmates?

(2) Same re date of birth?

Thanks!

Anna

On Thu, Jul 30, 2015 at 10:07 AM, DeVoe, June@CDCR <June.DeVoe@cdcr.ca.gov> wrote:

As stated in the cost estimate letter:

The OISB will notify you when the data are available. It is estimated that it may take up to 120 days from the date payment is received to develop the program and produce the report. Should you have any questions or concerns, please feel free to contact the undersigned to discuss this matter further.

Sincerely,

June DeVoe

Research Manager I

Data Analysis Unit

Estimates and Statistical Analysis Section

Offender Information Services Branch

V-mail (916) 322-4255

E-mail June.DeVoe@CDCR.ca.gov

From: Anna Dorn [mailto:a.dorn@phillipsblack.org]

Sent: Thursday, July 30, 2015 10:02 AM

To: DeVoe, June@CDCR

Subject: Re: FW: Public Records Request

Great! When can I expect to receive the data?

Thanks,

Anna

On Thu, Jul 30, 2015 at 9:50 AM, DeVoe, June@CDCR <June.DeVoe@cdcr.ca.gov> wrote:

We have received the payment. Thank you.

June DeVoe

Research Manager I

Data Analysis Unit

Estimates and Statistical Analysis Section

Offender information Services Branch
V-mail (916) 322-4255
E-mail June.DeVoe@CDCR.ca.gov

From: Anna Dorn [mailto:a.dorn@phillipsblack.org]
Sent: Thursday, July 23, 2015 5:16 PM

To: DeVoe, June@CDCR
Cc: Atkinson, Jay@CDCR; Callison, Jeffrey; Beaty, Dennis@CDCR
Subject: Re: FW: Public Records Request

Hi Ms. DeVoe,

I mailed the check yesterday. Please let me know when it's received.

Best,

Anna

On Wed, Jul 22, 2015 at 4:02 PM, Anna Dorn <a.dorn@phillipsblack.org> wrote:

Thanks for letting me know. I'll send in the check for the original check today.

Best,

Anna

On Wed, Jul 22, 2015 at 2:02 PM, DeVoe, June@CDCR <June.DeVoe@cdcr.ca.gov> wrote:

Ms. Dorn,

Unfortunately, Section 3261.2 , California Code of Regulations, Title 15, Section 3261.2, Authorized Release of Information, does not include ethnicity and gender as types of personal information on inmates that CDCR may release. Therefore, we are unable to expand your RPA request as requested below.

June DeVoe

Research Manager I

Data Analysis Unit

Estimates and Statistical Analysis Section

Offender information Services Branch

V-mail (916) 322-4255

E-mail June.DeVoe@CDCR.ca.gov

From: Anna Dorn [mailto:a.dorn@phillipsblack.org]

Sent: Wednesday, July 22, 2015 10:04 AM

To: DeVoe, June@CDCR
Cc: Atkinson, Jay@CDCR; Callison, Jeffrey; Beaty, Dennis@CDCR
Subject: Re: FW: Public Records Request

Thank you. And will the price be the same if race and gender are added to the request?

Best,
Anna

On Wed, Jul 22, 2015 at 9:01 AM, DeVoe, June@CDCR <June.DeVoe@cdcr.ca.gov> wrote:

Ms. Dorn,

Please refer to the attached cost letter, page one:

The estimated cost for compiling this data is \$506.23. The payment must be received prior to the release of the data. Remit payment by a cashier's check or money order to the "California Department of Corrections and Rehabilitation", 1515 Street, Room 221N, Sacramento, CA 95811, Attention: June DeVoe and include the following reference in the "memo field" on the payment: "PRA-8733, Dorn".

June DeVoe

Research Manager I

Data Analysis Unit

Estimates and Statistical Analysis Section

Offender information Services Branch

V-mail (916) 322-4255

E-mail June.DeVoe@CDCR.ca.gov

From: Anna Dorn [mailto:a.dorn@phillipsblack.org]
Sent: Tuesday, July 21, 2015 5:49 PM
To: DeVoe, June@CDCR
Cc: Atkinson, Jay@CDCR; Callison, Jeffrey; Beaty, Dennis@CDCR

Subject: Re: FW: Public Records Request

Thanks Mr. Atkinson. To whom do I make out the check and where do I send it?

On Tue, Jul 21, 2015 at 1:36 PM, DeVoe, June@CDCR <June.DeVoe@cdcr.ca.gov> wrote:

Ms. Dorn,

Attached is our cost estimate response to your PRA of July 8, 2015. If you have any questions, please feel free to contact Jay Atkinson at Jay.Atkinson@CDCR.Ca.gov.

Thank you.

June DeVoe

Research Manager I

Data Analysis Unit

Estimates and Statistical Analysis Section

Offender information Services Branch

V-mail (916) 322-4255

E-mail June.DeVoe@CDCR.ca.gov

From: Anna Dorn [mailto:a.dorn@phillipsblack.org]

Sent: Friday, July 17, 2015 1:32 PM

To: DeVoe, June@CDCR

Cc: Atkinson, Jay@CDCR

Subject: Re: FW: Public Records Request

Thanks very much for your email and voicemail. I look forward to hearing from you.

On Fri, Jul 17, 2015 at 8:54 AM, DeVoe, June@CDCR <June.DeVoe@cdcr.ca.gov> wrote:

Good morning Ms. Dorn,

This is a follow-up to the phone message I left at your number at 8:35 this morning (11:35 EST).

My office is in receipt of your request for public records dated July 8, 2015. You requested the following information for currently incarcerated inmates who were sentenced to life without parole for an offense committed prior to the inmate's eighteenth birthday:

Inmate name;

Date of conviction;

County of conviction; and

Current institution of confinement.

We will provide a cost estimate for your request on Tuesday, July 21, 2015. The individual who will develop the program needed to obtain the data is out of the office and will not be available until Monday.

If you have any questions, please contact me. Thank you and have a good weekend.

June DeVoe

Research Manager I

Data Analysis Unit

Estimates and Statistical Analysis Section

Offender information Services Branch

V-mail (916) 322-4255

E-mail June.DeVoe@CDCR.ca.gov

.....
From: Anna Dorn [mailto:a.dorn@phillipsblack.org]

Sent: Wednesday, July 08, 2015 11:35 AM

To: Tuntakit, Michael@CDCR; Callison, Jeffrey

Subject: Public Records Request

Dear Mr. Tuntakit and Mr. Callison,

I am writing to request public information. I am seeking information related to inmates who have been sentenced to life without possibility of parole for an offense committed prior to the inmate's eighteenth birthday. Specifically, I am seeking the total number of inmates currently serving such a sentence and their respective names, date and county of conviction and current institution of confinement.

I am willing to pay reasonable fees and expenses related to this request, up to \$100. If the total cost will exceed that amount, please let me know.

The information is related to a case with very strict deadlines. For that reason, I am requesting, if possible, that you expedite the request.

Please let me know if you require additional information. I look forward to hearing from you soon.

Sincerely,
Anna Dorn

--

Anna Dorn | Phillips Black

Research Fellow

a non-profit, public interest law office

phillipsblack.org

202.215.6270 (tel)

--

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202.215.6270 (tel)

--

Anna Dorn | Phillips Black
Research Fellow
a non-profit, public interest law office

phillipsblack.org

202.215.6270 (tel)

----- Forwarded message -----

From: "DeVoe, June@CDCR" <June.DeVoe@cdcr.ca.gov>
To: Anna Dorn <a.dorn@phillipsblack.org>
Cc: "Atkinson, Jay@CDCR" <Jay.Atkinson@cdcr.ca.gov>, "Donahue, Michael@CDCR" <Michael.Donahue@cdcr.ca.gov>
Date: Mon, 24 Aug 2015 20:35:49 +0000
Subject: RE: FW: Public Records Request

Ms. Dorn,

Another cost estimate letter will be forthcoming.

Regarding the two individuals:

Sam Savin was less than a month shy of his 18th birthday at the time of the Life WithOut the possibility of Parole (LWOP) offense.

Isaac Martinez was 17 at the time of his first LWOP offense.

June DeVoe

Research Manager I

Data Analysis Unit

Estimates and Statistical Analysis Section

Offender information Services Branch

V-mail (916) 322-4255

E-mail June.DeVoe@CDCR.ca.gov

From: Anna Dorn [mailto:a.dorn@phillipsblack.org]

Sent: Wednesday, August 19, 2015 10:30 AM

To: DeVoe, June@CDCR

Subject: Re: FW: Public Records Request

Hi Ms. DeVoe,

I'm just following up regarding our conversation on Monday. I was hoping you could provide the sentence dates for the inmates you provided. I've included my spreadsheet of the data as well as the pdf you provided for your reference. If you could provide the information in excel form, I'd greatly appreciate it.

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Anna

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(2) Same re date of birth?

Thanks!

Anna

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As stated in the cost estimate letter:

The OISB will notify you when the data are available. It is estimated that it may take up to 120 days from the date payment is received to develop the program and produce the report. Should you have any questions or concerns, please feel free to contact the undersigned to discuss this matter further.

Sincerely,

June DeVoe

Research Manager I

Data Analysis Unit

Estimates and Statistical Analysis Section

Offender information Services Branch

V-mail (916) 322-4255

E-mail June.DeVoe@CDCR.ca.gov

From: Anna Dorn [mailto:a.dorn@phillipsblack.org]
Sent: Thursday, July 30, 2015 10:02 AM
To: DeVoe, June@CDCR

Subject: Re: FW: Public Records Request

Great! When can I expect to receive the data?

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Anna

On Thu, Jul 30, 2015 at 9:50 AM, DeVoe, June@CDCR <June.DeVoe@cdcr.ca.gov> wrote:

We have received the payment. Thank you.

June DeVoe

Research Manager I

Data Analysis Unit

Estimates and Statistical Analysis Section

Offender information Services Branch

V-mail (916) 322-4255

E-mail June.DeVoe@CDCR.ca.gov

From: Anna Dorn [mailto:a.dorn@phillipsblack.org]
Sent: Thursday, July 23, 2015 5:16 PM

To: DeVoe, June@CDCR
Cc: Atkinson, Jay@CDCR; Callison, Jeffrey; Beaty, Dennis@CDCR
Subject: Re: FW: Public Records Request

Hi Ms. DeVoe,

I mailed the check yesterday. Please let me know when it's received.

Best,

Anna

On Wed, Jul 22, 2015 at 4:02 PM, Anna Dorn <a.dorn@phillipsblack.org> wrote:

Thanks for letting me know. I'll send in the check for the original check today.

Best,

Anna

On Wed, Jul 22, 2015 at 2:02 PM, DeVoe, June@CDCR <June.DeVoe@cdcr.ca.gov> wrote:

Ms. Dorn,

Unfortunately, Section 3261.2 , California Code of Regulations, Title 15, Section 3261.2, Authorized Release of Information, does not include ethnicity and gender as types of personal information on inmates that CDCR may release. Therefore, we are unable to expand your RPA request as requested below.

June DeVoe

Research Manager I

Data Analysis Unit

Estimates and Statistical Analysis Section

Offender information Services Branch

V-mail (916) 322-4255

E-mail June.DeVoe@CDCR.ca.gov

From: Anna Dorn [mailto:a.dorn@phillipsblack.org]

Sent: Wednesday, July 22, 2015 10:04 AM

To: DeVoe, June@CDCR

Cc: Atkinson, Jay@CDCR; Callison, Jeffrey; Beaty, Dennis@CDCR

Subject: Re: FW: Public Records Request

Thank you. And will the price be the same if race and gender are added to the request?

Best,

Anna

On Wed, Jul 22, 2015 at 9:01 AM, DeVoe, June@CDCR <June.DeVoe@cdcr.ca.gov> wrote:

Ms. Dorn,

Please refer to the attached cost letter, page one:

The estimated cost for compiling this data is \$506.23. The payment must be received prior to the release of the data. Remit payment by a cashier's check or money order to the "California Department of Corrections and Rehabilitation", 1515 Street, Room 221N, Sacramento, CA 95811, Attention: June DeVoe and include the following reference in the "memo field" on the payment: "PRA-8733, Dorn".

June DeVoe

Research Manager I

Data Analysis Unit

Estimates and Statistical Analysis Section

Offender information Services Branch

V-mail (916) 322-4255

E-mail June.DeVoe@CDCR.ca.gov

From: Anna Dorn [mailto:a.dorn@phillipsblack.org]

Sent: Tuesday, July 21, 2015 5:49 PM

To: DeVoe, June@CDCR

Cc: Atkinson, Jay@CDCR; Callison, Jeffrey; Beaty, Dennis@CDCR

Subject: Re: FW: Public Records Request

Thanks Mr. Atkinson. To whom do I make out the check and where do I send it?

On Tue, Jul 21, 2015 at 1:36 PM, DeVoe, June@CDCR <June.DeVoe@cdcr.ca.gov> wrote:

Ms. Dorn,

Attached is our cost estimate response to your PRA of July 8, 2015. If you have any questions, please feel free to contact Jay Atkinson at Jay.Atkinson@CDCR.Ca.gov.

Thank you.

June DeVoe

Research Manager I

Data Analysis Unit

Estimates and Statistical Analysis Section

*Offender information Services Branch
V-mail (916) 322-4255
E-mail June.DeVoe@CDCR.ca.gov*

From: Anna Dorn [mailto:a.dorn@phillipsblack.org]
Sent: Friday, July 17, 2015 1:32 PM
To: DeVoe, June@CDCR
Cc: Atkinson, Jay@CDCR
Subject: Re: FW: Public Records Request

Thanks very much for your email and voicemail. I look forward to hearing from you.

On Fri, Jul 17, 2015 at 8:54 AM, DeVoe, June@CDCR <June.DeVoe@cdcr.ca.gov> wrote:

Good morning Ms. Dorn,

This is a follow-up to the phone message I left at your number at 8:35 this morning (11:35 EST).

My office is in receipt of your request for public records dated July 8, 2015. You requested the following information for currently incarcerated inmates who were sentenced to life without parole for an offense committed prior to the inmate's eighteenth birthday:

Inmate name;
Date of conviction;
County of conviction; and
Current institution of confinement.

We will provide a cost estimate for your request on Tuesday, July 21, 2015. The individual who will develop the program needed to obtain the data is out of the office and will not be available until Monday.

If you have any questions, please contact me. Thank you and have a good weekend.

June DeVoe
Research Manager I

Data Analysis Unit

Estimates and Statistical Analysis Section

*Offender information Services Branch
V-mail (916) 322-4255
E-mail June.DeVoe@CDCR.ca.gov*

.....
From: Anna Dorn [mailto:a.dorn@phillipsblack.org]
Sent: Wednesday, July 08, 2015 11:35 AM
To: Tuntakit, Michael@CDCR; Callison, Jeffrey
Subject: Public Records Request

Dear Mr. Tuntakit and Mr. Callison,

I am writing to request public information. I am seeking information related to inmates who have been sentenced to life without possibility of parole for an offense committed prior to the inmate's eighteenth birthday. Specifically, I am seeking the total number of inmates currently serving such a sentence and their respective names, date and county of conviction and current institution of confinement.

I am willing to pay reasonable fees and expenses related to this request, up to \$100. If the total cost will exceed that amount, please let me know.

The information is related to a case with very strict deadlines. For that reason, I am requesting, if possible, that you expedite the request.

Please let me know if you require additional information. I look forward to hearing from you soon.

Sincerely,
Anna Dorn

--

Anna Dorn | Phillips Black

Research Fellow

a non-profit, public interest law office

phillipsblack.org

202.215.6270 (tel)

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Exhibit B

OFFICE OF RESEARCH

P.O. Box 942883
Sacramento, CA 94283-0001



October 30, 2015

Email: a.dorn@phillipsblack.org

RE: Public Records Act Request Number 9067

Dear Ms. Dorn:

This letter is in response to your request for public records dated August 19, 2015 and received by the California Department of Corrections and Rehabilitation (CDCR) Office of Research on the same date. The list of CDCR offenders you requested has been uploaded to the State of California Office of Technology Secure File Transfer Service (OTECH-SFT) as a PDF file, labeled 'Under 18 LWOPS with Sentence Date'. You may access the file through the internet at the website <https://sft.ca.gov> and in the Name portion of the User Login, enter: "cdcr-or-oisbdaclient3" (minus the quotation marks). The password to log into the website and access the file will be sent to you in a subsequent email following the receipt of this letter.

Per your request, the list is for currently incarcerated inmates who were sentenced to Life Without the possibility Of Parole (LWOP) for an offense committed prior to the inmate's eighteenth birthday. This list of 289 inmates excludes 16 offenders for whom CDCR has determined that release of their information may pose a safety and security issue to themselves or to CDCR. Below is a brief description of the data columns on the list:

DATA COLUMN	COLUMN DESCRIPTION
Name	Name for this CDCFR offender
Offense Date	Date of the LWOP offense
Sentence Begin Date	The date on which the offender received their sentence
Age at Offense	Offender's age at the time of LWOP offense
County of Conviction	County of conviction for the LWOP offense
Institution	Current institution of confinement

Should you have any questions or concerns please feel free to contact me at (916) 324-8810 to discuss this matter further.

Sincerely,

A handwritten signature in black ink, appearing to read "JAY ATKINSON", is written over a horizontal line.

JAY ATKINSON
PRA Coordinator
Office of Research/Offender Information Services Branch

cc: Jeffrey Callison, Press Secretary
Dennis Beaty, Assistant General Counsel, Office of Legal Affairs
Kathryn Clark, Staff Counsel, Office of Legal Affairs

Exhibit C



December 30, 2015

Via U.S. Mail and Electronic Mail

California Department of Corrections and Rehabilitation
Public Records Act Administrators
1515 S Street suite 314S
Sacramento, CA 94283-0001
PRAadministrators@cdcr.ca.gov

RE: California Public Records Act Request

Dear Public Records Act Administrator:

I am writing on behalf of the Phillips Black Project and the American Civil Liberties Union of Northern California to request records relating to inmates sentenced to LWOP for crimes committed before the age of 18.

On October 30, 2015, in response to a PRA request, the CDCR Office of Research provided information regarding 289 of these inmates to Ms. Anna Dorn of the Phillips Black Project. However, the CDCR refused to provide any information regarding an additional 16 of these prisoners, asserting that release of this information could pose a safety and security issues. In addition, the CDCR refused to provide information about the sex and race of these prisoners, asserting that 15 C.C.R. § 3261.2 allows this information to be withheld. A copy of the CDCR's cover letter that it sent along with the partial response (PRA Request No. 9067) is attached.

I am requesting that the CDCR reconsider its decision to withhold this information.

First, as to the 16 prisoners whose information was completely withheld, it is not clear what safety and security issues could justify refusing to release this basic information about persons in the custody of the CDCR. Although concrete threats to security can sometimes justify nondisclosure of records, these threats must be more than "conjectural or speculative." *Am. Civil Liberties Union of N. Cal. v. Superior Court*, 202 Cal. App. 4th 55, 75 (2011). Threats would have to be serious indeed to justify refusing to let the outside world know the identities of inmates, particularly those serving life sentences. And even if the CDCR does have sufficient

reason to withhold *some* information about these 16 prisoners, it is hard to imagine any reasons that would justify withholding *all* of the requested information about them.¹

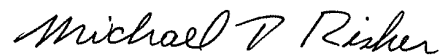
Second, the CDCR should release the sex, race, and dates of birth of all 305 of these prisoners, as well as their inmate numbers. The notion that an agency can eliminate its duties under the PRA simply by passing a regulation is contrary to the fundamental purpose of the PRA. In fact, the PRA specifically allows state and local agencies to adopt rules allowing “greater access to records than prescribed by the minimum standards” of the PRA, with no corresponding authorization to adopt rules that provide for less access. Gov’t Code § 6253(e). “A regulation which impairs the scope of a statute must be declared void.” *Bearden v. U.S. Borax, Inc.*, 138 Cal. App. 4th 429, 436 (2006).²

We therefore ask that you provide us with records showing the names, offense dates, sentence begin date, age at offense, county of conviction, race, sex, date of birth, inmate number, and current institution for each person under the jurisdiction of the CDCR who is serving a sentence of life without the possibility of parole for offenses committed as juveniles, including the 16 prisoners whose information was withheld in the October response. Please note that the Phillips Black project has already paid for the compilation of this information.³ We ask that you provide records in electronic format to avoid copying costs.⁴

Finally, please provide us with records showing how the CDCR calculated the amount it charged to the Phillips Black project for compiling responsive data.

Thank you for your time and attention to this matter. If you would like to discuss this request, please contact me at (415) 621-2493 or mrisher@aclunc.org.

Sincerely,



Michael T. Risher
Senior Staff Attorney

enc.

cc: John Mills, Anna Dorn

¹ The PRA requires release of any non-exempt information, even if other parts of a record are exempt from disclosure. Gov’t. Code § 6253(a).

² At the very least, the CDCR must release this information on records that are redacted to eliminate identifying information, or other records or information that would allow the public to know how many individuals of each sex and race/ethnicity are serving these sentences. *See id.*

³ The total was \$857.51 (\$506.23 and \$351.28).

⁴ Gov’t Code § 6253.9.