

1 Sana Singh (SBN 342614)  
ssingh@aclunc.org  
2 Sean Riordan (SBN 255752)  
sriordan@aclunc.org  
3 AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION OF NORTHERN CALIFORNIA, INC.  
4 39 Drumm Street  
San Francisco, CA 94111  
5 Telephone: (415) 621-2493  
Facsimile: (415) 255-1478  
6

7 Megan Vees (SBN 325184)  
meganv@advancingjustice-alc.org  
8 Aseem Mehta (SBN 338020)  
aseemm@advancingjustice-alc.org  
9 ASIAN AMERICANS ADVANCING JUSTICE – ASIAN LAW CAUCUS  
55 Columbus Avenue  
San Francisco, CA 94111  
10 Telephone: (415) 896-1701  
Facsimile: (415) 896-1702  
11

12 *Attorneys for Petitioners*

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
14 **FOR THE COUNTY OF SAN FRANCISCO**  
15

16 AMERICAN CIVIL LIBERTIES UNION OF NORTHERN  
CALIFORNIA, a non-profit corporation,

17  
18 Petitioner,

19 v.

20 THE CALIFORNIA DEPARTMENT OF CORRECTIONS AND  
REHABILITATION,

21 Respondent.  
22  
23  
24  
25  
26  
27  
28

ELECTRONICALLY  
**FILED**

Superior Court of California,  
County of San Francisco

**02/15/2023**  
**Clerk of the Court**

BY: JEFFREY FLORES  
Deputy Clerk

**CPF-23-517967**

CASE NO.

**VERIFIED PETITION FOR  
PEREMPTORY WRIT OF  
MANDATE ORDERING THE  
CALIFORNIA DEPARTMENT OF  
CORRECTIONS AND  
REHABILITATION TO COMPLY  
WITH THEIR DUTIES UNDER THE  
CALIFORNIA PUBLIC RECORDS  
ACT**

[Gov. Code, §§ 7920.000–7931.000]

VERIFIED PETITION FOR WRIT OF MANDATE

## INTRODUCTION

1. This lawsuit seeks to enforce the California Public Records Act (CPRA) set forth at Government Code sections 7920.000, *et seq.* The case concerns the public’s right to access information regarding the California Department of Corrections and Rehabilitation’s (CDCR) ongoing collaboration with U.S. Immigration and Customs Enforcement (ICE).

2. Petitioner American Civil Liberties Union of Northern California (ACLU NorCal) regularly works with and represents individuals transferred from CDCR facilities to ICE custody. As such transfers account for the majority of people in immigration detention in California, Petitioner has concerns about the ways in which CDCR collaborates with ICE. On September 13, 2022, Petitioner submitted a CPRA request to CDCR to learn more about its collaboration with ICE. After nearly two months of delay, CDCR released only a small subset of the records responsive to Petitioner’s request. Furthermore, CDCR impermissibly redacted full pages of the documents to which no CPRA exemption, privilege, or rule of confidentiality attaches. CDCR now refuses, without any lawful basis, to produce remaining responsive records. Petitioner has thus been forced to seek relief through these legal proceedings.

3. In adopting the CPRA, the California legislature declared that “access to information concerning the conduct of the people’s business is a fundamental and necessary right of every person in this state.” (Gov. Code, § 7921.000.) This principle of transparency is also enshrined in the California Constitution, which further commands that “the meetings of public bodies and the writings of public officials and agencies *shall* be open to public scrutiny.” (Cal. Const., art. I, § 3(b)(1) [emphasis added].) The records that Petitioner seeks lie at the core of this statutory and constitutional purpose. The nature and extent of the state’s collaboration with federal agencies are essential aspects of the people’s business and must be subject to public scrutiny.

4. By this Petition and pursuant to Government Code sections 7920.000, *et seq.* Petitioner now seeks (1) a peremptory writ of mandate compelling CDCR to immediately produce the remaining documents responsive to Petitioner’s CPRA request; (2) a peremptory writ of mandate compelling CDCR to provide Petitioner with a list specifically describing each record that CDCR is withholding and specifying the exemption(s) that CDCR contends to apply to each such record; and (3) a writ of mandate

1 compelling CDCR to produce all requested records except those records that the Court holds are exempt  
2 from disclosure.

### 3 4 **THE PARTIES**

5 5. Petitioner ACLU NorCal is a non-profit organization under the laws of the state of  
6 California and is an affiliate of the national American Civil Liberties Union, a non-profit, non-partisan  
7 civil liberties organization with more than 1.6 million members dedicated to the principles of liberty and  
8 equality embodied in our civil rights laws and both the United States and California Constitutions.  
9 ACLU NorCal is committed to ensuring that all people in California are treated fairly in the state  
10 criminal legal system and the federal immigration system.

11 6. Petitioner ACLU NorCal is also dedicated to advancing government transparency and  
12 accountability. As part of its advocacy, ACLU NorCal relies on public records to gather information  
13 and ensure that the public is informed about the conduct and practices of local, state, and federal  
14 officials. ACLU NorCal routinely uses information from public records to support civil rights litigation,  
15 publish reports in hard copy and on ACLU NorCal's website, and work with the press and the public at  
16 large. ACLU NorCal is a member of the public with the right under the CPRA to inspect public records  
17 and to seek relief in a court of competent jurisdiction to enforce that right. (Gov. Code, §§ 7920.515 &  
18 7923.000.)

19 7. Respondent California Department of Corrections and Rehabilitation is a state public  
20 agency within the meaning of Government Code section 7920.540.

21 8. Petitioner requested records from CDCR related to its collaboration with ICE. To date,  
22 CDCR's production of responsive documents is incomplete and was impermissibly halted without  
23 lawful justification. Petitioner therefore has a strong interest in the outcome of these proceedings and in  
24 CDCR's performance of its legal duties. Petitioner also has no plain, speedy, and adequate remedy at  
25 law to enforce its rights to this information other than by pursuing the relief sought herein.

26 9. Upon information and belief, CDCR is in possession or custody of the records sought by  
27 this Petition.  
28

## **JURISDICTION AND VENUE**

10. This Court has jurisdiction under California Government Code section 7923.100, Code of Civil Procedure section 1085, and section 10 of article six of the California Constitution.

11. Venue is proper in this Court. Respondent is a state agency, and the California Attorney General maintains an office in San Francisco County. (Gov. Code, § 7923.100; Code Civ. Proc., § 401(1); *see also California Gun Rights Found. v. Superior Ct.* (2020) 49 Cal. App. 5th 777, 793–95.)

## **THE RIGHTS TO PUBLIC RECORDS**

12. The right to access public records is governed, primarily, by the California Constitution and the CPRA.

13. The California Constitution provides that “[t]he people have the right of access to information concerning the conduct of the people’s business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.” (Cal. Const., art. 1, § 3(b)(1).) The Constitution requires that any “statute, court rule, or other authority,” such as the CPRA, “be broadly construed if it furthers the people’s right of access, and narrowly construed if it limits the right of access.” (*Id.* § 3(b)(2).)

14. The CPRA similarly recognizes that “access to information concerning the conduct of the people’s business is a fundamental and necessary right of every person in this state.” (Gov. Code, § 7921.000.) The CPRA implements this right by empowering the public to inspect and copy government “records.” This term includes “any writing containing information relating to the conduct of the public’s business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.” (*Id.* § 7920.530.) A “writing,” under the CRPA, encompasses any “means of recording upon any tangible thing any form of communication or representation . . .” (*Id.* § 7920.545.)

15. The CPRA codifies specific requirements and deadlines that agencies must observe upon receipt of a public records request. (*Id.* § 7922.500 *et seq.*)

16. Once an agency receives a CPRA request, it has ten days to respond. (*Id.* § 7922.535(a).) Within those ten days, the agency must determine whether the request seeks disclosable public records within its possession, custody, or control, and “promptly” notify the requestor of its determination and

reasoning. (*Ibid.*) In “unusual circumstances,” an agency can extend the time to respond by up to fourteen days. (*Id.* § 7922.535(b).) An agency must, however, notify the requestor of this extension in writing, set forth the reasons for the extension, and provide an estimate as to when the records will be available. (*Ibid.*) Even with an extension, an agency cannot “delay or obstruct the inspection of copying of public records.” (*Id.* § 7922.500.)

17. A government agency ultimately must respond to a request for public records by promptly making available for inspection or copying any responsive and nonexempt documents. (*Id.* § 7922.530(a).) It is an agency’s obligation to conduct record searches based on the criteria identified in a specific request. (*Id.* § 7922.600; *see also Cmty. Youth Athletic Ctr. v. City of Nat’l City* (2013) 220 Cal. App. 4th 1385, 1425.) Officials responding to a CPRA request must also (1) offer assistance in identifying responsive records and information; (2) describe “the information technology and physical location in which the records exist”; and (3) provide “suggestions for overcoming any practical basis” that might be asserted as a reason to delay or deny access to the records or information sought. (*Id.* § 7922.600(a).) Information produced as an electronic record should be produced “in the format requested if the requested format is one that has been used by the agency to create copies for its own use or for provision to other agencies.” (*Id.* § 7922.570(b)(2).)

18. If an agency denies a request for records in whole or in part, it must issue a denial in writing. (*Id.* § 7922.540(a).) In that correspondence, the agency must “demonstrat[e] that the record in question is exempt under [the CPRA’s] express provisions . . . or that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.” (*Id.* § 7922.000.) The agency must also identify both the name and title of the person(s) responsible for the determination not to disclose. (*Id.* § 7922.540(b).)

19. Any person may institute proceedings by verified petition for a writ of mandate to enforce her right to inspect or receive a copy of any public record or class of public records. (Gov. Code, § 7923.000; *see also* Code Civ. Proc., § 1085 *et seq.*) “The court shall decide the case after the court does all of the following: examin[ing] the record in camera, if permitted by subdivision (b) of Section 915 of the Evidence Code, examin[ing] any papers filed by the parties and consider[ing] any oral argument and additional evidence as the court may allow.” (Gov. Code, § 7923.105.) “If the court

finds that the public official’s decision to refuse disclosure is not justified . . . , the court shall order the public official to make the record public.” (*Id.* § 7923.110(a).)

20. Finally, the court must award court costs and reasonable attorney fees to a prevailing petitioner, to be paid by the agency from which the petitioner requested the records. (Gov. Code, § 7923.115(a).)

## **FACTUAL BACKGROUND**

### **A. Petitioner’s CPRA Request**

21. On September 13, 2022, Petitioner submitted a CPRA request, a true and correct copy of which is attached as Exhibit A, to CDCR seeking public records to understand the scope of CDCR’s collaboration with ICE. (Exhibit A.) The CPRA request sought records related to CDCR’s policies regarding active and potential immigration holds or detainers and communications between CDCR and ICE.

22. Specifically, and as relevant to this Petition, the CPRA request sought the following records related to CDCR’s collaboration with ICE, all of which are “public records” under the CPRA, *see* Gov. Code, § 7920.530:

- a. **Dating January 1, 2018 to the date of CDCR’s response to this request**, any and all records related to CDCR’s policies, procedures, regulations, memoranda, guidance, and forms related to active or potential immigration holds or detainers. (Request 1)
- b. **Dating January 1, 2021 to the date of CDCR’s response to this request**, any and all records of communication between CDCR and U.S. Immigration and Customs Enforcement (ICE). This includes any email communication between CDCR and entities using the email domain of “@ice.dhs.gov”. (Request 2)

23. On September 13, 2022, CDCR notified Petitioner through the Public Records Portal that it had received Petitioner’s CPRA request and assigned the request reference number C006684-091322. (Exhibit B.)

24. On September 23, 2022, CDCR notified Petitioner that it needed to invoke the 14-day extension due to “[t]he need to search for and collect the requested records from field facilities or other

establishments that are separate from the office processing the request” and “to search for, collect, and appropriately examine a voluminous amount of separate and distinct records.” CDCR further stated that it expected to provide Petitioner with a determination on or before October 7, 2022. (Exhibit B.)

25. On October 14, 2022, Petitioner wrote to CDCR to inquire about the status of its request. CDCR replied less than an hour later stating that it had started uploading responsive documents into its system and would “begin reviewing [the documents] for redaction.” CDCR further notified Petitioner that its “request generated over 65,000 emails” and that “emails [would] be sent to [Petitioner] in batches every week.” (Exhibit B.)

26. On October 20, 2022, Petitioner wrote to CDCR to inquire about the status of its request. CDCR replied several hours later stating that a glitch in its program had impacted the uploaded documents and that as soon as the glitch was fixed, it would “start working on [Petitioner’s] documents immediately.” (Exhibit B.)

27. On November 4, 2022, CDCR began producing responsive records in batches via Public Records Portal and continued producing documents at random intervals for approximately one month.

28. On December 1, 2022, CDCR called Petitioner and informed Petitioner via telephone that production would be temporarily halted due to inadvertent disclosure of confidential information and that CDCR would shortly upload a letter with further details.

29. On December 8, 2022, CDCR halted record production and removed all uploaded documents from the Public Records Portal.

30. On December 13, 2022, CDCR sent Petitioner a message via Public Records Portal stating that production had been “temporarily halted to correct an inadvertent disclosure of confidential information” and further requested that Petitioner “immediately destroy or return records” that had already been produced. CDCR further stated that it would “promptly correct the erroneous disclosure and begin producing responsive, redacted records to [Petitioner] on a rolling basis.” (Exhibit B.) This communication failed to comply with the CPRA because it did not explain why the “record[s] in question [were] exempt under express provisions” of the PRA, nor did it otherwise justify withholding the responsive records. (*See* Gov. Code, § 7922.000.)

31. On December 16, 2022, Petitioner wrote to CDCR and requested that CDCR clarify the

1 nature of confidential information it claimed was inadvertently disclosed and requested legal support for  
2 CDCR's request that already produced documents be destroyed or returned. Petitioner also requested a  
3 timeline for when CDCR would begin producing responsive, redacted records. (Exhibit B.)

4 32. On January 9, 2023, Petitioner again wrote to CDCR to request the same information  
5 requested in the December 16, 2022 communication. Further, Petitioner noted that CDCR appeared to  
6 have impermissibly redacted public court documents in their entirety and requested that future  
7 disclosures not have such impermissible redactions. (Exhibit B.)

8 33. On January 30, 2023, Petitioner sent a formal letter, a true and correct copy of which is  
9 attached as Exhibit C, to CDCR requesting that CDCR respond no later than February 10, 2023, with a  
10 further batch of productions, a timeline for production of the remaining documents, and a commitment  
11 to produce responsive records without impermissible redactions. (Exhibit C.)

12 34. To date, Petitioner has not received a response from CDCR or further productions of  
13 responsive documents.

#### 14 15 **B. CDCR's Incomplete Response**

16 35. CDCR identified roughly 65,000 responsive records to Petitioner's CPRA request.  
17 (Exhibit B.) Although CDCR initially produced a few hundred responsive records, it has failed to  
18 provide the full universe of responsive records. CDCR has already indicated that it possesses the  
19 remaining 64,500 or so records responsive to Petitioner's request.

20 36. CDCR halted production based on its "inadvertent[] disclos[ure]" of purportedly  
21 confidential information but has not provided any explanation for its assertion that confidential  
22 information was disclosed. CDCR has ignored all attempts by Petitioner to informally resolve this issue  
23 and resume production of responsive records.

24 37. By failing to fully respond to Petitioner's CPRA request, CDCR has prevented  
25 immigrants' rights advocates and the public from understanding CDCR's collaboration with federal  
26 immigration enforcement authorities.

27 38. CDCR has not explained what exemptions or privileges justify withholding responsive  
28 records. (*See* Gov. Code, § 7922.000.) Nor has CDCR explained why outstanding responsive records

1 containing some exempted or privileged information cannot be provided in redacted form. (*See Id.* §  
2 7922.525(b) [“Any reasonably segregable portion of a record shall be available for inspection by any  
3 person requesting the record after deletion of the portions that are exempted by law.”]). Further, CDCR  
4 has not demonstrated that “on the facts” of this case, “the public interest served by not disclosing the  
5 record[s] clearly outweighs the public interest served by disclosure of the record.” (*Id.* § 7922.000.)

6 39. Petitioner, immigrants’ rights advocates and the public have a great interest in disclosure  
7 of public records pertaining to CDCR’s practice of collaborating with ICE.

### 8 **FIRST CAUSE OF ACTION**

#### 9 **For Writ of Mandate for Violation of the California Public Records Act 10 Gov. Code, § 7920 *et seq.* and Article I, § 3 of the California Constitution**

11 40. Petitioner incorporates by reference the allegations of paragraphs 1 through [39] above as  
12 though fully set forth herein.

13 41. Under the CPRA, Petitioner has a right to request and inspect, and CDCR has a duty to  
14 provide promptly and without delay, responsive public records subject to disclosure.

15 42. Petitioner submitted a valid request for records under the CPRA on September 13, 2022.

16 43. CDCR has failed to provide all nonexempt documents responsive to Petitioner’s request.  
17 CDCR cannot demonstrate that the outstanding records responsive to Petitioner’s request are exempt  
18 under express provisions of the CPRA, or any authority, or that on the facts of this particular case, the  
19 public interest served by not disclosing the record clearly outweighs the public interest served by  
20 disclosing the record.

21 44. Thus, CDCR has failed to satisfy its obligations under the CPRA to produce all records  
22 responsive to Petitioner’s request. This conduct violates the CPRA and section 3 of article I of the  
23 California Constitution.

### 24 **PRAYER FOR RELIEF**

25 WHEREFORE, Petitioner prays as follows:

26 1. That the Court issue a peremptory writ of mandate directing Respondent California  
27 Department of Corrections and Rehabilitation to provide Petitioner ACLU NorCal with all requested  
28 records except those records that the Court determines may lawfully be withheld;


2. That the Court issue a peremptory writ of mandate directing Respondent California Department of Corrections and Rehabilitation to provide Petitioner ACLU NorCal a list specifically describing each record that CDCR is withholding and specifying the exemption(s) that CDCR contends to apply to each such record;

3. That Petitioner be awarded attorneys' fees and costs pursuant to law; and

4. For such and further relief as the Court deems proper and just.

Dated: February 15, 2023

Respectfully submitted,

By: 

Sana Singh (SBN 342614)

ssingh@aclunc.org

Sean Riordan (SBN 255752)

sriordan@aclunc.org

AMERICAN CIVIL LIBERTIES UNION

FOUNDATION OF NORTHERN CALIFORNIA, INC.

39 Drumm Street

San Francisco, CA 94111

Telephone: (415) 621-2493

Facsimile: (415) 255-1478

Megan Vees (SBN 325184)

meganv@advancingjustice-alc.org

Aseem Mehta (SBN 338020)

aseemm@advancingjustice-alc.org

ASIAN AMERICANS ADVANCING JUSTICE – ASIAN

LAW CAUCUS

55 Columbus Avenue

San Francisco, CA 94111

Telephone: (415) 896-1701

Facsimile: (415) 896-1702

*Attorneys for Petitioner*

**VERIFICATION**

I, Sana Singh, am the Legal Fellow of the Immigrants' Rights Program of the American Civil Liberties Union Foundation of Northern California. I have read the foregoing Verified Petition for Peremptory Writ of Mandate Ordering the California Department of Corrections and Rehabilitation to Comply with their Duties under the California Public Records Act, and the facts alleged in paragraphs 21–34 are within my knowledge, and I know them to be true.

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

Dated: February 15, 2023



---

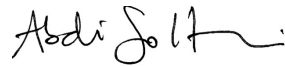
Sana Singh

**VERIFICATION**

I, Abdi Soltani, am the Executive Director of the American Civil Liberties Union of Northern California, Petitioner in this action. I have read the foregoing Verified Petition for Peremptory Writ of Mandate Ordering the California Department of Corrections and Rehabilitation to Comply with their Duties under the California Public Records Act and know the contents thereof. The facts as alleged therein are true to the best of my knowledge. I have authorization to verify such facts on behalf of the American Civil Liberties Union of Northern California.

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

Dated: February 13, 2023

A handwritten signature in black ink, appearing to read 'Abdi Soltani', written over a horizontal line.

Abdi Soltani

# EXHIBIT A



Northern  
California

September 13, 2022

*Transmitted by email and mail*

California Department of Corrections and Rehabilitation (CDCR)  
Public Records Act Unit  
1515 S Street, Suite 314-S  
Sacramento, CA 94283-0001  
Email: [cal\\_OLA\\_PRA@cdcr.ca.gov](mailto:cal_OLA_PRA@cdcr.ca.gov)

**Re: Request for Records Pursuant to the California Public Records Act**

To Whom it May Concern:

I am writing on behalf of the American Civil Liberties Union of Northern California (“ACLU”) and Advancing Justice – Asian Law Caucus to request records pursuant to the California Public Records Act, California Government Code sections 6250 to 6270 and Article 1 section 3(b) of the California Constitution.

I am requesting that CDCR provide the following records<sup>1</sup>:

- 1. Dating January 1, 2018 to the date of your response to this request,** any and all records related to CDCR’s policies, procedures, regulations, memoranda, guidance, and forms related to active or potential immigration holds or detainees.
- 2. Dating January 1, 2021 to the date of your response to this request,** any and all records of communication between CDCR and U.S. Immigration and Customs Enforcement (“ICE”). This includes any email communication between CDCR and

---

<sup>1</sup> The term “records” as used in this request is defined as “any writing containing information relating to the conduct of the public’s business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.” Cal. Gov’t Code § 6252, subsection (e). “Writing” is defined as “any handwriting, typewriting, printing, photo stating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.” Cal. Gov’t Code § 6252, subsection (g).

**American Civil Liberties Foundation of Northern California**

EXECUTIVE DIRECTOR Abdi Soltani • BOARD CHAIR Farah Brelvi

SAN FRANCISCO OFFICE: 39 Drumm St. San Francisco, CA 94111

FRESNO OFFICE: PO Box 188 Fresno, CA 93707 • SACRAMENTO METRO OFFICE: PO Box 189070 Sacramento, CA 95818  
TEL (415) 621-2493 • FAX (415) 255-1478 • TTY (415) 863-7832 • [WWW.ACLUNC.ORG](http://WWW.ACLUNC.ORG)

entities using the email domain of “@ice.dhs.gov”.

This request is an on-going request for records, including records dated after the date of this request. If CDCR will not agree to produce records on an on-going basis, please so advise.

The California Public Records Act requires within ten (10) days either production of the requested documents and/or notice of the specific reasons why the materials requested (or portions thereof) are exempt from disclosure. Further, we request a summary of the information contained within any records you claim to be exempt under Government Code § 6254(f), as required by Government Code § 6254(f)(2). In addition, pursuant to section 6253, please disclose all reasonably segregable non-exempt information from any portions of records you claim are exempt from disclosure.

Please send copies of the requested records to me at the address shown below or email them to me at [ssingh@aclunc.org](mailto:ssingh@aclunc.org). We request that you waive any fees that would be normally applicable to a Public Records Act request. In addition, if you have the records in electronic form, you can simply email them to me without incurring any copying costs. *See Gov’t. Code § 6253.9.* Should you be unable to do so, however, the ACLU will reimburse your agency for the direct costs of copying these records plus postage. *See Gov’t. Code § 6253(b).* To assist with the prompt release of responsive material, we ask that you make records available to me as you locate them, rather than waiting until all responsive records have been collected and copied.

If you have any questions regarding this request, please feel free to contact me at (415) 293-6360 or at [ssingh@aclunc.org](mailto:ssingh@aclunc.org). Thank you in advance for your timely cooperation.

Sincerely,



Sana Singh  
Legal Fellow  
ACLU of Northern California  
39 Drumm Street  
San Francisco, CA 94111

**American Civil Liberties Foundation of Northern California**

EXECUTIVE DIRECTOR Abdi Soltani • BOARD CHAIR Farah Brelvi

SAN FRANCISCO OFFICE: 39 Drumm St. San Francisco, CA 94111

FRESNO OFFICE: PO Box 188 Fresno, CA 93707 • SACRAMENTO METRO OFFICE: PO Box 189070 Sacramento, CA 95818  
TEL (415) 621-2493 • FAX (415) 255-1478 • TTY (415) 863-7832 • [WWW.ACLUNC.ORG](http://WWW.ACLUNC.ORG)

# **EXHIBIT B**

## Message History (16)

← On 1/30/2023 10:07:14 AM, Sana Singh wrote:

CDCR PRAU Request Team:

I write regarding California Public Records Act (“PRA”) Request #C006684-091322. The California Department of Corrections and Rehabilitation (“CDCR”) is continuing to violate the PRA by failing to disclose records concerning immigration holds and communications with U.S. Immigration and Customs Enforcement (“ICE”). On September 13, 2022, the American Civil Liberties Union of Northern California (“ACLU”) sent CDCR a request for two categories of records on these subjects under the PRA and Article I, § 3(b) of the California Constitution (Request #C006684-091322). CDCR identified more than 65,000 responsive records. After initially producing approximately 550 of those records, albeit with impermissible redactions of public court records, CDCR completely ceased production over two months ago. CDCR has now ignored two ACLU requests for clarification and resumption of production.

CDCR’s failure to timely produce responsive records and unjustified redaction of public court records violate the PRA and Article I, § 3(b). We are prepared to file a lawsuit compelling CDCR to comply with the law unless by February 10, 2023 CDCR resumes production, commits to a reasonable timeline for completing production, and commits to no longer redact public court records.

Please see the attached letter for further details on this matter.

Regards,  
Sana Singh

← On 1/9/2023 3:04:23 PM, Sana Singh wrote:

Dear CDCR PRAU Request Team:

I write to follow up on the below December 16 communication regarding Public Records Act Request #C006684-091322. We request clarity on the nature of the confidential information that was inadvertently disclosed and legal support for your request that we destroy or return the disclosed documents.

Furthermore, in your December 13 communication, you indicated that you would “promptly correct the erroneous disclosure and begin producing responsive, redacted records to [us] on a rolling basis.” However, we have not received any documents since December 8. We request a timeline for the production of the remaining roughly 64,500 responsive documents.

We also note that in earlier disclosures CDCR appears to have impermissibly withheld public court documents in their entirety. For example, in the “Inmate\_Camargo\_CDCR\_BK8240...” document (see attached), CDCR completely redacted the abstract of judgment, minute orders, and charging documents attached to an email from a CDCR staffer to an ICE officer. It appears CDCR withheld similar public court documents in numerous other disclosures, which also contain dozens of pages of full-page redactions. Court documents such as these – to which no PRA exemption, privilege, or rule of confidentiality attaches – cannot be withheld under the PRA. Cf. Copley Press, Inc. v. Superior Court, 63 Cal. App. 4th 367, 373 (4th Dist. 1998). (“Court records are available to the public in general ... unless a specific exception makes specific records nonpublic.”). We expect that such documents will not be withheld in future disclosures.

We appreciate your prompt attention to this matter.

Thank you,  
Sana Singh

← On 12/16/2022 12:31:04 PM, Sana Singh wrote:

Dear CDCR PRAU Request Team:

We are in receipt of your message regarding Public Records Act Request #C006684-091322. Could you please explain what type of confidential information was inadvertently disclosed? Additionally, could you please provide legal support for your request that we destroy or return the disclosed documents? It is our understanding that state law does not support that request. See Ardon v. City of Los Angeles, 181 Cal.Rptr.3d 324; Gov’t Code § 6254.5. Finally, could you please provide a timeline for when you will begin producing the responsive, redacted records?

Thank you,  
Sana Singh

✉ On 12/13/2022 3:48:57 PM, CDCR Public Records wrote:

**Subject:** [Records Center] Data Concierge Service :: C006684-091322

**Body:**

RE: PUBLIC RECORDS ACT REQUEST September 13, 2022, Reference # C006684-091322

Dear Sana Singh,

This letter is in response to your Public Records Act request dated September 13, 2022 in which you requested the following records:

**"To Whom it May Concern:**

**I am writing on behalf of the American Civil Liberties Union of Northern California ("ACLU") and Advancing Justice - Asian Law Caucus to request records pursuant to the California Public Records Act, California Government Code sections 6250 to 6270 and Article 1 section 3(b) of the California Constitution.**

**I am requesting that CDCR provide the following records1:**

- 1. Dating January 1, 2018 to the date of your response to this request, any and all records related to CDCR's policies, procedures, regulations, memoranda, guidance, and forms related to active or potential immigration holds or detainees.**
- 2. Dating January 1, 2021 to the date of your response to this request, any and all records of communication between CDCR and U.S. Immigration and Customs Enforcement ("ICE"). This includes any email communication between CDCR and entities using the email domain of "@ice.dhs.gov".**

**This request is an on-going request for records, including records dated after the date of this request. If CDCR will not agree to produce records on an on-going basis, please so advise.**

**The California Public Records Act requires within ten (10) days either production of the requested documents and/or notice of the specific reasons why the materials requested (or portions thereof) are exempt from disclosure. Further, we request a summary of the information contained within any records you claim to be exempt under Government Code § 6254(f), as required by Government Code § 6254(f)(2). In addition, pursuant to section 6253, please disclose all reasonably segregable non-exempt information from any portions of records you claim are exempt from disclosure.**

**Please send copies of the requested records to me at the address shown below or email them to me at [ssingh@aclunc.org](mailto:ssingh@aclunc.org). We request that you waive any fees that would be normally applicable to a Public Records Act request. In addition, if you have the records in electronic form, you can simply email them to me without incurring any copying costs. See Gov't. Code § 6253.9. Should you be unable to do so, however, the ACLU will reimburse your agency for the direct costs of copying these records plus postage. See Gov't. Code § 6253(b). To assist with the prompt release of responsive material, we ask that you make records available to me as you locate them, rather than waiting until all responsive records have been collected and copied.**

**If you have any questions regarding this request, please feel free to contact me at (415) 293-6360 or at**

ssingh@aclunc.org. Thank you in advance for your timely cooperation.

1 The term "records" as used in this request is defined as "any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics." Cal. Gov't Code § 6252, subsection (e). "Writing" is defined as "any handwriting, typewriting, printing, photo stating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored." Cal. Gov't Code § 6252, subsection (g)."

*This letter is to inform you, per our discussion on 12/01/2022, that the production of your request for records of communications between ICE and CDCR has been temporarily halted to correct an inadvertent disclosure of confidential information. Please be advised documents previously sent to you through the GovQA Public Records Portal (PRP) have had the access rescinded. If you have already retrieved the records, CDCR requests you immediately destroy or promptly return the records to us, without sharing or disseminating the contents any further. CDCR will promptly correct the erroneous disclosure and begin producing responsive, redacted records to you on a rolling basis. Those records will be produced via the PRP in electronic format.*

If you have any questions or need additional information, you can manage your request through the CDCR PUBLIC RECORDS PORTAL.

Sincerely,

CDCR PRAU Request Team

CA Department of Corrections and Rehabilitation

✉ On 11/28/2022 4:29:49 PM, CDCR Public Records wrote:

**Subject:** [Records Center] Data Concierge Service :: C006684-091322

**Body:**

RE: PUBLIC RECORDS ACT REQUEST September 13, 2022, Reference # C006684-091322

Dear Sana Singh,

This letter is in response to your Public Records Act request follow up dated November 28, 2022 in which you requested the following records:

*Hello, Thank you for uploading the latest batch of documents "Deliverables 3-2" as a zip file. However, the portal lists several individual documents that were also uploaded on the same date, and we have since received a handful of individual documents on 11/22, 11/23, and 11/28. Could you confirm if we should expect to continue to receive further batch uploads as a zip file? This would be helpful for us to ensure that we are accurately receiving the entirety of each batch. If zip files are not possible for all documents, we understand but want to make sure that we are prepared for all manners of document uploads if that is the case. In addition, the documents uploaded to the portal on 10/25-27 and 11/4 are no longer listed in the portal or available for us to download. It would be helpful if your team could provide a complete list of documents we should have received thus far or expect to receive. Please let us know if that is possible.*

To date, you were sent the following; **1st batch 288 emails, 2nd batch 272 emails**. I will continue to send you the email batches in Zip format. I had turned off the first batch of emails removing the customer tag making them available to you when I sent you the second batch to avoid resending the first batch. Apparently the system isn't perfect. I will leave the files as customer and hope that you don't receive duplicates. The first batch of emails has been changed back to customer in hopes that you can still access them. Sorry for the inconvenience.

If you have any questions or need additional information, you can manage your request through the CDCR PUBLIC RECORDS PORTAL.

Sincerely,

CDCR PRAU Request Team

CA Department of Corrections and Rehabilitation

← On 11/28/2022 3:41:55 PM, Sana Singh wrote:

Hello,

Thank you for uploading the latest batch of documents "Deliverables 3-2" as a zip file. However, the portal lists several individual documents that were also uploaded on the same date, and we have since received a handful of individual documents on 11/22, 11/23, and 11/28. Could you confirm if we should expect to continue to receive further batch uploads as a zip file? This would be helpful for us to ensure that we are accurately receiving the entirety of each batch. If zip files are not possible for all documents, we understand but want to make sure that we are prepared for all manners of document uploads if that is the case.

In addition, the documents uploaded to the portal on 10/25-27 and 11/4 are no longer listed in the portal or available for us to download. It would be helpful if your team could provide a complete list of documents we should have received thus far or expect to receive. Please let us know if that is possible.

Thank you,  
Sana

✉ On 11/21/2022 4:24:40 PM, CDCR Public Records wrote:

**Subject:** [Records Center] Data Concierge Service :: C006684-091322

**Body:**

RE: PUBLIC RECORDS ACT REQUEST September 13, 2022, Reference # C006684-091322

Dear Sana Singh,

This letter is in response to your Public Records Act request dated September 13, 2022 in which you requested the following records:

**"To Whom it May Concern:**

I am writing on behalf of the American Civil Liberties Union of Northern California ("ACLU") and Advancing Justice - Asian Law Caucus to request records pursuant to the California Public Records Act, California Government Code sections 6250 to 6270 and Article 1 section 3(b) of the California Constitution.

I am requesting that CDCR provide the following records:

1. Dating January 1, 2018 to the date of your response to this request, any and all records related to CDCR's policies, procedures, regulations, memoranda, guidance, and forms related to active or potential immigration holds or detainees.
2. Dating January 1, 2021 to the date of your response to this request, any and all records of communication between CDCR and U.S. Immigration and Customs Enforcement ("ICE"). This includes any email communication between CDCR and entities using the email domain of "@ice.dhs.gov".

This request is an on-going request for records, including records dated after the date of this request. If CDCR will not agree to produce records on an on-going basis, please so advise.

The California Public Records Act requires within ten (10) days either production of the requested documents and/or notice of the specific reasons why the materials requested (or portions thereof) are exempt from disclosure. Further, we request a summary of the information contained within any records you claim to be exempt under Government Code § 6254(f), as required by Government Code § 6254(f)(2). In addition, pursuant to section 6253, please disclose all reasonably segregable non-exempt information from any portions of records you claim are exempt from disclosure.

Please send copies of the requested records to me at the address shown below or email them to me at [ssingh@aclunc.org](mailto:ssingh@aclunc.org). We request that you waive any fees that would be normally applicable to a Public Records Act request. In addition, if you have the records in electronic form, you can simply email them to me without incurring any copying costs. See Gov't. Code § 6253.9. Should you be unable to do so, however, the ACLU will reimburse your agency for the direct costs of copying these records plus postage. See Gov't. Code § 6253(b). To assist with the prompt release of responsive material, we ask that you make records available to me as you locate them, rather than waiting until all responsive records have been collected and copied.

If you have any questions regarding this request, please feel free to contact me at (415) 293-6360 or at [ssingh@aclunc.org](mailto:ssingh@aclunc.org). Thank you in advance for your timely cooperation.

1 The term "records" as used in this request is defined as "any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics." Cal. Gov't Code § 6252, subsection (e). "Writing" is defined as "any handwriting, typewriting, printing, photo stating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored." Cal. Gov't Code § 6252, subsection (g)."

The CA Department of Corrections and Rehabilitation has identified non-exempt public records responsive to your request. Please log in to the CDCR PUBLIC RECORDS PORTAL at the following link to retrieve these records.

[Data Concierge Service - C006684-091322](#)

The folder you are receiving is the second batch and processed in the ZIP format that you requested. I have also included the regular email folder as well just in case I messed up the ZIP folder and you can't access it. The folders are labeled Zip Deliverables 3-2 and Deliverables 3-2 .

If you have any questions or need additional information, you can manage your request through the CDCR PUBLIC RECORDS PORTAL.

Sincerely,

CDCR PRAU Request Team

CA Department of Corrections and Rehabilitation

← On 11/21/2022 11:21:51 AM, Sana Singh wrote:

Good morning,

Thank you so much for your timely production of these responsive records. Would it be possible for daily productions to be uploaded as a single zip file? Due to the nature of the GovQA platform, batch downloads often cause glitches and make it difficult to download all the individual files. We have tried reaching out to them for a solution, but their only suggestion was to request zip file uploads from you. If such an option is feasible for your office, we would greatly appreciate it!

Thank you,  
Sana

✉ On 11/4/2022 3:33:26 PM, CDCR Public Records wrote:

**Subject:** [Records Center] Data Concierge Service :: C006684-091322

**Body:**

RE: PUBLIC RECORDS ACT REQUEST September 13, 2022, Reference # C006684-091322

Dear Sana Singh,

This letter is in response to your Public Records Act request dated September 13, 2022 in which you requested the following records:

**“To Whom it May Concern:**

I am writing on behalf of the American Civil Liberties Union of Northern California ("ACLU") and Advancing Justice - Asian Law Caucus to request records pursuant to the California Public Records Act, California Government Code sections 6250 to 6270 and Article 1 section 3(b) of the California Constitution.

I am requesting that CDCR provide the following records1:

1. Dating January 1, 2018 to the date of your response to this request, any and all records related to CDCR's policies, procedures, regulations, memoranda, guidance, and forms related to active or potential immigration holds or detainees.

2. Dating January 1, 2021 to the date of your response to this request, any and all records of communication between CDCR and U.S. Immigration and Customs Enforcement ("ICE"). This includes any email communication between CDCR and entities using the email domain of "@ice.dhs.gov".

This request is an on-going request for records, including records dated after the date of this request. If CDCR will not agree to produce records on an on-going basis, please so advise.

The California Public Records Act requires within ten (10) days either production of the requested documents and/or notice of the specific reasons why the materials requested (or portions thereof) are exempt from disclosure. Further, we request a summary of the information contained within any records you claim to be exempt under Government Code § 6254(f), as required by Government Code § 6254(f)(2). In addition, pursuant to section 6253, please disclose all reasonably segregable non-exempt information from any portions of records you claim are exempt from disclosure.

Please send copies of the requested records to me at the address shown below or email them to me at [ssingh@aclunc.org](mailto:ssingh@aclunc.org). We request that you waive any fees that would be normally applicable to a Public Records Act request. In addition, if you have the records in electronic form, you can simply email them to me without incurring any copying costs. See Gov't. Code § 6253.9. Should you be unable to do so, however, the ACLU will reimburse your agency for the direct costs of copying these records plus postage. See Gov't. Code § 6253(b). To assist with the prompt release of responsive material, we ask that you make records available to me as you locate them, rather than waiting until all responsive records have been collected and copied.

If you have any questions regarding this request, please feel free to contact me at (415) 293-6360 or at [ssingh@aclunc.org](mailto:ssingh@aclunc.org). Thank you in advance for your timely cooperation.

1 The term "records" as used in this request is defined as "any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics." Cal. Gov't Code § 6252, subsection (e). "Writing" is defined as "any handwriting, typewriting, printing, photo stating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored." Cal. Gov't Code § 6252, subsection (g)."

The CA Department of Corrections and Rehabilitation has identified non-exempt public records responsive to your request. Please log in to the CDCR PUBLIC RECORDS PORTAL at the following link to retrieve these records. The records you will be receiving will be delivered in batches due to the large amount of files that must be reviewed and redacted prior to release. Your first two folders are labeled Deliverable 2-1 and 3-1. Additional folders will follow on a weekly basis until you have received all requested documentation. (62,000 files).

[Data Concierge Service - C006684-091322](#)

If you have any questions or need additional information, you can manage your request through the CDCR PUBLIC RECORDS PORTAL.

Sincerely,

CDCR PRAU Request Team

CA Department of Corrections and Rehabilitation

✉ On 10/20/2022 2:55:06 PM, CDCR Public Records wrote:

**Subject:** [Records Center] Data Concierge Service :: C006684-091322

**Body:**

RE: PUBLIC RECORDS ACT REQUEST September 13, 2022, Reference # C006684-091322

Dear Sana Singh,

This letter is in response to your Public Records Act request dated September 13, 2022 in which you requested the following records:

**"To Whom it May Concern:**

**I am writing on behalf of the American Civil Liberties Union of Northern California ("ACLU") and Advancing Justice - Asian Law Caucus to request records pursuant to the California Public Records Act, California Government Code sections 6250 to 6270 and Article 1 section 3(b) of the California Constitution.**

**I am requesting that CDCR provide the following records:**

- 1. Dating January 1, 2018 to the date of your response to this request, any and all records related to CDCR's policies, procedures, regulations, memoranda, guidance, and forms related to active or potential immigration holds or detainees.**
- 2. Dating January 1, 2021 to the date of your response to this request, any and all records of communication between CDCR and U.S. Immigration and Customs Enforcement ("ICE"). This includes any email communication between CDCR and entities using the email domain of "@ice.dhs.gov".**

**This request is an on-going request for records, including records dated after the date of this request. If CDCR will not agree to produce records on an on-going basis, please so advise.**

**The California Public Records Act requires within ten (10) days either production of the requested documents and/or notice of the specific reasons why the materials requested (or portions thereof) are exempt from disclosure. Further, we request a summary of the information contained within any records**

you claim to be exempt under Government Code § 6254(f), as required by Government Code § 6254(f)(2). In addition, pursuant to section 6253, please disclose all reasonably segregable non-exempt information from any portions of records you claim are exempt from disclosure.

Please send copies of the requested records to me at the address shown below or email them to me at [ssingh@aclunc.org](mailto:ssingh@aclunc.org). We request that you waive any fees that would be normally applicable to a Public Records Act request. In addition, if you have the records in electronic form, you can simply email them to me without incurring any copying costs. See Gov't. Code § 6253.9. Should you be unable to do so, however, the ACLU will reimburse your agency for the direct costs of copying these records plus postage. See Gov't. Code § 6253(b). To assist with the prompt release of responsive material, we ask that you make records available to me as you locate them, rather than waiting until all responsive records have been collected and copied.

If you have any questions regarding this request, please feel free to contact me at (415) 293-6360 or at [ssingh@aclunc.org](mailto:ssingh@aclunc.org). Thank you in advance for your timely cooperation.

1 The term "records" as used in this request is defined as "any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics." Cal. Gov't Code § 6252, subsection (e). "Writing" is defined as "any handwriting, typewriting, printing, photo stating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored." Cal. Gov't Code § 6252, subsection (g)."

Hello Ms. Singh,

I know this is going to sound like another excuse and I am sorry for that but I will not be sending anything your way this week. There was a glitch in our program which affected the uploaded documents in the GovQA portal and we can't open them. I have been told that the problem will be fixed by Monday. If this is in fact fixed, we will start working on your documents immediately and hopefully get some to you next week. If for some reason the problem isn't fixed on Monday, I will send you a follow up letter advising you on the status. I know this isn't the news you want to hear, but your patience and understanding is greatly appreciated.

If you have any questions or need additional information, you can manage your request through the CDCR PUBLIC RECORDS PORTAL.

Sincerely,

CDCR PRAU Request Team

CA Department of Corrections and Rehabilitation

↩ On 10/20/2022 11:58:55 AM, Sana Singh wrote:

Thank you so much for your prompt response and for sharing the number of documents generated by our request. Do you still anticipate that the first batch of emails would be ready for review by the end of the day tomorrow? If not, any clarity around the estimated timeline and number of documents to be produced in the first batch would be immensely helpful.

Thank you,  
Sana

✉ On 10/14/2022 9:46:46 AM, CDCR Public Records wrote:

**Subject:** [Records Center] Data Concierge Service :: C006684-091322

**Body:**

RE: PUBLIC RECORDS ACT REQUEST September 13, 2022, Reference # C006684-091322

Dear Sana Singh,

This letter is in response to your Public Records Act request dated September 13, 2022 in which you requested the following records:

**"To Whom it May Concern:**

**I am writing on behalf of the American Civil Liberties Union of Northern California ("ACLU") and Advancing Justice - Asian Law Caucus to request records pursuant to the California Public Records Act, California Government Code sections 6250 to 6270 and Article 1 section 3(b) of the California Constitution.**

**I am requesting that CDCR provide the following records:**

- 1. Dating January 1, 2018 to the date of your response to this request, any and all records related to CDCR's policies, procedures, regulations, memoranda, guidance, and forms related to active or potential immigration holds or detainees.**
- 2. Dating January 1, 2021 to the date of your response to this request, any and all records of communication between CDCR and U.S. Immigration and Customs Enforcement ("ICE"). This includes any email communication between CDCR and entities using the email domain of "@ice.dhs.gov".**

**This request is an on-going request for records, including records dated after the date of this request. If CDCR will not agree to produce records on an on-going basis, please so advise.**

**The California Public Records Act requires within ten (10) days either production of the requested documents and/or notice of the specific reasons why the materials requested (or portions thereof) are exempt from disclosure. Further, we request a summary of the information contained within any records**

you claim to be exempt under Government Code § 6254(f), as required by Government Code § 6254(f)(2). In addition, pursuant to section 6253, please disclose all reasonably segregable non-exempt information from any portions of records you claim are exempt from disclosure.

Please send copies of the requested records to me at the address shown below or email them to me at [ssingh@aclunc.org](mailto:ssingh@aclunc.org). We request that you waive any fees that would be normally applicable to a Public Records Act request. In addition, if you have the records in electronic form, you can simply email them to me without incurring any copying costs. See Gov't. Code § 6253.9. Should you be unable to do so, however, the ACLU will reimburse your agency for the direct costs of copying these records plus postage. See Gov't. Code § 6253(b). To assist with the prompt release of responsive material, we ask that you make records available to me as you locate them, rather than waiting until all responsive records have been collected and copied.

If you have any questions regarding this request, please feel free to contact me at (415) 293-6360 or at [ssingh@aclunc.org](mailto:ssingh@aclunc.org). Thank you in advance for your timely cooperation.

1 The term "records" as used in this request is defined as "any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics." Cal. Gov't Code § 6252, subsection (e). "Writing" is defined as "any handwriting, typewriting, printing, photo stating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored." Cal. Gov't Code § 6252, subsection (g)."

Good morning,

The emails for your request just started getting uploaded into our system on Tuesday 10.11.22 and I am waiting for the first folder to be finished so I can begin reviewing them for redaction. Your request generated over 65,000 emails, so the emails will be sent to you in batches every week. I am hoping to have the first batch of emails to you by the end of next week. These records will be uploaded into the PRP portal with a link attached allowing you access to retrieve them as needed.

The follow up determination letter for the 7th was a complete oversight on my part and I apologize for that.

If you have any questions or need additional information, you can manage your request through the CDCR PUBLIC RECORDS PORTAL.

Sincerely,

CDCR PRAU Request Team

CA Department of Corrections and Rehabilitation

← On 10/14/2022 8:51:54 AM, Sana Singh wrote:

Hello,

I would like to follow up on my Public Records Act Request, submitted September 13, 2022. On September 23, I received a message from your office indicating that you would provide me with an initial determination by October 7. However, I have not received any messages since then. Could I please get an update on the status of my request?

Thank you,  
Sana Singh

✉ On 9/23/2022 8:36:06 AM, CDCR Public Records wrote:

**Subject:** [Records Center] Data Concierge Service :: C006684-091322

**Body:**

RE: PUBLIC RECORDS ACT REQUEST September 13, 2022, Reference # C006684-091322

Dear Sana Singh,

This letter is in response to your Public Records Act request dated September 13, 2022 in which you requested the following records:

**"To Whom it May Concern:**

I am writing on behalf of the American Civil Liberties Union of Northern California ("ACLU") and Advancing Justice - Asian Law Caucus to request records pursuant to the California Public Records Act, California Government Code sections 6250 to 6270 and Article 1 section 3(b) of the California Constitution.

I am requesting that CDCR provide the following records:

1. Dating January 1, 2018 to the date of your response to this request, any and all records related to CDCR's policies, procedures, regulations, memoranda, guidance, and forms related to active or potential immigration holds or detainers.
2. Dating January 1, 2021 to the date of your response to this request, any and all records of communication between CDCR and U.S. Immigration and Customs Enforcement ("ICE"). This includes any email communication between CDCR and entities using the email domain of "@ice.dhs.gov".

This request is an on-going request for records, including records dated after the date of this request. If CDCR will not agree to produce records on an on-going basis, please so advise.

The California Public Records Act requires within ten (10) days either production of the requested documents and/or notice of the specific reasons why the materials requested (or portions thereof) are exempt from disclosure. Further, we request a summary of the information contained within any records you claim to be exempt under Government Code § 6254(f), as required by Government Code § 6254(f)(2). In addition, pursuant to section 6253, please disclose all reasonably segregable non-exempt information from any portions of records you claim are exempt from disclosure.

Please send copies of the requested records to me at the address shown below or email them to me at [ssingh@aclunc.org](mailto:ssingh@aclunc.org). We request that you waive any fees that would be normally applicable to a Public Records Act request. In addition, if you have the records in electronic form, you can simply email them to me without incurring any copying costs. See Gov't. Code § 6253.9. Should you be unable to do so, however, the ACLU will reimburse your agency for the direct costs of copying these records plus postage. See Gov't. Code § 6253(b). To assist with the prompt release of responsive material, we ask that you make records available to me as you locate them, rather than waiting until all responsive records have been collected and copied.

If you have any questions regarding this request, please feel free to contact me at (415) 293-6360 or at [ssingh@aclunc.org](mailto:ssingh@aclunc.org). Thank you in advance for your timely cooperation.

1 The term "records" as used in this request is defined as "any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics." Cal. Gov't Code § 6252, subsection (e). "Writing" is defined as "any handwriting, typewriting, printing, photo stating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored." Cal. Gov't Code § 6252, subsection (g)."

Your request is under review and a 14-day extension of time is necessary under Government Code Section 6253(c) to determine whether your request seeks copies of disclosable public records in CDCR's possession. The extension of time is necessary due to:

The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.

We expect to provide you with a determination on or before 10/7/2022.

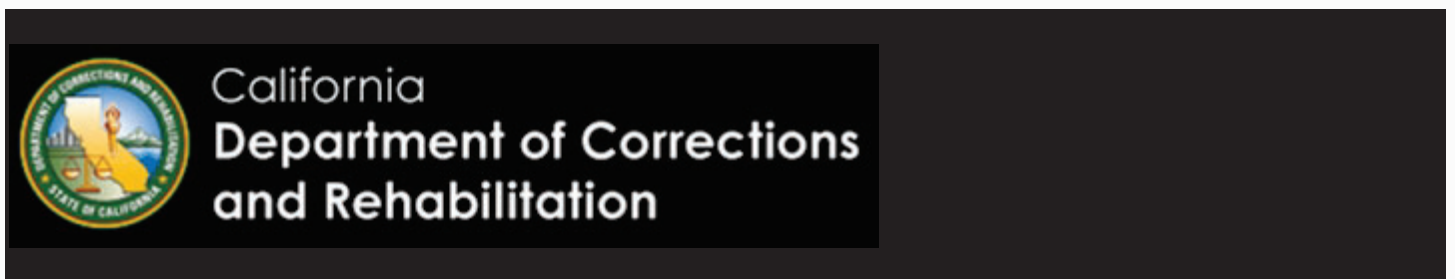
If you have any questions or need additional information, you can manage your request through the CDCR PUBLIC RECORDS PORTAL.

Sincerely,

CDCR PRAU Request Team

CA Department of Corrections and Rehabilitation

✉ On 9/13/2022 2:58:40 PM, CDCR Public Records wrote:



---

RE: PUBLIC RECORDS ACT REQUEST of 9/13/2022, Reference # C006684-091322

Dear Sana Singh,

Thank you for your interest in public records of the California Department of Corrections and Rehabilitation (CDCR). Your request has been received and is being processed in accordance with the California Public Records Act, Government Code section 6250 et seq. Your request was received on September 13, 2022 and given the reference number C006684-091322 for tracking purposes.

**Records Requested: To Whom it May Concern:**

**I am writing on behalf of the American Civil Liberties Union of Northern California ("ACLU") and Advancing Justice - Asian Law Caucus to request records pursuant to the California Public Records Act, California Government Code sections 6250 to 6270 and Article 1 section 3(b) of the California Constitution.**

**I am requesting that CDCR provide the following records:**

- 1. Dating January 1, 2018 to the date of your response to this request, any and all records related to CDCR's policies, procedures, regulations, memoranda, guidance, and forms related to active or potential immigration holds or detainees.**
- 2. Dating January 1, 2021 to the date of your response to this request, any and all records of communication between CDCR and U.S. Immigration and Customs Enforcement ("ICE"). This includes any email communication between CDCR and entities using the email domain of "@ice.dhs.gov".**

**This request is an on-going request for records, including records dated after the date of this request. If CDCR will not agree to produce records on an on-going basis, please so advise.**

**The California Public Records Act requires within ten (10) days either production of the requested documents and/or notice of the specific reasons why the materials requested (or portions thereof) are exempt from disclosure. Further, we request a summary of the information contained within any records you claim to be exempt under Government Code § 6254(f), as required by Government Code § 6254(f)(2). In addition, pursuant to section 6253, please disclose all reasonably segregable non-exempt information from any portions of records you claim are exempt from disclosure.**

**Please send copies of the requested records to me at the address shown below or email them to me at [ssingh@aclunc.org](mailto:ssingh@aclunc.org). We request that you waive any fees that would be normally applicable to a Public Records Act request. In addition, if you have the records in electronic form, you can simply email them to me without incurring any copying costs. See Gov't. Code § 6253.9. Should you be unable to do so, however, the ACLU will reimburse your agency for the direct costs of copying these records plus postage. See Gov't. Code § 6253(b). To assist with the prompt release of responsive material, we ask that you make records available to me as you locate them, rather than waiting until all responsive records have been collected and copied.**

**If you have any questions regarding this request, please feel free to contact me at (415) 293-6360 or at**

ssingh@aclunc.org. Thank you in advance for your timely cooperation.

**1 The term "records" as used in this request is defined as "any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics." Cal. Gov't Code § 6252, subsection (e). "Writing" is defined as "any handwriting, typewriting, printing, photo stating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored." Cal. Gov't Code § 6252, subsection (g).**

Your request will be forwarded to the relevant CDCR department(s) to locate the information you seek and to determine the volume and any costs that may be associated with satisfying your request. You will be contacted about the availability and/or provided with copies of the records in question. PLEASE NOTE: The California Public Records Act does not require a governmental body to create new information, to do legal research, or to answer questions.

You can monitor the progress of your request at the link below and you'll receive an email when your request has been completed.

CA Department of Corrections and Rehabilitation

---

To monitor the progress or update this request please log into the [CDCR PUBLIC RECORDS PORTAL](#)



☐ On 9/13/2022 2:58:38 PM, CDCR Public Records wrote:

Request was created by staff

# EXHIBIT C



Northern  
California

January 30, 2023

**Via USPS Certified Mail and CDCR PRA Portal**

Division of Adult Institutions – PRA Division  
California Department of Corrections and Rehabilitation  
1515 S Street  
Suite 300N  
Sacramento, CA 95811

**RE: Final Request for Disclosure of Responsive Public Records #C006684-091322**

CDCR PRAU Request Team:

I write regarding California Public Records Act (“PRA”) Request #C006684-091322. The California Department of Corrections and Rehabilitation (“CDCR”) is continuing to violate the PRA by failing to disclose records concerning immigration holds and communications with U.S. Immigration and Customs Enforcement (“ICE”). On September 13, 2022, the American Civil Liberties Union of Northern California (“ACLU”) sent CDCR a request for two categories of records on these subjects under the PRA and Article I, § 3(b) of the California Constitution (Request #C006684-091322). CDCR identified more than 65,000 responsive records. After initially producing approximately 550 of those records, albeit with impermissible redactions of public court records, CDCR completely ceased production over two months ago. CDCR has now ignored two ACLU requests for clarification and resumption of production.

CDCR’s failure to timely produce responsive records and unjustified redaction of public court records violate the PRA and Article I, § 3(b). **We are prepared to file a lawsuit compelling CDCR to comply with the law unless by February 10, 2023 CDCR resumes production, commits to a reasonable timeline for completing production, and commits to no longer redact public court records.**

**Background**

ACLU submitted its PRA request on September 13, 2022. A copy of the request is attached as Exhibit A. After an ACLU message requesting information about the status of the PRA request, CDCR responded on October 14, 2022 that it had identified over 65,000 responsive emails which it indicated “[would] be sent to [ACLU] in batches every week.” CDCR stated that it “hop[ed] to have the first batch of emails to [ACLU] by the end of next week.” After a further inquiry from ACLU on October 20, 2022, CDCR began producing batches of emails on November 4, 2022. CDCR produced approximately 550 documents over the next several weeks.

**American Civil Liberties Union Foundation of Northern California**

FRESNO • SACRAMENTO • SAN FRANCISCO  
39 Drumm St. San Francisco, CA 94111

TEL (415) 621-2493 • FAX (415) 255-1478 • TTY (415) 863-7832 • [WWW.ACLUNC.ORG](http://WWW.ACLUNC.ORG)

On December 1, 2022, a CDCR officer called the undersigned and said that the production had been audited and revealed inadvertent disclosure of confidential information. The officer stated that the agency's legal team would send us a legal letter explaining next steps. ACLU has received no further productions of responsive records since December 8, 2022.

On December 13, instead of a legal letter, CDCR sent ACLU a PRA portal message stating, "This letter is to inform you, per our discussion on 12/01/2022, that the production of your request for records of communications between ICE and CDCR has been temporarily halted to correct an inadvertent disclosure of confidential information. Please be advised documents previously sent to you through the [portal] have had the access rescinded. If you have already retrieved the records, CDCR requests you immediately destroy or promptly return the records to us, without sharing or disseminating the contents any further. CDCR will promptly correct the erroneous disclosure and begin producing responsive, redacted records to you on a rolling basis." That is the last communication ACLU received from CDCR about its PRA request.

On December 16, 2022, ACLU sent a message through the PRA portal seeking (1) an explanation of what type of confidential information was inadvertently disclosed, (2) legal support for the request that ACLU destroy or return the disclosed documents, and (3) a timeline for when CDCR would resume production.

Having received no response from CDCR, on January 9, 2023, ACLU again sent a message through the PRA portal reiterating its request for an explanation, legal justifications, and production timeline. ACLU additionally noted that in many of the 550 documents already produced, CDCR appeared to have impermissibly withheld public court documents in their entirety.

### **CDCR's Obligations**

Upon identifying responsive records, CDCR must make such records "promptly available." *See* Gov't Code § 7922.530 (formerly § 6253(b)).<sup>1</sup> "Promptly" commonly denotes doing something "immediately" and "without delay." *See Ex Parte Rose* (1949) 90 Cal.App.2d 299, 303. Two months have now passed since CDCR ceased disclosing any of the approximately 64,000 remaining responsive records, despite all such records being identified months earlier. Such delay violates the PRA's requirement of prompt disclosure. *See also* Gov't Code § 7922.500 (formerly § 6253(d)) (providing that nothing in the PRA "shall be construed to permit an agency to delay or obstruct the inspection or copying of public records").

CDCR also has an obligation to disclose public court records. As an example of CDCR's impermissible withholding of such records, in the record titled "Inmate\_Camargo\_CDCR\_BK8240[...]", CDCR completely redacted the abstract of judgment, minute orders, and charging documents attached to an email from a CDCR staffer to an ICE officer. It appears CDCR withheld similar public court records in numerous other disclosures, which also contain dozens of full-page redactions. Court documents such as these – to which no PRA

---

<sup>1</sup> The California Legislature recodified the PRA through A.B. 473 (2021), which became effective on January 1, 2023. That recodification did not change the substance of the PRA. This letter identifies both the current, applicable PRA provisions and the repealed provisions to which the current provisions correspond.

exemption, privilege, or rule of confidentially attaches – cannot be withheld under the PRA. Cf. *Copley Press, Inc. v. Superior Court* (1998) 63 Cal.App.4th 367, 373 (“Court records are available to the public in general ... unless a specific exception makes specific records nonpublic.”). ACLU expects that CDCR will not withhold public court records in future disclosures.

Please respond to this letter no later than **February 10, 2023**, with a further batch of productions, a timeline for production of the remaining documents, and a commitment to produce responsive records without impermissible redactions. If we have not received additional records and assurances by that date, we will be forced to judicially compel their production. An agency may be liable for the attorneys’ fees and costs incurred to compel the production of records improperly withheld. See Gov’t Code § 7923.115(a) (formerly § 6259(d)).

Thank you for your attention to this request. Please do not hesitate to contact us with any questions regarding this letter at [ssingh@aclunc.org](mailto:ssingh@aclunc.org) or by phone at 415-293-6360. We appreciate your prompt attention to this matter.

Regards,



Sana Singh  
Legal Fellow  
ACLU Foundation of Northern California  
39 Drumm Street  
San Francisco, CA 94111

[ssingh@aclunc.org](mailto:ssingh@aclunc.org)  
(415) 293-6360

**American Civil Liberties Union Foundation of Northern California**

FRESNO • SACRAMENTO • SAN FRANCISCO  
39 Drumm St. San Francisco, CA 94111

TEL (415) 621-2493 • FAX (415) 255-1478 • TTY (415) 863-7832 • [WWW.ACLUNC.ORG](http://WWW.ACLUNC.ORG)

# Exhibit A



**Northern  
California**

September 13, 2022

*Transmitted by email and mail*

California Department of Corrections and Rehabilitation (CDCR)  
Public Records Act Unit  
1515 S Street, Suite 314-S  
Sacramento, CA 94283-0001  
Email: [cal\\_OLA\\_PRA@cdcr.ca.gov](mailto:cal_OLA_PRA@cdcr.ca.gov)

**Re: Request for Records Pursuant to the California Public Records Act**

To Whom it May Concern:

I am writing on behalf of the American Civil Liberties Union of Northern California (“ACLU”) and Advancing Justice – Asian Law Caucus to request records pursuant to the California Public Records Act, California Government Code sections 6250 to 6270 and Article 1 section 3(b) of the California Constitution.

I am requesting that CDCR provide the following records<sup>1</sup>:

- 1. Dating January 1, 2018 to the date of your response to this request,** any and all records related to CDCR’s policies, procedures, regulations, memoranda, guidance, and forms related to active or potential immigration holds or detainers.
- 2. Dating January 1, 2021 to the date of your response to this request,** any and all records of communication between CDCR and U.S. Immigration and Customs Enforcement (“ICE”). This includes any email communication between CDCR and

---

<sup>1</sup> The term “records” as used in this request is defined as “any writing containing information relating to the conduct of the public’s business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.” Cal. Gov’t Code § 6252, subsection (e). “Writing” is defined as “any handwriting, typewriting, printing, photo stating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.” Cal. Gov’t Code § 6252, subsection (g).

**American Civil Liberties Foundation of Northern California**

EXECUTIVE DIRECTOR Abdi Soltani • BOARD CHAIR Farah Brelvi

SAN FRANCISCO OFFICE: 39 Drumm St. San Francisco, CA 94111

FRESNO OFFICE: PO Box 188 Fresno, CA 93707 • SACRAMENTO METRO OFFICE: PO Box 189070 Sacramento, CA 95818  
TEL (415) 621-2493 • FAX (415) 255-1478 • TTY (415) 863-7832 • [WWW.ACLUNC.ORG](http://WWW.ACLUNC.ORG)

entities using the email domain of “@ice.dhs.gov”.

This request is an on-going request for records, including records dated after the date of this request. If CDCR will not agree to produce records on an on-going basis, please so advise.

The California Public Records Act requires within ten (10) days either production of the requested documents and/or notice of the specific reasons why the materials requested (or portions thereof) are exempt from disclosure. Further, we request a summary of the information contained within any records you claim to be exempt under Government Code § 6254(f), as required by Government Code § 6254(f)(2). In addition, pursuant to section 6253, please disclose all reasonably segregable non-exempt information from any portions of records you claim are exempt from disclosure.

Please send copies of the requested records to me at the address shown below or email them to me at [ssingh@aclunc.org](mailto:ssingh@aclunc.org). We request that you waive any fees that would be normally applicable to a Public Records Act request. In addition, if you have the records in electronic form, you can simply email them to me without incurring any copying costs. *See Gov’t. Code § 6253.9.* Should you be unable to do so, however, the ACLU will reimburse your agency for the direct costs of copying these records plus postage. *See Gov’t. Code § 6253(b).* To assist with the prompt release of responsive material, we ask that you make records available to me as you locate them, rather than waiting until all responsive records have been collected and copied.

If you have any questions regarding this request, please feel free to contact me at (415) 293-6360 or at [ssingh@aclunc.org](mailto:ssingh@aclunc.org). Thank you in advance for your timely cooperation.

Sincerely,



Sana Singh  
Legal Fellow  
ACLU of Northern California  
39 Drumm Street  
San Francisco, CA 94111

**American Civil Liberties Foundation of Northern California**

EXECUTIVE DIRECTOR Abdi Soltani • BOARD CHAIR Farah Brelvi

SAN FRANCISCO OFFICE: 39 Drumm St. San Francisco, CA 94111

FRESNO OFFICE: PO Box 188 Fresno, CA 93707 • SACRAMENTO METRO OFFICE: PO Box 189070 Sacramento, CA 95818  
TEL (415) 621-2493 • FAX (415) 255-1478 • TTY (415) 863-7832 • [WWW.ACLUNC.ORG](http://WWW.ACLUNC.ORG)