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December 15, 2020

Daniel Trautfield
California Coalition for Women Prisoners
dtrautfield@gmail.com

RE: CPRA request: California Coalition for Women Prisoners

Dear Mr. Trautfield:

You have requested records from this agency under the California Public Records Act. Your request for information regarding cases from 1991-2020 where defendants were sentenced under Penal Code section 190.2 (special circumstances) including petitioner's names and case numbers can feasibly be obtained only from our local summary criminal history database. Because your request includes offender record information that will identify individuals (names and case numbers), we can only provide the records to you if there is an exception permitting us to do so within the Criminal Offender Record Information statutes. (Pen. Code §§ 13100 et seq.)

In this case, your request may qualify under the exception found in Penal Code, Section 13300(j). In relevant part, Section 13300(j) states: "a public prosecutor may, in response to a written request made pursuant to Section 6253 of the Government Code, provide information from a local summary criminal history, if release of the information would enhance public safety, the interest of justice, or the public's understanding of the justice system and the person making the request declares that the request is made for a scholarly or journalistic purpose." This statute, however, is permissive in nature. It states that a public prosecutor "may" provide, rather than "shall" provide such records. As such, it requires the public prosecutor be assured that the requirements of the statute are being met.

To satisfy this obligation, and to allow us to properly consider your request, we will need a completed declaration, signed and dated by you under penalty of perjury addressing the following three matters: 1) how providing this information to you "would enhance public safety, the interest of justice, or the public's understanding of the justice system." 2) fully identifying the journalistic application to which the records will be put; and 3) providing a declaration that this request is being made for the aforementioned journalistic purposes.

Finally, I am required by Section 13300(j) to advise you of the following: if your declaration “willfully states as true any material fact that you know to be false, you shall be subject to a civil penalty not exceeding ten thousand dollars (\$10,000).” (Pen. Code, § 13300(j).) “An action to impose a civil penalty under this subdivision may be brought by any public prosecutor and shall be enforced as a civil judgment.” (*Ibid.*)

In the absence of your declaration, we have compiled the information you requested and provided it herewith, with all identifying information withheld. If a declaration from you satisfying the requirements Penal Code, Section 13300(j) is received by our office, your request will be reassessed, and an appropriate response will be provided to you.

Sincerely,

Kimberly R. H. Lewis
DISTRICT ATTORNEY

By: 
Thomas M. Pfeiff
Interim Chief Deputy District Attorney