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Assembly California Legislature



NATHAN FLETCHER
ASSEMBLYMEMBER, SEVENTY-FIFTH DISTRICT

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March 8, 2010

Secretary Matthew Cate
California Department of Corrections & Rehabilitation
P.O. Box 942883
Sacramento, CA 94283-0001

Dear Secretary Cate,

Last week we spoke regarding the release of all official records of John Albert Gardner III, P-89529. Additionally, my staff has contacted your office in writing, via email and telephone to gain access to the Central and Field Files for Mr. Gardner.

In response to these requests, we have received only a one-page chronology of Gardner's physical locations while in the corrections system. The only new information contained in the official correspondence from your office was a declaration that your department destroyed Mr. Gardner's records.

As you might suspect, I was shocked to learn that the Department of Corrections' official policy is to destroy the records of violent sex offenders one year after their parole period ends. With all the reports on recidivism and the danger of repeat offenders, it would seem that this information would be critical to our ongoing commitment to public safety and justice. I certainly hope that your department's official response was in error and that Mr. Gardner's Field File was not intentionally destroyed.

Specifically, I would like to know:

1. If, in fact, the field file for John Gardner has been destroyed in its entirety and the date and location where this occurred;
2. What components of Gardner's time on parole were added to – and are now contained within – the Central File;
3. Why the Central Files are maintained but Field Files are destroyed;
4. Why your department believes a policy of destroying public safety records is in the best interest of our state?

Many people are committed to improving our criminal justice system, but it is hard to find needed reforms when the records are destroyed. This policy makes it impossible to know what was done right and what need to be changed.

Gaining access to these records is imperative. As the State Assemblyman who represents the King Family, I have an obligation to investigate the policies and laws affecting the situation. I understand that some records may be protected by HIPAA, but the California Public Records Act does require the Department to make information available. In fact, Sacramento Superior Court Judge Patrick Marlette ruled last month that similar records for Phillip Garrido were subject to the Public Records Act. Your department subsequently made those records available.

I know you share my desire to protect the public and that you see the need for urgency in releasing these records.

There is no compelling reason to delay or refuse the release of this information. I implore you to release all of John Gardner's records immediately.

Sincerely,

A handwritten signature in black ink, appearing to read "Nathan Fletcher", with a stylized flourish at the end.

NATHAN FLETCHER
Assemblyman, 75th District

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March 4, 2010

Matthew Cate
Director, Department of Corrections and Rehabilitation
P.O. Box 942883
Sacramento, CA 94283 - 0001

Dear Secretary Cate,

I am writing you in my official capacity as the State Assemblyman of the 75th District of California to request the Department of Corrections and Rehabilitation Central File and Field File for discharged offender John Albert Gardner III, P-89529.

On September 18, 2000, John Albert Gardner was convicted on 2 counts of Penal Code 288 (A), Lewd and Lascivious Acts on a child under 14, and one count of Penal Code 236, False Imprisonment. My understanding is that he served time at the R.J. Donovan Correctional Facility near San Diego, the Tehachapi California Correctional Institution, and the Avenal State Prison, before being released to Parole on September 26, 2005.

We have been in contact with both Darby Kernan and Mark Delfin at the Department to request these files and have received only very limited information. I understand that there have been issues in the past regarding releasing the names of parole officers, so I do not mind if those names are blacked out. If there are any legal obstacles as to why these files cannot be released in their entirety to my office, I would appreciate those reasons being explicitly defined and presented to my staff.

Please contact Patrick Bouteller in my office at 916-319-2735 with any questions you may have.

I appreciate your consideration on this issue and thank you in advance for a prompt response.

Sincerely,

A handwritten signature in black ink that reads "Nathan Fletcher".

NATHAN FLETCHER
75th State Assembly District