

1 BINGHAM McCUTCHEN LLP
 GEOFFREY HOLTZ – 191370
 2 KRISTEN A. PALUMBO – 215857
 BRIANA LYNN ROSENBAUM – 239977
 3 Three Embarcadero Center
 San Francisco, California 94111-4067
 4 Telephone: (415) 393-2000

ROSEN, BIEN & GALVAN, LLP
 MICHAEL W. BIEN – 096891
 GAY C. GRUNFELD – 121944
 MEGHAN R. LANG – 221156
 ANNE MANIA – 218766
 SHIRLEY HUEY – 224114
 ELIZABETH H. ENG – 239265
 315 Montgomery Street, Tenth Floor
 San Francisco, California 94104
 Telephone: (415) 433-6830

6 PRISON LAW OFFICE
 7 DONALD SPECTER – 83925
 SARA NORMAN – 189536
 8 1917 Fifth Street
 Berkeley, California 94710-1916
 9 Telephone: (510) 280-2621
 Facsimile: (510) 280-2704

YOUTH LAW CENTER
 SUSAN L. BURRELL – 074204
 CAROLE SHAUFFER – 100226
 CORENE KENDRICK – 226642
 200 Pine Street, 3rd Floor
 San Francisco, California 94104
 Telephone: (415)543-3379

10 Attorneys for Plaintiffs

11
 12 IN THE UNITED STATES DISTRICT COURT
 13 FOR THE EASTERN DISTRICT OF CALIFORNIA

14 L.H., A.Z., D.K., D.R., M.N., and R.C., on behalf of
 themselves and all other similarly situated juvenile parolees
 15 in California,

16 Plaintiffs,

17 vs.

18 ARNOLD SCHWARZENEGGER, Governor, State of
 California, MATTHEW CATE, Secretary, California
 Department of Corrections and Rehabilitation (“CDCR”);
 19 SCOTT KERNAN, Undersecretary of Operations, CDCR;
 BERNARD WARNER, Chief Deputy Secretary of the
 20 Division of Juvenile Justice; RACHEL RIOS, Director,
 Division of Juvenile Parole Operations; MARTIN HOSHINO,
 21 Executive Officer of the Board of Parole Hearings (“BPH”);
 ROBERT DOYLE, Chair of the BPH; SUSAN MELANSON,
 22 HENRY AGUILAR, ASKIA ABDULMAJEED, JOSEPH
 COMPTON, ROBERT CAMERON, JOYCE ARREDONDO,
 23 MARY SCHAMER, and TRACEY ST. JULIEN,
 Commissioners and Board Representatives; CHUCK SUPPLE,
 24 Executive Officer of the Juvenile Parole Board; CDCR;
 DIVISION OF JUVENILE JUSTICE; BOARD OF PAROLE
 25 HEARINGS; and the JUVENILE PAROLE BOARD,

26 Defendants.¹

Case No. 2:06-CV-02042-LKK-GGH

**STIPULATED PROTECTIVE ORDER
 REGARDING PAROLEE DEFENSE
 COUNSEL ACCESS TO WITNESS
 CONTACT INFORMATION AND
 CERTAIN MENTAL HEALTH
 INFORMATION**

27
 28 ¹ The names of Defendants currently serving and their CDCR capacities have been substituted pursuant
 to Fed. R. Civ. P. 25.

1 SUBJECT TO THE APPROVAL OF THIS COURT, THE PARTIES HEREBY STIPULATE
2 TO THE FOLLOWING PROTECTIVE ORDER:

3 1. The Stipulated Order for Permanent Injunctive Relief (“Permanent Injunction”)
4 requires Defendants to appoint counsel to represent each and every Juvenile Parolee in the
5 Revocation Process. *Id.* ¶ 15. The Permanent Injunction provides that a Juvenile Parolee’s
6 counsel shall not be denied reasonable access to all of their clients’ files. *Id.* ¶ 20. The
7 Permanent Injunction also requires that, at the time of appointment, the Juvenile Parolees’
8 counsel be provided with all of the evidence in the State’s possession that the State intends to
9 rely upon or that may be exculpatory. *Id.* ¶¶ 16, 19.

10 2. In order to comply with the Permanent Injunction, the Due Process Clause of the
11 Fourteenth Amendment of the United States Constitution, *Morrissey v. Brewer*, 408 U.S. 471
12 (1972), and *In re Olson*, 37 Cal.App.3d 783 (1974) , it is agreed by the parties that the Juvenile
13 Parolee’s counsel may have access to the following “sensitive material”:

14 (a) Any medical or mental health record, including any mental health care
15 record even if a health care provider has determined that there is a substantial risk of significant
16 adverse or detrimental consequences to a parolee/patient in seeing or receiving a copy pursuant
17 to Health & Safety Code § 123115(b).

18 (b) Contact information, including telephone numbers and addresses, of any
19 witnesses or victims in the offense alleged in the parole revocation or revocation extension
20 proceedings who do not declare themselves to be fearful or who have not been designated as
21 confidential by any law enforcement agency. The names, contact information, or any
22 information that would disclose the identity of a confidential witness shall not be provided. The
23 telephone numbers of witnesses or victims who declare themselves to be fearful shall be
24 provided as described in Paragraph 9 below.

25 3. In the course of Parole Revocation and Revocation Extension Proceedings, the
26 Defendants shall disclose the sensitive material only to the Juvenile Parolee’s attorney, CalPAP
27 employees, a certified law student supervised by the Juvenile Parolee’s attorney, or paralegals,
28 law clerks or legal secretaries working for the Juvenile Parolee’s attorney.

1 4. Persons to whom “contact information,” as defined above in Paragraph 2(b), is
2 disclosed shall treat the sensitive material or information as confidential and are prohibited from
3 disclosing the records or information to any other person, including the parolee who is subject to
4 the parole revocation proceedings, except as necessary in the parole revocation or probable cause
5 hearing when the parolee is not present. With regard to this exception, the information or records
6 shall be used only as necessary to represent the parolee in the parole revocation or related
7 proceedings and shall not be used in any other action or for any other purpose.

8 5. Persons to whom mental health and/or medical records are disclosed may use such
9 information as necessary to advocate for the parolee in his or her Parole Revocation or
10 Revocation Extension Proceedings. This includes, but is not limited to, preparing for revocation,
11 revocation extension and related proceedings, and communicating with service providers to
12 determine whether alternatives to incarceration exist.

13 6. Persons to whom sensitive medical or mental health information is disclosed shall
14 be made aware if a health care provider has determined that there is a substantial risk of
15 significant adverse or detrimental consequences to a Juvenile Parolee/patient in seeing or
16 receiving a copy and concerning which the health care provider has complied with the
17 requirements of Health & Safety Code § 123115(b). Persons to whom such a determination is
18 communicated shall be aware of the sensitive nature of the information when discussing it with
19 the Juvenile Parolee/client, and shall use their professional discretion in determining the level of
20 access to the information that the Juvenile Parolee/client shall receive.

21 7. Each person to whom disclosure of the sensitive material is made shall, prior to the
22 time of disclosure, be provided a copy of this order and shall agree in writing that they have read
23 this order, understand and agree to be bound by its provisions, and consent to be subject to the
24 jurisdiction of the United States District Court for the Eastern District of California with respect
25 to any proceeding regarding the enforcement of this order, including without limitation, any
26 proceeding for contempt for violating this order.

27 8. The Juvenile Parolee’s attorneys of record and their agents shall not make copies of
28 the sensitive material obtained by them except as necessary for purposes of the Juvenile

1 Parolee's revocation, revocation extension, or related proceedings. The attorneys of record will
2 maintain control over all copies, electronic or otherwise, obtained by them. Persons who receive
3 medical or mental health care information under this order shall return or destroy the information
4 at the conclusion of the pertinent proceedings.

5 9. For any witness who declares himself or herself "fearful," the only contact
6 information that may be given to the parolee's attorney is a telephone number at which the
7 witness can be contacted. When contacting any witness or victim, the parolee's attorneys of
8 record and their agents shall identify themselves to the witness or victim as a representative of
9 the Juvenile Parolee. If no witness contact information is known or provided to Defendants,
10 Defendants are not obligated to procure contact information for transmittal to the parolee's
11 attorney.

12
13 IT IS SO STIPULATED.

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15 Dated: February 9, 2009

ROSEN, BIEN & GALVAN, LLP

16
17 By: /s/ Gay C. Grunfeld

Gay C. Grunfeld
Attorneys for Plaintiffs

18
19 Dated: February 9, 2009

HANSON BRIDGETT LLP

20
21 By: /s/ Paul Mello

Paul Mello
Attorneys for Defendants

22
23 IT IS SO ORDERED.

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26 Dated: February 11, 2009.



LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT