

# Senate Bill 1064

Uncorroborated Information  
Senator Nancy Skinner, D-Berkeley

## THIS BILL

SB 1064 protects basic due process rights in the collection and use of information from in-custody confidential informants by California's Department of Corrections and Rehabilitation (CDCR).

Uncorroborated information entered into confidential prison files can compromise future proceedings impacting an incarcerated individual in ways such as parole hearings and other internal Corrections Department decisions.

## ISSUE

CDCR officials routinely gather information on incarcerated individuals from other in-custody sources. In-custody informants may provide false information on the belief that they may receive beneficial treatment.

The information collected can be uncorroborated and lack physical or other evidence. However, once the information is placed in confidential prison files it can be used as justification for action and discipline.

Informant testimony can serve as a valuable tool for law enforcement, but the use of uncorroborated information unreasonably results in misuse and unjust criminal justice outcomes.

A 2005 study by the Center for Wrongful Convictions at Northwestern School of Law revealed that testimony from informants was the leading cause of wrongful convictions in death penalty cases in the United States. Other research suggests that 20% of all wrongful convictions in California are the result of perjured informant statements included in trial.

Based on this research, SB 687 (Leno) was signed into law in 2011, prohibiting a defendant in criminal court from being convicted as result of uncorroborated testimony from an in-custody informant. While SB 687 eliminated this practice in criminal court, no such due process procedures currently regulate such practices by California's Corrections Department.

In 2012, incarcerated individuals at Pelican Bay State Prison sued CDCR challenging their solitary confinement as relying on uncorroborated information that asserted they were members of a gang.<sup>1</sup> The

case was settled in 2015 and resulted in thousands of people being moved out of isolation. However, the practice of using confidential, uncorroborated information to deny parole and make confinement and disciplinary decisions is still prevalent in CDCR.

## SOLUTION

SB 1064 provides due process and procedural requirements, like those afforded to criminal defendants, to the use of confidential information gathered from in-custody informants by CDCR.

Specifically, SB 1064 prevents CDCR and the Board of Parole Hearings (BPH) from making findings or decisions that rely in whole or in part on allegations that are uncorroborated and come from an in-custody confidential informant. Information from in-custody informants can remain confidential, but can only be used if it is substantiated with evidence that supports the allegation.

Additionally, if CDCR or BPH are going to meet and consider information regarding an incarcerated person, the person accused shall receive a summary notice of any information provided by an in-custody confidential informant that may be used in the decision making process.

## SUPPORT

American Friends Service Committee (Sponsor)  
UnCommon Law (Sponsor)  
American Civil Liberties Union  
Asian Solidarity Collective  
California Attorneys for Criminal Justice  
California Catholic Conference  
California Coalition for Women Prisoners  
California Families against Solitary Confinement  
California Innocence Project  
California Public Defenders Association  
Center for Constitutional Rights  
Community Legal Services in East Palo Alto  
Community Works  
Ella Baker Center for Human Rights  
End Solitary Santa Cruz County  
Friends Committee on Legislation of California  
Haiti Action Committee  
Initiate Justice  
Insight Garden Program  
Innocence Project  
International Longshore and Warehouse Union  
Jesuit Restorative Justice Initiative

<sup>1</sup> *Ashker v. Brown*

Legal Services for Prisoners with Children  
Loyola Law School Project for the Innocent  
National Religious Campaign against Torture  
Northern California Innocence Project  
Pillars of the Community  
Prison Activist Resource Center  
Prison From-theInside-Out  
Prison Law Office  
Prisoner Hunger Strike Solidarity Coalition  
Re:Store Justice  
San Francisco Bay Area News and Letters Committee  
San Francisco Public Defender  
Silicon Valley De-Bug  
Smart Justice California  
Starting Over, Inc  
Temple Beth El Jewish Community Center  
Team Justice  
Think Dignity  
Tides Advocacy  
We The People  
Young Women's Freedom Center

## CONTACT

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Nikki Scott  
Office of Senator Nancy Skinner  
State Capitol Office, Room 5094  
(916) 651-4009 | [Nikki.Scott@sen.ca.gov](mailto:Nikki.Scott@sen.ca.gov)