



## San Diego County Sheriff's Department

Post Office Box 939062 • San Diego, California 92193-9062



William D. Gore, Sheriff

Thomas J. Cooke, Undersheriff

April 26, 2010

Dave Maass  
Staff Writer – San Diego CityBeat  
Email: [davem@sdcitybeat.com](mailto:davem@sdcitybeat.com)

Dear Mr. Maass:

The Sheriff's Department is in receipt of your email of April 14, 2010 to Jan Caldwell seeking to "inspect all email correspondence sent using the sheriff's (sic) 'email this inmate' feature through the San Diego County Sheriff's web site, [sdsheriff.net](http://sdsheriff.net), for [inmate John Albert Gardner III]." For the reasons stated here, the Sheriff's Department denies your request.

The records you seek are not subject to mandatory disclosure. While you correctly point out that users of the system have "no expectation of privacy for e-mail messages", there is a distinction between a lack of privacy in the e-mail messages, and the e-mail messages being public documents. While the former is clearly true, the latter is not. The California Public Records Act defines "public records" to include "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" (Government Code § 6252(d)). Your request for correspondence from members of the public to inmate John Albert Gardner III is not a request for a writing containing information relating to the conduct of the public's business. (See *Coronado Police Officers Association v. Carroll* (2003) 106 Cal. App. 4th 1001).

Even if the records sought could somehow be characterized as "information relating to the conduct of the public's business", your request would be denied pursuant to Government Code § 6255. A government agency may withhold disclosure of public records if the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure. "The weight of the public's interest in disclosure depends on the gravity of the government action at issue and how directly the sought-after disclosure would illuminate that government action." *Citizens for a Better Environment v. Department of Food & Agriculture* (1985) 171 Cal. App. 3d 704, 715. Here, there is no government action to be "illuminated". You are seeking correspondence from individual members of the public to a County jail inmate. Moreover, the public interest served by nondisclosure of the emails is significant. The Sheriff's Department implemented the e-mail system as a way of reducing the amount of postal correspondence to inmates. This is an important goal because e-mail is 1) faster to sort and process, and 2) involves no potential for the importation of drugs. The more that people use e-mail rather than postal mail to correspond with inmates, the more quickly and efficiently the mail can be processed, and the

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Dave Maass

-2-

April 26, 2010

less likelihood of dangerous drugs coming into the jail facilities through the mail system. But if the Sheriff's Department were to disclose such emails to the media or anyone who made a Public Records Act request, the effect would be to discourage rather than encourage use of the email system. The Sheriff's Department does not wish to discourage the use of a system that is proving to be a benefit in terms of jail efficiency and security.

Please contact me if you would like to discuss this matter. I can be reached at (858) 974-2258.

Sincerely,

WILLIAM D. GORE, Sheriff

*Andrea Byous for*  
Sanford A. Toyen, Legal Advisor  
Office of the Sheriff - Legal Affairs Unit

SAT:aeb