

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NUMBER:

DIVISION:

SECTION:

MATTHEW DENNIS

VERSUS

VERA INSTITUTE OF JUSTICE, INC.

FILED: _____

DEPUTY CLERK

**PETITION FOR WRIT OF MANDAMUS PURSUANT TO THE
LOUISIANA PUBLIC RECORDS ACT AND ATTACHED ORDER**

NOW INTO COURT, through undersigned counsel, comes the petitioner, MATTHEW DENNIS, who pursuant to *La.R.S. 44:1 et seq.*, the Louisiana Public Records Act, respectfully represents:

1.

The petitioner, Matthew Dennis, is a resident of the State of Louisiana and is of the full age of majority.

2.

Named defendant herein is the Vera Institute of Justice, Inc. (hereinafter “Vera Institute”), a foreign corporation authorized to do and doing business in the Parish of Orleans, State of Louisiana.

3.

On February 3, 2017 the petitioner, through undersigned counsel sent Exhibit A, a certified letter, to Jon Wool, the Registered Agent for the Vera Institute at its principal place of business in Louisiana, 546 Carondelet Street, New Orleans, LA 70130.¹

4.

The letter and Exhibit B, the “Domestic Return Receipt”, was received by the Vera

¹A copy of Exhibit A is attached to this Petition.

Institute at 546 Carondelet Street, New Orleans, LA 70130 as is reflected per the “Domestic Return Receipt” signed by “_____ Matherne”.²

5.

Exhibit A, the letter, was a public records request by the petitioner, Matthew Dennis, on the Vera Institute through its agent Jon Wool for fourteen (14) categories of records. The information requested in those fourteen categories included the following records previously identified in Exhibit A:

- 1) A complete copy of all Risk Assessment Forms completed for all arrestees assessed in Orleans Parish by any employee, contractor, intern or volunteer of the Vera Institute from January 1, 2006 through the present;
- 2) A complete list by name and file number of each individual arrested in Orleans Parish and assessed by the Vera Institute who ever enrolled in the Vera Institute Supervision Program from January 1, 2006 through the present;
- 3) A complete list by name and file number of every arrestee in Orleans Parish that the Vera Institute conducted a risk assessment of who while under supervision was rearrested on any new charge from January 1, 2006 through the present;
- 4) A complete list by name and file number of every arrestee in Orleans Parish that the Vera Institute conducted a risk assessment of who while under supervision failed to appear for court;
- 5) A complete listing by name and file number of all arrestees in Orleans Parish who successfully completed the Vera Institute supervision program from January 1, 2006 through the present;
- 6) A complete listing by name and file number of all individuals arrested in Orleans Parish who were expelled or removed from the Vera Institute supervision program for any reason from January 1, 2006 through the present;
- 7) All information and/or data utilized by the Vera Institute to support its contention that its Risk Assessment Program has saved the City of New Orleans and/or the State of Louisiana money for the years 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015 and 2016;
- 8) All information and/or data utilized by the Vera Institute to support its contention that its Risk Assessment Program has resulted in fewer total incarceration days for arrestees in Orleans Parish for the years 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015 and 2016;
- 9) A list of all current and former employees, contractors, interns or volunteers of the Vera Institute in New Orleans, Louisiana including their annual salary and/or rate of pay from January 1, 2006 through the present;

²A copy of Exhibit B is attached to this Petition.

- 10) Records or documentation reflecting that the New Orleans Vera Institute is filing copies of Risk Assessment Forms into the Criminal Court record of Orleans Parish as required by either judicial order and/or their contract with the City of New Orleans;
- 11) A copy of each and every contract entered into by the Vera Institute of Justice, Inc. with the City of New Orleans from 2006 to the present;
- 12) Any and all records from the Vera Institute which would substantiate its claim to the New Orleans City Council that as a result of their risk assessments the City of New Orleans realized a savings in “incarceration days” which resulted in a net savings of \$1,200,000.00 to the City for the year 2014;
- 13) A copy of any and all audits performed by the Vera Institute prepared for presentation to the New Orleans City Council which audits would reflect their purported savings to the City; and
- 14) Identify by name each New Orleans Vera Institute employee, contractor, intern or volunteer who completed risk assessments in Orleans Parish who has been convicted of a felony. Please include a list of the felonies for each employee, contractor, intern or volunteer from 2006 to the present.

6.

The public records requested by petitioner in Exhibit A included records, writings, memoranda and papers or reproductions thereof of documentary materials, including information contained in electronic data processing equipment, having been used, being in use, or prepared, possessed, or retained for use in the conduct, transaction, or performance of any business, transaction, work, duty, or function which was conducted, transacted, or performed by or under the authority of the Constitution or laws of this state, or under the authority of any ordinance, regulation, mandate, or order of any public body or concerning the receipt of or payment of any money received or paid by or under the authority of the Constitution of the laws of this state, and are accordingly “public records”. *La.R.S. 44:1. A.(2).(a)*.

7.

In Exhibit C, a letter dated February 14, 2017, the Vera Institute through its corporate counsel, Adair Iacono, arbitrarily and/or capriciously denied all of petitioner’s requests on the basis that the information requested “is not subject to the Public Records Act”.³

³ A copy of Exhibit C is attached to this Petition.

8.

The records requested by petitioner are public records. Pursuant to *La.R.S. 44:31.B.(1)* “any person of the age of majority may inspect, copy or reproduce any public record”. “The burden of proving that a public record is not subject to inspection, copying, or reproduction shall rest with the custodian”. *La.R.S. 44:31.B.(3)*.

9.

The Vera Institute is a quasi-public non-profit corporation designated by the City of New Orleans to perform a governmental function.

10.

Since January 1, 2007 the City of New Orleans has contracted with the Vera Institute to operate a program to perform pretrial services in New Orleans. As part of its duties the Vera Institute performs risk assessments of persons charged with State offenses to assist Orleans Parish Criminal Court judges determine appropriate bonds.

11.

In exchange for public services to be provided to the City of New Orleans the City of New Orleans pays the Vera Institute with City taxpayer funds.

12.

In conducting risk assessments, the Vera Institute, as part of the public service it performs, reports the results of its risk assessments to the judges in Orleans Criminal District Court as well as to state prosecutors and defense attorneys.

13.

The Vera Institute has been receiving funding from the City of New Orleans since 2007 to perform this public service. As such, regardless of its designation as a foreign non-profit, it is an instrumentality of the City of New Orleans and a quasi-public organization designated by the City of New Orleans to perform a government function. It is therefore subject to the requirements of the Louisiana Public Records Act, pursuant to *La.R.S. 44:1.A.(1)*.

14.

The petitioner has been denied the right to obtain a copy or reproduction of the records requested under the provisions of the Louisiana Public Records Act. The petitioner therefore institutes these proceedings seeking this Court to order a Writ of Mandamus to the Vera Institute ordering the Vera Institute to produce copies of the records requested. In addition, the petitioner seeks attorney's fees, costs and damages for the arbitrary or capricious withholding of the records as provided for by the Louisiana Public Records Act. *La. R.S. 44:35.A. & D.*

15.

This Court has jurisdiction to enjoin the defendant from withholding records or to issue a writ of mandamus ordering the production of any records improperly withheld from the petitioner. The court shall determine the matter *de novo* and the burden is on the custodian to sustain his action. *La.R.S. 44:35.B.*

16.

This suit to enforce the provisions of the Louisiana Public Records Act shall be tried by preference and in a summary manner. *La.R.S. 44:35.C.*

17.

The Vera Institute has arbitrarily or capriciously withheld the requested records and accordingly the petitioner is entitled to actual damages proven. *La.R.S. 44:35.E.(1).*

WHEREFORE, petitioner, MATTHEW DENNIS, prays that the defendant be duly cited and served with a copy of the foregoing petition and that after legal delays have expired there be judgment in his favor and against the defendant, VERA INSTITUTE OF JUSTICE, INC., granting petitioner's Writ of Mandamus ordering the defendant to produce the records demanded in Exhibit A, his original request pursuant to the Louisiana Public Records Act and as outlined in this petition, in particular paragraph 5, and that further the defendant be ordered to pay attorney's fees, court costs and any damages proven by the petitioner for the defendant's arbitrary and/or capricious withholding of the records.

The petitioner further prays that this case be tried by preference and in a summary

manner.

The petitioner further prays that the defendant be cited to appear on a date and time fixed by this Court and show cause why a Writ of Mandamus should not be issued ordering the production of the records identified in the public records request and why it should not be made to pay attorney's fees, costs and damages.

Respectfully submitted;

GARY W. BIZAL, L.L.C.

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Attorney for Petitioner

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

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VERSUS

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ORDER

Considering the foregoing petition filed herein;

IT IS ORDERED that the defendant, VERA INSTITUTE OF JUSTICE, INC., show cause on the ____ day of _____, 2017 at ____ o'clock __.M. why a Writ of Mandamus should not issue herein ordering said defendant to produce the following requested records:

- 1) A complete copy of all Risk Assessment Forms completed for all arrestees assessed in Orleans Parish by any employee, contractor, intern or volunteer of the Vera Institute from January 1, 2006 through the present;
- 2) A complete list by name and file number of each individual arrested in Orleans Parish and assessed by the Vera Institute who ever enrolled in the Vera Institute Supervision Program from January 1, 2006 through the present;
- 3) A complete list by name and file number of every arrestee in Orleans Parish that the Vera Institute conducted a risk assessment of who while under supervision was rearrested on any new charge from January 1, 2006 through the present;
- 4) A complete list by name and file number of every arrestee in Orleans Parish that the Vera Institute conducted a risk assessment of who while under supervision failed to appear for court;
- 5) A complete listing by name and file number of all arrestees in Orleans Parish who successfully completed the Vera Institute supervision program from January 1, 2006 through the present;
- 6) A complete listing by name and file number of all individuals arrested in Orleans Parish who were expelled or removed from the Vera Institute supervision program for any reason from January 1, 2006 through the present;

- 7) All information and/or data utilized by the Vera Institute to support its contention that its Risk Assessment Program has saved the City of New Orleans and/or the State of Louisiana money for the years 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015 and 2016;
- 8) All information and/or data utilized by the Vera Institute to support its contention that its Risk Assessment Program has resulted in fewer total incarceration days for arrestees in Orleans Parish for the years 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015 and 2016;
- 9) A list of all current and former employees, contractors, interns or volunteers of the Vera Institute in New Orleans, Louisiana including their annual salary and/or rate of pay from January 1, 2006 through the present;
- 10) Records or documentation reflecting that the New Orleans Vera Institute is filing copies of Risk Assessment Forms into the Criminal Court record of Orleans Parish as required by either judicial order and/or their contract with the City of New Orleans;
- 11) A copy of each and every contract entered into by the Vera Institute of Justice, Inc. with the City of New Orleans from 2006 to the present;
- 12) Any and all records from the Vera Institute which would substantiate its claim to the New Orleans City Council that as a result of their risk assessments the City of New Orleans realized a savings in “incarceration days” which resulted in a net savings of \$1,200,000.00 to the City for the year 2014;
- 13) A copy of any and all audits performed by the Vera Institute prepared for presentation to the New Orleans City Council which audits would reflect their purported savings to the City; and
- 14) Identify by name each New Orleans Vera Institute employee, contractor, intern or volunteer who completed risk assessments in Orleans Parish who has been convicted of a felony. Please include a list of the felonies for each employee, contractor, intern or volunteer from 2006 to the present.

and why said defendant should not be ordered to pay attorney’s fees, court costs and damages in the above captioned matter.

This Order signed in New Orleans, Louisiana, on the ____ day of _____, 2017.

JUDGE

PLEASE SERVE:

Vera Institute of Justice, Inc.
Through its Registered Agent
Jon Wool
546 Carondelet St.
New Orleans, LA 70130

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WRITTEN REQUEST FOR NOTICE

Civil District Court - Clerk of Court
Parish of Orleans
421 Loyola Ave
New Orleans, LA 70112

Pursuant to Article 1572 of the Louisiana Code of Civil Procedure, petitioner MATTHEW DENNIS, hereby requests written notice of the date set for trial of the above numbered and entitled cause, or of the date set for trial of any pleadings or motions herein, at least ten (10) days before any trial date.

Petitioner also requests notice of the signing of any final judgment or the rendition of any interlocutory order or judgment in said cause as provided by Articles 1913 and 1914 of the Louisiana Code of Civil Procedure.

Respectfully submitted;

GARY W. BIZAL, L.L.C.

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