



Karl Olson  
kolson@cofolaw.com

December 12, 2019

**By Email Only**

Douglas Bojack  
Staff Counsel  
GOVERNOR'S OFFICE OF PLANNING AND  
RESEARCH  
1400 Tenth Street, P.O. Box 3044  
Sacramento, CA 95812-3044  
Douglas.Bojack@SGC.CA.GOV

**Re: November 25, 2019 Public Records Act Requests to OPR**

Dear Mr. Bojack:

We represent Checks and Balances Project. I am writing in response to your December 3, 2019 letter regarding the Public Records Act requests transmitted to the Governor's Office of Planning and Research ("OPR") by Executive Director Scott Peterson on November 25, 2019. Your response, in which you state OPR "expects to produce responsive, non-exempt records by January 31, 2020," does not comply with your obligations under the Public Records Act. My client demands a corrected response immediately, and the disclosure of all responsive records in your possession that are not exempt from disclosure within twelve (12) days.

The Public Records Act "provides a streamlined and expedited process for public access to government records, because 'access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state.'" (*City of L.A. v. Metro. Water Dist. of S. Cal.* (Cal. Ct. App. Nov. 19, 2019) Case No. B272169, 2019 WL 6123675, at \*2, citing Gov. Code § 6250; accord. *Int'l Federation of Professional & Technical Engineers, Local 21, AFL-CIO v. Superior Court* (2007) 42 Cal.4th 319, 328-29 ["Openness in government is essential to the functioning of a democracy. 'Implicit in the democratic process is the notion that government should be accountable for its actions. In order to verify accountability, individuals must have access to government files. Such access permits checks against the arbitrary exercise of official power and secrecy in the political process.'"]). "An agency has 10 days to respond to a CPRA request. One 14-day extension is permitted for specified purposes . . . . ***No further delays are authorized by the statute.***" (*City of L.A., supra*, 2019 WL 6123675, at \*2 [emphasis added].)

The Public Records Act also specifies what information the agency's response needs to provide, and when responsive records must be disclosed. Government Code section 6253(c)

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provides that a response must “notify the person making the request” of its “determin[ation] whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency . . . and the reasons therefore.” Put another way, it provides that your response must exhaustively state whether your agency has responsive records, whether and the extent to which the responsive records will be disclosed or are exempt from disclosure, and all of the exemptions your agency claims justify withholding presumptively public information. Government Code section 6253(b) provides that your agency must disclose all responsive records “promptly” thereafter.

This “streamlined and expedited” procedure is consistent with the importance of prompt access to public information. As the Seventh Circuit Court of Appeals explained when discussing the right of access to judicial records, “The newsworthiness of a particular story is often fleeting. To delay or postpone disclosure undermines the benefit of public scrutiny and may have the same result as complete suppression.” (*Grove Fresh Distributors, Inc. v. Everfresh Juice Co.* (7th Cir. 1994) 24 F.3d 893, 897, superseded by Rule on other grounds as stated in *Bond v. Utreras* (7th Cir. 2009) 585 F.3d 1061, 1068 n.4.)

Your December 3, 2019 letter ignores and contradicts the Public Records Act’s “streamlined and expedited” procedure, including the strict response timeline and requirements of Government Code section 6253(c), and the “prompt” disclosure requirement of Government Code section 6253(b). You have not stated whether and the extent to which you intend to withhold records, or and you have not presented any meaningful justification for such withholdings, let alone an exhaustive list of such justifications. It should go without saying that disclosing records in *two months*, by January 31, 2020, would violate the “prompt” production requirement, and would undermine our ability to provide the public with public information when that information is needed.

We demand that you provide an exhaustive determination regarding whether and the extent to which responsive records exist and are subject to disclosure and specifically identify any and all exemptions you claim are applicable immediately, as Government Code section 6253(c) requires. We also demand that you disclose the records at issue “promptly,” as Government Code section 6253(b) requires, and not later than twelve (12) days from the date of this letter.

If you would like to discuss this letter, please contact me or my associate, Aaron Field, at (415) 409-8900.

If my client is forced to go to court to enforce its rights under the Public Records Act, it will seek and be entitled to recover attorney’s fees and costs under Government Code section 6259(d).

Very truly yours,



Karl Olson

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