

October 5, 2022

**SENT VIA U.S. CERTIFIED MAIL AND EMAIL**

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**Re: California Public Records Act Request**

Dear Mr. Treisman:

I write regarding our February 18, 2022 California Public Records Act Request. Our office has asked several times for your legal justification for withholding documents responsive to this request. We ask one final time for these specific objections and require that you respond no later than **October 13, 2022**. We asked for this information months ago, beginning with our phone conversation on March 29, 2022.

We have asked several times for you to justify withholding specific categories of data we request by citing specific legal objections. You have failed to do so, instead only saying that the data “is likely partially or entirely exempted under the Act or privileged.”<sup>1</sup> This is not a legal objection, is not applied to any specific category of data we request, and does not justify nondisclosure under the CPRA.

Further, you have stated in multiple communications that you may withhold data on the basis that its incompleteness may be misleading and therefore that your duty to disclose the information is somehow outweighed by the public interest in your not producing incomplete data. We disagree with this on several points. First, again, you must apply this exemption to a specific category of data we request. Second, if the data is incomplete there will be no way for you to determine that it is misleading, as you would need the remaining data in order to compare it to a more accurate data set. Finally, your fear that incomplete data may suggest that your office has acted in a discriminatory way could not outweigh the interest of the public and the state legislature in enforcing the Racial Justice Act. Simply put, if your office is worried about incomplete data, you could keep better records. Your poor record keeping does not counteract the CPRA’s mandate for the disclosure of public information.

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<sup>1</sup> June 9, 2022 letter from Doug Treisman to BraunHagey and Borden.

October 5, 2022

Page 2

We also note that we paid \$955.06 for the retrieval of data over three months ago, on June 21, 2022. To date, you have provided no data responsive to our request. We ask that you provide this data immediately. As described above, without specific exemptions applied to specific categories of data we request, you are not entitled to withhold data for an imagined public interest determination.

Please produce the requested data and respond in writing with legal justifications for any withholding no later than **October 13, 2022**. If you do not provide the information we request, we will consider your willful obstruction equivalent to failing to respond to our request and will litigate at your expense to obtain the records we request.<sup>2</sup> No further extensions will be given, and we will not contact you again prior to filing litigation.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Kory DeClark', written over a light blue horizontal line.

Kory DeClark

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<sup>2</sup> In just the last five months, we have brought litigation against Siskiyou County, Santa Cruz County, and Mendocino County for failing to provide documents we requested in a PRA request identical to the one we sent you. All three counties have produced or are now producing the documents we requested. Siskiyou County paid approximately \$40,000 in attorneys' fees at the conclusion of the litigation. We hope you will produce the documents we requested over a year ago so that we can avoid similar litigation here.