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VIA ELECTRONIC (CHHSMail@chhs.ca.gov) MAIL ONLY

May 30, 2020

California Health & Human Services

Atten: PRA Request

1600 9th Street, Room 460

Sacramento, CA 95814

RE: California Public Records Act Request in re Corona Virus Pandemic / COVID-19 – Public Health orders regarding “Shelter in Place”, “Face Covering” and “Cancel Mass Gathering” orders.

Dear Public Health Services:

This letter is being sent on behalf of the Center for American Liberty. I request you direct this letter to the responsible personnel to respond to my client’s CPRA requests.

PUBLIC RECORDS ACT REQUEST NO. I

Documents upon which the State of California and/or the California Health and Human Services agency based its “Shelter in Place”, “Face Covering” and “Cancel Mass Gathering” orders during the corona virus (COVID-19) pandemic.

Pursuant to the California Public Records Act, Govt. Code §§ 6250-6276.48, Center for American Liberty (“Requestor”) respectfully requests to inspect all public records in the possession or control of the California Health and Human Services agency (“CHHS”) office for the following::

1. Each set of data (including but not limited to scientific studies, peer reviews, medical studies, analysis, hospital data, public health studies, health care statistics, memorandum, letters, correspondence, directives, etc.) upon which the State of California and/or the CHHS based its decision to issue any and all “Shelter in Place”, “Face Covering” and “Cancel Mass Gathering” orders from October 1, 2019 to the present date regarding the COVID-19 pandemic;
2. Each set of data and/or correspondence, including electronic communication and in paper format, regarding each renewal or modification of any Order; and
3. A copy of any and all requests for similar records under the California Public Records Act received by the CHHS and all responses thereto.

These requests are for any and all writings and communications (including but not limited to, letters, electronic communications, e-mails, text messages, notes, memorandums, messages) whether or not those communications are stored in the CHHS's files and/or servers or on personal devices / accounts such as private electronic mail accounts or cellular telephones. *City of San Jose v. Superior Court (Smith)* (2017) 2 Cal. 5th 608.

The time frame for these Requests are October 1st, 2019 and the date of this letter (May 30, 2020).

**PUBLIC RECORDS ACT REQUEST NO. II
FOR DOCUMENTS RELATED TO THE CHHS' FINDINGS OF ITS
ALLOWED "DIRECT" COSTS PER GOVERNMENT
CODE SECTION 6253 (B).**

Since the Public Records Request Act allows the CHHS to only charge its "direct" costs for photocopying, please disclose how (including backup costs information or studies **not** just the CHHS's formal policy on photocopy charges) the CHHS arrives at its "direct" cost per page for photocopying charges. Please consider this request to be a separate Public Records Act Request.

**REQUEST FOR INFORMATION IN ELECTRONIC FORMAT PURSUANT TO
GOVERNMENT CODE SECTION 6253.9 (A) (2) & (E).**

My client is seeking these records in any and all electronic formats your office keeps them in. Under the Public Records Act, the CHHS's office is required to deliver the information in whatever electronic format it is in no matter whether it is Excel, Word, WordPerfect or some other program or programs. Government Code section 6253.9 (a) (2) & (e). **My client's request extends to receipt of this information in the electronic format your office maintains these records in.** Delivery of this information to me by electronic mail (craig@craigalexanderlaw.com) or via a thumb drive or via a disk is fine. I can supply the CHHS with a thumb drive if needed. *Please advise what electronic format these records are kept in.*

In addition, if there are documents that satisfy this request that are in **both** electronic and paper formats, my client offers to receive the electronic version of those records and forgo inspection and potential photocopying of those paper copies. It is hoped that this will save the CHHS and my client's time, trouble and expense.

If you anticipate that data compilation, extraction, or programming will be required to satisfy a request (per Section 6253.9(b)), please provide a written estimate and justification for same. Given the high profile of this matter with the public and the recentness of the date of any responsive records (October 1, 2019 to May 30, 2020), a compilation, extraction or programming should not be required to obtain responsive documents. In addition on May 28, 2020 the California Supreme Court ruled that an agency may not charge a requestor of responsive documents for the act of searching for

those documents or for review and redaction of any portion of a responsive document where the agency is claiming it is subject to an exemption or privilege. *National Lawyers Guild v. City of Hayward, et al* (2020) 2020 WL 2761057 (Case No. S252445) _____ Cal. 5th _____.

REQUEST FOR INSPECTION OF DOCUMENTS

For any records not delivered electronically, once my client's agent and/or I have had an opportunity to inspect these records, we will designate which documents we will wish to obtain copies from your office and its agents, employees, consultants, etc. If a document exists in both electronic and paper formats, my client selects to receive a copy of the electronic version of the document. This should save both your office time and funds in duplication time and costs and my client duplication costs.

The California Public Records Act requires the CHHS's office to "reveal the general nature of the documents withheld," and to "set forth the names and titles or positions of each person responsible for the denial." Cal. Govt. Code Section 6253 (d). I emphasize my client's request for a specific response and all applicable exemptions to the request. A blanket list of exemptions that may or may not apply to the request coupled with a failure to indicate the existence of documents responsive to the request denies us the ability to evaluate whether the CHHS has justifiably withheld responsive documents. Denying my client her opportunity frustrates the Legislature's primary purpose in enacting the California Public Records Act, which is to "maximize public access to agency records."

We agree that after our inspection of documents made available, to pay the direct cost of duplicating any and all responsive writings we request to have copied in accordance with Section 6253(b). However we will not pay for any charges related to searching, reviewing or redacting documents or portions thereof. Cal. Govt. Code Section 6253(b).

There is no question that your office is a public entity subject to the Public Records Act pursuant to Government Code section 6252 and it must comply with the Request as set forth under the Act.

Terms utilized that are defined by the California Public Records Act should be given their full meaning. Thus, for example, a request for any "writing" includes a request for "any handwriting, typewriting, printing, Photostatting, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored. Cal. Govt Code section 6252 (g). In keeping with the provisions of the California Public Records Act, "writing" includes any preliminary drafts, notes or interagency or intra-agency memoranda" unless such draft items are "not retained...in the ordinary course of business" and "the public interest in withholding clearly outweighs the public interest in disclosure."

Additionally, certain common terms should be given broad interpretation. For example, “relating to” means, in addition to the usual and customary meaning, depict or depicting, discuss or discussing, refer to or referring, reflect or reflecting, support or supporting, refute or refuting, address or addressing, evidence or evidencing, or record or recording.

For the purposes of this letter, a reference to an entity or body, such as the CHHS’s office includes any and all representatives of the entity or body.

**THE CHHS’S RESPONSE TO
OUR REQUESTS ARE DUE WITHIN TEN DAYS**

In accordance with Section 6253 (c), please contact me within ten (10) days of your receipt of this request and notify me whether this request seeks copies of dis-closable public records in the CHHS’s possession, and, if not, the reasons for such determination. We will wish to make an appointment with you to review the dis-closable records at your office.

Thank you in advance for your courtesy and cooperation in this matter.

Very truly yours,

//s//

Craig P. Alexander