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Tuesday, April 23, 2019

Submitted Electronically

Assembly Member Vince Fong
California State Capitol
Room 2002
Sacramento, CA 94814

RE: Assembly Bill 289 (Fong) – SUPPORT

Dear Assemblymember Fong:

I am writing on behalf of the California Civil Liberties Advocacy (CCLA) to express our support for Assembly Bill 289, which establishes an ombudsman to act as an independent referee in determining whether or not a California Public Records Act (CPRA) request was denied on legitimate grounds.

Currently, there is no administrative appeals option and applicants must instead opt to file suit, which is generally cost prohibitive. Agencies take advantage of this fact, placing the burden of enforcing the CPRA on the applicants themselves. For all practical purposes, this serves as a bar to disclosure in a great many cases. In *Anderson-Barker v. Superior Court*¹, the court held that the purpose of the the CPRA was “increasing freedom of information by giving members of the public access to information in the possession of public agencies.” Unfortunately, there is no real penalty for government agencies who refuse or fail to comply with the law, leaving citizens with only two options: either abandon the request or file suit.

By providing a mechanism in which applicants may appeal at the administrative level, proceedings can be handled with more relaxed proceedings than provided by the judicial system, making denial challenges economically more feasible and thereby enhancing public transparency. We believe this may also help relieve the burden on

“Indifference to personal liberty is but the precursor of the state’s hostility to it.”

— Justice Kennedy, U.S. Supreme Court

California's courts for litigating such claims, potentially offsetting any costs for implementing such a program.

For all of the abovementioned reasons, the CCLA supports AB 289 (Fong).

Very truly yours,



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Cc: Assembly Judiciary Committee (Submitted Electronically)

ⁱ *Anderson-Barker v. Superior Court* (2019) 31 Cal.App.5th 528, 538