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February 24, 2009

David W. Wiechert

Andrea L. Jacobs

VIA U.S. MAIL

Sheriff Sandra Hutchens
Orange County Sheriff's Department
320 North Flower Street
Santa Ana, CA 92703

Re: Public Records Act & Legislative Open Records Act Request

Dear Madam Sheriff:

This office represents Ordinary California Citizens Concerned With Safety ("OCCCWS"). Representatives of the Orange County Sheriff's Department ("OCSD") discriminately searched many OCCCWS supporters before, during, or after a public meeting of the Orange County Board of Supervisors ("OCBOS") on January 13, 2009. Whether this accosting of California citizens, presumably directed by you and your office, constituted inappropriate or illegal harassment, is a matter of both public and private interest.

Pursuant to the California Public Records Act (Cal. Gov. Code § 6250 et seq.) ("CPRA") and the Legislative Open Records Act (Cal. Gov. Code § 9071 et seq.) ("LORA") we request, on behalf of OCCCWS, a copy of the following, which we understand to be held by your agency:

1. Copies of video footage or any other photographic or electronic images from the January 13, 2009 OCBOS meeting from all ceiling cameras in the OCBOS Chamber for the period one hour before the meeting started until one hour after the meeting ended.
2. Copies of video footage or any other photographic or electronic images from the January 13, 2009 OCBOS meeting from all first floor cameras in the Hall of Administration, located at 333 W. Santa Ana Blvd., Santa Ana, CA, for the period one hour before the meeting started until one hour after the meeting ended.

3. Copies of video footage or any other photographic or electronic images from the January 13, 2009 OCBOS meeting from any other source than the cameras listed in Subparagraphs 1 and 2 for the period one hour before the meeting started until one hour after the meeting ended.

It is our understanding that you may assert fatuous arguments that some or all of the records requested here are covered by exemptions in the CPRA or LOPRA. Hopefully you will re-think this position and be extremely circumspect when considering whether to obstruct the lawful production of these records. As you are aware, we will be awarded attorneys fees should a court find that OCS D improperly withheld these records. Cal. Gov. Code §§ 6259(d), 9078.

On January 13, 2009, an open meeting of the OCBOS was held so that members of the public could address the soundness of concealed weapon permit policies contemplated by your Department. There is no concept more fundamental to our democracy and our constitutions than the citizenry be undeterred from attending, and expressing opinions to their public servants in open session. Furthermore, the issue of the right to bear arms is of constitutional import. During this meeting, select individuals, in particular those who wore OCCCWS buttons, were searched by OCS D personnel after being allowed entrance into the OCBOS chamber. Unwarranted attention was also placed on these individuals. For example, the wife of one OCCCWS supporter was followed into the restroom by a female Deputy.

In responses to previous letters sent to the OCS D regarding this issue, you asserted exemptions of the requested material based on: (1) publication of the recordings purportedly compromising the security of the Board Chamber, thereby jeopardizing the safety of the Board and those who attend Board meetings; and (2) video disclosure allegedly enabling the identification of undercover officers who were present in the Board Chamber putting these officers and their families at risk of harm. These exemption claims simply do not pass muster. First, all board meetings are video taped and posted on the OCBOS website. Thus, there are no imminent safety concerns for members of the OCBOS whose faces and identities are prominently featured. Second, it is beyond comprehension that a professional law enforcement organization would utilize undercover officers with covert identities to do pat down searches at a very public OCBOS meeting. In any balancing a court may undertake should this request result in litigation, the public interest in disclosure of these records greatly outweighs any interest of non-disclosure that has been raised to date. The public has an important interest in knowing that attending OCBOS meetings may result in arbitrary searches and unnecessary surveillance by OCS D, especially when an individual's or organization's views counter a member of authority within the Department.

Additionally, pursuant to Cal. Gov. Code § 6254.5, any exemptions previously claimed have been waived by virtue of the Sheriff's Department allowing OCBOS staff to view the footage from the January 13, 2009 meeting that is currently sought. Further, as far as we know there was

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no confidentiality agreement between the OCBOS and the Sheriff's Department at the time these disclosures were made. See Cal. Gov. Code § 6254.5(e).

We ask for a determination on this request within 10 days of your receipt of it, and an even prompter reply if you can make that determination without having to review the records in question. We ask that you advise us of any duplication costs and we can forward you the amount ahead of time if necessary.

Please respond in writing if you reject any part of this request or if you intend to give yourself an extension under the CPRA or the LOPRA. Please also respond in writing if the above items are not held by your office, or if you intend to redact any portion of responsive information based on an asserted exemption. Portions you contend are not exempt of course must be provided forthwith. Please provide a signed notification citing the legal authorities that you believe apply to any redacted or exempt portion of the requested information.

If we can provide clarification that will help expedite your attention to this request, please contact us at your earliest convenience.

Sincerely,

David W. Wiechert

cc: Orange County Board of Supervisors