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**Attorney General**

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**DEPARTMENT OF JUSTICE**



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January 24, 2013

Sacramento County District Attorney's Office  
Attn: Assistant Chief Deputy District Attorney Albert Locher  
901 G Street  
Sacramento, California 95814

RE: California Department of Parks and Recreation Investigation

Dear Mr. Locher:

Thank you for your letter earlier today. As you know, in undertaking the California Department of Parks and Recreation funds inquiry, it was important to be thorough and far-reaching to fulfill the very important interest in protecting the integrity of the public fisc. A speedy resolution was as critical as a comprehensive one, and in-depth disclosure from the myriad of persons possessing relevant, perhaps crucial, information was very unlikely to result from a criminal investigation. The statutory and constitutional safeguards applicable in criminal matters were likely to inhibit, rather than facilitate, the prompt, thorough discovery of relevant and key information from the persons who possessed it. Accordingly, this office proceeded with a civil investigation that included, as such investigations and similar inquiries routinely do, the need for compelled statements. These are not promises of immunity from prosecution, which were not offered in this case, but do foreclose the use of such statements in future prosecutions.

The inevitable and expected result of conducting such an investigation is that the issue arises whether the investigating office may proceed criminally after having obtained compelled statements. Indeed, in any case involving *Lybarger* statements, this issue arises.

Nothing disclosed by any person, whether or not in a compelled statement, has prompted this office to commence a criminal investigation. Nonetheless, by letter dated January 17, 2013, out of an abundance of caution, this office turned over the information (minus any compelled statements) to your office, with notification that your office may or may not determine a basis for criminal process.

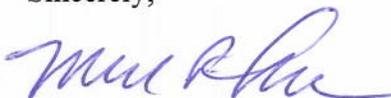
All local prosecuting agencies have independent authority to determine if and when to commence criminal investigation based on information received—whether the source of such information is from a civil grand jury report, an audit report, a whistleblower's complaint, a member of the public at large, facts arising in a civil lawsuit, or, as here, a report from another

governmental agency. Our letter sought to ensure your office was not taken unaware by the issue of the significant restrictions and complexities that arose as a necessary consequence of the use of compelled statements, and, thus, the issue was raised in detail in the letter provided to you.

Apparently a review of that same information has not prompted a conclusion that there is a need for your office, in its independent law enforcement role, to launch a criminal investigation. That parallels this office's decision not to conduct a criminal investigation, and there is the added benefit that your office cannot be considered compromised due to possession of any compelled statements.

This office presently, as in the past, enjoys a productive and cooperative relationship with local law enforcement agencies, and this office appreciates the cooperative effort your office has shown in this sensitive matter.

Sincerely,



MICHAEL P. FARRELL  
Senior Assistant Attorney General

For KAMALA D. HARRIS  
Attorney General