March 28, 2019

Office of Assemblymember Laura Friedman
300 East Magnolia Boulevard
Suite 504
Burbank, CA 91502

Re: AB 700 (Friedman) – Oppose Unless Amended

Dear Assemblymember Friedman:

I write on behalf of People for the Ethical Treatment of Animals (PETA), Social Compassion in Legislation (SCIL), and Physicians Committee for Responsible Medicine (PCRM) with strong objections to Assembly Bill 700. We have reviewed the proposed amendments that your office forwarded on March 27, 2019, and while we appreciate that your office is attempting to correct some of the issues we have with this bill, we believe that the amendments do not address the underlying problems, and may only result in greater confusion and cumbersome litigation under the California Public Records Act (CPRA). Here are some of our specific objections and concerns with the bill, as amended:

- The language in the legislative intent is contradictory from the bill's provisions. The new legislative intent language states that academic research is a "continuous endeavor that lacks clear distinctions between ongoing and completed research projects." However, later in the text of the exemptions, it appears that the proposed bill does try to make precisely this distinction when it exempts "Research methods *that have not been published*" and "*Unpublished* data." Courts will likely find the guidance in the legislative intent section confusing, contradictory with its plain text, and impossible to apply.

- Section 6254(ae)(A)(i) still exempts "Research methods that have not been published." This exemption may make it impossible for animal advocates to gain access to animal use protocols, which are formal, written plans for an animal experiment. These protocol forms are routinely requested by animal advocacy organizations in order to have a more comprehensive understanding of how an experimenter plans to use animals, what justifications they assert for conducting the experiment, and how they searched for alternatives to using animals. Information from animal use protocols often reveals that laboratories failed to conduct a sufficient search for alternatives, and/or offered spurious or illegitimate reasons to justify cruel experiments on animals. They also reveal plans to inflict unjustifiable pain and suffering on other sentient beings. For example, PETA obtained animal use protocols via Wisconsin's state open records law which revealed that the University of Wisconsin-Madison planned to start "maternal deprivation" experiments, where baby monkeys would be torn away from their mothers so they could be psychologically experimented on. After we publicized the school's plans, the experiments were halted before they had a chance to begin. If PETA and other organizations were forced by law to wait until the results of this experiment had been published, needless misery would have already been carried out on sensitive, intelligent

monkeys. If public oversight is to be meaningful, it must be proactive, rather than a meaningless *post hoc* process, when the cruelty has already been inflicted, and our tax dollars wasted.

- Section 6254(ae)(A)(iii) still exempts "Unpublished data." We are concerned that the definition of "data" is very expansive, and will allow universities to withhold a wide range of records and information concerning their care of animals in laboratories. PETA is currently suing the University of California-Davis under the CPRA for videos of psychological tests carried out on baby monkeys. By some interpretations, these videos may be considered "data," since they depict the young monkeys' behavioral responses to a battery of stimuli in order to test a hypothesis. The experimenters likely *never* intend to publish these videos, so this exemption may keep these videos secret in perpetuity. Finally, if the CPRA were amended to require citizens to wait until the information was published, this would defeat the fundamental purpose of an open records law, which is to empower citizens to gain access to previously unreleased government records. It is pointless to carve out an exemption in the open records law that enables the custodian of the record to decide when and if to ever voluntarily release the information.

- Section 6254(ae)(A)(v) still exempts almost all correspondence. "Correspondence" is an incredibly broad exemption of *a mode of communication*. This would be the first exemption in the CPRA that is not tied to the informational nature of the records in question, thus making it nearly impossible to assess the public interest that may or may not be harmed by including this exemption. An exemption for "correspondence" may include routine and appropriate emails about a research project, but it may also include evidence of research misconduct or even criminal wrongdoing. For example, PETA recently learned details about how faculty at Louisiana State University (LSU) were purchasing live dogs from a nearby animal shelter for use in a deadly veterinary anatomy lab, in apparent violation of the federal Animal Welfare Act (the federal authorities are still investigating a PETA complaint). Many of the details of this scheme, including how many animals were acquired and for what purpose, were pieced together by reviewing *correspondence* from faculty members at LSU. Since PETA publicized this information, the shelter has stopped providing animals to LSU. If Louisiana's open records law had a vast exemption for "correspondence," PETA would not have been able to achieve this kind of accountability and positive change for animals.

We are still unclear precisely what problem this bill is attempting to address. We ask that your office withdraw the bill in light of the fact that the committee hearing is less than a week away in order to work with you and the committee staff on the following proposed amendments:

- Add intent language that explains the importance of transparency surrounding the use of animals in experimentation at public institutions. This language would explain that because animals are sentient beings without the ability to provide informed consent or advocate on their own behalf, oversight is crucial. Abuses of animals in laboratories frequently occur when laboratories are allowed to self-police. Therefore, it is vital that government agencies protect transparency surrounding the use of animals in laboratories to ensure that such use is in accordance with community values and applicable laws.

- **In addition to this intent language**, add specific protections for various itemized categories of records related to animal use. These would include: final approved animal use protocols, health and veterinary records, intake and disposition records, necropsy reports, videos and photos of animals held in laboratories, and records of the Institutional Animal Care and Use Committee (IACUC), including correspondence and meeting minutes. These are all records that our organizations frequently request, receive, and utilize in our meaningful efforts to reduce animal suffering and end pointless experiments. To avoid confusion, the language of these protections would have to make clear that they pre-empt the exemptions that the bill carves out elsewhere.

We recognize that these suggested amendments would add a layer of complexity to AB700, but we feel strongly that this would be the only way to avoid strong opposition of the bill.

I appreciate your time and thoughtful consideration. I can be reached at 385-227-7034 or Jeremyb@peta.org if you have any questions.

Sincerely,

Jeremy Beckham, MPA, MPH, CPH
Research Associate
Laboratory Investigations Department
People for the Ethical Treatment of Animals