



February 28, 2014

Honorable Todd Gloria
Interim Mayor
City of San Diego
City Hall

RE: Unlawful Destruction of Public Records

Dear Interim Mayor Gloria,

I am general counsel for Californians Aware, a non-profit organization dedicated to, among other principles, open government. In that regard, please direct all your communications regarding this matter to my office.

You yesterday advised City staff that the City has adopted Administrative Regulation 90.67, a records management policy which would automatically delete from the City's email systems messages that are older than one year, and plans to purge all such older emails starting March 28, 2014.

This policy contravenes existing law. Emails clearly fall within the definition of a public record. *Government Code §6252(e)*. Further, city records are required to be retained for a minimum of two years. *Government Code §34090 et seq.* Destruction of public records may also be punishable criminally.

Therefore, we request that you immediately direct all city officials and staff to cancel the wholesale destruction of public records announced in your memorandum and that the City rescind or revise this and any other policy authorizing the wholesale destruction of city emails older than one year.

Due to the time-sensitive nature of this issue, we request that you respond confirming agreement to, at the very least, suspend this practice until we have had time to seek judicial intervention if necessary. However, if you do not respond confirming that there will be no purge of any public records by 5 p.m. on Tuesday, March 11, 2014, we will have no choice but to seek a injunction and writ of mandate ordering the City to cease the destruction of these public records in violation of the Government Code.

Cordially,

Terry Francke

cc: City Attorney, City Clerk, Members of the City Council