



Sacramento County District Attorney's Office

ANNE MARIE SCHUBERT
District Attorney

Rod Norgaard
Chief Deputy

Michael M. Blazina
Assistant District Attorney

June 3, 2022

Kory DeClark
351 California Street, 10th Floor
San Francisco, CA 94104
declark@braunhagey.com

Re: Public Records Act Request

Dear Mr. DeClark:

On May 3, 2022, you sent a letter via email in which you revisited your original request for records under the California Public Record Act (CPRA). That original request, authored by Ms. Leonida, was dated July 23, 2021, and we replied by letter August 16, 2021. Ms. Leonida then replied by letter dated November 15, 2021, writing that she would be “happy to discuss this matter over the phone if you believe we may be able to find a solution that satisfies everyone.” Based upon that offer, I sent Ms. Leonida an email on November 17, 2021, in which I stated that a discussion might be productive. I followed up with another email to Ms. Leonida on December 10, 2021, as I had not received a reply. She did reply to that email and the December 20, 2021, conversation followed. Subsequent to your letter dated December 28, 2021, I replied by letter dated February 4, 2022. Rather than attempt to confirm or verify your four-point summary of my February 4, 2022, letter, I will let that letter speak for itself.

In your most recent letter, you cite legal authority for your position that none of the exemptions we have asserted related to training materials are “proper to withhold the training materials we request.”

We have read and considered the authorities and arguments you set forth of your most recent letter that address the exemptions we claimed to the “Category 2” section of your July 23, 2021, request. We disagree with your assertions that the exemptions we have invoked are inapplicable to your requests.

However, after careful thought and consideration, we have decided to waive our exemption to a recent training provided to our attorneys. The training is entitled “Jury Selection Under AB 3070” and consists of 15 pages. It is provided as an attachment to the email to which this letter is also attached.

We are currently examining whether to waive our exemption to one other training entitled “Avoiding Bias in Prosecution – The California Racial Justice Act – (Assembly Bill 2542).” That process will be complete, and our decision related to that training, can be expected by the

end of June. I will be out of the country for two weeks beginning June 6 and will be unavailable to complete this analysis until my return.

Pursuant to your request regarding Category 3 of your July 23, 2021, request, I had our IT department conduct a search of our email server for the terms and phrases you provided. The search turned up the following results:

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| 1. "Racial Justice Act" (the entire phrase): | 2,167 items (3.15 GB) |
| 2. "RJA": | 22,509 items (5.48 GB) |
| 3. "AB 2542": | 3,854 items (2.97 GB) |
| 4. "Implicit Bias": | 18,399 items (11.98 GB) |
| 5. "Racism": | 36,581 items (17.41 GB) |

You asked me to confirm that we have "no responsive records to Category 4" of your July 23, 2021, request. I did not inform you that we have no responsive records in my letter dated August 16, 2021. I informed you that we do not track the requested material in our computerized case management system and do not have an index identifying the requested material. I further explained that to the extent we possess such material it would be contained within our investigatory files and because the request would necessitate a hand search of tens of thousands of files which would be unduly burdensome and the results of such a search would be exempt from CPRA production under Gov. Code section 6254(f).

To the extent that your Category 4 request could encompass motions made under AB 3070, I can advise you that our office has adopted a policy that highly discourages the use of peremptory challenges and furthermore provides that no prosecutor may exercise a peremptory challenge unless that prosecutor has completed 40 or more felony jury trials to verdict, has attended specific training related to AB 3070 and has been approved by the Chief Deputy, Assistant District Attorney, or an Assistant Chief Deputy District Attorney to use peremptory challenges. I can also inform you that we do track motions made under AB 3070. To date, no motions have been made against our attorneys under AB 3070.

Sincerely,

ANNE MARIE SCHUBERT
DISTRICT ATTORNEY



Richard Miller
Assistant Chief Deputy District Attorney