

Kory DeClark
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October 3, 2022

SENT VIA U.S. CERTIFIED MAIL AND EMAIL

Vern Pierson
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Re: California Public Records Act Request

To the Office of the District Attorney for El Dorado County:

I write in response to your June 3, 2022 letter regarding our July 23, 2021 California Public Records Act request. In your June 3 letter, you repeat your blanket exemptions for withholding all policy documents, training materials, and communications we request. We have repeatedly told you that your response is legally inadequate and have given you months to correct the issue. If you do not adequately respond and produce the requested documents by **October 13, 2022**, we will have no choice but to litigate at your expense to obtain the documents to which we are entitled.

On July 23, 2021, we sent you a Public Records Act request for the purpose of enforcing the Racial Justice Act. The request seeks policy documents, training materials, and records relating to enforcing the Racial Justice Act, as well as records regarding *Batson/Wheeler* investigations. You responded in a letter dated September 27, 2021. In that letter, you asserted blanket exemptions to the categories of documents we requested and produced no documents. We responded in a letter dated January 18, 2022 explaining that your response lacked the legally required specificity. We offered to speak on the phone to discuss any issues and asked if your office has a formal process for an administrative appeal. After receiving no response, we sent another letter, dated March 25, 2022, asking for you to reply to our January letter and asking if any documents were being withheld based on the blanket exemptions you asserted in September. You responded in a letter dated April 8, 2022 quoting two sections of your September 27, 2021 letter, where you stated that you have no written policy or communications regarding implementation of the Racial Justice Act, though you did mention emails regarding the pending legislation, and stated you were not aware of any *Batson/Wheeler* motions filed or granted during the time period of the request. On April 12, we sent you an email again asking whether any documents under Category 1 (policy documents) and Category 2 (training materials) were being withheld and to provide the specific legal objection for the documents in question. After receiving no response, we sent follow-up emails on May 3 and May 9. You responded in a letter on June 3. In that letter, you noted that you “continue to stand by” your blanket exemptions

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asserted for Categories 1 and 2 of our July 23, 2021 request, and you referenced your previous answer that you have “no documents” for Category 3 of our request. You also produced documents responsive to our request for the first time: a legal case and prosecution manual and a list of CDAA trainings your office staff attended.

We have maintained in every communication since your September 27, 2021 letter that your response to our request is inadequate. We have tried over and over to find out whether documents are even being withheld and on what basis. Your sudden disclosure of the fact that communications regarding the Racial Justice Act *do* in fact exist and your disclosure of an entire policy manual nearly nine months after refusing to tell us whether any documents were being withheld demonstrates *either* that you are using blanket general exemptions to obstruct our right to access public documents *or* that you performed a search for documents that was wholly inadequate. Further, while the purpose of this request is to enforce the Racial Justice Act, we have not limited our request to documents mentioning the Act, but rather seek all documents in the requested timeframe regarding the categories listed in the request. You already know this based on the plain language of our request and could have confirmed this fact at any time at least since January, when we offered to speak on the phone to resolve any issues.

We ask one last time for you to identify whether documents responsive to our July 23, 2021 request are being withheld on the basis of a specific legal exemption. This request is more than a year old and you have failed to satisfy your duty under the statute. If you do not give us this information and do not produce all documents responsive to the request by October 13, 2022, we will have no choice but to initiate litigation at your expense to obtain the documents we have requested. No more extensions will be granted, and we will not contact you again before filing our lawsuit.

Thank you in advance for your assistance with this request.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Kory DeClark', written in a cursive style.

Kory DeClark