

Kory DeClark
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October 5, 2022

SENT VIA U.S. CERTIFIED MAIL AND EMAIL

Kelsey Peterson
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Re: California Public Records Act Request

Dear Ms. Peterson:

I write regarding our July 23, 2021 California Public Records Act Request. Our office has asked several times for clarification regarding your withholding of documents responsive to this request. We asked for this information months ago, beginning with our email on March 31, 2022, and there is no excuse for the delay. We now ask one final time for these clarifications and require that you respond no later than **October 13, 2022**.

I. July 23, 2021 Request Category 1: Office Policies, Memoranda, and Guidance Documents

We have asked several times if you are withholding any documents responsive to Category 1 of our request on the basis of legal exemptions. If you are withholding documents, you must provide the specific legal exemption your withholding is based on. You have provided general exemptions but have not given us enough information to determine if your withholding is permitted by law. For example, you cite the deliberative process exemption, but clearly a finalized office-wide policy would not be considered “pre-decisional,” so which documents does this exemption apply to? We ask for you to be as specific as possible.

II. July 23, 2021 Request Category 2: Training Materials

To date, you have produced no documents responsive to Category 2 of our request. Also, we are not clear on the status of your response. During our March 29, 2022 telephonic meeting, we understood your office’s position to be that trainings would be produced but may be redacted on the basis of legal exemptions and that you were withholding any trainings produced by people no longer employed by your office. Based on this information, we asked for the specific legal authority justifying the redactions and the withholding of records based on the employment status of the creator. However, in your April 14, 2022 letter you stated that “all of this Office’s training materials that are prepared by lawyers are protected by the attorney work product

privilege.” In your most recent letter, you provided some legal authority responsive to our original question but did not produce any trainings that were not produced by former employees of your office. At this point, it is simply not clear which legal exemptions you are asserting and which documents you mean to be asserting them for. Please inform us on what basis you have withheld all training materials responsive to our request.

III. July 23, 2021 Request Category 3: Communications Regarding The Racial Justice Act

We appreciate you conducting an email search for communications relating to the Racial Justice Act. However, you only produced 17 emails and redacted a large segment of even those communications. Based on our experience with other requests, your response indicates that you are withholding hundreds of communications, at least. Please inform us how many documents were withheld. You again provided conditional exemptions to justify your withholding but did not tell us how they applied to specific communications or categories of communications. We ask, again, that you provide the specific legal exemptions justifying nondisclosure of particular documents so we may determine if your withholding was lawful.

Please respond in writing to these requests for clarification no later than **October 13, 2022**. If you do not provide the information we request, we will have no choice but to consider your unwillingness to provide clear answers a failure to respond to our request and will litigate at your expense to obtain the records we request.¹ No further extensions will be given, and we will not contact you again prior to filing litigation.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Kory DeClark', with a stylized, cursive script.

Kory DeClark

¹ In just the last five months, we have brought litigation against Siskiyou County, Santa Cruz County, and Mendocino County for failing to provide documents we requested in a PRA request identical to the one we sent you. All three counties have produced or are now producing the documents we requested. Siskiyou County paid approximately \$40,000 in attorneys' fees at the conclusion of the litigation. We hope you will produce the documents we requested over a year ago so that we can avoid similar litigation here.