

Maggie Solorio
Executive Assistant
City Manager's Office
City of Anaheim

31 October 2023

Hello,

I am writing to complain about conduct in violation of Division 10 of Title 1 of the Government Code by City Clerk Theresa Bass, and other staff in the City Clerk's Office (including Edith Trejo, Melissa Merrill, and Susana Barrios). I represent the Open Information Collective as a Founding Member, and the following allegations stem from my actions in that capacity.

On October 9, I submitted a California Public Records Act (California Government Code, secs. 7920.000-7931.000) request to the City of Anaheim, concerning communications between City employees over a protest that occurred on October 8 at Brookhurst/Brookmore. On October 19 (the last legal day for the City to respond with the records), I got a notice (from Melissa Merrill) that all the disclosable records had been collected, and to email Theresa Bass to set up means to receive the records.

After contacting Theresa Bass, I instead got a response from Edith Trejo, who gave me an invoice. I had two options: receive paper copies, or receive a USB drive. I could then either pick these up, or receive them by shipping. I was expecting to get email copies of the documents, as that is the standard procedure with every other agency I've worked with; not including the City of Anaheim, the Open Information Collective has worked with 55 public agencies, primarily in California but across six U.S. states, and every agency who has complied with requests has provided documents by email by default. I then sent many follow-up emails to her, Clerk Bass, Paralegal Merrill, and Susana Barrios, with no follow-up. I also called the City Clerk's office

From the desk of the Open Information Collective

"Without publicity, no good is permanent; under the auspices of publicity, no evil can continue."

F.M. Amy Parker, A.A.

F.M. Monica Hanson

S.M. Sem Arquieta

several times, requesting to speak to any of the individuals on the email, but they were never available; further, while I asked for email followup, I never received anything until today.

Today, Theresa Bass decided to handle my email chain directly. She once again sent the invoice, despite my multiple repetitions that an invoice was not appropriate. Further, she stated that responsive records would not be emailed, and that they would only be provided as hard copies or as records on a USB drive, as per the invoice. This was not only shocking and conduct unbecoming an official of the City of Anaheim, to so greatly disgrace the public records system and break down the barriers of City-citizen communication in such a manner, but also illegal on multiple counts. First, individuals have a right to use their own equipment to scan records; see California Government Code, section 7922.530(b). Clerk Bass did not provide this as an option. Second, many of the communications sought in the request were emails; they would thus be subject to California Government Code section 7922.570(b)(2), and would have to be disclosable by email upon request.

All of this ignores my other request. While I received a letter from Paralegal Merrill, the City of Anaheim has not responded to my request to receive copies of the records in response to Merrill's letter. This request concerned some bodycam footage from the Anaheim Police Department, and is also considered a delinquent request at this time.

It is unclear why Clerk Bass and the other officers of the City Clerk's office have engaged in these violations. It could be, and I would hope it is, out of ignorance of the law and of standard procedure; regardless, the actions would still be unbecoming of employees of the City of Anaheim. However, it could also be out of a desire to recoup costs in ways not permitted by the law. Unlike in most states, California law has no provisions for agencies to recoup costs for "search time"; rather, agencies can only charge the actual costs of duplication, or a state statutory fee for some certain types of records. Agencies will then sometimes increase the cost of physical duplication to attempt to recoup some of these "search time" fees, particularly if the request is being handled by general employees and not employees hired specifically for the purpose of handling public records requests. While this is speculation, it is possible that the City Clerk's office is refusing to provide the records by email to force individuals into these types of fee

recouping programs. I'd also hope there are no political or anti-transparency agenda motivations behind these actions, but those could also be in play.

Lastly, there was one other surprising policy in play: if an individual does not make arrangements for the pickup or shipping of records within twenty days of the request being fulfilled, the City Clerk's office considers the request closed, and an individual has to re-make the request. This is not only completely unprofessional conduct which is unbecoming of officials of the City Clerk's office, but may also be illegal, as a request is not to be considered completed unless it is denied, the records are provided, or it is withdrawn.

I ask that you have the City Clerk's office correct their policies, and deliver the records to me immediately by email. Further, I ask that the City take appropriate internal action with City employees to ensure that no other requesters are subject to these issues. If this does not occur, I may have to report these issues to the City Council, or to other authorities. Thank you.

Sincerely,

Amy Parker, A.A.

she/her/hers

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