

December 9, 2015

Governor Jerry Brown
Sacramento, CA

We, the undersigned organizations and individuals, demand the Governor's and the Legislature's immediate attention to the use of government computers and email systems within the Department of Toxic Substances Control (DTSC) to transmit overtly racist emails, specifically targeting Asians, Latinos, and African Americans. As we understand the facts, these emails were found on State computers, sent during working hours, while staff were purported to be conducting state business. After countless meetings and hearings with DTSC, our organizations have lost faith in the governmental agency tasked with protecting our most vulnerable residents from toxic hazards, residents who predominantly are Asian, Latino, and African American.

As organizations that work directly with the Department and the residents it is tasked with protecting, it pains us to see what it has become –an agency steeped in implicit and explicit racial bias. Since discovering the racist emails, it pains us further still that DTSC has worked harder to cover it up than correct it. After years of mismanagement, we can no longer simply stand by and wait for the agency to fix itself. For that reason, we are calling on you, Governor Brown, and on Legislative leadership to step in and oversee a process to root out racial bias within California agencies, using DTSC as the benchmark for establishing a sound and transparent process to identify, disclose, and address inappropriate prejudice in state employees.

Racism within the ranks

During a DTSC review of documents in fulfilling a Public Records Act (PRA) request submitted by CCAEJ on behalf of residents impacted by toxic exposures, staff came across emails of a very racist nature – jokes, cartoons, comments, and derogatory remarks against Asians, Latinos and African Americans. Terms like “crackho hooker,” “Chop-chop Hop Sing,” and “Mommy must have had a way too many painkillers when she named this guy”, are scattered throughout them. These were found on state computers, sent during state time while conducting state business. The staff fulfilling the PRA disclosed the emails to Director Barbara Lee, who brought in Human Resources and treated it as an individual personnel

issue. We are disappointed that she chose to handle the situation as a personnel issue – thereby sealing what should be public records from outside review.

After waiting a month, staff determined the emails to be “unresponsive to our request” and did not disclose the emails as part of the PRA. After months of probing and assistance from a reporter at Truth Out, some of the emails were released.

Here’s a sampling of the troubling emails:

- In 2013, the staffer made fun of a DTSC’s staff member with an Asian name. “Mommy must have had way too many pain killers when she named this guy,” he wrote.
- In 2014 the pair joked about sharing a room on a business trip at a three-star San Francisco hotel near Union Square: “But this one comes with used condoms and needles,” writes one staffer to the other. “Now if you told me we would have use of a manly crackho hooker we would not need those accessories,” the other responds. The first staffer retorts, “You can even use my ‘injun badge’ to shake them down.”
- In 2014, the staff member called his geologist “Hop Sing” in an email telling him to hurry up making edits to a document “....chop-chop Hop Sign,” he wrote. He even attached a full-page picture of Victor Sen Yung who played the fictional Cartwright family’s cook, and Chinese immigrant, on the TV series Bonanza.
- In 2015, the staff member wrote his colleague that he had “found the perfect job for you...”. And sent him the link. The advertisement was for the Executive Director of the California African American Museum “S/he is responsible for programmatic, operational, financial and strategic planning and management,” the ad reads. In response, the geologist wrote “S/he—does this mean what I think it means? I am not sure I qualify.” The response back: “Sorry I spelled it wrong—it’s ENUNUCH...hope this helps.”

Cover-up

While the emails should have been produced as part of the PRA request, DTSC withheld them. DTSC also did not disclose their existence, or a reason for withholding the responsive emails as requested and as required by state law.

Despite numerous attempts to gain access to the emails, DTSC had refused to acknowledge or release them to the public or disclose their full contents. This matter was brought to the attention of the Attorney General's office as well as staff at CalEPA with no response. In speaking with a staffer from the Governor's office, the response was "Barbara has taken care of that... I think she fired him." But to our knowledge, the staff members continue to work at DTSC; their cases have not been examined for bias nor have any steps been taken to ensure other staff members have not acted with inappropriate racial bias.

When the governor's staffer was pressed that this is indicative of a larger racist culture in the agency, the response was, "They're [agencies] all like that." The off handed way in which this incidence is being treated is exactly the way the concerns and well-being of the affected communities are being treated by DTSC staff. For people within government to know this, and to participate in that culture by simply dismissing such egregious activity is even more appalling.

If DTSC staff members feel comfortable enough to use their state issued computer to send overtly racist emails, racial insensitivity and bias must be embedded within the very culture of DTSC. DTSC works closely with communities of color throughout the state. In fact, hazardous waste facilities are overwhelmingly located in poorer, predominantly non-white communities. Over 80 percent of residents living near a hazardous waste facility in California are non-white, the largest percentage of any state in the U.S.

Toxic cleanup sites similarly are concentrated in primarily non-white communities that do not have the money to hire well-heeled lobbyists to defend their interests or to make generous contributions to state politicians. Therefore, the prevalence of racist beliefs, attitudes and opinions greatly compromises the agency's ability to do its job and reduce the threat of toxic exposure to those most impacted—Asians, Latinos, and African-Americans.

By refusing to disclose and address the racially prejudicial beliefs of some of its employees, DTSC also further erodes the public's confidence in an agency already reeling from widespread disapproval. Communities have repeatedly expressed alarm and dismay at the way DTSC staff callously disregards their concerns, dismissing their complaints, and treats them disrespectfully. Since racial bias can influence the assumptions, judgments and decisions in the day-to-day work of DTSC, if staff believe that "some people" are inherently less worthy of protection,

these beliefs may influence the level of clean up, level of attention, and level of respect certain communities get from DTSC.

Transparent Investigations

The City of San Francisco faced a similar situation when it discovered text messages sent by one of their police officers that were overtly racist and homophobic in nature. In response, the City opened up the process, disclosed the offended texts, and provided transparent opportunities for the public to review and comment on the information disclosed. In the investigation they discovered other officers that had also been involved in sending such messages. The City reviewed every case that each officer had been involved in to ensure their attitudes and beliefs did not affect their decision making. The City of San Francisco stepped up and cleaned house in an open and transparent process, thus restoring a level of public trust in the department.

We demand that the State conduct an open and transparent investigation to determine which staff are involved, as well as the extent to which implicit or explicit bias has tainted the agency's decisions. The different approaches taken by the City of San Francisco and DTSC in the face of staff bias reveals complacency at DTSC that undermines its responsibility to communities of color in California. San Francisco recognized the widespread harm stemming from even a single officer's bias towards certain classes he must serve and protect. Whereas at DTSC, the agency believes that the racially derogatory emails are simply the result of bad judgment and poor taste, without any recognition that bias can and does impact decision-making in the treatment of communities this agency is tasked by law to protect. In addition to the recent discovery of racist emails, our organizations are aware of at least three discrimination complaints filed within the agency. We understand that DTSC has already moved one complainant from its headquarters to a regional office in what could be viewed as a retaliatory response.

We are concerned that thousands of families across this state may be in harm's way or forced to live in dangerous situations due in part to the racist attitudes, judgment and actions of DTSC staff. If staff are influenced by a belief that there are some people more worth fighting for than others, the reforms needed at the Departments go much further and deeper than we previously anticipated. It is

clear to us that the Governor and the Legislature must now step in to reform the agency or close it down.

We request that the Governor and Legislative leadership ensure that the following measures be taken to address the racist environment within DTSC:

- 1. Release all racist emails to the public and conduct a full, open, and transparent investigation into them;**
- 2. Review all emails within the department to identify any other inappropriate and unacceptable communications and take appropriate action;**
- 3. Review all cases such identified employees have participated in to determine if their racial beliefs and attitudes have impacted decisions at these sites.**
- 4. Establish a zero tolerance policy for racist or otherwise prejudicial statements, attitudes or behavior;**
- 5. Analyze and disclose staff demographics at DTSC and implement a diversity outreach and hiring program.**
- 6. Hold a Senate Rules Committee hearing on this matter using subpoena power, and provide recommendations to the Governor for implementation.**
- 7. Address this issue through the newly created Independent Review Panel.**

With deep concern,

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