



COUNTY OF YOLO
OFFICE OF THE DISTRICT ATTORNEY
JEFF W. REISIG, DISTRICT ATTORNEY

June 26, 2020

Tracie Olson
Yolo County Public Defender
814 North Street
Woodland, CA 95695

Ms. Olson:

It has been more than two weeks since you participated in a television interview in which you made the stunning allegation that you personally witnessed racism by unnamed judge(s) in Yolo County when you watched them sentence black defendants to prison for crimes that “white people do not go to prison for.” (<https://www.abc10.com/article/news/yolo-county-public-defenders/103-b5548485-fd7f-4ab1-9ee4-245a667223a0>) Since judges exclusively hand down all sentences in California, your statement struck at the heart of Yolo County’s justice system; the judiciary.

In the same interview, your employee, supervising public defender Monica Brushia, alluded to two instances of local police corruption, implying that peace officers stole money and drugs from your clients.

Allegations of judicial racism and police corruption can never be ignored. They cannot go uninvestigated. They cannot be allowed to simply fade away into the chaotic media cycle or dishonest blogosphere. And such incendiary allegations should never be used as part of some ill-conceived plan to undermine the public’s or prospective jurors’ confidence in the courts and justice system in order to secure a tactical advantage as an attorney.

After making your allegations against judges and law enforcement without a scintilla of evidence to support your claims, you went on during the same television interview and directly connected your comments with your intent to influence prospective jurors when you stated, “The public are going to be my jurors.” I believe your self-initiated television appearance and explosive accusations are exactly the type of extrajudicial statements designed to prejudice future proceedings that are prohibited by the ethical rules. (<https://www.calbar.ca.gov/Attorneys/Conduct-Discipline/Rules/Rules-of-Professional-Conduct/Current-Rules/Rule-5-120>)

Last week, I issued a public statement demanding that you appear before the Yolo County Board of Supervisors and produce the evidence supporting your allegations.

(<https://yoloda.org/statement-of-district-attorney-regarding-attack-on-yolo-countys-criminal-justice-system-by-public-defender/>)

To date, you have not. Instead, in a television interview last week, you doubled down on your allegations by telling the reporter that you stood by everything you said.

(<https://www.abc10.com/article/news/local/yolo-county-district-attorney-on-racial-allegations/103-3cebb0a4-a9e9-431b-bd13-88f1c54184f8>)

Once again, I am calling upon you, as the appointed Public Defender in Yolo County, who serves entirely at the pleasure of the Yolo County Board of Supervisors, to present your evidence in public session to that body in a full and transparent manner. As the duly elected officials who supervise your work, the members of the Board of Supervisors have the absolute right and obligation to demand this of you as well.

(https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=2.&title=3.&part=3.&chapter=13.&article=)

This situation demands a full and public disclosure, by you and Ms. Brushia, of every bit of evidence that supported your allegations of racism and corruption against judges and law enforcement respectively.

Additionally, as an officer of the court, you have a legal and ethical obligation to present your evidence of alleged judicial misconduct to the Commission on Judicial Performance, which is the independent state agency responsible for investigating judges. (<https://cjp.ca.gov/>). It can't be ignored that if your allegations of personally witnessing judicial bias by a Yolo County judge in sentencing a black person more harshly than a white person for the same crime are established by the facts, you should also publicly explain why you did not use your position as Public Defender to immediately bring your concerns to the attention of the Yolo County presiding judge and other authorities. Moreover, why didn't you appeal such a corrupted sentence? I certainly never heard your allegations against the judges until you went on television two weeks ago.

Let me be clear, if there is any actual evidence of the judicial bias and/or police corruption as you alleged, I plan to act decisively to address it in a thorough and highly transparent manner. I've already contacted all local law enforcement chiefs and the FBI and confirmed that they have never previously received a complaint from you or your office alleging the police corruption described in your television story.

Should you act responsibly and actually produce any such evidence, I will publicly call for a full police corruption investigation by the State Attorney General, the FBI and the Civil Rights Division of the United States Department of Justice. To the extent that any information is required from my office, I will provide those official investigatory agencies unfettered access to all my staff, data and files.

And, should you produce any actual evidence establishing judicial racism or misconduct by Yolo County judges, I would also publicly demand a full investigation by all relevant state agencies that oversee judges. This is not a topic that I would ever be silent on under any circumstances. And our Yolo County judges would never remain silent either.

These are not times when any of us can stand idly by as injustices and systemic racism against people of color are being so fervently discussed across our nation. We have a moral, ethical and legal obligation to act to investigate and expose every aspect of the system that is biased, broken and/or corrupt and work collaboratively to eliminate it, fix it or reinvent it. You have triggered this inquiry by your public allegations and must now see it through to full disclosure, investigation and action by local, state and federal agencies.

Your inflammatory media comments were also a disservice to the work so many of us have done and continue to do together in our county on these and related issues.

Over the last decade, I have been committed to significant and meaningful reforms, right here in Yolo County, that have helped reduce mass incarceration, an issue that disproportionality affects people of color, and I have worked tirelessly, with your office, the court and others, to increase treatment in lieu of incarceration options for those suffering from mental illness and/or and addiction. Our mental health court and addiction intervention court are well known models of success. (<https://www.kcra.com/article/yolo-county-mental-health-court/28968903>; also see: <https://yoloda.org/progressive-programs/>)

My office was first DA's office in California (2016) to train all of its attorneys on implicit bias. (<https://www.davisenterprise.com/local-news/yolo-prosecutors-receive-implicit-bias-training/>) And we were the first DA's office in California to use cutting edge software, in partnership with the reform-driven nonprofit [Code for America](https://www.codeforamerica.org), to quickly expunge and seal over 700 convictions, felonies and misdemeanors, which also disproportionately affect people of color. (<https://www.codeforamerica.org/news/code-for-america-expands-clear-my-record-to-californias-58-counties>; see <https://www.nytimes.com/2019/09/05/us/marijuana-proposition-64-code-for-america.html>; also see <https://www.dailydemocrat.com/2019/09/06/yolo-da-erases-over-700-marijuana-convictions/>)

In March of 2019, I was one of the very first District Attorneys in the country to open my office and all of our files and data to a team of researchers from the [Chan Zuckerberg Initiative](https://chan Zuckerberg Initiative). CZI is a criminal justice reform non-profit. I invited them into my office with full transparency to accept their evaluation, criticisms and suggestions for improvement. After their team spent two weeks with full access to my office, our staff and our files, they concluded that there was no evidence of racially disparate charging declination by my office going all the way back to 2008 until 2019.

In addition, over eight years ago, I, along with Superintendent of Schools Dr. Jesse Ortiz (Ret.), created the DA's [Multi-Cultural Community Council](https://www.yolomccc.org) ("MCCC") as an advisory body of racially, religiously and culturally diverse residents. We meet regularly and the MCCC advises, informs and educates me on so many of the same issues we are all struggling to address in our communities and the criminal justice system right now. Most recently, the MCCC convened numerous emergency meetings with me to discuss the horrific murder of George Floyd by a police officer and other terrible acts of racism and violence. Together, we all released this powerful statement: (<https://yolomccc.org/wp-content/uploads/2020/06/MCCC-Message-to-the-Community-06.04.20.pdf>)

You know all this to be true because you have previously worked with me on these programs, supported my office's efforts, or participated in the program yourself.

For example, in 2013, I started a restorative justice based adult diversion program called [Neighborhood Court](#). At the time, we were only the second District Attorney's office in California to have such a program; San Francisco was the first. Using almost 200 community volunteers, we have diverted over two thousand cases out of the criminal justice system into a holistic restorative process. Many of the crimes we have diverted could have resulted in lengthy incarceration, including felony level crimes. Over half of our successful participants have been people of color. All along, you and your office have collaborated with my office on this program by making sure your clients get a chance to participate in this amazingly successful program. Today, Yolo County DA's Neighborhood Court is routinely cited as a national example of meaningful successful criminal justice reform at a local level.

(https://yoloda.org/wp-content/uploads/2019/05/NHC_ABA_Article.pdf; also see <https://bit.ly/3g3mdZh>; also see <https://www.dailydemocrat.com/2018/10/11/neighborhood-court-draws-nationwide-notice/>)

Starting in 2016 and every year thereafter, you have accepted my invitation and participated in our [Youth Leadership Academy](#). My office designed the program along with the Yolo County Superintendent of Schools and our Multi-Cultural Community Council. The program has served countless disadvantaged youth, almost entirely kids of color, in an impactful and positive way in our ongoing efforts to reduce the school to prison pipeline. I've been glad that you personally supported and attended the program, along with judges from the Yolo County Superior Court. (<https://yoloda.org/yolo-county-das-multi-cultural-community-council-offers-weekend-youth-leadership-academy/>)

I'm also proud of the fact that in 2019 you accepted my invitation and attended the non-traditional leadership immersion program, [An Officer and a Mensch](#), I helped create and cosponsor with the [Glide Memorial Church](#) in San Francisco. As you know, I was a co-architect of this one-of-a-kind program that allows prosecutors, law enforcement, and others like yourself, who work in government or the criminal justice system, a unique opportunity to expand their empathy and understanding around the issues of homelessness, poverty, addiction, mental illness, and racism that people suffer in San Francisco's Tenderloin and all over the world. People of color are the most heavily afflicted. I have sent most of my leadership team in the DA's office and plan to send many more, along with prosecutors from around California. As you know, the Los Angeles Times embedded a reporter in our program and wrote about her experience as well. The program has been eye opening and life altering for many who have attended.

(<https://www.latimes.com/california/story/2019-09-13/in-san-francisco-a-homeless-immersion-course-aims-to-build-empathy-in-law-enforcement>; also see <https://www.jweekly.com/2019/10/31/the-tenderloin-rebbe-brings-prosecutors-face-to-face-with-homelessness/>)

Starting last year, my office has worked with yours as part of my commitment to reexamine some lengthy prison sentences under a new law ([AB 2942](#)) that now allows District Attorneys to ask a court to resent someone when it is in the interests of justice. I am one of only a handful of California District Attorneys who has partnered with the reform-driven nonprofit, [For The People](#), to undertake this work. Many of the cases we are considering involve people of color, as was evidenced by my most recent successful resentencing petition under this law, involving an elderly black inmate, who was your client.

One more example of how the Yolo County District Attorney is leading the way in reform, transparency, and innovation, is that I have committed our office to be the first District Attorney in the nation to launch a “[Transparency Portal](#)” with the independent data/reform organization, [Measures for Justice](#).

(<https://www.youtube.com/watch?v=YtWOY7-ZSq8&feature=youtu.be>

and see: <https://www.abajournal.com/legalrebels/article/measures-for-justice-brings-about-reform-by-traveling-the-country-to-record-criminal-justice-data>)

Measures for Justice (“MFJ”) will collect, validate, and publish Yolo County’s criminal justice data from my office into the transparency portal. The portal will be free to the public and allow opportunities for people to explore and engage my office or policy makers on the data. The transparency portal will include detailed information on our charging decisions, diversions, sentences, and the racial breakdown for all categories, among many other data points.

MFJ’s motto is “No Data. No Change.” They are right. In order to make meaningful and smart change in the criminal justice system the data must be thorough, validated, timely, and responsibly reported to the public. I have been saying this for many years ([see my 2019 editorial in The Sacramento Bee here](#)) and demanding better data at the local, state and national level to help drive smart criminal justice reforms.

It is on this point that I found your inaccurate and reckless use of incomplete racial data from the Yolo County jail, which you imprecisely analyzed from merely one day in May, so offensive. Not only did you not properly investigate and validate the context and accuracy of the source data you reported out on television to the public that day, but you also used it irresponsibly in your apparent attempt to paint Yolo County as a bastion of racism to gain some advantage with future jurors. You also ignored [the only reliable statewide third party data](#) showing that Yolo County is well below the statewide average on its prison incarceration rates for black people. That was wrong, Tracie.

Let me be clear, my condemnation of your irresponsible use of incomplete data does not mean that I am unaware or tone deaf to the real issues that have historically affected people of color in a disparate manner. Without question, people of color, especially black people, have been victims of historical discrimination in many of our laws and parts of the country and are disproportionately represented in the criminal justice system in almost every community in America.

In some California counties, ironically San Francisco is one of the worst, the most recent reported disparities on the arrest rate of black people as a share of the population are astoundingly high. (<https://www.ppic.org/interactive/interactive-arrests-in-california/>) These issues must be addressed with facts, data, discussion and responsible action, not through reckless incitement.

Here is the bottom line on this point, there is no dispute between us that the issues of racial disparity and systemic discrimination need to be aggressively investigated, held up to the light, discussed openly and fixed, wherever an injustice may exist in the system. Where we apparently differ is in our commitment to responsibly use, share, and report out thorough and accurate data to the public.

As I stated previously, I have provided all of my data to the national data group, [Measures for Justice](#). I gave them unfettered access to my office, staff, and data as part of the collaboration I entered into with them, almost one year ago. On the other hand, you have rejected their requests to

share your data, regardless of any assurances they have given you. It is you who are not being transparent.

It is time that you practice what you preach. Measures for Justice is a highly regarded national organization that is committed to reforming the criminal justice system with good data. I jumped on the criminal justice data transparency train long ago with them. You should too.

Despite the long lists of groundbreaking efforts and programs I have already undertaken over the last many years to address the real issues in the criminal justice system, my work and commitment to reform, and specifically addressing issues of racial disparity and bias in criminal justice system, is far from done.

Over the last year, long predating the horrific murder of George Floyd, my office has been actively working with a major California university to develop, perfect and deploy a “[Race-Blind Charging](#)” system that will remove all references to an arrested person’s race and name in the reports my prosecutors review when making charging decisions. The program is designed to eliminate any unconscious or implicit bias someone may have from their charging decisions as a result of race. The program will also promote procedural justice by ensuring the public knows that we take these issues seriously and do not consider race in our process at all.

I’m looking forward to being the first District Attorney in California to deploy this new version of the race-blind charging tool (San Francisco DA launched their [own version](#) last year) and sharing our experience publicly and transparently. Moreover, once we build and deploy the system throughout Yolo County, I plan to share and promote the tool, for free, with every prosecutor in America. This is just another example of how Yolo County’s District Attorney’s office will lead in the reform movement.

In closing, the ethical and legal obligation is on you to appear in public session before your employers, the Yolo County Board of Supervisors, and demonstrate the truth of your televised allegations of racism and corruption [against judges](#) and [law enforcement](#) from two weeks ago with facts and evidence. On issues as important as these, at a time as critical as now, silence or fact-dodging is not acceptable.

Sincerely,

Jeff W. Reisig
District Attorney

cc: Yolo County Board of Supervisors
Patrick Blacklock, County Administrator