

May 10, 2024

Leah T. Wilson

Executive Director
The State Bar of California
180 Howard St.
San Francisco, CA 94105

Dr. Michael A. Moodian

Chairperson
California Commission on Judicial Performance
455 Golden Gate Ave., Suite 14400
San Francisco, CA 94102

Cc: Alameda County District Attorney Pamela Price

Dear Ms. Wilson, Dr. Moodian and members of the State Bar of California and the California Commission on Judicial Performance:

We write on behalf of Color Of Change — one of the nation’s foremost racial justice organizations with millions of members nationwide, including over 584,823 members in California — and over a dozen other undersigned civil rights, justice reform and community-based organizations serving California residents.

We urge the State Bar of California and the Commission on Judicial Performance to immediately launch an investigation into current and former prosecutors and judges who are implicated in the recently uncovered, three decades-long practice of systematically removing Black and Jewish jurors from death penalty cases in Alameda County.

Given the gravity of this serious prosecutorial and judicial misconduct, it is imperative that the State Bar of California and the Commission on Judicial Performance step in and work collaboratively with Alameda County District Attorney Pamela Price’s administration to thoroughly investigate and discipline all implicated prosecutors and judges directly involved with these constitutional violations or who failed to disclose this racist and anti-semitic misconduct that has plagued death penalty-related trials in Alameda County for decades.

We are deeply troubled by the revelations exposed in April 2024 by Alameda County District Attorney Pamela Price. It is abhorrent and unsettling to discover that racist, antisemitic and malicious constitutional violations have been commonplace in the Office of the Alameda County District Attorney for at least 30 years. Even worse, it is unconscionable that this scandal initially was exposed as far back as 2003.¹ Twenty-one years ago, Jack Quatman, who worked for 26 years as an Alameda County deputy district attorney, filed a sworn declaration that it was “standard practice to exclude Jewish jurors in death cases, as it was to exclude African American women from capital juries.”² The declaration also included Quatman’s admission of his own use of this tactic as advised by late Judge Stanley Golde.³ Reports say that Judge Golde, who died in 1988 after 25 years on the bench, presided over more death penalty cases in the county

¹ Will Harper, “Jury Rigged?” East Bay Express, May 4, 2005, <https://eastbayexpress.com/jury-rigged-1/>

² Glenn Chapman, “Prosecutor: Judge told me to dismiss Jews from juries” East Bay Times, March 23, 2005, <https://www.eastbaytimes.com/2005/03/23/prosecutor-judge-told-me-to-dismiss-jews-from-juries/>

³ Dean Murphy, “Case Stirs Fight on Jews, Juries and Execution,” New York Times, March 16, 2005, <https://www.nytimes.com/2005/03/16/us/case-stirs-fight-on-jews-juries-and-execution.html#:~:text=%22It%20was%20standard%20practice%20to,has%20not%20been%20an%20issue.>

than any other judge.⁴ Quatman filed the aforementioned declaration in the habeas corpus case of Fred Freeman, a man who Quatman successfully prosecuted and won a death sentence in 1987 after Quatman used three of his challenges to remove Jewish people from the jury.⁵ During the subsequent weeklong evidentiary hearing conducted by Santa Clara Superior Court Judge Kevin Murphy in 2005 — after Quatman’s declaration was filed — a plethora of extremely alarming behavior was named in various testimonies. Senior Deputy District Attorney Coltone Carmine testified under oath that in 1992, he had attended a statewide conference of prosecutors where Quatman gave a featured talk about jury selection in death penalty cases where he told the crowd, “Never ever leave a Jewish person on a capital jury.”⁶ Even beyond the malicious and racist jury selection practices, Carmine also testified under oath that Quatman asserted that the way to get reluctant witnesses to cooperate was to threaten to frame them for drug possession.⁷

When this news first broke back in the early 2000s, Nathan Barankin, a spokesman for the state attorney general’s office, said “It is highly likely that this is going to be a recurring problem for Alameda County cases, and it could show up elsewhere.”⁸ Barankin was correct. However, the lack of accountability and oversight two decades ago resulted in this culture of prosecutorial and judicial misconduct remaining the status quo many years later. These egregious breaches of justice not only undermine the foundational principles of equity and fairness, but also deal a severe blow to the public’s trust in our criminal legal and judicial systems.

Despite the finding by Freeman’s attorneys examining jury selection that non-Jews were excluded at a rate of 49.97%, while Jews and people with Jewish surnames were excluded at a rate of 93.10%, Judge Murphy concluded that Quatman “is a man not to be believed,” noting that Quatman “had a motive to embarrass the Alameda County District Attorney’s Office in general, and District Attorney Tom Orloff in particular.”⁹ After Quatman’s admission, other Alameda County defense attorneys informed California justices that the Alameda County District Attorney’s Office had an unwritten policy of excluding Jewish and Black women jurors in death penalty cases as far back as the late 1970s.¹⁰ It appears that the previous investigation and its failure to uncover this unwritten policy was actually about protecting the prosecutorial

⁴ Dean Murphy, “Case Stirs Fight on Jews, Juries and Execution,” New York Times, March 16, 2005, <https://www.nytimes.com/2005/03/16/us/case-stirs-fight-on-jews-juries-and-execution.html#:~:text=%22It%20was%20standard%20practice%20to%20has%20not%20been%20an%20issue>.

⁵ Bob Egelko, “All of Alameda County’s death sentences are under review over evidence of juror discrimination.” San Francisco Chronicle, April 22, 2024, <https://www.sfchronicle.com/politics/article/alameda-county-death-sentences-19416946.php>

⁶ Will Harper, “Jury Rigged?” East Bay Express, May 4, 2005, <https://eastbayexpress.com/jury-rigged-1/>

⁷ Glenn Chapman, “Jury-rigging claim scrutinized,” East Bay Times, March 24, 2005, <https://www.eastbaytimes.com/2005/03/24/jury-rigging-claim-scrutinized/>

⁸ Dean Murphy, “Case Stirs Fight on Jews, Juries and Execution,” New York Times, March 16, 2005, <https://www.nytimes.com/2005/03/16/us/case-stirs-fight-on-jews-juries-and-execution.html#:~:text=%22It%20was%20standard%20practice%20to%20has%20not%20been%20an%20issue>

⁹ “Judge and Prosecutor Agreed on Keeping Jewish People Off Juries,” Death Penalty Information Center, March 17, 2005, <https://deathpenaltyinfo.org/news/judge-and-prosecutor-agreed-on-keeping-jewish-people-off-juries>; The Record, “Judge: Former prosecutor 'dishonest and unethical,’” Recordnet.com, April 7, 2005,

<https://www.recordnet.com/story/news/2005/04/07/judge-former-prosecutor-dishonest-unethical/50672636007/>; Glenn Chapman, “Judge decides attorney lied about juries,” East Bay Times, April 6, 2005,

<https://www.eastbaytimes.com/2005/04/06/judge-decides-attorney-lied-about-juries/>

¹⁰ Ibid.

and judicial institutions given how these significant allegations likely would overturn many convictions in Alameda County.

We are well aware that the recent discovery by the current Alameda County district attorney likely only scratches the surface. There is a lot at stake, and the people of California cannot afford another slap-dash investigation into prosecutorial and judicial misconduct of this magnitude.

The mission statements of both the State Bar of California and the Commission on Judicial Performance are quite similar in their mandates to “protect the public” and to discipline attorneys and judges respectively.¹¹ The Commission notes that “an effective method of disciplining judges who engage in misconduct is essential to the functioning of our judicial system.”¹² We wholeheartedly agree with that sentiment; it drives our support for District Attorney Price’s investigation.

We strongly implore both the State Bar of California and the Commission on Judicial Performance to protect the public by opening an ethics investigation in collaboration with District Attorney Price to ensure that all prosecutors and judges implicated in this prosecutorial misconduct are held to the highest standards of accountability. We also urge the State Bar and Commission to support District Attorney Price’s efforts to provide redress to those impacted by this misconduct and to ensure zero tolerance for this malicious behavior across the prosecutorial and judicial systems moving forward.

It is critically important to the culture within Alameda County’s criminal legal and judicial systems that prosecutors and judges who failed to disclose knowledge of this unwritten policy and practice also be held accountable to the fullest extent of the law. Their failure to disclose is not just an ethical issue, but a criminal one. Their behavior has allowed for racist and antisemitic practices to plague the criminal legal and judicial system in Alameda County for far too long.

The U.S. Constitution affords all people the right to equitable and fair treatment in the criminal legal and judicial systems, and it affords all people the right to a fair trial regardless of what they are accused of. The failure to thoroughly investigate this scandal has unconstitutionally impacted a myriad of trials, including 35 active death penalty cases.¹³

Californians deserve a proper investigation, clear redress and accountability, along with a renewed zero tolerance for this practice. We strongly urge the State Bar of California and the California Commission on

¹¹ State Bar of California, “About Us,” <https://www.calbar.ca.gov/About-Us>; State of California Commission on Judicial Performance. <https://cjp.ca.gov/>

¹² Ibid.

¹³ Salvador Hernandez, “Federal judge orders Alameda County to review death penalty cases,” Los Angeles Times, April 23, 2024, [https://www.latimes.com/california/story/2024-04-23/federal-judge-orders-alameda-county-to-review-death-penalty-cases#:~:text=Atty;Annelise Finney, “Allegations of Prosecutorial Bias Spark Review of Death Penalty Convictions in Alameda County,” KQED, April 22, 2024, <https://www.kqed.org/news/11983705/allegations-of-prosecutorial-bias-spark-review-of-death-penalty-convictions-in-alameda-county>](https://www.latimes.com/california/story/2024-04-23/federal-judge-orders-alameda-county-to-review-death-penalty-cases#:~:text=Atty;Annelise%20Finney,%20Allegations%20of%20Prosecutorial%20Bias%20Spark%20Review%20of%20Death%20Penalty%20Convictions%20in%20Alameda%20County,KQED,2024,https://www.kqed.org/news/11983705/allegations-of-prosecutorial-bias-spark-review-of-death-penalty-convictions-in-alameda-county)

Judicial Performance to be on the right side of history and join with the current Alameda County district attorney for this significant investigation.

If you have any questions related to this letter or are open to discussing further, please contact Queen Adesuyi, policy strategist for Color Of Change, at queen.adesuyi@colorofchange.org.

Sincerely,



ACLU of Northern California ♦ American Friends Service Committee ♦ Anti Police-Terror Project ♦
Bend the Arc Jewish Action California ♦ Color Of Change ♦ Community Works ♦
Ella Baker Center for Human Rights ♦ Interfaith Coalition for Justice in Our Jails ♦
Legal Support for Prisoners With Children, All of Us Or None ♦ Oakland Rising Action ♦
Project Rebound, San Francisco ♦ Restore Oakland Inc. ♦ Urban Peace Movement ♦ Wren Collective