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## Post Prosecutorial Bias Training Policies

### Draft; Prospective Effective Date 5/1/21

In the beginning of 2021, our Office hosted a groundbreaking six-week exploration of systemic racism and a prosecutor's role in addressing it, developed and hosted by a collaboration of criminal justice reform pioneers the Vera Institute, For the People and the Public Rights Project and supported by the Chan Zuckerberg Initiative (the "Collaborators").

During this exploration, we held robust discussions of how racial disparities existent in the criminal justice system across the nation continue to undermine confidence in the outcomes and processes of that system. We also recognized and discussed how racial bias can be not only an explicit form of animus, but also implicit in form in a way that the bias affects the discretionary decision making by actors in the criminal justice system, even without the knowledge of those actors.

At the end of the training, the Collaborators made a series of specific recommendations to our office to help avoid the system-wide impacts of systemic racism and to help address any potential bias. In light of those recommendations, we hereby adopt the following policies:

#### 1. Use of Person-Centered Language

- a. "Stigma can be enacted and reinforced through labelling. Such labelling can drive the stereotyping, prejudice, and discrimination of groups of people, such as individuals involved in the criminal justice system ..." (Tran, Nguyen, et al., *Words Matter: A Call for Humanizing and Respectful Language to Describe People Who Experience Incarceration*, BMC Int. Human Rights, 2018; 18:41.);
- b. All staff shall strive to use "People-Centered" language whenever practically possible to describe those involved in the criminal justice work that we do as an Office in all professional discourse;
- c. People-Centered or "People first" language means that, when it is necessary to identify a person previously, or currently being, prosecuted by a particular characteristic (*e.g.*, an "inmate" or "prisoner") that they are identified as a person first, *e.g.*, "person who is incarcerated" or "incarcerated person." Similarly, "parolee" or "probationer" would become "person on probation/parole" and "addict" becomes "person with a substance use disorder." The point of the policy is to avoid the use of stigmatizing labels that help to encourage bias.

- d. Because our roles and duties as prosecutors sometimes depend on whether or not a particular person meets a statutory or constitutional description, the following terms are always exempt from this policy:
  - i. Defendant;
  - ii. Victim;
  - iii. Witness;
  - iv. “Sexually Violent Predator” as used in Welfare and Institutions section 6601, *et seq.*;
  - v. “Gang Member” as used in Penal Code 186.22; and
  - vi. “Active Participant” as used in Penal Code 186.22.

## 2. Review of Literary Works

- a. DDA’s are strongly encouraged to read literary works that document and describe the effects of racism and bias, including those concerning the criminal justice system.
- b. There are many such works; two that are noteworthy are *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* by Michelle Alexander, another is *The Color of Law*, by Richard Rothstein. The Office shall purchase multiple copies of each of these works in audiobook and paper format for use and review.

## 3. Prison Site Visits

- a. The Office has, in the past, allowed for DDAs to visit prison facilities for a variety of reasons, including for a prison visits. Specifically, the Office previously partnered with the Yolo Conflict Resolution Center (YCRC) to participate in a restorative justice program with incarcerated persons, which included visits to the prison; DDAs participated in this program;
- b. Going to the prison facilities and seeing the inmates serves to remind DDAs of the gravity and impact that even a short deprivation of liberty has on an individual. This is not to discourage DDAs from seeking substantial prison sentences when warranted, but rather to ensure that the DDA has the perspective of the site visit in mind when considering all of the options available in a given case;
- c. Although the COVID-19 pandemic would prevent such visits for the immediate future, DDAs are strongly encouraged to take the opportunities post-COVID-19 to conduct prison views/visits as appropriate. DDAs are also strongly encouraged to participate in any remote (Video, Zoom, etc.) aspects of this program, and they may contact the Chief Deputy for more details.