



HABEAS CORPUS RESOURCE CENTER

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July 13, 2017

Martin Hoshino
Administrative Director
Judicial Council of California
455 Golden Gate Ave.
San Francisco, CA 94102

Re: An Open Letter to Martin Hoshino, Administrative Director of the Judicial Council of California

Dear Mr. Hoshino:

I am writing on behalf of the Habeas Corpus Resource Center's staff and its 70 clients incarcerated on death row. On July 11, 2017, HCRC became aware of reports concerning a racist, transphobic, and malicious mockery of incarcerated individuals by employees of the Judicial Council at a Halloween party in the Sacramento office. We condemn this incident and all it represents. And while we acknowledge and appreciate the public disapproval you have expressed concerning this reprehensible behavior, we remain deeply concerned that this series of events could have occurred only within a culture of bias and institutionalized racism within the very entity entrusted with ensuring fair and impartial access to justice.

Photos from the Judicial Council's intranet show employees dressed in prison garb, with "darken[ed] faces," inside fake prison cells. Wearing blackface, mocking the institutionalization of people with mental illness, and making light of the dangers faced by transgender people in prison are all unacceptable. Our clients, like the prison population in general, are disproportionately people of color who face racial bias that permeates every level of society, including within our criminal justice system, and particularly within capital sentencing. Two-thirds of individuals on California's death row are people of color. Some of our clients, like those caricatured at the party, struggle on a daily basis with mental health issues exacerbated by

their conditions of confinement. The suicide rate on California's death row is twenty-seven times that of the population as a whole.

When employees of the agency charged with ensuring fair and impartial justice ridicule and dehumanize marginalized and oppressed groups, it diminishes confidence in the system as a whole. While an apology is a welcomed first step toward addressing this situation, institutionalized insensitivity, bias and racism cannot be remedied solely by a course on diversity and respect.

In addition to our concerns about how explicit and implicit bias affects the justice system as a whole, we have substantial concerns about how these events affect our clients specifically. As criminal defense lawyers uniquely situated within the Judicial Branch, HCRC legal staff are recurrently called upon to address questions of conflict and distrust. That is, for some of our clients it is difficult to understand how HCRC can be independent given that the entity is funded by the state, and even through the same branch of government that has judged them worthy of death. The events that occurred last October will certainly sow new seeds of distrust among some of our clients, and make HCRC staff's ability to do their job that much more difficult.

Perhaps more acutely, our clients are directly impacted by Proposition 66, a measure that places responsibility for drafting rules to expedite capital punishment in California squarely in the hands of the Judicial Council. In addition, HCRC's funding proposals are directly reviewed and processed by analysts in the Judicial Council's Sacramento offices. The recently disclosed prejudice and disdain towards incarcerated individuals like our clients causes us deep concern about the Judicial Council's ability to draft, review and approve rules and standards, as well as consider HCRC's funding proposals, in a fair and impartial manner.

We will, of course, continue to advocate for our clients and work to combat institutional bias, and we look forward to working with you and the Judicial Council toward this end.

Sincerely,


Michael Hersek
Executive Director