

The following is a statement Orange County District Attorney Todd Spitzer provided to Voice of OC the afternoon of Feb. 16, 2022.

He issued it in response to allegations from former senior prosecutor Ebrahim Baytieh that Spitzer improperly made racial remarks when he and other prosecutors were deciding whether to seek the death penalty against a Black defendant. Baytieh didn't respond to a message for comment.

Spitzer also provided a copy of a memo he wrote about the situation ([Link](#)).

“This prosecutor had already jeopardized one murder case by failing to follow the rules and we refused to allow him to sabotage another murder case. The “win at all costs” mentality of the prior administration will not be tolerated.

This was an act of pure desperation by a prosecutor who knew had been caught with his hand in the cookie jar and was willing to do anything to protect himself, even fabricating facts to embarrass the District Attorney.

The prosecutor knew he was under investigation for failing to properly disclose evidence and every day that went by was another day closer to investigators finding out the entire truth.

A prosecutor has a sworn duty to protect the rights of the accused, including providing proper discovery. The failure to disclose evidence to the defense by this prosecutor resulted in a 2010 murder conviction being reversed and the defendant being granted a new trial by a Superior Court judge.

It was not until this prosecutor was interviewed by outside investigators regarding his failure to disclose evidence in that horrific 2010 murder case that he acted out of desperation. He wrote a memo in which he suddenly feigned outrage about a discussion held at the highest echelon of the District Attorney's Office that had occurred nearly three months prior.

The case at hand is not a race-neutral case. Race was prominently argued by the defense attorneys and any discussions about race pertained directly to the facts of the case. That is indisputable.

This prosecutor continued to operate outside of the established protocols of the office's Special Circumstances Committee and unilaterally act in a way that once again failed to follow the rules.

For nearly three months, he said nothing.

That timeline cannot be ignored. When he had everything to lose, he fabricated a false narrative in an effort to save himself from the consequences of his own actions. And delivered that false narrative to me three days before Christmas.

When I confronted him about the statement he admitted his recollection of the conversation was inaccurate and he was asked to issue a corrected memo.

Once we reconvened the Special Circumstances Committee in January to address the issue in the proper forum with all of the Committee members present, there was a collective realization that the actions engaged by this prosecutor were flawed. There was no issue with the comments. And there never should have been an issue.

Under my administration, we don't hide evidence and with the newly implemented Racial Justice Act, the entire criminal justice system is in uncharted territory. There is no legal precedence and no direction. Out of an abundance of caution in order to protect our case against a man charged with shooting and killing two people he had never met, we took the information to Court for a judge to decide how to proceed.

I refuse to let another murderer potentially go free because this prosecutor refused to play by the rules."