

TELEPHONE
(916) 446-3400

BRADY & VINDING
455 CAPITOL MALL, SUITE 220
SACRAMENTO, CALIFORNIA 95814

FACSIMILE
(916) 446-7159

mvinding@bradyvinding.com

Direct: (916) 273-1735

October 18, 2021

Appendix A to Form 13909 Complaint

I. Executive Summary

During the election for District Attorney in Yolo County, California, in 2018, David Greenwald, founder, editor and executive director of the non-profit the Davis Vanguard (<https://www.davisvanguard.org>),¹ sent an email to a local attorney as follows:

I was perusing Jeff Reisig's website and noticed you are listed as an endorser. Is that current? **We have a candidate running against him we are hoping will knock him off and would be a reformer.** Just reaching out to see if it were possible to get you to pull the endorsement? Thanks, David.

(Emphasis added.)

As shown above, Mr. Greenwald was apparently invested in the campaign for challenger Dean Johansson and influencing others to vote against incumbent District Attorney Jeff Reisig for the election in 2018, at least in his personal capacity. This is his right. However, based on the material and analysis below, it is my clients opinion that Mr. Greenwald simultaneously used his non-profit "news" website/blog (the Davis Vanguard, a 501(c)(3) corporation) to "intervene" in that District Attorney election to support Johansson, which is prohibited by non-profit law. (26 C.F.R. § 1.501(c)(3)-1(c)(3)(iii).) The below materials also show that Mr. Greenwald and the Vanguard are again intervening in a second, prospective District Attorney election to take place in 2022 and attempting to influence voters in order to support a candidate in that election.

"Section 501(c)(3) ... provides that no degree of support for an individual's candidacy for public office is permitted." (*Ass'n of Bar of City of N.Y. v. C.I.R.* (2d Cir. 1988) 858 F.2d 876, 881; 26 C.F.R. § 1.501(c)(3)(b)(3)(ii) ["Directly or indirectly to participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of or in opposition to any candidate for public office"].) Regarding the 2018 election, the material below shows that, in 2018, the Vanguard published what one Vanguard reader described as "an onslaught" of what are "public statements of position ... on behalf of the organization in favor of or in opposition to any candidate for public office," which "clearly violate[s] the prohibition against political campaign activity." (*The Restriction of Political Campaign Intervention by Section 501(c)(3) Tax-Exempt Organizations*, Internal Revenue Service ("IRS") (Sept. 23, 2020); *see also* Rev. Rul. 2007-41.)

¹ The links embedded in this document may take up to ten (10) full seconds to open a browser and load.

The 2018 advocacy – consisting of at least fifty nine (59) postings in 132 days of the Johansson campaign - included statements that either (a) outright endorsed Johansson, (b) promoted or criticized the candidates running oppose Johansson directly, (c) published the promotions or criticisms of the candidates by third parties, or (d) engaged in “issue advocacy” (See Rev. Rul. 2007-41 holding statements regarding a divisive campaign issue are a proxy for statements regarding the candidates themselves). This continuous and long term posting effectively created an internet “platform” for Johansson that received top results to internet searches, a coveted and expensive benefit for any candidate - here at taxpayer expense.

The materials below demonstrate by clear and convincing evidence that Mr. Greenwald is using the Vanguard to intervene in an anticipated Yolo District Attorney election in 2022 by again repeatedly posting partisan material of generally the same character, this time in support of a new challenger, Cynthia Rodriguez. For example, the Vanguard posted (among other things) an interview podcast that one reader described as an “infomercial” for Ms. Rodriguez wherein both the candidate and Greenwald make partisan comments (*see* detailed description in Part V(5) below).² This infomercial was then “rebroadcast” four months later.³ Not only did a search reveal that none of the other Vanguard podcasts were ever “rebroadcast,” but the short description of the video contains partisan comments and ends with: “Listen as Rodriguez talks about Reisig’s record and discusses her own reformist agenda.” This and other examples appear to be efforts to provide a digital campaign for Ms. Rodriguez at taxpayer expense.

The Appendix below provides a detailed description of these posting activities for three distinct periods of time: (a) prior to the 2018 election, (b) the 2018 election and (c) the 2022 prospective election.

II. The Davis Vanguard

a. Background Facts Regarding the Davis Vanguard.

The People’s Vanguard of Davis (Vanguard) is a website purporting to provide local news coverage. The 2018 Form 990-EZ for the Vanguard stated its primary exempt purpose as “Non-profit and community education”; the program service accomplishments included things consistent with being an online newspaper, *e.g.*, “Covered the news in Davis and Yolo County reaching an average of 3000 to 5000 people daily with three to five news stories each day,” and sent interns to Court to “monitor court cases and report to the public.”⁴ The Vanguard should thus be considered “widely distributed” for the purposes of 501(c)(3) analysis. (*See* R.R. 78-248). The Vanguard solicits donations of up to \$5,000, citing its 501(c)(3) status, with the claim that it “can help us provide more vital coverage, hire more reporters, and continue to expand.”⁵

² <https://www.davisvanguard.org/2021/05/everyday-injustice-podcast-episode-107-yolo-county-da-candidate-cynthia-rodriguez/>.

³ <https://www.davisvanguard.org/2021/09/everyday-injustice-podcast-episode-107-yolo-county-da-candidate-cynthia-rodriguez-2/>.

⁴ (https://apps.irs.gov/pub/epostcard/cor/463013126_201812_990EZ_2019081216562651.pdf) *see also* <https://www.davisvanguard.org/advertise/> [citing 85,000+ IP Addresses visit in five month period]; https://apps.irs.gov/pub/epostcard/cor/463013126_201812_990EZ_2019081216562651.pdf.)

⁵ (<https://davisvanguard.networkforgood.com/projects/110735-vanguard-impact-campaign>.)

Although it describes itself as a “news reporting organization,”⁶ it would be more accurate to describe the website as Mr. Greenwald’s blog in which he vents in the form of rhetorical questions and advocates for certain candidates and against others.⁷ In addition to being the “founder, editor, and executive director” of the Vanguard, Mr. Greenwald is the author of 11,756 of the “articles” as of August 15, 2021; the second most was a mere 238 (by Julietta Bisharyan).⁸ Mr. Greenwald will also comment extensively on his own postings.⁹ (This boosts the internet presence and generates higher search results.) Mr. Greenwald started the Vanguard in 2006. In 2006, it is believed Mr. Greenwald also supported the unsuccessful campaign of Patricia Lenzi, a Deputy District Attorney challenging then Deputy District Attorney Jeff Reisig for the position of District Attorney left open by retiring District Attorney David Henderson.

Mr. Greenwald posts about many different political topics involving local politics. However, the primary focus here is to shed light on the negative posts about District Attorney Jeff Reisig (either directly or by attacking the DA’s office). The posts may attack Mr. Reisig’s positions on ballot initiatives,¹⁰ make accusations ranging from financial fraud,¹¹ to misconduct,¹² to “fearmongering,”¹³ to prosecutorial bias and racial imbalance¹⁴---even a lament about being blocked from the DA’s Twitter feed.¹⁵ Greenwald once complained: “[F]or years, I have been railing on the local paper for their lack of scrutiny of the Yolo County District Attorney.”¹⁶ Even when DA Reisig innovates or enacts reformist/progressive policies, Mr. Greenwald would suggest DA Reisig was merely pretending to engage in reform.¹⁷ Mr. Greenwald has also criticized others for accepting endorsements from Mr. Reisig.¹⁸ Despite his Herculean efforts to discredit the District Attorney’s Office or DA Reisig, few if any of Mr. Greenwald’s allegations have been seriously considered or agreed with by a tribunal such as the state bar or other body with oversight responsibilities.

⁶ (<https://www.davisvanguard.org/about-us/guiding-principles/>.)

⁷ (https://localwiki.org/davis/The_People%27s_Vanguard_of_Davis.)

⁸ (<https://www.davisvanguard.org/author/dmg/>; <https://www.davisvanguard.org/archives/>.)

⁹ (See, e.g., <https://www.davisvanguard.org/2018/03/johansson-campaign-responds-attack-letter/> comments.)

¹⁰ (See, e.g., <https://www.davisvanguard.org/2017/07/commentary-da-reisig-step-county-voters-criminal-justice-reform/>.)

¹¹ (See, e.g., <https://www.davisvanguard.org/2010/09/vanguard-investigation-finds-evidence-of-exaggerated-crime-figures-in-da-grant-applications/>.)

¹² (See, e.g., <https://www.davisvanguard.org/2016/03/my-view-time-for-the-ags-office-or-a-civil-grand-jury-to-investigate-yolo-da/>; <https://www.davisvanguard.org/2017/10/former-prosecutor-says-reisig-coached-key-witness-infamous-halloween-case/>.)

¹³ (<https://www.davisvanguard.org/2018/04/view-no-real-danger-daniel-marsh-released-fear-monger/>.)

¹⁴ (<https://www.davisvanguard.org/2016/10/eye-courts-prosecutorial-bias-racial-imbalance/>.)

¹⁵ (<https://www.davisvanguard.org/2014/04/eye-on-the-courts-lack-of-transparency-in-the-das-office-should-trouble-us-all/>.)

¹⁶ (<https://www.davisvanguard.org/2021/06/sunday-commentary-telling-the-other-side-of-the-story/>.)

¹⁷ (<https://www.davisvanguard.org/2017/04/tell-prosecutor-pretending-criminal-justice-reformer/>.)

¹⁸ (<https://www.davisvanguard.org/2019/10/sunday-commentary-the-specter-of-das-race-progressive-prosecution-battle-in-supervisor-race/>.)

Regarding Mr. Reisig’s position as an elected official, DA Reisig did not face a challenger in 2010 or 2014. Mr. Greenwald would either appear to complain when DA Reisig was not challenged,¹⁹ or arguably encouraged challengers to run.²⁰ Mr. Greenwald’s posts and comments regarding DA Reisig have been such that even readers have commented on the apparent bias.²¹ One reader, in the middle of the 2018 campaign for DA, commented he felt it has been “almost a daily onslaught against Reisig on this blog.”²² (This comment demonstrates that the general public perceives the Davis Vanguard as an advocacy outlet.)

The Davis Vanguard claims sole ownership and copyright protection over “all content on the Vanguard,” which would presumably include letters from outside contributors, and expressly allows for any content a reader to post in the form of comments.²³

b. Stated Vanguard Purposes vs. Vanguard Current Policies and Filings.

As with other non-profits, the Vanguard described its proposed tax-exempt activities in its IRS Form 1023 application for exempt status. Here, the Vanguard Articles of Incorporation and Bylaws (“Articles & Bylaws”), which were attached to the application, dated August 2, 2013, described the Vanguard’s “Specific Objectives and Purposes” as:

[A] non-profit organization established with an objective to be a local government watchdog, conducting research and investigative reporting, providing education, informational activities, and a public forum for commentary, in order to increase public awareness and promote transparency and accountability in local government. Art. 2, Sec. 3.²⁴

In the Form 1023 application, section III, Q1, David Greenwald, identified as the Chief Executive Officer, certified that the Vanguard Articles & Bylaws (“Sec 3”) state the Vanguard’s (tax) exempt purposes.²⁵ Those Articles and Bylaws also state that “... the Corporation will not participate in, or intervene in (including publishing or distributing of statements), any political

¹⁹ (<https://www.davisvanguard.org/2010/04/reisig-unopposed-for-da-but-thats-not-unusual/>; <https://www.davisvanguard.org/2017/07/commentary-da-reisig-step-county-voters-criminal-justice-reform/>, comments.)

²⁰ (<https://www.davisvanguard.org/2017/08/sunday-commentary-will-the-da-be-challenged/>.)

²¹ (See, e.g., <https://www.davisvanguard.org/2016/10/eye-courts-prosecutorial-bias-racial-imbalance/> (comments); <https://www.davisvanguard.org/2018/02/sunday-commentary-can-johansson-beat-reisig/> (comments); <https://www.davisvanguard.org/2018/02/meet-da-candidates-wednesday/> (comments); <https://www.davisvanguard.org/2018/03/view-reisig-find-election-year-religion-prop-64/> (comments); <https://www.davisvanguard.org/2018/03/johansson-campaign-responds-attack-letter/> (comments); <https://www.davisvanguard.org/2017/08/aclu-launches-meet-da-yolo-county-da-jeff-reisig/>; <https://www.davisvanguard.org/2021/05/everyday-injustice-podcast-episode-107-yolo-county-da-candidate-cynthia-rodriguez/> (comments).)

²² (<https://www.davisvanguard.org/2018/05/view-local-paper-buys-progressive-da-argument/>.)

²³ (<https://www.davisvanguard.org/terms-of-use/>.)

²⁴ (<https://www.davisvanguard.org/wp-content/uploads/2019/05/IRS-1023-2015.pdf>).

²⁵ (<https://www.davisvanguard.org/wp-content/uploads/2019/05/IRS-1023-2015.pdf>) In the application, sec. III, Q1, Greenwald confirmed that the Vanguard Articles & Bylaws (“Sec 3”) state the Vanguard’s (tax) exempt purposes.

campaign on behalf of (or in opposition to) any candidate for public office.” (Articles & Bylaws, Art. 2, Sec. 1.) (*Id.*) The same Articles and Bylaws, at Art. 2, Sec. 4, state the Vanguard “shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the specific purposes of this Corporation.” (*Id.*)

Currently, the Vanguard website states purposes and objectives that arguably differ from, and are more activist than, the objectives stated in the Bylaws submitted to the IRS, as well as tax returns, which describe “covering the news,” among other things. For example, the Vanguard adds on its website that its purpose includes “promoting social justice and democracy.”²⁶ Elsewhere on the website, the Vanguard apparently qualifies the “watchdog” purpose reported to the IRS as a “watchdog” that bites: “The Vanguard is primarily a watchdog organization that, through its reporting, supports open government, transparency and social justice. The Vanguard frequently takes active positions on issues in this community.”²⁷ (Emphasis added.)].

Regarding campaign activity disclosures, the Vanguard 990-EZ Short Form Tax Return, Question 46 asks: “Did the organization engage, directly or indirectly, in political campaign activities on behalf of or in opposition to candidates for political office?” It is worthy to note that in tax years 2016 and 2020, Mr. Greenwald answered “No” to Question 46, but for 2017-2019 he omitted any answer to this particular question in the 990-EZs.²⁸

These potential differences and/or omissions are significant in determining not only whether a company may retain 501(c)(3) status but also for potential retroactive assessments. For example, in the *Christian Echoes* case, *Christian Echoes National Ministry v. U.S.* (10th Cir. 1973) 470 F.2d 849, 857 (“*Christian Echoes*”), the Court reversed a trial court finding that *Christian Echoes* (which was a religious and educational non-profit that authored publications and broadcast on radio and television) should retain 501(c)(3) status. The Court found, among other things, that although *Christian Echoes* “[g]enerally [] did not formally endorse specific candidates for office [, it] used its publications and broadcasts to attack candidates and incumbents who were considered too liberal.” (*Christian Echoes*, 470 F.2d at 856.) Further, the Court found that, in addition to revocation of non-profit status, retroactive assessment was appropriate for the five years preceding the revocation because “[t]he facts developed on audit were materially different from the facts disclosed in the taxpayer’s original exemption application.” (*Christian Echoes*, 470 F.2d at 858.)

It is specifically requested that the activities cited herein be assessed in light of all Vanguard tax filings and its original non-profit application.

III. Applicable Law

“[T]ax exemption is a privilege.” (*Christian Echoes*, 470 F.2d at 857.) With its 501(c)(3) status, the Vanguard is afforded not only the extraordinary privilege of tax-free revenue, but the ability to raise additional tax-free revenue in the name of “charity.” This privilege comes with

²⁶ (<https://www.davisvanguard.org/about-us/editorial-board/>.)

²⁷ (<https://www.davisvanguard.org/about-us/guiding-principles/>.)

²⁸ (<https://www.davisvanguard.org/about-us/irs-filings/>;
https://apps.irs.gov/pub/epostcard/cor/463013126_201612_990EZ_2018082115601418.pdf;
https://apps.irs.gov/pub/epostcard/cor/463013126_201712_990EZ_2019022516126703.pdf.)

restrictions. Among other things, the organization must “not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.” (Rev. Ruling 2007-41; *see also* 26 C.F.R. § 1.501(c)(3)-1(c)(3)(iii).) This is because the “United States Treasury should be neutral in political affairs” and “attempts to ... affect a political campaign should not be subsidized.” (*Christian Echoes*, 470 F.2d at 854; *see also Fund for Study of Eco. Grth. Tax Reform v. I.R.S.*, 997 F. Supp. 15, 20 (D.D.C. 1998) [“Taxpayers should not subsidize efforts at political advocacy.”].)

Case law further emphasizes this prohibition: “[T]he present provisions of Section 501(c)(3) ... provides that no degree of support for an individual’s candidacy for public office is permitted.” (*Ass’n of Bar of City of N.Y. v. C.I.R.* (2d Cir. 1988) 858 F.2d 876, 881 [internal citations omitted].) “[The] exemption is lost . . . by participation in any political campaign on behalf of any candidate for public office. It need not form a substantial part of the organization’s activities.” (*U.S. v. Dykema* (7th Cir. 1981) 666 F.2d 1096, 1101 [emph. in orig.].)

The fact that the Vanguard, or any organization, may describe its activities as “educational,” is not controlling; substance controls, not the label. “Courts have long held that government should not subsidize partisan, political advocacy under the guise of educational activities.” (*Fund for Study of Eco. Grth. Tax Reform v. I.R.S.* (“*Echo Grth.*”) (D.D.C. 1998) 997 F. Supp. 15, 20 [holding that tax exempt status was properly denied for a fund and rejected arguments that the activities were “educational” because, among other things, records of public hearings organized by the fund “show[] that these were conducted to advance a particular political message.”])

Revenue Ruling 2007-41 states “activities that constitute participation or intervention in a political campaign on behalf of or in opposition to a candidate include, but are not limited to, the publication or distribution of written statements or the making of oral statements on behalf of or in opposition to such a candidate.” (*Id.*) Whether an activity is campaigning considers all of the circumstances of a situation. (Rev. Rul. 2007-41; *see, e.g., Branch Ministries v. Rossotti*, 40 F. Supp. 2d 15, 26 (D.D.C. 1999) [“Section 501(c)(3) status was revoked because the Church took out a single full-page advertisement advocating against a partisan political candidate”].)

A statement by a non-profit does not have to be an express endorsement to be prohibited. “Even if a statement does not expressly tell an audience to vote for or against a specific candidate, an organization delivering the statement is at risk of violating the ... prohibition if there is any message favoring or opposing a candidate.” (Rev. Rul. 2007-41; *see also Echo Grth.*, 997 F. Supp. at 20 [hearings “advance[d] a particular political message.”]). For example, in one hypothetical from Rev. Rul. 78-248, the organization prepared a questionnaire to all candidates for major public offices that contained questions “evidencing a bias” on certain issues and made the responses generally available to the public during an election campaign. This was prohibited political campaign activity. Similarly, case law has found intervention without express endorsement. (*See, e.g., Christian Echoes*, 470 F.2d at 856 [although non-profit “[g]enerally [] did not formally endorse specific candidates for office [, it] used its publications and broadcasts to attack candidates and incumbents who were considered too liberal.”].) Phrased differently, attempts to influence may be found with an “indirect campaign to mold public opinion.” (*Christian Echoes*, 470 F.2d at 855.)

The Vanguard is on notice of these prohibitions. In the Approval Letter sent by IRS on August 14, 2014,²⁹ the Service specifically referred Mr. Greenwald to Publication 4221-PC “[f]or important information about your responsibilities as a tax-exempt organization.” Publication 4221-PC,³⁰ in part, explains that intervening in political campaigns by public charities is prohibited and “public statements of position (verbal or written) made on behalf of the organization in favor of, or in opposition to, any candidate for public office clearly violate the prohibition against political campaign activity.” (Page 5.) The Publication explains, in detail, many factors to determine whether something is (or is not) intervention and states “the communication must be considered in context” Among other things, “voter education” activities cannot be “biased,” organizational leaders cannot make public “partisan” comments, and “Section 501(c)(3) organizations must avoid any issue advocacy that functions as political campaign intervention.” (*Id.*) The Publication goes on to explain as follows:

Even if a statement does not expressly tell an audience to vote for or against a specific candidate, an organization delivering the statement is at risk of violating the political campaign intervention prohibition if there is any message favoring or opposing a candidate. A statement can identify a candidate not only by stating the candidate’s name but also by other means such as showing a picture of the candidate, referring to political party affiliations or other distinctive features of a candidate’s platform or biography.³¹

These prohibitions apply equally to websites. According to Ruling 2007-41, “A website is a form of communication. If an organization posts something on its website that favors or opposes a candidate for public office, the organization will be treated the same as if it distributed printed material, oral statements or broadcasts that favored or oppose a candidate.” (*See also FAQs About the Ban on Political Campaign Intervention by 501(c)(3) Organizations: Website Postings and Links*, IRS (Dec. 8, 2020).)

IV. Vanguard Intervention in 2018 Yolo District Attorney Election.

A. Postings Prior to the Announcement of First Candidate (November 12, 2017)

For this election term, a Deputy DA named Larry Eichele announced---on November 12, 2017---that he would run against Mr. Reisig but then withdrew less than two months later.³² A nonprofit is precluded from “publication or distribution of written statements ... on behalf of or in opposition to ... a candidate.” (Rev. Ruling 2007-41.) Given all the circumstances and timing, three posts that preceded Mr. Eichele’s official announcement should be considered, or at

²⁹ (<https://www.davisvanguard.org/wp-content/uploads/2019/05/IRS-Approval-Letter.pdf>.)

³⁰ (<https://www.irs.gov/pub/irs-pdf/p4221pc.pdf>.)

³¹ (<https://www.irs.gov/pub/irs-pdf/p4221pc.pdf>; *see also FAQs About the Ban on Political Campaign Intervention by 501(c)(3) Organizations: Organization Position on Issues*, IRS (May 21, 2020) [“[a]n organization may take positions on public policy issues, including issues that divide candidates ... as long as the message does not in any way favor or oppose a candidate.”].)

³² (<https://www.davisvanguard.org/2017/11/sunday-commentary-suddenly-yolo-county-will-choice-direction-das-office/>; <https://www.davisenterprise.com/news/local/prosecutor-withdraws-from-yolo-das-race/>.)

least evaluated for, “intervening.” Regardless, the posts provide context (particularly regarding “issue advocacy”) for the analysis of the later posts.

1. August 6, 2017; <https://www.davisvanguard.org/2017/08/sunday-commentary-will-the-da-be-challenged/>; David Greenwald; here Greenwald claims the DA’s office “overcharges,” is overly aggressive (particularly as to “incarceration rates” or “mass incarceration”) and lacks transparency, then goes on to describe forms a challenger might take. The post claims DA Reisig “staked his reputation on tough law and order,” and criticizes his positions as “inconsistent” with the wishes of Yolo voters. It is known that Yolo voters approved two significant statewide criminal justice reforms called Proposition 47³³ and Proposition 57,³⁴ and Greenwald criticizes DA Reisig’s positions regarding those propositions *ad nauseam*.

The significance of the above issues, including the propositions, is that these issues (the Propositions, tough on crime vs. progressive, mass incarceration, transparency, juvenile crime, etc.) are the issues that divide (or at least are purported to divide) the candidates that ultimately emerge. Later posts during the actual campaigns have the Vanguard painting DA Reisig in a negative light on these issues, while (either in the same posts or in separate posts) extolling or placing in a positive light the challengers on the basis of their opposite politics on these issues. According to Rev. Rul. 2007-41, “section 501(c)(3) organizations must avoid any issue advocacy that functions as political campaign intervention.”

This is a post on a non-profit website negatively reflecting a candidate that suggests its apparent purpose was to encourage an election challenge. This was written in the context of an election and, should a candidate arise, that candidate would benefit from this post. Although technically before a “campaign” started, its timing and content should be evaluated. “A communication is particularly at risk of political campaign intervention when it makes reference to candidates or voting in a specific upcoming election.” (Rev. Ruling 2007-41).

2. August 23, 2017 Post: <https://www.davisvanguard.org/2017/08/aclu-launches-meet-da-yolo-county-da-jeff-reisig/>; Vanguard Administrator;³⁵ in this post the Vanguard repeats what is purported to be a lengthy press release from the American Civil Liberties Union (ACLU), which includes links to a report and an interactive website that details whether or not individual DAs supported or opposed certain ballot propositions vs. how those ballot measures were voted on by county constituents. The post emphasizes that each of the propositions represented “transformational change” over a “previous system of harsh punishment and mass incarceration.”

Although the ACLU “Meet Your DA” campaign was not focused on DA Reisig (as the title of the post suggests); the post pastes in a large, color graphic from the campaign website referring

³³ (https://en.wikipedia.org/wiki/2014_California_Proposition_47); Proposition 47 made possession of drugs like methamphetamine and heroin a misdemeanor, and made changes to theft laws that were later widely criticized as causing increases in multiple types of theft across the state. (*Id.*)

³⁴ (https://en.wikipedia.org/wiki/2016_California_Proposition_57); Proposition 57 removed the ability of prosecutors to decide whether juveniles could be tried in adult court (instead only allowing a court to do so), removed the limits on the ability of the Department of Corrections to award credits to inmates and called for early parole opportunities for “non-violent” offenders even if only a fraction of a sentence had been served. The main criticism of Proposition 57 from prosecutors was that the term “non-violent” used to sway voters is not an adjective, but a legal term referring to a particular list of offenses that did not include indisputably “violent” offenses such as drive-by-shootings, assault with firearms or deadly weapons, and street gang crimes.

³⁵ “Vanguard Administrator” listed as author apparently means a guest poster who is later identified. Following after each Vanguard Administrator post is a disclaimer to the effect that the views expressed by the poster and not of the Vanguard, *et al.*

to DA Reisig’s position on four ballot measures. The post then argues that “locally elected district attorneys” have “consistently opposed popular and common sense reforms.” The post finally encourages readers to use the provide report and website to organize “candidate forums” for elections. In the Comments (which the Vanguard calls “Thoughts”), David Greenwald states to the effect that the ACLU was confirming the argument that he had made earlier (apparently referring to the August 6, 2017 post) that the voters and DA Reisig were “disconnected” on the issues. He then switches topics to the prospects of a DA election; he speaks of being “bombarded” by people asking about candidates for DA, and states “there is no obvious candidate” who can run for DA.

This post should be evaluated for the same reasons stated with respect to post No. 1.

3. September 1, 2017 Post: <https://www.davisvanguard.org/2017/09/yolo-da-working-undermine-intent-prop-57/>; David Greenwald; in this post Mr. Greenwald again talks about Mr. Reisig being out of step with voters, and claims DA Reisig “has been working to undermine the will of the People” This, like the previous post No. 2, comes after Mr. Greenwald posts his “will-the-DA-be-challenged” article, is close to the start of a campaign (should a candidate emerge), draws a negative correlation between voters and DA Reisig and happens to mirror aspects of the platform later described by Mr. Eichele (below).

On November 12, 2017 the Vanguard announced Eichele’s candidacy (below).

B. Postings During Eichele Campaign (11/12/17 - 12/22/17)

During the brief period of Mr. Eichele’s campaign, Mr. Greenwald posted (a) an announcement of Mr. Eichele’s candidacy and (b) the following posts critical of the DA’s office, and apparently intended to cast DA Reisig in a negative light:

1. Announcement. November 12, 2017: <https://www.davisvanguard.org/2017/11/sunday-commentary-suddenly-yolo-county-will-choice-direction-das-office/>; David Greenwald; From its title through its body, the post casts Eichele in a positive light and Reisig in a negative one, complete with a large map attacking Yolo County’s incarceration rate and repeating a theme that Mr. Reisig is not “in tune” with voters. The post recites Eichele’s platform and obliquely suggests that the platform is more consistent with voters on listed criminal justice issues similar to that of Philadelphia DA Larry Krasner. It is worth noting that Eichele’s platform, at least in part, mirrors the criticisms made by Greenwald in the posts preceding Eichele’s announcement (*i.e.*, alleged overcharging and being not “in tune” with voters on reform).³⁶ Finally, the posting explains that Eichele is supportive of ACLU suggested reforms (with one exception) and specifically argues Eichele’s qualifications for the role.

Here again, the Revenue Rulings place a very low bar on activity for it to be considered campaigning, which is clearly met here. For example, one scenario examined in Rev. Ruling 78-248 found a publication to be not campaigning because it “contains no editorial opinion, and its contents and structure do not imply approval or disapproval of any Members or their voting records” Here, as in many of the posts below, the disapproval of DA Reisig and approval of his opponents is express, not implied.

³⁶ (See, e.g., <https://www.davisvanguard.org/2017/08/aclu-launches-meet-da-yolo-county-da-jeff-reisig/>.)

2. November 14, 2017: <https://www.davisvanguard.org/2017/11/yolo-deputy-da-previously-involved-fatal-police-shooting-san-jose/>; David Greenwald; this post relates to the hiring of DDA Frits Van der Hoek, a former police officer, on May 6, 2015--over two years prior. The posting clearly attempts to cast DA Reisig in a negative light and the title is incendiary. From its headline through its substance, the apparent aim of this post is to suggest—without directly saying so—that a “Yolo Deputy DA” committed a homicide. Though the headline states “involved,” the post (much later) clarifies that it was Mr. Van der Hoek’s partner and not Van der Hoek that shot Mr. Antonio Lopez in this event. The post details multiple arguments that the shooting was not justified and makes scant, if only passing reference to, “claims” or “allegations” that Mr. Van der Hoek was charged by Mr. Lopez before he was shot by Van Der Hoek’s partner.

It is worthy to compare Greenwald’s characterization of these events to the District Court opinion dismissing the civil case (not discussed in the post), which had been published over a year prior, where the judge reviewed the body cam video “numerous times both at full speed and in slow motion” and concluded:

Mr. Lopez had refused to comply with Sgt. Santos’s command to drop the blade, that Officer Van der Hoek had deployed his Taser at Mr. Lopez without success, and that Mr. Lopez, with the long blade in hand, was running toward Officer Van der Hoek, Defendants had probable cause to believe that Mr. Lopez posed a significant threat of death or serious physical injury to Officer Van der Hoek.

(*J.A.L. v. Santos*, No. 15-CV-00355-LHK, at *7 (N.D. Cal. Mar. 10, 2016).) The Judge also noted that “[t]he video ... shows that Officer Van der Hoek did not close in on Mr. Lopez but in fact backed away from Mr. Lopez as Mr. Lopez then ran toward Officer Van der Hoek.” (*Id.* at *12.) According to the Court, it was after Lopez started running at Van der Hoek and Lopez, “who still held the blade in his right hand, came closer to Officer Van der Hoek , [that] Officer Van der Hoek shouted ‘Shoot him! Shoot him!’ to Sgt. Santos.” (*J.A.L. v. Santos*, No. 15-CV-00355-LHK, at *3 (N.D. Cal. Mar. 10, 2016).)

The timing of this post and its content at least raises a question regarding whether the Vanguard used the post to generate negative press in the context of an election. The post occurred only two days after Larry Eichele announced his candidacy for DA. Neither the posting archive for Mr. Van der Hoek at the Vanguard, nor an internet search, reveals an earlier posting regarding Mr. Van der Hoek,³⁷ although the hiring occurred in 2015 which, the posting shows, was publicized. The events of the presumably public lawsuit (filed January 26, 2015) also predated the hiring. The post claims the shooting was “unbeknownst to many” at the time of the hiring. The stated purpose of the post was that an argument would occur in appellate court that day to “reinstate” the lawsuit, but nothing else is said about this hearing (*i.e.*, no reporting was done on the hearing itself nor, at least in the Van der Hoek archives, was there a follow up post detailing the arguments from or outcome of the hearing).

3. November 15, 2017: <https://www.davisvanguard.org/2017/11/commentary-da-sends-wrong-message-hiring-deputy-da-involved-fatal-shooting/>; David Greenwald; here, one day later,

³⁷ (<https://www.davisvanguard.org/tag/frits-van-der-hoek/>.)

Mr. Greenwald again attacks the hiring of Frits Van der Hoek whom he repeatedly states was “involved” in a shooting and then discusses a collection of other use of force incidents from past news. Greenwald repeatedly criticizes the DA’s Office and specifically Mr. Reisig both for handling of police use of force, and for hiring a Deputy DA “involved” in a “controversial” shooting. He ends with the comment that “the DA” does not take police violence “seriously.”

The timing of this post, again, should be considered campaigning as well as the partisan comments about incumbent DA Reisig. Although the DA’s race is not mentioned specifically it levels criticism about a “divisive issue” in the race, being police accountability, which also happens to be a national issue. The announcement post for Mr. Eichele stated he supports ACLU reforms (with one exception regarding parole reform).³⁸ While police accountability was not discussed specifically in the announcement post, it is well known that the ACLU is a strong proponent of “police accountability.”

On December 22, 2017, Mr. Eichele withdrew from the Yolo DA race.³⁹

C. Postings During Johansson Campaign (January 24, 2018 to June 5, 2018)

On January 24, 2018, Dean Johansson, a Deputy Public Defender, announced his candidacy for Yolo DA. During this campaign, Mr. Greenwald sent a March 15, 2018 email (Attachment A), to a local attorney as follows:

I was perusing Jeff Reisig’s website and noticed you are listed as an endorser. Is that current? We have a candidate running against him we are hoping will knock him off and would be a reformer. Just reaching out to see if it were possible to get you to pull the endorsement? Thanks, David.

Mr. Greenwald was apparently participating in a campaign to elect Dean Johansson, at least in his personal capacity. Although Mr. Greenwald is entitled to campaign in his personal capacity, a number of the Vanguard postings from January through the end of the campaign (below) contain prohibited interventions in this election.⁴⁰

1. January 24, 2018: <https://www.davisvanguard.org/2018/01/new-da-candidate-emerges/>; David Greenwald; this is the first “announcement” of Mr. Johansson’s candidacy. The announcement paints Mr. Johansson in a positive light while showing a bias against incumbent Reisig with statements regarding incarceration and trial rates supported by “Vanguard data.” The post repeats Johansson’s campaign message at length regarding “overcharging” and over incarceration, which is the same criticism previously posted by the Vanguard (the “will-the-DA-be-challenged” post).⁴¹ The post then ends with what could only be called a campaign statement for

³⁸ (<https://www.davisvanguard.org/2017/11/sunday-commentary-suddenly-yolo-county-will-choice-direction-das-office/>.)

³⁹ (<https://www.davisenterprise.com/news/local/prosecutor-withdraws-from-yolo-das-race/>.)

⁴⁰ A complete archive of the Vanguard postings “tagged” with Mr. Johansson can be found at <https://www.davisvanguard.org/tag/dean-johansson/>.

⁴¹ (<https://www.davisvanguard.org/2017/08/sunday-commentary-will-the-da-be-challenged/>.)

Johansson that he will have a further “announcement” outside the courthouse on Thursday that week. The “tags” for this post are “Dean Johansson,” “District Attorney” and “Jeff Reisig.”⁴²

In the Comments to this posting, Tia Will, who was then and is now a member of the Vanguard’s Editorial Board and featured on the website,⁴³ rebuked a comment from a different reader (indicating he would not vote for Johansson) with specific criticism about DA Reisig on four different points. As explained in Rev. Rul. 2007-41, “for their organizations to remain tax exempt under section 501(c)(3), leaders cannot make partisan comments in official organization publications” If, somehow, Ms. Will is not considered a “leader,” the Comments are still the “sole” property and copyright of the Vanguard (see discussion *supra*) and so too should be treated as an official Vanguard publication and thus an intervention and endorsement of candidate.

2. January 25, 2018: <https://www.davisvanguard.org/2018/01/breaking-news-johansson-formally-announces-da/>; David Greenwald; in this second “announcement” the Vanguard paraphrases Johansson’s campaign message casting the incumbent in a negative light, then the post repeats the full text of Dean Johansson’s comments as a full campaign speech. In addition, the post (1) includes an embedded video of the campaign speech, and (2) it posts pictures with people holding signs with the web address to Mr. Johansson’s campaign sites in large lettering and soliciting donations, effectively a link in a setting favoring candidate Johansson. (Rev. Ruling 2007-41, Situations 19-21). The tags for this post include “Dean Johansson,” “District Attorney,” “Jeff Reisig,” “Election 2018” and “Mass Incarceration.”

The entire post is effectively a multimedia campaign ad, particularly the use of the embedded video, which is both unnecessary to convey the “news,” and relatively rare in Vanguard postings. Embedding a “campaign speech” type video is documented to provide a particular benefit to a political campaign.⁴⁴ In the Comments to the post both David Greenwald and Tia Will make comments appearing to criticize DA Reisig or his policies. These comments, and those described below, are prohibited “partisan comments” by the official editors of the Vanguard as described in R.R. 2007-41, Situation 4.

3. January 28, 2018: <https://www.davisvanguard.org/2018/01/sunday-commentary-can-johansson-become-yolos-larry-kasner/>; David Greenwald; this post (now the third post regarding a candidate running for elected office in four days) again casts incumbent DA Reisig in a negative light while romanticizing and extolling Mr. Johansson and comparing him, at length, to a newly-elected reform DA, Philadelphia’s Larry Krasner.

The post was a mix of Johansson talking about his own platform and criticizing the current DA’s policies as “oppressive and backward” and Greenwald making statements appearing to reinforce those points. On one point, Greenwald praised DA Krasner for having revamped that office’s “conviction integrity unit” (a unit designed to examine convictions for error). Greenwald then appears to criticize the Conviction Integrity Unit in Yolo County and stated how election of a

⁴² Tags, here also in the form of “anchor text” (an active link), help enhance the all-important Search Engine Optimization (“SEO”), which increases the odds that a search (*e.g.*, like Google) will reveal the website and, more importantly, the priority or rank in which the website appears. <https://moz.com/learn/seo/anchor-text>.

⁴³ (<https://www.davisvanguard.org/about-us/editorial-board/>.) For the sake of brevity, Ms. Will will be referred to as “Editor” hereafter. Ms. Will is also listed as a Director in the Vanguard’s 2018 tax filing. https://www.davisvanguard.org/wp-content/uploads/2021/08/IRS-2018-signed_Redacted.pdf.

⁴⁴ (<https://www.thinkwithgoogle.com/marketing-strategies/video/political-ads-video-content-influence-voter-opinion/>);

new “reform minded” DA can “change the entire culture.” The post quotes Johansson regarding race-defining issues such as incarceration and the positions on the same ballot propositions featured in the ACLU’s “Meet Your DA” campaign. The tags for this post are “Dean Johansson,” “District Attorney,” “Jeff Reisig,” “Mass Incarceration” and “Criminal Justice Reform.”

Here again, Vanguard Editorial Board Member Tia Will added a Comment to this post directly criticizing DA Reisig on three separate points. It is also worthy to note that the “portrait” picture used for this Vanguard post is copyrighted “David M. Greenwald,” and that same picture was used for the Dean Johansson campaign Facebook page. (Attachment B.) Per the Vanguard policy, all “images” appearing on the Vanguard are the sole property of the Vanguard⁴⁵ and nothing appears conspicuously to indicate that the Vanguard is in the business of selling its photographs (if it was sold to Johansson for the campaign, such would perhaps be indicated in Mr. Johansson’s campaign expenditure filings, which have not been examined). If the photograph is Vanguard property and the Vanguard allowed the use of this professional-grade portrait for the campaign, that should also be considered intervening. (*See Ass’n of Bar of City of N.Y. v. C.I.R.* (2d Cir. 1988) 858 F.2d 876, 881 [“Section 501(c)(3) ... provides that no degree of support for an individual’s candidacy for public office is permitted.”].)

4. January 29, 2018; <https://www.davisvanguard.org/2018/01/monday-morning-thoughts-yolo-countys-conviction-integrity-unit-little-show/>; David Greenwald; this article again criticizes the results of the Yolo conviction integrity unit created in the Fall of 2014, then over three years ago, and draws comparisons with how Philadelphia District Attorney Larry Krasner expanded the conviction integrity review process.

This post criticizing the conviction review efforts of DA Reisig’s office does not relate to any current event. This is more apparent campaigning designed to put incumbent Reisig in a negative light and to highlight the platform of Mr. Johansson. This post criticizes the incumbent’s conviction integrity unit while extolling the efforts of Larry Krasner in this area, while prior posts suggested Johansson is the Yolo Krasner. In fact, the previous post from January 28, 2018 specifically told readers to look to Mr. Krasner’s office as “a guide” for how Mr. Johansson would lead his DA’s office. According to Rev. Rul. 2007-41, “section 501(c)(3) organizations must avoid any issue advocacy that functions as political campaign intervention.” Here, the “tags” for the post include “conviction integrity unit,” “Jeff Reisig,” and “Wrongful convictions.”

5. February 25, 2018; <https://www.davisvanguard.org/2018/02/sunday-commentary-can-johansson-beat-reisig/>; David Greenwald; this is the second instance where the post prominently features a photo with a woman holding a sign advertising Johansson’s website and seeking donations, the equivalent of a link— “DEAN4DA.ORG; Donate at DEAN4DA.ORG.”⁴⁶

⁴⁵ (<https://www.davisvanguard.org/terms-of-use/>.)

⁴⁶ This same photo with the campaign website and donation solicitation was used multiple times in Vanguard publications during the campaign. (*See, e.g.,* <https://www.davisvanguard.org/2018/05/letter-voters-vote-dean-johansson/>; <https://www.davisvanguard.org/2018/05/johansson-earns-endorsements-supervisor-saylor-yolo-county-sierra-club/>; <https://www.davisvanguard.org/2018/06/letter-johansson-better-choice-da/>; <https://www.davisvanguard.org/2018/04/candidate-charges-yolo-county-d-office-squanders-nearly-100000-year/>; <https://www.davisvanguard.org/2018/04/dean-johansson-receives-endorsement-national-progressive-pac-democracy-america/>; <https://www.davisvanguard.org/2018/05/open-letter-democrats-endorse-jeff-reisig/>.)

The post otherwise romanticizes Johansson’s campaign, casting him in the part of the “reform-minded” underdog, again, noting that Johansson lacks resources, specifically money, and criticizing DA Reisig’s positions on ballot propositions with the accusation that such is not in line with Yolo County or criminal justice reforms. The post describes multiple articles on justice reform and the efforts of a known justice reform advocate in a positive light, and then not-so-subtly implies Johansson is the reform-minded candidate. The post even commented on the County being more Democrat-leaning in recent elections and then, incorrectly, identifies DA Reisig as “the only elected Republican” in the County (he is and was a registered as no political party since 2011). The tags for this post include “Dean Johansson,” “Yolo County District Attorney,” “Jeff Reisig,” and “Criminal Justice Reform.”

The post ends with an advertisement for a “Meet Your DA Candidates” event that contains only a campaign photo of Mr. Johansson and begins with “On February 28, the voters will have a chance to meet Dean Johansson” at a Vanguard sponsored event. Although the post stated that Mr. Reisig did not respond to an invitation, the facts should be explored further as to whether this advertisement was an intervention. Is “sponsoring” the same as “hosting”? Is this a “forum” contemplated by Rev. Rul. 2007-41. What was the Vanguard’s involvement in the event? If the non-profit’s involvement is merely incidental and it is really just a campaign event, can the non-profit advertise the event? There should be a difference between the non-profit advertising an event they actually host, and the non-profit simply advertising a campaign event by one of the candidates. It should not be that a non-profit looking to support a candidate can simply “invite the other guy” to their candidate’s speaking engagements and then have complete license to advertise the campaign events of the candidate they seek to support. The tax law states an absolute prohibition on intervention in elections—this would be inconsistent with a practice where wholesale intervention is allowed so long as it is done with opportunities to the other side.

The post is followed by comments by both David Greenwald and Tia Will that cast DA Reisig in a negative light. In addition, Tia Will publishes that she “table[s] for Dean [Johansson].”

6. February 26, 2018; <https://www.davisvanguard.org/2018/02/meet-da-candidates-wednesday/>; David Greenwald; this is the second of what could fairly be called an advertisement for the forum, again with only Johansson’s campaign picture and again with the pitch that one can “have a chance to meet Dean Johansson.” The post also imbeds a large “banner” link at the bottom back to the February 25, 2018 post about Johansson; this banner link appears to be done to further promote Johansson. The post is followed by comments by Tia Will that cast DA Reisig in a negative light.

7. February 28, 2018; <https://www.davisvanguard.org/2018/02/commentary-mcgregor-scott-proving-less-independent/>; David Greenwald; this post questions the credibility and impartiality of U.S. Attorney McGregor Scott as an independent investigator of an event, expresses “concern” regarding (a) a supposed conflict of interest; (b) that Scott was appointed by Donald Trump, and (c) drug raids in Yolo County. The post then prominently states that Mr. Scott is listed “as an endorser of the district attorney [Jeff Reisig] for reelection.” Tags for the post include “Jeff Reisig,” and “McGregor Scott.” The apparent intent of this post is to provide negative press to Mr. Scott and then link Scott to DA Reisig, specifically in the context of the election, which is partisan and intervening.

8. March 8, 2018; <https://www.davisvanguard.org/2018/03/commentary-da-needs-trust-due-process-law/>; David Greenwald; this post concerns a ruling on a Proposition 57 issue, but also discussing Proposition 47, and is again critical of incumbent Reisig, again claiming “another case” where DA Reisig is “at odds” with the County on criminal justice reform. The post later claims that “the elected district attorney” fears due process. The post is followed by more negative comments by Greenwald and Tia Will. Tags for the post include “Jeff Reisig,” and “Proposition 57.”

This should be considered campaigning. This is yet another post essentially echoing aspects of the Johansson campaign platform⁴⁷ of ending the “school-to-prison pipeline” with juvenile crime and charging that DA Reisig works against the Yolo voters, specifically on the issues of Propositions 47 and 57. This is more “issue advocacy that functions as political campaign intervention.” (Rev. Rul. 2007-41.)

9. March 9, 2018; <https://www.davisvanguard.org/2018/03/johansson-files-paperwork-district-attorney/>; David Greenwald; this post is now the third “announcement” for candidate Johansson and consists of, essentially, a complete campaign statement by Johansson. The post references the election specifically, and should be considered as Mr. Greenwald using the non-profit for campaign purposes to generate positive exposure for Johansson on a digital platform. Tags for the post are “Dean Johansson,” “Election 2018” and “Yolo DA.”

10. March 9, 2018; <https://www.davisvanguard.org/2018/03/monsanto-protestors-found-not-guilty-yolo-county-trial-thursday/>; Vanguard Administrator (Crescenzo Vellucci); this post describes a not guilty verdict in a controversial case in which persons protesting Monsanto Chemical were charged with loitering. This case (and this post) sets up as a fight between pro-environmental protestors protecting their civil rights, the big chemical company, and “Jeff Reisig’s office doing everything it could to frustrate the anti-Monsanto demonstrators”

Although not personally involved in the case, DA Reisig’s name is mentioned throughout, the post is tagged with “Jeff Reisig,” and Editor Tia Will publishes extensive partisan statements in the comments section accusing “the current DA’s office” of a pattern of overcharging, nondisclosure and insufficient evidence.

Later, a reader asked why the Vanguard “often focuses” on the DA rather than others. Ms. Will responded that “we” have the ability to elect and pay for the actions of the DA’s office and that it would seem “timely ... with an election in a couple of months to focus on that which we can have a strong impact” Ms. Will qualified this opinion as her own and that it “may not reflect the motivations of the Vanguard,” but this should not matter. The Revenue Rulings allow leeway for partisan public statements by non-profit leaders at public forums or the events of others, etc. (if the statements are identified as personal and not official to the non-profit). (See Rev. Rul. 2007-41, Situation 5.) However, “leaders cannot make partisan comments in official organization publications” (Rev. Rul. 2007-41, p. 4.) The Rulings do not suggest that a non-profit leader can publish partisan statements on the official material of the non-profit and avoid intervention by simply qualifying the statement as personal opinion. (See Rev. Rul. 2007-41, Situation 4.)

11. March 13, 2018; <https://www.davisvanguard.org/2018/03/yonet-conducting-witch-hunt-fullerton-family/>; David Greenwald; the content of this post criticizes the Yolo Narcotics

⁴⁷ (<https://www.davisvanguard.org/2018/01/breaking-news-johansson-formally-announces-da/>.)

Enforcement Team in connection with a case. In the comments after this post Vanguard Editorial Board Member Tia Will argues the substance of the post justifies the need for change of direction pointing to the DA's race; she later states specifically that she is "endorsing" Johansson, and that her "goal here" is to "ensure that Vanguard readers are aware of the upcoming DA election and the choices available."

It should be noted that even a reader noted here that the purpose of the post appeared to be "latching on" to a goal of unseating DA Reisig in the upcoming election.

12. March 14, 2018; <https://www.davisvanguard.org/2018/03/da-will-partner-public-defender-expedite-relief-marijuana-convictions-affected-proposition-64/>; (Vanguard Administrator); this post appears to repeat a DA press release regarding expungement of pot convictions. The Comments section contains arguably negative remarks from David Greenwald on this issue, and Vanguard Editor Tia Will ends with what appears to be an endorsement of Dean Johansson ("This is the first opportunity to [kick this guy out of office] since 2006. I urge everyone to check out Dean Johansson's background and platform prior to voting"). This posting also arguably provides the context for the two postings to follow.

13. March 15, 2018; <https://www.davisvanguard.org/2018/03/johansson-calls-das-change-marijuana-policy-politically-motivated/>; (Vanguard Administrator); this post appears to be a campaign statement by Johansson followed by a section where the campaign describes his qualifications and that he is running for District Attorney. The campaign statement otherwise criticizes the DA's efforts to expunge marijuana ("pot") convictions as "politically motivated" and otherwise criticizes DA Reisig and his policies. Tags for this post include "Dean Johansson," and "Election 2018."

In the comments, one reader asks who authored the press release, to which Mr. Greenwald responded: "It came from the campaign." It should be noted that this is the day, March 15, 2018, that Mr. Greenwald solicited the local attorney to withdraw support from DA Reisig, suggesting that Mr. Greenwald was then part of "the campaign." If Mr. Greenwald is writing, or even contributing to, the press releases "from the campaign" of a political candidate that are later posted on his own non-profit website such should be considered an intervention. The exact circumstances of the "campaign posts," particularly where an author is not identified, should be evaluated. Regardless of who wrote it, this is clear posting of Johansson campaign material followed, again, with negative comments regarding DA Reisig by Editor Tia Will, including regarding the handling of a case that had nothing to do with pot expungements. This post and the comments should be considered an intervention.

14. March 17, 2018; <https://www.davisvanguard.org/2018/03/view-reisig-find-election-year-religion-prop-64/>; David Greenwald; this post merely repeats the criticisms made by the Johansson campaign two days earlier (the earlier posting calls the new DA's policy "politically motivated" then, here, Greenwald asks the rhetorical question "is it election-year religion" and suggests the same conclusion). The post then repeats Johansson campaign statements on the issue and criticizes DA Reisig on Proposition 64, which concerned pot. Tags for the post include "Dean Johansson," and "Jeff Reisig."

Mr. Greenwald's here and that of "the campaign" on March 15), have a few sentences that are identical or nearly identical, first, that Mr. Johansson "has publicly taken a stand" in favor of pot

dismissals “as early as February 2 (just a week after he announced his candidacy).” Second, both posts contain an identical sentence about a County Supervisor comparing drug enforcement raids “under the direction of DA Reisig,” as “terrorist activity.” This again raises the question of whether Mr. Greenwald was writing or contributing to the Johansson campaign press releases and posting them on his non-profit website and, if so, whether that would be a campaign intervention.

15. March 18, 2018; <https://www.davisvanguard.org/2018/03/johansson-campaign-responds-attack-letter/>; Vanguard Administrator (Natalie Wormeli and William Kelly); Ms. Wormeli was the Johansson campaign manager; this post concerns a letter to the editor about Johansson to a local newspaper by five members of local law enforcement expressing concerns regarding Johansson. The post actively defends a candidate for election in the context of an election. Whether or not it was written by Vanguard staff, to allow its posting on the non-profit website should be considered a campaign intervention. Tags for the post include “DA Jeff Reisig,” although he was not mentioned at all in the post, as well as “Dean Johansson,” “Election 2018,” and “Yolo County.”

The campaigning in this post is so overt that a reader joked (in the comments) that he thought he was on a Johansson campaign site. It should also be noted that (1) Mr. Greenwald assisted with these efforts by adding a “Vanguard note” that he later described as “background,” describing the underlying letter and also providing a response statement from Johansson; and (2) in the Comments, Greenwald also included a link to the Johansson response posted in a different newspaper. If nothing else, this assistance provided would appear to violate the prohibition on intervention. (*See Ass’n of Bar of City of N.Y. v. C.I.R.* (2d Cir. 1988) 858 F.2d 876, 881 [“... no degree of support for an individual’s candidacy for public office is permitted.”].)

16. March 19, 2018; <https://www.davisvanguard.org/2018/03/johansson-disputes-letters-account-20-year-old-incident/>; David Greenwald; a lengthy post including images of documents, detailing an interview with Mr. Johansson where both Johansson and Greenwald (in the post and the Comments) vigorously defend Johansson regarding one aspect of the letter by the law enforcement members (described in the March 18 post) concerning events described in a 1997 Visalia newspaper article. This post directly concerns a candidate for office being challenged in the news and pleads the defense of this candidate; this should be considered campaign intervention. Tags for the post are “Dean Johansson,” “District Attorney” and “Jeff Reisig.”

17. March 29, 2018; <https://www.davisvanguard.org/2018/03/commentary-prosecutors-can-serve-front-lines-war-wrongful-convictions/>; David Greenwald; this post lauds the efforts of a conviction review unit in a different DA’s office while criticizing the efforts of DA Reisig’s Conviction Integrity Unit. Greenwald also suggests defendants in at least two cases were wrongfully convicted, and suggests that DA Reisig and a deputy DA “misled the defense” in a murder case. This is “issue advocacy” regarding conviction integrity repeated in other posts specifically regarding candidate Johansson. This post also references the election stating that DA Reisig is “attempting to get reelected” using one of the supposedly wrongful convictions. The post is tagged with, among other things, “Jeff Reisig” and “wrongful convictions.”

18. April 2, 2018; <https://www.davisvanguard.org/2018/04/monday-morning-thoughts-prosecutor-tough-crime/>; David Greenwald; a post criticizing a tough-on-crime approach and, again, DA Reisig’s positions on ballot propositions. This is issue advocacy.

It is significant that the post does not purport to be about Dean Johansson nor about the election and, yet “Dean Johansson” and “Election 2018” are both “tagged” for this post. Here, the way this Vanguard page was created, a search for: ““Dean Johansson" "election 2018" "mass incarceration"” provides a link (in position #6 on the very first page of results) to a post criticizing his opponent, the incumbent, on the “tough on crime” issue - even if the post itself did not mention Johansson or the election. The use of tags here further establishes the issue advocacy of this post.

19. April 4, 2018; <https://www.davisvanguard.org/2018/04/yolo-dems-announce-endorsements-including-deos-council-johansson-da/>; Vanguard Administrator; a post repeating a press release about endorsements followed by negative comments about incumbent DA Reisig by Editor Tia Will and David Greenwald. Tags include “Dean Johansson” and “Election 2018.”

20. April 4, 2018; <https://www.davisvanguard.org/2018/04/bill-introduced-tuesday-state-capitol-restrict-use-force-peace-officers/>; Vanguard Administrator (Crescenzo Vellucci); this post relates to a press conference held by certain legislators introducing a police use-of-force bill. Although the legislation did not concern the election or Dean Johansson, nor did it state that Johansson spoke (or was even present) at this press conference, the post leads with a “sub-headline” in bold: “Yolo DA Candidate Among First to Support Bill.”

The Vanguard, later in the post, again, described him as a candidate for District Attorney and, again, stated that Mr. Johansson was “among the first” to support the legislation. The post then repeated a quote from Mr. Johansson on this issue which spoke to police accountability, transparency and “reforms.” This post also tags “Dean Johansson,” “Stephon Clark” (the victim of a then-recent high-profile police shooting) and “police shootings” among others. The authors of the bill were not tagged for the post.

This post is a clear example of issue advocacy surrounding police accountability and use of force in the context of the election. It allows the Johansson campaign to benefit (with an ever-expanding digital platform that will show up in topic-related internet search results) from law enforcement reform legislation written by someone else and then “covered” by the Vanguard.

21. April 5, 2018; <https://www.davisvanguard.org/2018/04/commentary-stephon-clark-shooting-bad-enough-change-rules-game/>; David Greenwald; the second of two recent posts discussing a recent use of force incident and related legislation. This post repeats that Mr. Johansson is a candidate for DA, again, stated that Mr. Johansson was “among the first” to support the legislation; then repeated virtually the same quote from Mr. Johansson as stated on April 4.

This post tags “Dean Johansson,” “police accountability,” “Stephon Clark,” and “police shooting” among others. This is yet another example of issue advocacy. Specifically, a search for “Dean Johansson,” “police accountability” and “Stephon Clark,” will hit this post at the top of search returns, which describes Johansson as a candidate and provides his position in a positive light—even if Mr. Johansson had nothing to do with Stephon Clark or the legislation.

22. April 6, 2018; <https://www.davisvanguard.org/2018/04/reisig-no-show-king-hall-law-school-candidates-forum/>; David Greenwald; a post describing a forum at a local law school attended by Dean Johansson. Greenwald makes partisan comments about DA Reisig in the post in discussing that DA Reisig did not attend this forum. This post would have presented a closer question (*i.e.*, less advocacy) if it announced a candidate forum, briefly stated that DA Reisig did

not attend, and then described Johansson's dialogue with the students. Here, however, the point of the post, including the title, appeared to be to deride DA Reisig for not attending as much as it was to discuss the result of the forum. Tags for the post are "Dean Johansson," "Jeff Reisig," "Election 2018," "Mass Incarceration," "Yolo County District Attorney" and "Criminal Justice Reform."

23. April 8, 2018; <https://www.davisvanguard.org/2018/04/sunday-commentary-arrogance-incumbency/>; this is a second post criticizing DA Reisig, at length, about not participating in the law school forum; the post also paints Dean Johansson in a positive light. It is worthy to note that this post was not about larger issues such as "mass incarceration" a campaign buzz-word and surely the subject of search terms. Yet somehow a line about "mass incarceration" is worked in at the end of the post, and the tags given the post include: "Dean Johansson," "Jeff Reisig," "Election 2018," "Mass Incarceration," and "Yolo County DA."

24. April 10, 2018; <https://www.davisvanguard.org/2018/04/dean-johansson-receives-endorsement-national-progressive-pac-democracy-america/>; David Greenwald; this post is prefaced as "From Press Release" but it lists Greenwald as the author. It also features the photo with Johansson and the sign with his website and a solicitation for donations. Mr. Greenwald wrote the post, specifically in the context of the election, casting Johansson and his qualifications in a positive light and, again, referencing the campaign of Philadelphia DA Larry Krasner.

25. April 11, 2018; <https://www.davisvanguard.org/2018/04/dean-johansson-sierra-club-issues-reisig-not-respond/>; David Greenwald; the title of this post is pejorative and partisan; this post concerned a questionnaire sent to the candidates by the Sierra Club. Johansson responded but Reisig did not. The post repeated each of Johansson's statements verbatim, allowing him to cast himself in a (perceived) positive light on a digital platform. The post also appeared to go out of its way (including the title) to deride Reisig for not responding and is followed by partisan comments by Tia Will and David Greenwald.

The post is tagged with (among other things) "Environment," "Dean Johansson," "District Attorney," and "Election 2018" which has the effect of adding Johansson's environmental platform into the ongoing digital presence facilitated by the Vanguard, and makes it the very first hit on a web search of those terms as of August 15, 2021.

26. April 13, 2018; <https://www.davisvanguard.org/2018/04/candidate-charges-yolo-county-d-office-squanders-nearly-100000-year/>; David Greenwald; this post is described as "From Press Release" but it lists Greenwald as the author. The post is almost entirely a campaign statement from Johansson claiming waste by the DA's office, but it is "book ended" by partisan comments by Greenwald, including a favorable discussion of Johansson's qualifications. The post also embeds the same picture of Mr. Johansson with the website address and solicitation for money.

27. April 15, 2018; <https://www.davisvanguard.org/2018/04/commentary-yolo-sacramento-district-attorney-races-feature-incumbents-refusing-debate/>; Vanguard Administrator (Crescenzo Vellucci); this post discussed that DA Reisig and another local District Attorney were not participating in debates; the post is highly partisan, published on the Vanguard website, and is critical of DA Reisig including repeating the claim regarding claimed waste from the previous post. The post is followed by partisan comments by Vanguard Editor Tia Will. Tags for the post include "Jeff Reisig," and "Election 2018."

28. April 19, 2018; <https://www.davisvanguard.org/2018/04/district-attorney-debate-wednesday-sparring-glancing-blows/>; Crescenzo Vellucci; this post describes a recent candidate debate in fairly non-partisan language. One noteworthy comment was that DA Reisig “stuck to his reformist character – which was supposed to be Johansson’s shtick.” This comment is not itself partisan; but it describes the apparent concern behind the Vanguard’s frequent attacks on the reform accomplishments of DA Reisig: Incumbent Reisig is not supposed to be the reform candidate in the eyes (and writings) of Greenwald and the Davis Vanguard.

This point was further underscored by partisan comments made by Secretary and Vanguard Editor Cecilia Greenwald, claiming that DA Reisig “does not believe in reform or justice,” and a false statement that DA Reisig has never prosecuted police officers who break the law. Editor Tia Will and David Greenwald (using issue advocacy) also made partisan statements in the Comments.

29. April 22, 2018; <https://www.davisvanguard.org/2018/04/sunday-commentary-listening-reisig-think-reformer/>; David Greenwald; even the title of this post is pejorative; the entirety of this post is criticism of DA Reisig regarding multiple points discussed by Reisig during the candidate debate, a partisan follow up from the post three days before. The points concerned reform or progressive-type accomplishments by DA Reisig’s office (police accountability, restorative justice courts, and drug and mental health courts) that Mr. Greenwald, in essence, criticized as not genuine or failed or flawed in some way. Mr. Greenwald stated the purpose of the post was to provide “observations” that attendees may not have “picked up” from the debate. Tags for the post include “Dean Johansson,” “District Attorney,” “Election 2018,” and “Jeff Reisig.”

These partisan comments, including the title, follow the ongoing theme of attempting to undermine any notion that DA Reisig has accomplished progressive criminal justice reforms. The post is followed by partisan comments by Vanguard Editor Tia Will.

30. April 26, 2018; <https://www.davisvanguard.org/2018/04/top-northern-california-democrats-touch-people-party/>; Vanguard Administrator (Bennett Pollack-Reeber); this post on the Vanguard makes the claim that the endorsement of DA Reisig by two democratic legislators has “angered” community members, and then criticizes DA Reisig at length on multiple points, including the charge of having “financial ties to the bail bonds industry.” This is a partisan posting allowed on the Vanguard website specifically in the context of the election. The post is followed by several partisan comments by David Greenwald and Editor Tia Will defending the post. Tags for the post include “Jeff Reisig,” “Yolo County District Attorney,” and “Election 2018.”

In response to one reader commenting that the post was “paid for by Johansson for District Attorney 2018,” Mr. Greenwald responded that the post was “[s]ubmitted by a third party.” This distinction would too easily avoid the law. It cannot be that if a non-profit publication wished to legally intervene in an election, it would only need to publish (by the dozen and on its own website) the partisan materials of others rather than itself. This would defeat the purposes of intervention rules, and would not protect the public from misuse of tax-free revenue.

31. April 26, 2018; <https://www.davisvanguard.org/2018/04/johansson-picks-key-endorsement-councilmember-will-arnold/>; Vanguard Administrator; this post apparently from the Johansson campaign was published on the Vanguard site advocating for Johansson as a candidate; specifically, this announced an endorsement by a local city councilmember supporting Johansson to achieve “progressive justice reforms” and voicing criticism of DA Reisig on a gun control issue. Tags for the post include “District Attorney,” “Election 2018” and “Jeff Reisig.”

32. April 27, 2018; <https://www.davisvanguard.org/2018/04/commentary-will-arnolds-endorsement-might-gamechanger-das-race/>; David Greenwald; this is the second post in as many days regarding the same endorsement for Johansson from the same Davis City Council member and mentions the same criticism regarding gun control, albeit in much greater detail. The post is followed by multiple partisan comments (negative comments about the incumbent) by David Greenwald and Vanguard Editor Tia Will. Tags for the post include “District Attorney,” “Election 2018,” “Dean Johansson,” “Gun Control” and “Jeff Reisig.”

33. May 1, 2018; <https://www.davisvanguard.org/2018/05/da-reisig-dda-couzens-threaten-johansson-campaign-volunteers-campaign-sign/>; Vanguard Administrator; this post is described as “From Press Release,” apparently from the Johansson campaign, but the author is unidentified. The post is written, not as a press release, but like a third-party interviewing members of the campaign. It should be determined whether David Greenwald wrote or contributed to this “press release” and then posted on his own non-profit website (in the comments he states that he did not write the post). The post is highly critical of DA Reisig in the context of an election. The title and lead paragraphs also refer to “threat[s],” and “attacks,” by DA Reisig and a deputy, but only later clarify that these were not violence or threats of violence, but communications to the Johansson campaign concerning placement of signs. Tags include “Jeff Reisig,” “District Attorney” and “Election 2018.”

The post is followed by a solicitation from the Vanguard asking for more donations because the Vanguard is “bringing election coverage like no one else,” and explaining the money is needed “to make sure we cover everything.” The post is also followed by partisan comments by David Greenwald and Editor Tia Will and the (now common) statement by a reader that he felt the post was campaigning.

34. May 2, 2018; <https://www.davisvanguard.org/2018/05/johansson-earns-endorsements-supervisor-saylor-yolo-county-sierra-club/>; Vanguard Administrator; this post (which is adjacent to the oft-repeated photograph with the web link and solicitation for donations) says “From Press Release” without an author being named, and has a press release from the Sierra Club. Here, both parts of the posting cast candidate Dean Johansson in a positive light and the Sierra Club post casts DA Reisig in a negative light. These posts carry partisan comments on the non-profit’s official web page. It should also be determined who wrote the press release apparently from the Johansson campaign. Tags include “Dean Johansson,” “Jeff Reisig,” “District Attorney” and “Jeff Reisig.”

35. May 3, 2018; <https://www.davisvanguard.org/2018/05/prosecutorial-misconduct-case-lawrence-miranda/>; David Greenwald; this post discusses a 2010 report by the Innocence Project on prosecutorial misconduct and a 2002 Yolo County verdict that was reversed. The post prominently states: “The prosecutor on that 2002 was none other than Jeff Reisig ...” The post discusses the case, which was reversed for a discovery violation, at length in the purported context of prosecutorial misconduct although, apparently, there was no finding of intentional misconduct or hiding of evidence. The post links to three other Vanguard postings (from 2010 and 2011) about studies concerning prosecutorial misconduct, and tags included “Jeff Reisig” and “Prosecutorial Misconduct.” The post is followed by a Vanguard solicitation for funds “to make sure we cover everything” and provides a gofundme link. This post does not purport to relate to any current event, leaving its apparent purpose to be criticizing the incumbent in the context of a “hot” issue (prosecutorial misconduct) for an election.

36. May 4, 2018; <https://www.davisvanguard.org/2018/05/gsa-hears-resolutions-support-measures-j-johansson-guenther-disarming-campus-police/>; Vanguard Administrator, Guest Comment; this post about the Graduate Student Association was followed by partisan statements by David Greenwald in the Comments section. It is worthy to note that this post is immediately followed by a solicitation for funds (and a gofundme link) to bring more “election coverage.” Tags include “Dean Johansson” and “Election 2018.”
37. May 5, 2018; <https://www.davisvanguard.org/2018/05/johansson-denies-allegations-latest-hit-piece-district-attorney/>; David Greenwald; this post defends Johansson regarding allegations arising from a 2007 police report; it quotes Johansson refuting and defending himself, and casts DA Reisig in a negative light. The post is followed by comments made by Editor Tia Will that are also negative and partisan. Tags include “Dean Johansson,” “Jeff Reisig,” and “Election 2018.”
38. May 6, 2018; <https://www.davisvanguard.org/2018/05/sunday-commentary-district-attorney-inappropriately-leak-files-victims-group/>; David Greenwald; this post includes negative, partisan comments regarding DA Reisig by Mr. Greenwald and is followed by repeated negative comments about DA Reisig by Editor Tia Will. Tags for this post include “Dean Johansson,” “Jeff Reisig,” and “Election 2018.”
39. May 9, 2018; <https://www.davisvanguard.org/2018/05/commentary-now-da-law-enforcement-attack-johansson-flag-salute/>; David Greenwald; this post contains comments by Vanguard Editor Tia Will that criticize DA Reisig in four numbered points. As explained in Rev. Rul. 2007-41, “for their organizations to remain tax exempt under section 501(c)(3), leaders cannot make partisan comments in official organization publications” Tags for this post include “Dean Johansson,” “Jeff Reisig,” and “Election 2018.”
40. May 10, 2018; <https://www.davisvanguard.org/2018/05/letter-support-dean-johansson-da/>; Vanguard Administrator (Laurel Beckett); this post publishes a letter endorsement of Dean Johansson by a community member. It is a partisan publication on the website of a non-profit.
41. May 11, 2018; <https://www.davisvanguard.org/2018/05/local-immigration-attorney-talks-experience-reisig/>; Vanguard Administrator; guest post; this post criticizes DA Reisig at length regarding immigration issues during an election. This post inescapably includes a prohibited endorsement: “I urge our Yolo County communities to vote for a change – for Dean Johansson for District Attorney”; it has tags including “Jeff Reisig,” “Dean Johansson,” and “Election 2018.”

The post is followed, in the Comments, by another express, yet prohibited, endorsement of Johansson by Cecilia Escamilla Greenwald, “I am voting Dean 4 DA and urging others to do the same. Please spread the word and tell your friends.” Ms. Greenwald was then and is now a member of the Vanguard Editorial Board and listed as the Secretary in the Vanguard’s IRS Form 1023. “[L]eaders cannot make partisan comments in official organization publications.” (Rev. Rul. 2007-41.)

42. May 12, 2018; <https://www.davisvanguard.org/2018/05/view-local-paper-buys-progressive-da-argument/>; David Greenwald; another post criticizing the endorsement of DA Reisig in a local paper, specifically the opinion of that paper that DA Reisig is a progressive DA which, according to that paper, was “[d]espite efforts by those opposed to him to portray him as something that he is not....” The post suggests the paper was duped in endorsing Reisig and criticizes DA Reisig regarding the ballot propositions, among other things, and makes positive comments about

Johansson and his campaign (again, likening Johansson to DA Krasner). Tags for the post include “Jeff Reisig,” “Dean Johansson,” “Criminal Justice Reform,” and “Election 2018.” The post is followed by extensive, numbered comments by Editor Tia Will criticizing DA Reisig.

43. May 13, 2018; <https://www.davisvanguard.org/2018/05/sunday-commentary-insurgent-threat-increases-das-race-law-enforcement-money-flows-reisig/>; David Greenwald; a post about campaign financing that casts incumbent DA Reisig in a negative light and levels criticisms against multiple Deputy DAs (including another slanted take on the 2014 shooting concerning DDA Van der Hoek) and Reisig, while placing challenger Johansson in a positive light. The post also claims that DA Reisig “has the ability to tap into resources that are largely unavailable to Dean Johansson.” Tags for this post include “Dean Johansson,” “Jeff Reisig” and “District Attorney.” This post is followed by Comments by Editor Tia Will criticizing DA Reisig on multiple points.

44. May 14, 2018; <https://www.davisvanguard.org/2018/05/lucas-frerichs-endorses-johansson-da/>; David Greenwald; this is a post describing, in detail, the endorsement of Dean Johansson by a local city councilmember. It is a partisan publication that criticizes the incumbent and extols Johansson (including his qualifications) in a political race on a non-profit website. The post also features a picture of a campaign poster for Johansson.

45. May 16, 2018; <https://www.davisvanguard.org/2018/05/comparative-crime-clearances-numbers-rates/>; Tia Will; this post publishes partisan comments by Vanguard Editor Tia Will regarding crime statistics specifically in the context of the election. The post was apparently intended to rebut claims by others that the crime rate was favorable under DA Reisig, a standard point of contention in a DA’s race. Tags for this post include “Jeff Reisig” and “Election 2018.”

46. May 19, 2018; <https://www.davisvanguard.org/2018/05/view-revolution-will-not-televised/>; David Greenwald; a post criticizing incumbent DA Reisig and placing Johansson in a positive light. The post also remarks that there “is a lot of money flowing into this campaign for [DA Reisig],” and how Johansson was purportedly told that he needed \$150,000 to run, that he may have “entered the race too late” and asked whether Johansson could “capture the spirit of the people?” These comments romanticize the Johansson campaign efforts (with a subtle suggestion that cash is needed). Tags for the post include “Jeff Reisig,” “Dean Johansson,” and “Election 2018.” Comments thereafter from David Greenwald and Editor Tia Will put DA Reisig in a negative light and Ms. Will published that she is a “volunteer for Dean.”

47. May 20, 2018; <https://www.davisvanguard.org/2018/05/sunday-commentary-attack-piece-targets-johansson-public-defender/>; David Greenwald; another post, in the context of the election, that criticizes the incumbent and supports the challenger, again concerning the use of a campaign mailer by the Reisig campaign. Among other things, Greenwald states: “Does Reisig Not Support the Right to Counsel or Public Defense?” and is Reisig “trying to cynically manipulate the public....?” Tags for the post include “Jeff Reisig,” “Dean Johansson,” and “Election 2018.” The Comments to this article contain partisan statements from both David Greenwald and Editor Tia Will. Ms. Will expressly states that she “favors Dean Johansson in this race.”

48. May 21, 2018; <https://www.davisvanguard.org/2018/05/monday-morning-thoughts-state-das-race-bail-reform/>; David Greenwald; another post, in the context of the election, that criticizes the incumbent, this time undermining DA Reisig’s efforts at reform, specifically referring to bail reform, a key campaign issue. Comments to this article contain partisan statements from both

David Greenwald and Tia Will. Tags for the post include “Jeff Reisig,” “Dean Johansson,” “Bail Reform” and “Election 2018.”

49. May 23, 2018; <https://www.davisvanguard.org/2018/05/video-fullertons-arrest-goes-viral-johansson-campaign/>; David Greenwald; this post provides a brief introduction to a video Greenwald claims “went viral,” apparently created by the Johansson campaign regarding a former firefighter endorsing Dean Johansson. The post actually embeds the campaign video within its body. Tags for the post include “Jeff Reisig” (although Reisig was not mentioned in the article), “Dean Johansson,” and “Election 2018.” The post is followed by partisan comments concerning DA Reisig by Editor Tia Will.

50. May 24, 2018; <https://www.davisvanguard.org/2018/05/criminal-defense-work-deserves-respect/>; Vanguard Administrator (Tracie Olson); this is a letter posted by Ms. Olson on the Vanguard criticizing a campaign flier by DA Reisig. It is a partisan publication on the Vanguard official website tagged with “Dean Johansson,” “District Attorney” and “Election 2018,” among others. The post is also followed by partisan comments by Vanguard Editor Tia Will.

51. May 25, 2018; <https://www.davisvanguard.org/2018/05/guess-commentary-current-da-consistently-overcharges-cases/>; Vanguard Administrator (Lisa Lance); a letter posted on the official Vanguard website directly endorsing and calling for support for Dean Johansson. It is a partisan publication on the Vanguard official website tagged with “Dean Johansson,” “District Attorney,” “Election 2018,” but also “overcharging,” a polarizing issue in the campaign. The post is followed by partisan comments by Vanguard Editor Tia Will and David Greenwald.

52. May 26, 2018; <https://www.davisvanguard.org/2018/05/deputy-das-association-attacking-johansson-receiving-soros-money-one-problem/>; David Greenwald; this post defends Johansson against various statements made about him by a Los Angeles County Deputy District Attorney Association. The post is followed by partisan statements by David Greenwald and Editor Tia Will. Tags for the post include “Jeff Reisig,” “Dean Johansson,” and “Election 2018.”

53. May 28, 2018; <https://www.davisvanguard.org/2018/05/monday-morning-thoughts-life-stealing-package-shredded-cheese/>; David Greenwald; this lengthy post criticizes DA Reisig and his office regarding a case that occurred ten years earlier where a man was prosecuted under the “three strikes law” where the defendant committed a petty theft at a retail store. The post reiterates the criticism that DA Reisig opposed Proposition 47 and Proposition 36, which reformed the three strikes law. This post does not purport to relate to any current event whatsoever; its only apparent purpose was to make partisan comments about a candidate for election. The post is tagged with “Jeff Reisig,” and “overcharging” (among others), even though the post does not use the word overcharging. The post was followed by more partisan comments by Vanguard Editor Tia Will criticizing DA Reisig as overly harsh.

54. May 28, 2018; <https://www.davisvanguard.org/2018/05/open-letter-democrats-endorsed-jeff-reisig/>; Vanguard Administrator (Guest Comment); this post, just shortly before the date of the actual election, was an “open letter” for Yolo democrats to support Dean Johansson and withdraw any support for DA Reisig. Tags for the post include “Jeff Reisig,” “Dean Johansson,” and “Election 2018.” In the Comments, Editor Tia Will also made extensive, critical comments about candidate DA Reisig on five points.

55. May 31, 2018; <https://www.davisvanguard.org/2018/05/meet-maria-grijalva-dean-johanssons-answer-dpoa/>; David Greenwald; another post containing partisan statements regarding DA Reisig and discusses one of Dean Johansson's supporters. Among the statements made by Greenwald, he claims: "Mr. Reisig's policies have had a devastating impact on her neighborhood." Tags for the post include "Jeff Reisig," "Dean Johansson," and "Election 2018."
56. June 3, 2018; <https://www.davisvanguard.org/2018/06/letter-disappointed-enterprise-editorial-das-race/>; Vanguard Administrator (Joanna Friesner); a letter posted on the official Vanguard website criticizing a local newspaper for supporting DA Reisig and voicing support for Dean Johansson. It is a partisan publication on the Vanguard official website, tagged with "Dean Johansson," "District Attorney," and "Election 2018" among others. The post is also followed by partisan comments by Vanguard Editor Tia Will and David Greenwald, particularly about "overcharging," an issue in the campaign.
57. June 4, 2018; <https://www.davisvanguard.org/2018/06/letter-johansson-support-based-evidence/>; Vanguard Administrator (Ann Block); another letter criticizing the same newspaper for supporting DA Reisig and attacking the notion that DA Reisig is also "progressive." The post does not mention Dean Johansson, but it is tagged with "Dean Johansson," "District Attorney," "Jeff Reisig," and "Election 2018." This post is, again, followed by partisan comments by Vanguard Editor Tia Will and David Greenwald, again about "overcharging."
58. June 5, 2018; <https://www.davisvanguard.org/2018/06/kings-publication-finds-reisig-circumventing-prop-47-felony-charges/>; David Greenwald; this post describes and reiterates criticisms of DA Reisig made in a different publication (which is linked in the posting) with a pejorative title: "Is the Yolo County District Attorney Betraying CA Voters?" The post repeats the partisan statements regarding alleged overcharging, opposition to ballot propositions 47 and 57 and the quote that DA Reisig is a "nominally progressive" district attorney. The post, published on election day, ends with the prominent statement that Dean Johansson is running for district attorney and "is arguing against this sort of overcharging." The post is tagged with "Jeff Reisig," "Overcharging," and "Yolo County District Attorney."
59. June 5, 2018; <https://www.davisvanguard.org/2018/06/letter-johansson-better-choice-da/>; Vanguard Administrator (B & D Lindeman); this is a partisan letter published on the Vanguard criticizing DA Reisig and supporting Dean Johansson in the context of the election. Based on the time stamp for the first comment, this was also published before 9 a.m. on election day. This post was followed by partisan comments by David Greenwald. Tags for the post include "Jeff Reisig," "Dean Johansson," and "Election 2018."

SUMMARY OF 2018 ILLEGAL ADVOCACY

The election took place on June 5, 2018. The Vanguard posts above covered 132 days of campaigning for the Johansson campaign; an average of one post every 2.23 days. Posting by the Vanguard was so pervasive that mid-campaign a simple Google search for "Dean Johansson yolo da" hit on seven of the above-mentioned Vanguard posts, including the top five. (Attachment C.)

This ability to have influencing election content (or negative content regarding your opponent) appear at the top of web searches is obviously of significant benefit to a campaign. It is well documented that search result rank or "primacy rank," particularly the content in the first two

positions of a search result, has a significant impact on advertising performance. Simply put, it gets more “clicks.”⁴⁸ Whether this search engine optimization occurred purposefully, or occurred organically based on the sheer number of influencing/advocacy posts, the result is the same: A valuable benefit, expensive in the open market, was provided at taxpayer expense.⁴⁹ Here, the cost-benefit to Johansson can be seen in the Vanguard financials describing how much it costs to maintain and use that technology. In 2018 alone the Vanguard spent over \$33,000 in costs (not related to events) such as computer expenses, insurance and supplies.⁵⁰ Maintaining a robust website is expensive and time consuming. In turn, getting free digital campaign content - nearly every other day for the entire campaign season - content that puts your campaign messages at the top of internet searches, is a substantial windfall and an intervention all at taxpayer expense and in violation of the law.

V. Vanguard Intervention in the 2022 Campaign (April 30, 2021 to Present).

In 2021, a County resident named Cynthia Rodriguez announced her candidacy for District Attorney for the 2022 election. Among the endorsements listed on the campaign website for Ms. Rodriguez are Nora Oldwin and Cecilia Escamilla Greenwald, whom are listed as “Board Member” and “Secretary,” respectively, in the Vanguard’s 2020 Form 990-EZ.⁵¹ The below postings show that from the time of this announcement the Vanguard established itself as an integral part of the digital platform of, and a mouthpiece for, Ms. Rodriguez’s candidacy.

The “theme” of the interventions described in the posts below is that any progressive or reform accomplishments by DA Reisig are either disingenuous, flawed or do not go far enough. Put another way, the attempt to advocate for a candidate and influence voters to not support the incumbent cannot be reasonably disputed.

1. April 30, 2021; <https://www.davisvanguard.org/2021/04/reisig-has-a-challenger-for-2022-in-retired-public-defender-cynthia-rodriguez/>; David Greenwald; this is the announcement of Ms. Rodriguez’s candidacy; it repeats what could be described as the challenger’s lengthy position statement (which consisted of criticisms of DA Reisig, including the same used by Greenwald in the previous election related to DA Reisig opposing certain ballot propositions). The author casts her in a positive light and the post ends with the details to attend a “meet and greet” with the dial-in and passcode. The post is tagged with “Cynthia Rodriguez,” “District Attorney,” and “Jeff Reisig.”

It is important to note that, like Dean Johansson in 2018, Ms. Rodriguez’s platform is “progressive” or “reformer” while she attempts to characterize incumbent DA Reisig as the opposite, *i.e.*, “old school” and not progressive. Recalling that a nonprofit may not directly or indirectly participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of or in opposition to any candidate for public office, the theme, message, posts and characterizations – repeated over two election cycles – demonstrates that

⁴⁸ (<https://asistdl.onlinelibrary.wiley.com/doi/full/10.1002/meet.2011.14504801071>.)

⁴⁹ (<https://digitalimpactand.com/post/how-to-create-a-digital-strategy-for-political-campaign>; <https://www.cardinaldigitalmarketing.com/blog/how-much-does-digital-marketing-cost/>.)

⁵⁰ (https://www.davisvanguard.org/wp-content/uploads/2021/08/IRS-2018-signed_Redacted.pdf.)

⁵¹ (<https://www.davisvanguard.org/wp-content/uploads/2021/08/Davis-Vanguard-2020-990EZ-Redacted-Website-New.pdf>)

Greenwald and the Davis Vanguard have violated the law and abused the tax exempt status for illegal purposes.

The campaign website for Ms. Rodriguez links back to this posting under the heading “Cynthia in the Press;”⁵² using this link (anchor text) enhances the campaign website and improves search engine optimization crucial for a digital campaign.⁵³ This post also has an anchor text button below the post itself with a link to other posts related to Ms. Rodriguez. This publishing of the candidate statement, with advertising for the campaign, in the context of a contested election, on the official web page of a non-profit by its Chief Executive Officer is prohibited intervention.

2. May 2, 2021; <https://www.davisvanguard.org/2021/05/sunday-commentary-reisig-positioning-himself-between-schubert-and-boudin/>; David Greenwald; in this post, Mr. Greenwald notes the coming election and then makes a litany of partisan comments attacking the notion that DA Reisig is “progressive” or “balanced.” Greenwald quoted a statement by DA Reisig describing his “balanced approach” and programs and reforms addressing mass-incarceration, among other things, as “good rhetoric” that the media may “buy.” Greenwald leveled the same criticisms made previously about DA Reisig’s positions on ballot propositions, and now positions taken on bail during the pandemic, as “opposition to change” and “drastic misalignment” with Yolo voters. Finally, Greenwald also attempts to connect DA Reisig with an alleged misappropriation of funds by former staff at the California District Attorneys Association (CDAA) claiming that DA Reisig must somehow account for it.⁵⁴ Greenwald ended his post with the following:

... Reisig, in the wake of his close call in 2018 has attempted to double down on a path as a moderate reformer. But he continues to attack things like SB 1437 and zero bail, and has never apologized for his treatment of the public defender, even as he attempts to launch transparency projects. Will the voters buy it? Stay tuned.

The post is followed by partisan comments by Vanguard Editor Tia Will further criticizing DA Reisig. Mr. Greenwald also described his post as “an opinion piece, with evidence....” The tags for the post include “Jeff Reisig,” “Cynthia Rodriguez,” and “CDAA.”

3. May 6, 2021; <https://www.davisvanguard.org/2021/05/commentary-yolo-deputy-da-couzens-opposes-proposed-changes-to-robbery-law-even-as-boss-attempts-to-paint-himself-as-reformer/>; David Greenwald; this post follows the theme of criticizing the notion that DA Reisig is a progressive or reformer candidate specifically in the context of the election (it begins, “As we swing toward campaign season”). Greenwald statements include that “[DA Reisig’s] rhetoric often doesn’t match his record,” and that the office opposes all reform and “only comes out with small half-measures—at best—in favor of reform,” among others. The tags for the post include “Criminal justice reform,” “Jeff Reisig,” and “Yolo County DA.”

⁵² (<https://cynthia4yolocountyda.com/>)

⁵³ (<https://www.clickminded.com/anchor-text/>)

⁵⁴ It is worthy to note that Ms. Rodriguez has also made this particular criticism attempting to connect Mr. Reisig to the alleged misappropriation at CDAA part of her own platform under the heading “New information.” (<https://cynthia4yolocountyda.com/platform/>).

4. May 9, 2021; <https://www.davisvanguard.org/2021/05/sunday-commentary-reisigs-office-displays-thin-blue-line-flag-despite-the-controversy-that-swirls-around-it/>; David Greenwald; this post mostly centered around criticizing DA Reisig on the use of the “thin blue line” flag from a police officer tribute in a recent Tweet, saying its use is “racially charged—if not outright racist.” The post also repeats the now regular theme: “Reisig has been attempting to re-frame his image as that of a moderate reformer ...,” falsely suggesting that DA Reisig’s progressive policies are both recent and disingenuous. Tags for this post are “Jeff Reisig,” “thin blue line flag,” and “Yolo County District attorney.”

5. May 17, 2021; <https://www.davisvanguard.org/2021/05/everyday-injustice-podcast-episode-107-yolo-county-da-candidate-cynthia-rodriguez/>; Vanguard Administrator; this post embeds two links (on YouTube and Soundcloud) for a 39 minute interview of Ms. Rodriguez by David Greenwald, which one commenter described as “an infomercial” for Cynthia Rodriguez. (This comment again demonstrates that it is the public perception that Greenwald and the Davis Vanguard are advocating in favor of one candidate and campaigning against another.) The short introduction to the video in the post describes Ms. Rodriguez as running for DA against “four-time incumbent Jeff Reisig” who, “has recently taken on a reformist tone” It then says: “Listen as Rodriguez talks about Reisig’s record and discusses her own reformist agenda.” The podcast consists largely of Ms. Rodriguez’s criticisms of DA Reisig in response to prompting questions by Mr. Greenwald (e.g., “Jeff Reisig has attempted to repackage himself as a reformer; is he a reformer in your opinion?”). Greenwald also chimes-in with his own criticisms (e.g., statements regarding jurors purportedly complaining to Greenwald about the nature of cases being tried). At one point, Greenwald admits he is openly advocating against Reisig: “We have kind of laid out a critique of the current DA,”

Both the post and the production and embedding of the podcast in the non-profit website are clearly partisan activities and publications by the CEO of a non-profit on the website of the non-profit that expressly concern a contested election. The tags for the post include “Jeff Reisig,” “Cynthia Rodriguez,” “podcast,” “Yolo County District Attorney” and “Racial Inequity” (the words “racial inequity” are not used in the post).⁵⁵

6. May 19, 2021; <https://www.davisvanguard.org/2021/05/yolo-county-da-candidate-cynthia-rodriguez-shares-vision-for-office/>; Renee Applegate; the only “news” this post relates to is that Ms. Rodriguez held a virtual “meet and greet” for her campaign. The post is 800 plus words of the background, qualifications and campaign positions of Ms. Rodriguez, apparently written by a student volunteer for the Vanguard.⁵⁶ This is a partisan statement of a political candidate, in the context of an upcoming election and published by the non-profit on its official website.

⁵⁵ It is worthy to note that the Vanguard recently produced and posted video interviews for prospective DA candidates running on a “progressive” or reform platforms in two other races, Sacramento and Santa Clara. (<https://www.davisvanguard.org/2021/07/everyday-injustice-podcast-episode-116-santa-clara-da-candidate-sajid-khan/> [speaking “about his candidacy and his vision for transformative change in Santa Clara County”]; <https://www.davisvanguard.org/2021/08/everyday-injustice-podcast-episode-119-alana-mathews-runs-for-sacramento-da/>.)

⁵⁶ In previous IRS filings, e.g., for 2018, Mr. Greenwald stated that the Vanguard “send[s] roughly 50 college interns to the local courthouse to monitor court cases and report to the public.” (https://www.davisvanguard.org/wp-content/uploads/2021/08/IRS-2018-signed_Redacted.pdf.)

7. May 27, 2021; <https://www.davisvanguard.org/2021/05/suit-challenging-the-early-release-of-76000-incarcerated-people-filed-by-44-das-including-schubert-and-reisig/>; David Greenwald; this post concerns a lawsuit filed by a different District Attorney (Sacramento DA Anne Marie Schubert), but joined-in by DA Reisig, opposing the process by which 76,000 inmates in prison would be eligible for early release. In comparison to others, the post is relatively benign. It is noteworthy for “issue advocacy” in two respects. First, the post points out at the end that “the most progressive DAs” did not join in the lawsuit. Second, Mr. Greenwald made this lawsuit the subject of one of his questions to Ms. Rodriguez on the May 17, 2021 podcast (to which she voiced opposition), setting this up as a campaign issue. Tags for this post include “Jeff Reisig,” “Early Release,” and “CDCR.”

8. June 4, 2021; <https://www.davisvanguard.org/2021/06/despite-concerns-from-reformers-ab-1542-cruises-to-assembly-passage-on-a-65-1-vote/>; David Greenwald; this post concerns AB 1542, which was co-authored by DA Reisig and creates mandatory drug treatment in lieu of prison for drug related non-violent offenses. The post reports various opinions from groups voicing “strong opposition in the reform community,” against AB 1542, describing it as jailing and not cost effective and creating distrust. This is a campaign issue because Cynthia Rodriguez has highlighted her opposition to AB 1542 as part of her campaign⁵⁷ and she discussed the substance of AB 1542 during the Vanguard podcast on May 17 (discussed above). The tags for this post include “Jeff Reisig,” “AB 1542,” and “Mandatory Drug Treatment.”

9. June 6, 2021; <https://www.davisvanguard.org/2021/06/sunday-commentary-telling-the-other-side-of-the-story/>; David Greenwald; this post is a litany of critical comments made previously about DA Reisig or his office just repeated under the rubric of the-local-press-does-not-fairly-cover: X issues. Those issues include the office’s press releases regarding zero bail, the alleged misappropriation of funds by former CDAA employees and the lawsuit filed by DA Schubert. Tags for this post include “Jeff Reisig,” “Ann Marie Schubert,” and “Lawsuit.”

10. June 9, 2021; <https://www.davisvanguard.org/2021/06/a-year-after-attack-on-public-defender-das-office-making-changes-in-effort-to-decrease-racial-disparities/>; David Greenwald; the “news event” for this post is the “anniversary” of a public disagreement DA Reisig and the Public Defender on local race statistics. The post makes brief positive reference to the transparency portal driving a policy change—but is overall negative with partisan comments. The statements include claiming DA Reisig was “minimizing” racial issues, being “defensive,” attempting to shift blame and “avoids personal responsibility,” as well as the claim that DA Reisig was attempting to “cast himself as the savior” and that “the problems [the public defender] pointed out a year ago—remain.” Tags for this post include “Racial disparities,” “Jeff Reisig,” and “Transparency Portal.”

This post (a mix of issue advocacy and attacks on the candidate), like multiple others, attempts to nullify the progressive accomplishments of DA Reisig claiming instead that the challenger, Cynthia Rodriguez, is running on a true progressive platform. This objective is shown in the Comments to this post, where Vanguard Editor Tia Will publishes: “I would point out that these changes as enacted by DA Reisig are reactive, not an indication of the progressive innovator he would like to paint himself as.”

⁵⁷ (<https://cynthia4yolocountyda.com/>.)

11. June 10, 2021; <https://www.davisvanguard.org/2021/06/commentary-diversion-is-good-but-yolo-da-should-start-looking-towards-declination/>; David Greenwald; this post is essentially a repeat of the prior post, discussing the so-called “attack” on the public defender, noting a recent policy change by the office in the area of diversion and repeating that “we simply haven’t made much progress [on racial disparities] since ... last June.” Greenwald later suggests that DA Reisig failed to “acknowledge” that he (Reisig) “created disparate prosecution tools.” Greenwald also repeatedly suggests, with purported studies, that not filing a case (*i.e.*, declining) is preferred to diversion. The tags for this post include “Diversion,” and “Jeff Reisig.”

The comments discouraging diversion are relevant issue advocacy because the Yolo DA’s office has had robust diversion programs (*i.e.*, rehabilitation programs in lieu of prosecution) for years, including a restorative justice court in three cities through which thousands of cases have passed. Diversion programs are a hallmark of a progressive prosecutor; they reduce mass incarceration and such efforts are even supported by the ACLU.⁵⁸ The Vanguard, seemingly at every turn, now attempts to refute any notion that DA Reisig has progressive policies, so posts like this attempt to nullify the fact that DA Reisig has had progressive policies like diversion for years. The Vanguard comments criticizing diversion, along with those regarding all other progressive reforms enacted by DA Reisig, are all different phrasings of “this is disingenuous,” “this is flawed,” or “this is not good enough.”

12. June 13, 2021; <https://www.davisvanguard.org/2021/06/sunday-commentary-ab-1542-is-both-too-broad-and-too-narrow/>; David Greenwald; this post criticizes DA Reisig’s support and co-authorship of AB 1542. In the theme of Reisig-is-not-a-reformer, Greenwald states: “When Yolo DA Jeff Reisig [co-]created AB 1542, reformers rightly saw it as tantamount to prison by another means.” Greenwald further criticizes the effort as not being open to more serious or violent offenses. This is a campaign issue because Cynthia Rodriguez has highlighted her opposition to AB 1542 as part of her campaign and she discussed it during the Vanguard podcast discussed above. Tags for the post include “Jeff Reisig,” “Drug offenses,” and “AB 1542.”

13. July 6, 2021; <https://www.davisvanguard.org/2021/07/letter-yolo-da-candidate-urges-opposition-to-ab-1542/>; Vanguard Administrator (Cynthia Rodriguez); this post is a letter by Ms. Rodriguez criticizing proposed legislation created in partnership with DA Reisig, which attempts to address drug addiction by providing treatment in lieu of prison. The letter is “issue advocacy” by criticizing the program on several points, and otherwise acts as a campaign statement. The post is linked from the campaign website of Ms. Rodriguez under “Cynthia in the Press.” (<https://cynthia4yolocountyda.com/>.) It is also linked from the Rodriguez Campaign Facebook page with the words “Take a look at my letter in the Davis Vanguard, join me in standing up for integrity and using community resources IN the community.”⁵⁹ The post ends by identifying Ms. Rodriguez as a candidate for DA. Tags include “drug treatment,” “Jeff Reisig,” and “Cynthia Rodriguez.”

14. August 5, 2021; <https://www.davisvanguard.org/2021/08/neighborhood-court-gets-a-re-brand-as-yolo-restorative-justice-partnership/>; David Greenwald; this post concerns the renaming of Yolo DA’s restorative justice court (one of its diversion programs) as the “Restorative Justice

⁵⁸ The Vanguard published a letter, in 2017, from the ACLU of Kansas extolling the virtues of diversion and asking why more prosecutors do not embrace diversion. (<https://www.davisvanguard.org/2017/12/diversion-programs-better-incarceration-arent-prosecutors-embracing/>.)

⁵⁹ (<https://www.facebook.com/pg/Cynthia4YoloDA/posts/>.)

Partnership.” The post largely repeats portions of DA press releases. However, the post goes on to suggest that the restorative justice court is the only progressive innovation, describing it as “the program [the office] hangs its ‘progressive’ hat on.” Greenwald further states that unidentified “critics” claim that “for much of its history, [the program] largely took cases that would never have entered the court system in other jurisdictions and put people through [the program].”

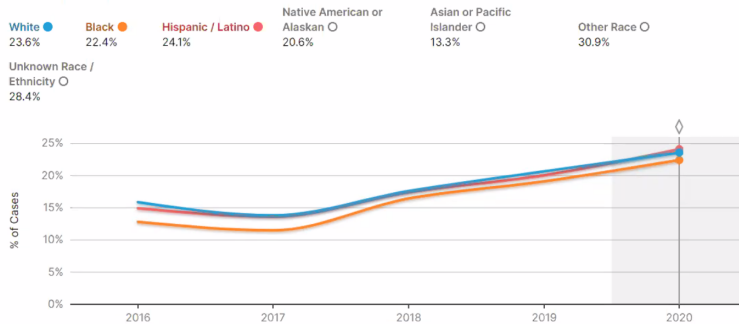
This is yet another effort to nullify any argument that DA Reisig has progressive policies, *i.e.*, (a) this is the only policy; and (b) the policy isn’t progressive because it is only diverting people that should not have been filed upon in the first instance. Plainly this is prohibited advocacy.

15. August 11, 2021; <https://www.davisvanguard.org/2021/08/analysis-data-transparency-is-a-good-start-but-da-reisig-needs-a-data-analyst/>; David Greenwald; this is a partisan post where Greenwald, again, criticizes DA Reisig regarding ballot propositions (a primary theme of the last campaign), criticizes the office’s Commons public data transparency portal,⁶⁰ and criticizes the use of diversion to resolve cases. Regarding the Commons transparency portal, Greenwald claims that the Commons data shows “bias,” or criticizes the transparency effort as “rais[ing] more questions than answers.” Regarding diversion, Greenwald suggests that cases should simply not be filed in the first instance (rather than diverted), or claims that “[Reisig] is only diverting a very small percentage of cases to begin with.” Regarding the “bias,” Greenwald oddly challenges that the “Case Rejected” panel (below) in the transparency portal “show[s] a huge amount of [racial] bias” because “[t]he trend lines are running together.” Then, later, dismisses the entire statistic as “not that helpful” because “we should not be surprised that there is probably no statistically significant difference along the lines of race.”

Cases Rejected for Prosecution

This measure shows what **percentage** of cases the prosecutor’s office decided **not to pursue in court**.

Race (All) - 2020



The context of this post is that the challenger, Ms. Rodriguez, is running on a progressive and reformist “more transparency” platform against a District Attorney who already has robust diversion programs in lieu of prosecution in many cases, and already launched a unique, interactive, third-party-verified prosecution transparency portal that received acclaim for transparency.⁶¹ Similarly, robust diversion programs addressing drug addiction and mental health are a hallmark of a progressive DA’s office. Mr. Greenwald’s apparent response is to write posts, like this one,

⁶⁰ (<https://yoloda.org/commons-data-transparency-portal/>.) Commons was “created in partnership with [a non-profit called] Measures for Justice, the Yolo County Multi-Cultural Community Council & the Yolo County District Attorney’s Office. It is a joint space for making criminal justice data transparent and shared goals public.”

⁶¹ (<https://www.sacbee.com/news/local/article250450936.html>; <https://www.sacbee.com/opinion/editorials/article250567659.html>;

attempting to nullify or cast doubt on these accomplishments. The tags for the post include “Jeff Reisig,” “Data Transparency Portal,” “Diversion,” and “Racial Disparities.”

16. August 12, 2021; <https://www.davisvanguard.org/2021/08/commentary-scratch-below-the-dog-and-pony-show-and-its-the-same-ol-reisig/>; David Greenwald; this post, including the pejorative title, suggests DA Reisig’s reform efforts are disingenuous (“dog and pony show”) and claims DA Reisig discounts systemic racism or “putting the blame” on communities of color. The post also criticizes DA Reisig as “data challenged” and, again, attempts to nullify the progressive effect of DA Reisig’s diversion programs by challenging that cases should be declined rather than filed and diverted. Finally, Greenwald again mentions the so-called “attack” on the public defender regarding racial disparities: “Remember, it was a little over a year ago that he publicly attacked [the public defender]” on racial disparity issues. Tags for this post include “Jeff Reisig,” “District Attorney,” and “Racial Disparities.”

17. August 14, 2021; <https://www.davisvanguard.org/2021/08/my-view-new-social-media-campaign-against-daniel-marsh-raises-a-number-of-troubling-questions/>; David Greenwald; this post suggests that DA Reisig is fearmongering regarding the potential release of Daniel Marsh, a person whom, when he was 15, crept into the house of an elderly couple and brutally murdered them in their bed. Greenwald discussed a press conference held by the family of those victims, the DA and a victims non-profit group, held on the eve of an appellate hearing regarding the case. The appellate hearing was to determine whether a new law applied to Marsh so that instead of a life sentence, Marsh would be up for a hearing (one that would approximate a jury trial) every two years in order to keep Marsh confined. Greenwald suggested that DA Reisig was improperly using social media, improperly attempting to influence the decision of the court “ex parte.”⁶² The word “rhetoric” is used multiple times and Greenwald described DA Reisig’s concerns as attempting to “scare the public.” Tags for this post included “Jeff Reisig,” “Crime Victims United,” and “Juvenile Justice.”

18. August 19, 2021; <https://www.davisvanguard.org/2021/08/commentary-no-reform-das-dont-go-on-fox-news/>; David Greenwald; this post again concerns Daniel Marsh and an interview DA Reisig did on the case for Fox news. The title, of course, is just one further attempt to nullify (advocate against) any argument that DA Reisig is progressive or a reformer because he interviewed with Fox. Greenwald also accuses DA Reisig of “mislead[ing] the public” regarding the Marsh case and said the interview (which also included the victims’ granddaughter) was an “attack on criminal justice reform.” Tags for this post included “Jeff Reisig,” “Fox News,” “Daniel Marsh,” and “Murder.”

19. September 19, 2021; <https://www.davisvanguard.org/2021/09/guest-commentary-closing-our-eyes-will-not-address-systemic-racial-bias/>; Vanguard Administrator (Cynthia Rodriguez); this is a letter written by the would-be candidate for District Attorney vigorously criticizing DA Reisig’s newly-revealed “race blind” charging program, which uses technology to remove the means to identify race from police reports during the crime charging process in order to help address racial disparities. Tags include “Jeff Reisig,” “Racial Blind Charging,” and “Racial Inequities.” This post continues the theme of vigorously attacking anything “progressive” incumbent DA Reisig does

⁶² An *ex parte* communication is where a lawyer speaks to the judge regarding a matter outside the presence of the opposing attorney; this term obviously has no application to statements at a press conference.

(here a criminal charging system that removes race from consideration) in order to assist or justify the election of a different progressive candidate, Cynthia Rodriguez. Notably, the post incorrectly suggests that the “race blind” charging technology, which only removes indications of race from police reports, somehow replaces the “judgment” or discretion of a charging attorney.

20. September 20, 2021; <https://www.davisvanguard.org/2021/09/everyday-injustice-podcast-episode-107-yolo-county-da-candidate-cynthia-rodriguez-2/>; Vanguard Administrator (poster not identified); this is described as a “rebroadcast” of the interview described at V(5). The short introduction to the post again describes Ms. Rodriguez as running for DA against Reisig who, “has recently taken on a reformist tone” It again says: “Listen as Rodriguez talks about Reisig’s record and discusses her own reformist agenda.” It is significant that a search reveals no other instance where a podcast was “rebroadcast.” This video has no other purpose than to enhance the digital platform for Ms. Rodriguez; it is a rebroadcast of a partisan interview with a partisan introduction. Even the rebroadcast itself was unnecessary because the previous video still exists on the website; the rebroadcast would serve to generate more interest and improve the all important search order ranking.⁶³

21. September 23, 2021; <https://www.davisvanguard.org/2021/09/commentary-is-reisig-attacking-racial-inequities-in-the-right-place/>; David Greenwald; this post further criticizes the new “race blind” charging system. The tags for this post include “Cynthia Rodriguez,” “Jeff Reisig,” “Racial Disparities” and “Racially Blind Charging.” The post both quotes Rodriguez (identified as a “likely opponent” for DA Reisig) and criticizes Reisig extensively, includes a link to an “op-ed” (also in the Vanguard, No. 19, *supra*) written by Ms. Rodriguez further attacking DA Reisig on race blind charging, and ends with: “[T]he racially blind charging policies at best nibble around the edges and leave the more substantive changes to another time or another administration.”

These above described posts show that what was carried out in 2018 is beginning again with the prospective 2022 District Attorney Campaign. Again, it appears the Davis Vanguard is being used to intervene and “mold public opinion” to the advantage of a candidate for political office. Moreover, it is worthy to note that even the readers of the Vanguard recognize that the Vanguard projects a bias against incumbent Reisig. As stated in the comments to a recent post: “[T]he Vanguard couldn’t even get their own preferred candidate elected to DA in Yolo County.”⁶⁴ The activities cited herein should be examined and evaluated and appropriate action taken.

⁶³ <https://www.seoquake.com/blog/republishing-content-how-updating-old-blog-posts-helps-boost-ranking/>

⁶⁴ <https://www.davisvanguard.org/2021/10/commentary-judges-criticism-of-boudins-office-largely-unwarranted/>; Mr. Greenwald commented to this post immediately after this reader and did not deny or disabuse the reader of the notion that the Vanguard had a “preferred” candidate in that election which effectively amounts to a tacit admission.

-----Original Message-----

From: David M. Greenwald <[REDACTED]>

Sent: Thursday, March 15, 2018 1:21 PM

To: Donald H.Heller <[REDACTED]>

Subject: Yolo DA

Hi Don,

I was perusing Jeff Reisig's website and noticed you are listed as an endorser. Is that current? We have a candidate running against him we are hoping will knock him off and would be a reformer. Just reaching out to see if it were possible to get you to pull the endorsement?

Thanks,

David

Sent from my iPad



Attachment B



Dean Johansson yolo da



Sign in

All Images Videos **News** Shopping More Settings Tools

About 184 results (0.25 seconds)



Candidate Charges Yolo County DA Office Squanders Nearly ...
 The People's Vanguard of Davis - Apr 13, 2018
 (From Press Release) – Yolo County District Attorney candidate **Dean Johansson** today said he was "breaking my silence" about a little-known practice in the D.A. office that is wasting nearly \$100,000 a year in taxpayer money, and also is ecologically un-responsible despite falsely claiming just the ...



Dean Johansson on Sierra Club Issues; Reisig Did Not Respond
 The People's Vanguard of Davis - Apr 11, 2018
 The Sierra Club Yolo Group sent out a questionnaire to both candidates for Yolo County District Attorney. **Dean Johansson** responded – his answers are below. The group sent Yolo County District Attorney Jeff Reisig three emails informing him of the questionnaire and a certified letter containing the ...

Commentary: Yolo and Sacramento District Attorney Races Feature ...
 The People's Vanguard of Davis - 13 hours ago
 It's a similar situation in Yolo County where incumbent DA Jeff Reisig – who also, like Schubert in Sacramento, has never seen a "bad" cop shooting. Reisig also has been a clear no-show in several debate forums, leaving Yolo County Assistant Public Defender **Dean Johansson** along to talk to voters.



Dean Johansson Receives Endorsement from National Progressive ...
 The People's Vanguard of Davis - Apr 10, 2018
 (From Press Release) – Yolo County District Attorney candidate **Dean Johansson** has received the endorsement of Democracy for America, a national progressive Political Action Committee with more than one million members dedicated to "taking on structural racism, income inequality, and money in ...



Letter: Supporting Johansson For DA
 The People's Vanguard of Davis - Apr 11, 2018
 As a long-time Davis resident, I am supporting **Dean Johansson** for District Attorney, because it is time to get smart on crime in Yolo County instead of tough on crime, which doesn't work. Here are two examples of how the current DA is tough on crime, wasting thousands of taxpayer dollars on court and ...

Yolo County Law Enforcement Associations share concerns about ...
 Winters Express - Mar 21, 2018
 We, as respective leaders of police officer associations from every city in Yolo County and the Yolo County Deputy District Attorneys Association, have become aware of facts regarding **Dean Johansson**, a candidate for the Office of the Yolo County District Attorney, which have compelled us to come ...



Sacramento Bee

Yolo County supervisor candidates answer questions at forum
 Daily Democrat - Apr 11, 2018
 •Wednesday, April 18 at 7 p.m. with **Dean Johansson** and Jeff Reisig, who are seeking the Yolo County District Attorney's position. Reisig is the incumbent.
 •Wednesday, April 25 at 7 p.m. with Jesse Salinas and Dave Schwenger who are seeking the The Yolo County Clerk-Recorder, Elections/Assessor.



Johansson Campaign Responds to Attack Letter
 The People's Vanguard of Davis - Mar 18, 2018
 What they fail to mention is that **Dean** was fired after blowing the whistle on corruption within the DA's office, including a politically motivated attempt to ... Greg Lang, president, West Sacramento Police Officers Association, and Matt De Moura president, Yolo County Deputy District Attorneys Association.



YOLO COUNTY SHERIFF, DISTRICT ATTORNEY and DISTRICT 3 ...
 The People's Vanguard of Davis - Mar 31, 2018
 Voters are invited to attend and learn more about each candidate in an environment without the rhetoric or negative ads. Confirmed Candidates: Sheriff race – Deputy Tom Lopez District Attorney – Public Defender **Dean Johansson** District 3 Supervisor – Small Businesswoman/Educator Meg Stallard and

Coming Events for Yolo County as reported to The Democrat
 Daily Democrat - Mar 21, 2018
 On the local Yolo County ballot on June 5, 2018, incumbent Yolo County Sheriff Ed Prieto is facing a challenge from Yolo County Deputy Tom Lopez. Incumbent Yolo County District Attorney Jeff Reisig is running against Public Defender **Dean Johansson**. All candidates were invited and have confirmed ...

Stay up to date on results for **Dean Johansson yolo da**.

Create alert

107