



Department of
PUBLIC DEFENSE

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Dear Mr. Satterberg, Ms. Manion, and Mr. Clark,

Our community demands that we reckon with and dismantle institutional racism – whether it be murders of BIPOC by law enforcement, the traumatizing violence and daily humiliation perpetrated by police against BIPOC, or harms perpetrated against BIPOC by other institutional entities within the criminal punishment system. Along with other prosecutors, you have “demand[ed] systemic change – and commit[ed] to bringing about these changes in [your] own communities.” We call on you to follow your inspiring words with action and to use your position of power to act as an immediate catalyst for law enforcement reform.

In line with your commitment to act and bring about systemic change, the following are decisions that must and can be made by your office: Refuse to file drug charges, or at a minimum, those arising from buy-busts. Stop filing possessory charges arising out of traffic or *Terry* stops. Refuse to use evidence procured by officers against whom complaints of racist behavior or dishonesty have been sustained. By repudiating these practices, you will help reduce the harm caused by a discriminatory/racist law enforcement system.

1. The KCPAO should decline to file drug charges, or, at a minimum, not file those resulting from buy-busts. Given the harm the war on drugs has caused communities of color, the PAO should stop filing drug charges. At a minimum, the PAO should not file any drug charges resulting from law enforcement practices known to disproportionately target BIPOC. Research from 2005 indicates that roughly 65 percent of buy-bust arrestees are Black. For decades, public defenders have represented countless Black men and women facing drug charges as a result of buy-busts. There is no reason to believe that this number has changed. By refusing to file drug cases that are the result of this practice, PAO could send a strong message to law enforcement that such practices are unacceptable. Below is an example of 2019 case PAO filed against a Black man, premised on this racist practice:

Det. Schwab and Det. Santos sat at the rear of the coach and Det. Adams sat near the middle. A few steps into the coach ride, ██████████ ██████████ boarded the coach and sat down next to Det. Santos. Det. Santos asked him if he had any "clear", which is a common street name for methamphetamine. ██████████ asked Det. Santos how much she wanted and she told him "\$20". He initially stated he didn't have any. A short time later, ██████████ took out a clear plastic baggie with a white substance. He asked if Det. Santos if she had "\$10". She told him "yes". He took out a white rock from the clear plastic baggie. Det. Santos gave ██████████ two \$5 prerecorded KCSO buy fund bills in exchange for the white rock. Based on Det. Santos training and experience, she recognized the white rock to be methamphetamine. ██████████ told Det. Santos his name was "██████████". He asked Det. Santos to take down his number and that he could get more.

2. The KCPAO should decline to file charges for possession of drugs or firearms where law enforcement discovered the drugs or firearms as a result of a traffic or Terry stop. Racial disparities are well-documented in police stops of Black and Latino adults compared to white pedestrians and motorists. Despite a higher rate of consent searches, studies consistently find that Black and Latino suspects are significantly less likely to be found in possession of contraband.¹ Below is an example of a 2019 case the PAO filed against a Black man that resulted from this racist practice. It seems unlikely that this individual would face criminal charges but for law enforcement's use of this racist practice.

"On 05/08/2019 at 0311 hours I was patrolling in my fully marked KCSO patrol car WB on S 129 ST approaching Martin Luther King Way S in Seattle WA. At the stop light intersection of S 129 ST / MLK, I saw stopped in front of me at the red light a black Volvo SUV with no rear license plate or trip permit visible in violation of RCW 46.16A.200.

I conducted a traffic stop on this vehicle at S 133 ST / MLK Way S, Seattle WA. I approached the vehicle's passenger side and saw the driver as well as a passenger in the front passenger seat. I identified the driver with a WA ST ID card as ██████████ the picture on his ID card matched his physical appearance. He explained that there is a temp tag posted in the back window, but it is difficult to see. I inspected the back window from the inside of the vehicle and saw temporary license plate A4053053. The rear window was darkly tinted and this temp tag was not clearly visible from behind the vehicle.

I ran ██████████ in King County CAD system and his DOL return showed that his license is suspended in the 3rd degree and he requires an ignition interlock device on any vehicle he operates. This vehicle did not have an ignition interlock device. I asked ██████████ to step out of the car and he complied. I frisked him for weapons because he was wearing a bulky jacket with clear bulges in the pockets, it was dark with poor visibility, he was acting nervous and fidgety, and there was a passenger in the car.

While checking him for weapons I felt a hard object in the right pocket of the bulky coat. I removed it and saw it was a glass bowl pipe with white residue in it. From training and experience I recognized this as a meth pipe and the residue inside as likely smoked methamphetamine. I placed ██████████ under arrest for possession of drug paraphernalia and operating a vehicle without an ignition interlock device.

3. The KCPAO should agree not to prosecute individuals using evidence discovered by a member of law enforcement who has been disciplined for being dishonest or

¹ Robin S. Engel, Toward a better understanding of racial and ethnic disparities in search and seizure rates, Journal of Criminal Justice 34 (206) 605-617, 605.

racist. These officers are easily identified because they are on the *Brady* list your office maintains, and any officer with a sustained race discrimination claim will also be easily identifiable through complaint and human resources records. Black, Indigenous, and other People of Color are disproportionately ensnared in the criminal punishment system. They should not be forced to confront claims or purported evidence found by officers who have been disciplined for being dishonest or racist.

Interrupting a long history of racist and dishonest police practices begins to effectuate the systemic change you demand. Needless to say, even if these practices were not racist, they perpetuate a racist criminal punishment system and your office must disavow them. Transformative change requires a commitment to altering the prosecutorial practices that perpetuate the status quo; to diverting most cases, beginning with young people who are 18-25 and people with mental health and behavioral health disorders; to ending the pre-trial incarceration of individuals presumed innocent, and to ensuring that those individuals facing charges within the criminal punishment system have diverse and fair juries. It is time to act.

Sincerely,

King County Department of Public Defense

Decriminalize Seattle

Community Passageways

CHOOSE 180

Creative Justice

Columbia Legal Services

Loren Miller Bar Association

Real Change

South Asian Bar Association of Washington

