

April 25, 2019

To Whom it May Concern,

As the deep flaws in our justice system become increasingly apparent, elected chief prosecutors throughout the country are using their considerable power to make local courts more fair and less thoughtlessly punitive, increasing faith in the system and breaking the cycle of mass incarceration, all without presenting a risk to public safety. In 2019, these same issues are front and center in Arlington County and the City of Falls Church, Virginia, where voters will decide about the future of their local criminal courts. We offer a unique perspective on this subject—we are over 100 attorneys, all of whom have worked in Northern Virginia in the fields of criminal law, justice policy and civil rights. We are writing because we have serious concerns about the state of the Arlington County criminal justice system.

We are concerned that nearly 98% of felony convictions in Arlington are the result of the defendant pleading guilty, exceeding the rate in all local jurisdictions (Alexandria: 91%; Fairfax/Loudoun: 93%) and even in the federal courts (97%). We are concerned that the low incidence of trials in Arlington is mainly due to overcharging and the fear of harsh consequences if a defendant does not accept a plea bargain.

We are concerned that Arlington convicts defendants of felonies at more than twice the rate of neighboring jurisdictions, despite its very low crime rate. We are worried that this reflects a culture of overcriminalization.

We are concerned that the Arlington County Commonwealth's Attorney's discovery policy, which prohibits the use of technology to obtain copies of police reports and other documents, places unique and arbitrary restrictions on the discovery process, making it needlessly difficult for defense attorneys to be prepared for trial. We believe that real open file discovery would make the process more fair for defendants and make the criminal process much more reliable and efficient.

We are concerned that although only 9% of Arlington is African-American, black people represent nearly half of those charged with driving on a suspended license, and nearly 60% of those charged with marijuana possession in Arlington. Black people also represent over 60% of persons convicted in Arlington of obstruction of justice, trespassing, and larceny. We are further troubled that local stakeholders, including the Commonwealth's Attorney, refuse to acknowledge the reality of implicit bias and resist even entering a dialogue about race and policing. We believe that stakeholders must take more seriously the racial disparities in Arlington's justice system, and find ways to address them.

We are concerned that defendants in Arlington, unlike in neighboring jurisdictions, are often required to waive important statutory and constitutional rights, like the right to appeal, the right to a preliminary hearing, and the right to have arrest information expunged, in order to obtain the benefit of a plea bargain.

We are concerned that although Arlington has the potential to lead the way with respect to diversion programs for low-level offenders and people with substance abuse and mental health issues, these programs lack adequate support from key stakeholders. Too often, these programs include restrictive and punitive conditions that are inconsistent with evidence-based practices, limiting participation and making the programs themselves less effective.

We are concerned that local prosecutors continue to support the Virginia Association of Commonwealth's Attorneys in its efforts to obstruct and prevent meaningful and reasonable criminal justice reforms in the legislative and policy-making process.

Elected chief prosecutors are in many ways the most powerful individuals in any local system of justice. They control who gets charged with a crime, which laws to enforce, and in many circumstances can virtually dictate the outcome of a criminal case. For that reason, in Arlington County, the Commonwealth's Attorney is uniquely positioned to address the concerns mentioned above. In fact, forward-thinking prosecutors in Virginia and nationwide have already done so. We believe reforms are necessary in order to help Arlington County and the City of Falls Church move forward, better promote fairness and equality, and ultimately fix our broken justice system.

Regards,

James Abrenio
Terry Adams
Hassan M. Ahmad
Vanessa Antoun
Todd Baldwin
Heather Barnes
Kathryn Batey
Emily Beckman
Shalev Ben-Avraham
Graziella Bianchi
Buta Biberaj
Sara Bieker
Jon Bourdon
Lauren Brice
Randolph Brickey
Sarah Bruns
Dawn Butorac
Ryan Campbell
Allison Carpenter
Benjamin Charlton
W. Michael Chick, Jr.
Damon D. Colbert
Rachel Collins

Casey Duchesne
Patrick Edwards
Andrew Elders
Yancey Ellis
Joseph T. Flood
Cheryl E. Gardner
Victor Glasberg
Daniel Goldman
Brian Goodman
Lavonda Graham Williams
Matthew W. Greene
Phoenix Harris
Lisa Harwood
Bradley R. Haywood
Bradley Henson
Vivian Hernandez
Juliet Hiznay
Greg Hunter
Lisalyn Jacobs
Garrett Jagtiani
Carly Jehlen Hart
Bryan Kennedy
Asher Kim

Debbie Kramer
Lindsey Lawson-Battaglia
Lauren Lebourgeois
Christopher Leibig
Hasina Lewis
Brad Lindsay
Mikhail "Misha" Lopez
Susannah Loumiet
Theophe Love
Megan Mack
Meghan Matulka
Allison McIntire
Michael J. McMillin
Willie Mejia
William Miller
Marvin Miller
Jasmin Mize
Joe Mokodean
Elizabeth Mullin
Eric Mussoni
Jay Mykytuik
Jonathan R. Oates
Elsa Ohman
Julia Ovando
Jeffrey G. Overand
Lysandra Pachuta
Caitlin Payne
Kelsey Peregoy
Pierre Priaie
Helen Randolph
MacKenzie Roberts
Joni Robin
James Robinson
William Robinson
Che Rogers
Seema Ruchandani
Meghan Shapiro
Ashley Shapiro
Jonathan P. Sheldon
Jacob Small
Dusty Sparrow Reed
Madeline Starbranch
Amy Stitzel
Shawn Stout
Kimberly Stover

Kevin Tamul
Megan Thomas
Geoff Tucker
Elizabeth Tuomey
Edward Ungvarsky
Brent Vincenzes
Carla Ward
Frank Webb
Daniel Weir
Doug Wham
Lauren Whitley
Eric S. Wiener
McGennis Williams
Alan Wonnacott
George Wooditch
Patrick Woolley
Joseph Yoon
Todd Zinicola