



Maricopa County Attorney Allister Adel

April 22, 2021

ACLU of Arizona
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Let me begin by thanking you for your letter of concern received by this office on April 1, 2021. Having an open dialogue with the community is a priority of this office and my administration. As such, I'd like to take the opportunity to respond to several of the items outlined in the April 1 letter.

In your letter you allege that, "The Maricopa County Attorney's Office has a sordid history of pursuing retaliatory charges against political opponents and allowing ethical violations to go unchecked. Serious misconduct ranging from Brady violations to sexual harassment, to sending innocent people to death row have persisted with few, if any consequences."

The materials referenced in the April 1 letter point to articles and information that occurred prior to my tenure as County Attorney. I obviously cannot explain or defend the decisions of previous county attorneys, but I will speak to actions taken by my office, and also correct some factually inaccurate information contained in your letter.

I was appointed County Attorney in October of 2019. I am committed to ensuring that each and every case prosecuted by this office is done so based on facts and evidence. If you have specific cases by which a person was charged with a crime because of their political beliefs, I ask that you provide me the name and case number for the defendant and the specific evidence that supports this allegation.

As County Attorney, I expect my office to be free from workplace harassment and that employees feel safe when coming to work. Your letter omits the fact that I took action shortly after my appointment to remove an employee from our workplace to prevent harassment. This action specifically refutes your unsubstantiated claim of "unchecked sexual harassment" in this organization today. If you have information that leads you to believe there is in fact "unchecked sexual harassment" in my organization today, please provide it to me so it can be properly investigated and stopped.

Your allegation that this office sent an innocent person to death row with a footnote referencing the Milke case is also an inaccurate representation that has no bearing on what is happening in this office today.

While that case was tried decades ago, I feel it is incumbent on me to point out that although Ms. Milke's conviction was overturned, she has never been found to be innocent of her murder charges. Subsequently, a federal judge dismissed Ms. Milke's wrongful conviction lawsuit in October of 2020, concluding her repeated

destruction of records in the civil case prevented the true facts from emerging. It is surprising that you chose to misrepresent this particular case because, in addition to the fact that she destroyed so much evidence, her civil case was dismissed.

Ms. Milke was originally convicted of a horrible crime that included dressing her son in his favorite outfit, telling him he was going to see Santa Claus at a mall and having him taken into the desert by her acquaintances so they could shoot her son in the back of the head. Her conviction for this heinous crime was reversed by the Ninth Circuit but not based on any finding of actual innocence.

Your letter also notably fails to address specific steps I have taken to address problems in the criminal justice system. Six months ago, I announced the creation of a Prosecution Integrity Program to handle claims of actual innocence, potential inappropriate police conduct including excessive use of force, and other claims of prosecutorial unfairness in handling cases. I have dedicated resources to ensuring the actions of this office are just and appropriate.

The April 1 letter also states, “When you were appointed County Attorney, you assured the residents of Maricopa County that you would usher in a new era of accountability and transparency. However, we have seen little progress to fulfill that promise...”

I strongly disagree with your assessment of this office under my leadership. As County Attorney, transparency to this community has been addressed through several actions. Within months of my appointment, the MCAO public records request process was radically improved. Response time in filling public records requests went from months, to weeks to, in some situations, days. We have prioritized requests by the media and community groups within our system. Prior administrations approached public records request with a “first in, first out” philosophy, which caused significant delays in providing responsive records related to items of community concern. By prioritizing certain requests, we have been able to more quickly respond with records and ensure timely transparency on issues important to Maricopa County residents.

My office has taken several other steps to increase transparency. For the first time in the history of the office, MCAO plea policies were placed on our public website for anyone to review. This office also created a data dashboard to publicly publish data about submittals to this office by law enforcement and the charging decisions, and overall outcomes of these cases.

Transparency and accountability have been the cornerstone of my administration to date, demonstrated by the actions above. It is important to note that an invitation to participate in the County Attorney’s Community Advisory Board was offered to the ACLU Arizona and it was promptly declined. Participation on this board is an ideal opportunity to have an open dialogue with my office and learn about issues important to the community.

The April 1 letter also makes an assessment that, “the facts show that prosecutors in your office: (1) colluded with Phoenix Police to target and arrest Black Lives Matter movement leaders, (2) allowed police officers to lie to the grand jury, (3) failed to disclose exculpatory evidence to the grand jury, and (4) created a fictional gang to enhance criminal charges.”

You refer to “facts” but based on the sources you cite; you likely know very little about any of the claims you are making beyond what the media has told you. It is discouraging that you would make such serious allegations based on such limited information. I do not run my office or practice law that way.

Instead, I am committed to learning all the facts before reaching any conclusions. One reason you have limited facts is because, as you well know, lawyers have ethical rules about releasing information publicly that could interfere with a person’s right to an impartial fact finder. Given your organization’s claim to advance the cause of our civil liberties, it is surprising that you would want this office to jump to conclusions

or conduct our business in a way that might jeopardize a defendant's civil rights. I will not try this or any other case in the media or in the courtroom of public opinion. The people of this county deserve better than that.

I am already aware and have publicly stated to the media and in court filings that there were some problems with the way this case was handled. I am not blind to those realities. If your very serious claims about collusion, the knowing presentation of false information, and the invention of a criminal syndicate without evidence are true, there is no question that individuals need to be held accountable. To demonstrate my commitment to understanding and fully investigating these allegations, my office has retained Retired Judge Roland Steinle to conduct an independent review of what happened in this particular case and, to the extent necessary, to make recommendations about our policies and procedures to improve the way we do business.

If you have evidence, other than media articles, related to the accusations included in your letter, I ask that you reach out to my office so we can provide Judge Steinle with this information. I believe it is paramount that the accusations of serious misconduct you are alleging are included in this review.

You conclude your letter by making several "demands" of me. First, you demand that I dismiss all "protest-related charges with prejudice." Your basis for this appears to be based on media reporting which, as I discussed above, is incomplete because I will not try these cases in the media. As I have stated many times, people have the right to free speech and to express themselves to their government regardless of what their opinions or views may be. They do not, however, have a right to break the law in the name of free speech. I intend to hold individuals who commit crimes responsible when the evidence presents a reasonable likelihood of conviction. I will not base those decisions on what your organization or members of the media want to see happen; I will base those decisions on the facts and the law as I said I would when I was elected to this office.

Second, you demand that I fire prosecutors. It is frankly shocking to me that your organization of all organizations could care so little about the due process of the people you name in your demand. Not every error or mistake by an employee justifies firing them. If employees in this office committed misconduct to such a degree that they can no longer work for me, I have already proven that I am willing to take the necessary action. But any decision of that magnitude will be based on all the evidence and all the facts and not based on a demand from your or any other organization.

Third, you demand that the First Responder Bureau be disbanded. This demand is made because you either do not know what that bureau does, despite the fact that I talked about it publicly many times for nearly a year after my appointment, or because you just do not care about our first responders who work to keep this community safe. I suspect it is the latter and in that case nothing I say here will impact your views, but if I'm wrong about your reasons, let me explain it again.

Every day in this community, officers trying to protect us and keep us safe are used as punching bags and are regularly assaulted by people who don't want to be arrested or just want to harass someone in uniform. Officers are regularly shot at or threatened with guns, knives, and other weapons. Officers should not have to go to work and come home with bloodied noses, cuts, and bruises and ask their families to accept that as "just part of the job."

But it isn't just police officers. Paramedics, fire fighters, and people guarding individuals in jails and prisons also find themselves being assaulted by those they are trying to help or protect. The First Responder's Bureau allows us to have a small team of prosecutors, paralegals, and victim advocates who are experienced in handling these types of cases and in dealing with all first responders as victims. This bureau allows us to give these cases and victims with unique needs the best support possible with the ultimate goal of working to deter this type of conduct in the future.

Your conclusions about the purpose of this bureau are absurd. The existence of this bureau in no way denies the fact that officers have committed crimes and they have used excessive force, even deadly force, when they should not. As a prosecutor and citizen, I am very aware of these issues in law enforcement. I prosecute officers who commit crimes just as I do any other offender. As noted above, I've asked prosecutors to report anything they see in their cases where officers used excessive force or failed to deescalate a situation when they should have. We report these issues to the agencies for additional investigation and review. All of this is done to better protect the public and hold officers accountable when necessary. I have never wavered in my commitment to do those things. While your organization or anyone in our community is welcome to express their opinion on the organization of my office, in this case, I am declining your demand to disband the First Responder's Bureau.

Fourth, you ask that I increase transparency. Some of what you state in this demand is not possible. As a prosecutor, I have ethical obligations that prevent the transparency you demand on active prosecutions in this office. That means from time to time the public will not immediately have all the facts in a case. Sometimes those facts come out in trial or can only be discussed when the case is fully concluded. We try cases in courtrooms not through media reports, social media soundbites, or letter writing campaigns. If that means that your organization and the general public does not know every fact about every case as soon as you would like, that is the price we pay for fair trials and the rule of law. I would hope that the ACLU, of all organizations, would stand with us in working to protect the due process rights of everyone accused of a crime.

You also request changes to our dashboard, including up-to-date data as well as additional information regarding case outcomes. We are proud to have started this public source of information about the work we are doing in the office and we are always thinking about ways we can improve it. We appreciate your input in this area as we strive to make it as useful as possible based on the data we have.

In conclusion, it is my hope that the ACLU of Arizona shares my commitment to accurately and fairly inform our community and I would appreciate any follow up information you may have about the items addressed in this letter.

Sincerely,

Allister Adel
Maricopa County Attorney