

February 10, 2019

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Kamala Harris, Senator
Senate Office Building
112 Hart
Washington, D.C. 20510
U.S.P.S. Certified Mail RRR No.: 7002 0510 0003 4495 4044

Re: **On Your Watch!** California's felony convictions via complaint: **none** are valid, no not one!; Malfeasance in office. NOTICE FELONY; DEMAND FOR RELIEF.

Dear Senator Harris:

Congratulations on your recent announcement to run for the office of President of the United States; a noble aspiration.

This letter concerns your and your subordinate's malfeasance while employed as law enforcement officers in the Executive branch of Government. And how, now as a member of the Legislature, it is your duty to oversee the abrogation of the unlawful actions.

The manner in which you respond to the indisputable facts of wrongdoing as set forth herein, and your willingness to admit and move to correct the wrongs, may well determine whether you enjoy the campaign and perhaps a term in the White House, or, whether you leave a legacy of shame and endure a term in Central California Women's Facility.

"He who covers his sins will not prosper, but whoever confesses and forsakes them will have mercy" and "the wise shall inherit glory, but shame shall be the legacy of fools." Proverbs 28:13; 3:35 NKJV.

MALFEASANCE IN OFFICE

The wrongdoing: prosecution of felonies via complaint, a form and mode of charging offenses not authorized by law.

"A court can acquire no jurisdiction to try a person for a criminal offense unless he has been charged with the commission of the particular offense and charged in the particular form and mode required by law. ...A person may not be punished for a crime without a formal and sufficient accusation even though he voluntarily submits to the jurisdiction of the court. Such is the undisputed law in all jurisdictions" Albrecht v. United States 273 U.S. 1 (1927).

Authority for the state to prosecute felonies via complaint is that which remains after you pop a soap bubble.

During your tenure as a Deputy District Attorney, District Attorney and Attorney General for California, you were involved with, authorized and supervised the preparation, investigation and filing of felony complaints.

You knew or should have known, that a felony complaint is not a form or mode of charging offenses authorized by law. Penal Code § 949.

You knew or should have known, that your predecessor in the office of Attorney General, Bill Lockyer, had publicly stated the government's position on the use of felony complaints to initiate prosecutions as unlawful by declaring "the government may not even be involved with the preparation, investigation and filing of a felony complaint." People v. Viray, (2005) 134 Cal. App.4th 1186, 1201.

You knew or should have known, that California's Constitution and Penal Code require that all felonies shall be prosecuted by indictment or information. Article I, § 14 CA Const.; PC §§ 682, 737, 739, 917, 949; People v. Wallach, 79 Cal.App 605, 608 (1926).

You knew or should have known, that an unauthorized accusatory pleading is insufficient to confer jurisdiction upon the court and that any judgment obtained thereby is void: "a judgment is void ... if the trial court lacked subject matter jurisdiction." People v. Alanis, (2008) 158 Cal.App.4th 1467, 1473.

It may be of little comfort to learn that this unlawful practice is not unique to your tenure, but appears to have been in vogue for more than 50 years prior. However, this fact offers you and your ilk no excuse for violating the Constitution, long standing practice notwithstanding, prosecution via felony complaint is not authorized by law, and when accomplished as in my three cases and those of thousands of persons, violates the Constitution.

"It is obviously correct that no one acquires a vested or protected right in violation of the Constitution by long use, even when that span of time covers our entire National existence and even predates it." Waltz v. Tax Commission of New York City 397 U.S. 664, 678 (1970).

Therefore, your unlawful participation in the prosecution of felonies via complaint violated your oath of office and the due process rights of the accused; resulting in void judgments and the false imprisonment of thousands of persons. The handwriting is on the wall, you have been weighed in the balances and found wanting: guilty of malfeasance in office.

NOTICE FELONY

The prosecution and imprisonment of persons without any authority to do so, may be considered by some to be, inter alia, criminal conduct and actionable under Penal Code §§ 661, 115(a), 182(a)(1-5) and federal law Title 18 U.S.C. §§ 241, 242.

In order to avoid conclusion of misprision of felony (18 U.S.C. § 4 and the California analog thereto), I hereby give notice of the willful, knowing and malicious violation of my Constitutional rights by agents of the state acting under color of law and in concert in the arrest, detention, prosecution and imprisonment of my person in the absence of any and all authority;

as evidenced by felony complaints filed in Superior Court of California for the counties of Sacramento (Case No. 13F07578), Santa Clara (Case No. 1348325) and Solano (Case No. 317874) in January 2013, December 2013 and November 2015.

Discussion

Please find enclosed a Press Release and article titled "Without One Plea" dated December 17, 2018, quoting the Honorable J.S. Penny commenting on the scope and impact of the unlawful practice of prosecution via felony complaint.

"It should be pointed out that as a practical matter almost all felony prosecutions in the state are initiate through the filing of a complaint signed by a deputy district attorney. According to the petitioner's argument, virtually every felony conviction and every pending felony prosecution in the state is invalid."

It is clear that this error is one of statewide significance and Constitutional magnitude having enormous legal, moral and financial implications of unquantifiable proportions. And impacting thousands of persons who have been, are being, and will continue to be, prosecuted via felony complaint, absent intervention.

Since discovery of the error in November 2017, I have sent certified mail to various District Attorneys (see Without One Plea) outlining the issue of bogus filings and demanding cessation of the practice. As of this date, I have received no response ... and the prosecutions continue.

"Silence can only be equated with fraud where there is a legal and moral duty to speak and where an inquiry left unanswered would be intentionally misleading."
U.S. v. Tweel, 550 F2d 297, 300 (1977).

Is this practice and refusal to admit error and to cease and desist the unlawful activity a fraud and conspiracy of major proportions? Or simply ignorance on the part of yourself and the entire state law enforcement community as to the requirements of the law? In either event, the practice must stop now!

Now you, Senator Harris, sworn to uphold the law and defend, inter alia, the 4th and 5th and 14th Amendment rights of the people— having failed miserably in the past to so do as a law enforcement officer —must choose to be part of the solution, or, continue to be a part of the problem.

Paradigm shifts are almost always difficult, particularly when you abruptly get knocked off your horse, blinded by the light of truth, and find that your life's work in the pursuit of justice was anything but. Despair not, for God always gives us another chance to fulfill our purpose in life.

As you consider your options, I recommend that while you remain in the D.C. area, you visit the Martin Luther King, Jr. Memorial and contemplate the inscription it bears:

"But let justice run down like water, and righteousness like a mighty stream."
Amos 5:24 NKJV.

I encourage you to “apply your heart to instruction and your ears to words of knowledge’ and to ‘open your mouth, judge righteously, and plead the cause of the poor and needy {unlawfully imprisoned}’ inasmuch as ‘it is a joy for the just to do justice.” Proverbs 23:12; 31:9; 21:15 NKJV.

Do not think in your heart that you will escape in the Senate any more than all the other prosecutors, past and present. For if you remain completely silent at this time, relief and deliverance will arise for the unlawfully imprisoned from another place, but you and your subordinates will go to prison. Yet who know whether you have come to the kingdom for such a time as this? See Esther 4:13 et seq., NKJV.

DEMAND FOR RELIEF

In my capacity as one of the People, native Californian, Captain USAR, Victim Aggrieved, I, Lonnie Glenn Schmidt hereby DEMAND that you, Senator Kamala Harris, take, at a minimum, the following actions, to wit:

1. Notify the Governor and the Executive, Legislature and Judicial branches of government of the unlawful prosecutions.
2. Obtain emergency orders for the immediate cessation of any further preparation, investigation and filing of felony complaints by government personnel.
3. Secure the immediate and unconditional release from prison of myself and all persons prosecuted and imprisoned via a felony complaint; regardless of “charges” or length of sentence.
4. Provide for financial relief, e.g., per Senate Bill 1134, at time of release, and for continuing health care.
5. Notify the Attorney General of the United States and request a special prosecutor be appointed to investigate the wrongdoings.

“Therefor, to him who knows to do good and does not do it, to him it is sin.” James 4:17 NKJV.

Summary

On your watch as a law enforcement officer with ever increasing levels of responsibility and supervision, thousands of persons were prosecuted and imprisoned pursuant to charges brought by felony complaint; an unlawful form and mode for prosecution of felonies.

You have a legal and moral duty to speak and act to end that which, when the dust settles, can only be seen as a continuation of the societal evil of slavery in America.

Your career, legacy, and the liberty of many rest with your decision ... I suggest that you make it prayerfully.

"I will instruct you and teach you in the way you should go; I will guide you with my eye." Psalm 32:8 NKJV.

Therefore and otherwise Ms. Harris, and to all to whom these presents come, please conduct yourself accordingly.

I would have written you a shorter letter, but I didn't have the time.

Yours in His service,

A handwritten signature in black ink, appearing to read "Lonnie G. Schmidt", with a large, stylized flourish at the end.

Lonnie G. Schmidt

Encl.: Press Release; Without One Plea

Cc: Donald Trump, President U.S.P.S. Certified Mail RRR No. 7001 1940 0000 7188 5722

Gavin Newsom, Governor U.S.P.S. Certified Mail RRR No. 7001 1940 0000 7188 5739

William Barr, U.S. Attorney General

Xavier Becerra, Attorney General

William Shubb, Judge, USDC EDC

Jay Sekulow, Chief Counsel, ACLJ

Lisa Gonzales, KCRA 3 News

Without One Plea

by

Lonnie G. Schmidt
RFB - Proverbs 21:31
December 17, 2018

To require a person to plea to a complaint for which no plea exists, strains the confines of credulity.

It should be pointed out that as a practical matter almost all felony prosecutions in the state are initiated through the filing of a complaint signed by a deputy district attorney. According to the petitioner's argument, virtually every felony conviction and every pending felony prosecution in the state is invalid.¹

Honorable J. S. Rury¹

The Attorney General², chief law officer for the state and direct supervisor of district attorneys and all other law enforcement officers³ has publicly declared that "the government may not even be involved in the preparation, investigation and filing of a felony complaint."⁴

What's wrong with this picture? Without a plea authorized for a felony complaint⁵, the courts accepting for filing felony complaints, and law enforcement disavowing authority to file a felony complaint? There appears to be a conflict between the executive and judiciary branches as to proper understanding and application of the law in criminal actions. What sayeth the law?

Article I, § 14 of the California Constitution mandates that "Felonies shall be prosecuted by indictment or, after examination and commitment by a magistrate, by information." The California Penal Code ("PC") requires that all felonies be prosecuted by either indictment or information. (PC §§ 632, 737, 739, 917 and 949.)

Despite constitutional jurisdictional mandatory subject matter prerequisite and their Supervisor's prohibition, District Attorneys in every county in California have been bringing cases via felony complaint. This unlawful activity by state actors violates their oath of office and the due process rights of the accused. And, as a matter of law, regardless of the charged crime, violent or not, or length of sentence or when imposed, any conviction obtained is VOID ab initio and the prisoner is entitled to immediate and unconditional release.⁶

In the interest of justice and giving opportunity to cure their aberrant and abhorrent behavior, early this year I sent by U.S.P.S. Certified Mail letters informing of error and demanding the cessation of prosecution via felony complaint, to the following District Attorneys:

Anne Marie Schubert, Sacramento County, Jeff Rosen, Santa Clara County, Krishna Abrams, Solano County, and Allison Haley, Napa County.

Each letter directed the District Attorney's attention to the Constitution and Penal Code, exposing their lack of authority. None have responded ... and they continue the unlawful activity.

Solomon was right when he said "A servant will not be corrected by mere words; though he understands, he will not respond."⁷

The District Attorney is a public servant holding office at the will of the electorate and sworn to uphold the law. The People have mandated the proper mode for prosecuting felonies to be by indictment or information ... not by complaint.

What will it take to make our public servants respond to legitimate demands to perform their duties in accordance with the law? Perhaps, since this is an election year, and the incumbent or newly positioned elected are settling into office, we the People should demand the production of authority to prosecute felonies via complaint. If they ignore us and continue their unlawful conduct, demand they turn in their badge. And, explain to the People how and why releasing more than 117,000 prisoners is in the best interests of the community.

The District Attorneys and those acting in concert to unlawfully prosecute and imprison California citizens is a violation of their oath of office and actionable as criminal conduct under state⁸ and federal⁹ law.

Now that YOU know the truth¹⁰ ... how will you respond?

"Therefore, to him who knows to do good, and does not do it, to him it is sin." James 4:17 (NKV).

Lonnie G. Schmidt

One of the People

Captain USAR

Victim Aggrieved as Thrice Charged by Felony Complaint

Notes

- 1 Jeffrey S. Penny, Judge of the Superior Court, Placer County, California. In re Brooks, (May 18, 2018) Case WHC-1611 Order Denying Petition for Writ of Habeas Corpus page 3, lines 6-10.
- 2 Bill Lockyear, Attorney General, Robert R. Anderson, Chief Assistant Attorney General, Gerald A. Engler, Senior Assistant Attorney General, Gregg E. Zwicke, Deputy Attorney General and Mark S. Howell, Deputy Attorney General.
- 3 Article V, § 13 of the California Constitution; People v. Municipal Court for Ventura Judicial District, (1972) 27 Cal.App.3d 193, 208.
- 4 Bill Lockyear and executive staff (N. 2, supra) as Respondent People v. Viray, (2005) 134 Cal.App.4th 1186, 1201.
- 5 The Penal Code states that a defendant has one pleading available to him, either a demurrer or plea. (§ 1002.) Demurrer authority is found at PC § 1004 and plea at PC § 1016. There are six kinds of pleas to an indictment, or to an information, or to a complaint charging a misdemeanor or infraction: Guilty, Not Guilty, etc. (PC § 1016.) But not one plea for a defendant named in a complaint charging a felony.
- 6 A court can acquire no jurisdiction nor punish a person for a crime without a formal and sufficient accusation in the form and mode required by law. Such is the undisputed law in all jurisdictions. Albrecht v. United States 273 U.S. 1, 8. People v. Alanis (2008) 158 Cal.App.4th 1467, 1473 "A judgment is void ... if the trial court lacked subject matter jurisdiction."
- 7 Proverbs 29:19 (Holy Bible, NKJV).
8. Penal Code §§ 24 (removal from office), 115(a) (filing false instruments), 182(a)(1-5) (conspiracy to falsely imprison).
- 9 Title 18, United States Code, §§ 241 and 242 (conspiracy to deprive a person of their civil rights, false imprisonment, kidnapping, hold for ransom, etc.).
- 10 February 21, 2018, the day Dr. Billy Graham, "Pastor to America" died, I wrote a legal research paper entitled "The Truth, The Whole Truth...And Nothing But" documenting from authorities the disclosures found herein. I will close this article as Dr. Graham closed his many Crusades, with an invitation for freedom that the state can't give. Charlotte Elliot's beloved hymn: Just as I am without one plea, but that Thy blood was shed for me. And that thou bidst me come to Thee, O Lamb of God, I come, I come. John 3:16, Romans 10:9-13.