

June 11, 2020

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Gavin Newsom, Governor  
California State Capitol  
Capitol Mall  
Sacramento, California 95814  
U.S.P.S. Certified Mail RRR No.: 7002 0510 0003 4495 3306

Re: Held To Answer

Dear Governor Newsom:

The purpose of this letter is four-fold:

- (1) to remind you of the continuing problem of illegal felony prosecutions and the unlawful confinement of prisoners in California's prisons;
- (2) to restate the issue in layman's terms;
- (3) to demand you address the criminal conduct of the involved state law enforcement and judicial officers; and
- (4) to give you actual notice of my intention, should you fail to respond quickly and publicly, to publicize your lack of response.

**Reminder of the problem.**

On April 17, 2020 I sent to you by U.S.P.S. Certified Mail RRR, which your office received and signed for April 20, 2020, a letter with enclosures concerning "Newsom, we have a problem... CALIFORNIA'S PRISONERS' CONFINEMENT VIOLATES THE CONSTITUTION AND LAWS OF CALIFORNIA AND THE UNITED STATES ...and we the People demand release!" (a copy is available at [www.withoutoneplea.com](http://www.withoutoneplea.com) (click on "state"; see "The People demand release of all unindicted prisoners") incorporated herein by reference).

The essence of the problem is that the massive unlawful incarceration is derivative of the illegal prosecution by the state in almost all criminal felony cases by mode of "felony complaint"<sup>1</sup>. The law clearly and unequivocally mandates that the mode of prosecution of felonies shall be by indictment or, conditionally, by information<sup>2</sup>.

In my letter, I summarized, "the state is authorized to receive and hold in the state prison system ... only persons prosecuted and convicted pursuant to an indictment of a grand jury. All other persons held by the state in CDCR prisons are unlawfully confined."

Based on my understanding of the foregoing fact of law, I made demand for my and other unindicted persons' immediate release from confinement in the state prison. As of this date, you have not responded to my letter and demands. I remain illegally confined and have seen no evidence of mass release.

#### **Restatement of the issue in layman's terms.**

Articulating the necessity for a paradigm shift -- when so many astute attorneys and judges, for so long, have adopted an erroneous view of justice and imposed it without objection upon the People -- is not an easy task. But, I'm up for it.

Do you remember the colloquial wisdom of Benjamin Franklin concerning the importance of small things, as expressed in his poem "For Want of a Nail"? For want of a nail, the shoe was lost, for want of a shoe, the horse was lost...the rider, battle and kingdom was lost. For want of a horse-shoe nail.

The analogy here is: For want of due process (a valid complaint), an examination was lost, for want of examination a commitment was lost, for want of commitment an information was lost, for want of an information a sentence in the state prison was lost...and for want of expeditious remedial action, a Governorship and Democratic Presidential bid may be lost. But justice restored, indictments of the involved public officers will fill the prisons once again...and all will not be lost.

While there is still opportunity, would it not be wise to heed Franklin and not forget Solomon? "Catch us the foxes, the little foxes that spoil the vines, for our vines have tender grapes." (Song of Solomon 2:15 NKJV.) Freedom is precious.

The legal "professionals" have either misunderstood or deliberately ignored the law and have precipitated and perpetuated the problem you are now chosen to deal with.

As I have done in understanding my plight, I suggest you get a first hand grip on this issue as it is your career, reputation and freedom that is now on the line.

I will attempt to restate the issue in straight forward, simple English, which the **truth** of the law and procedure support:

A felony complaint is not an authorized pleading, and when used by the state in a felony case is illegal, invalid and confers no jurisdiction upon the court.

Therefore, an information, which requires a valid (not bogus) complaint, examination and commitment as a condition precedent to filing, is not, has not been, and can never be, a lawful substitution for an indictment. Notwithstanding, the state has unlawfully used felony complaints to initiate felony prosecutions for many years, seeking an information in order to avoid risking a grand jury's declination to indict.

Felony complaint: a little fox that gnaws on the roots of the Constitution and spoils due process...preventing prosecution by information. Yet, pursuant to unlawful prosecution by "information", more than a hundred and thirty thousand persons now reside in the state prison.

Wherefore, the **truth** is, an information being an impossibility to access by bogus instrument (felony complaint) filed by the state, an indictment of a grand jury remains the only viable option for prosecution of a felony offense. "The truth is incontrovertible. Malice may attack it and ignorance may deride it, but in the end, there it is." Winston Churchill.

A quick review for the legal professional's perusal.

There are only two possible lawful modes for the prosecution of felony offenses punishable by confinement in the state prison: indictment or information. Under California law, prosecution and punishment in the state prison of all felonies shall be either by "indictment or, after examination and commitment by a magistrate, by information." (Emphasis added.)

(Cal. Const. art. I, § 14; §§ 17(a), 18, 682, 737)\*.

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\* Undesignated statutory references are to the California Penal Code.

Since at least 1951, persons accused of a felony offense have been held to answer to an illegal accusatory pleading termed a "felony complaint". According Judge J.S. Penny, almost all felony prosecutions in California have been by a felony complaint signed by a District Attorney; with which, former Attorney General Bill Lockyer has publicly declared government may not be involved<sup>3</sup>.

No mode of prosecution nor form of procedure is authorized by the Constitution or the Penal Code for a "felony complaint" (Fn1). Therefore, as a matter of law, no authority exists for its use by the state to initiate a prosecution and punish any person<sup>4</sup>. When such a bogus (fraudulent) instrument is used by the state, a crime is committed (§§ 115(a), 132, 134; Fn1) and the examination (§ 738)<sup>5</sup> and commitment<sup>6</sup> are void. At such time the unlawful felony complaint is endorsed by a judge and the defendant held to answer to the charges on the bogus complaint, a crime is committed. The prosecutions are illegal and judgments of conviction are void<sup>7</sup> and no information may be filed.

It must follow, as the night the day, that all persons prosecuted by felony complaint and committed to the state prison based upon an "information", are confined in violation of the laws and Constitutions of California and the United States.

Since 1884, yet ignored by state prosecutors, defense attorneys and judges, lawful substitution of an information for an indictment has been predicated upon a valid complaint being of record; and, there are none.

How is it supposed to work? An information (historically used for lesser offenses than a felony (misdemeanor); see, Hurtado v. California, at 539, *infra*), may be initiated by the District Attorney (§ 739) but only after an examination pursuant to a valid complaint (§ 738, Fn5) and commitment by a magistrate when the accused is "held to answer" (§ 872, Fn6).

The United States Supreme Court in Hurtado v. California, 110 U.S. 516, 538 (1884), held that an information may be substituted for a presentment or indictment of a grand jury only if the principles of due process are afforded by a lawful complaint and valid "examination and commitment by a magistrate certifying to the probable guilt of the defendant".

Absent a sufficient complaint, an information may not be lawfully filed by the state and substituted for an indictment. Without an information to provide jurisdiction to the court, the only remaining doorway to the state prison is the grand jury process and entry by way of indictment. According to Judge Penny, there are almost no indictments of record in California (Fn3). However, if any be found, it should be determined in each case whether a felony complaint made and filed by the state preceded said indictment, to the prejudice of the defendant and invalidation of said indictment.

Therefore, when examinations are conducted pursuant to a bogus "felony complaint" initiated and filed by the District Attorney, due process is denied the accused and the court lacks jurisdiction.

Again, in my letter, I boldly stated "As a matter of California and U.S. Constitutional law, only an indictment is authorized for use by the state for prosecution of an infamous crime and is required for entry into the state prison enterprise. No indictment...no prison."

At first blush, such statement may appear contradictory to the above referenced conditional allowance for prosecution of certain felonies by information. Nevertheless, as has been shown, for reason of the state's error of using bogus complaints, there can be no valid informations of record in any court in this state and indictment is the only alternative.

When the dust settles, absent California Department of Corrections and Rehabilitation (CDCR) record of a True Bill of indictment being filed in court at the outset of the prosecution, all unindicted prisoners are unlawfully confined.

### **Addressing state officers' criminal conduct.**

It is incumbent upon this administration to pursue a thorough investigation and determine responsibility of all public officers involved failure to follow the law. "He who walks with integrity walks securely, but he who perverts his ways will become known." Proverbs 10:9 NKJV.

District Attorneys who file a fraudulent felony complaint commit a crime (Fn1). Defense attorneys who fail to object to the fraudulent felony complaint are ineffective and aid and abet unlawful prosecution. Judges who entertain the fraudulent felony complaint, conduct an examination and order the defendant be held to answer to the bogus complaint, act without jurisdiction: a treasonous act<sup>8</sup>.

The government officials and state prison custodians who, after being noticed of the unlawful confinement of persons in the state prison and fail to provide remedy, must be held to answer for conspiracy and criminal intent of false imprisonment.

### **DEMAND FOR RELEASE**

I am confined in the state prison at CSP Solano and was not indicted by a grand jury. I have written "Newsom, we have a problem...", "Handling The Truth" and "Grounds For Relief" which are incorporated herein by reference as published at [www.withoutoneplea.com](http://www.withoutoneplea.com), and which I believe to be true and correct statements of the law; proving that the state of California has no authority to confine my person in the state prison unless I have been indicted by a grand jury.

Therefore, I hereby demand you order the immediate and unconditional release of my person from the state prison.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct. Executed at Vacaville, California this 11th day of June, 2020.

A handwritten signature in black ink, appearing to read "Lonnie G. Schmidt", enclosed within a large, loopy circular flourish.

Lonnie G. Schmidt

## NOTICE OF INTENT TO PUBLISH

In the event this California state government, led by yourself as Governor, fails to effect the unconditional release of my person and, publicly announce the eminent release of other wrongly imprisoned (unindicted) persons from the state prison within Ten (10) days of your receipt of this letter, you, Gavin Newsom, Governor, agree to the following publication as your personal statement and intentions regarding this matter and to its release to the public and to make no objection thereto, to wit:

"People of the state of California. I have recently been made aware of the illegal confinement of the majority of all prisoners in California's prisons. This travesty of justice began long before I took office as your Governor, but will not continue any longer on my watch. The justice system as we know it is broken and must be fixed...and I am up to the task.

"The California Constitution requires lawful prosecution for felony crimes punishable by confinement in the state prison to be by means of indictment of a grand jury or, conditionally, by information. It appears, since at least 1951, almost all felonies in California have been prosecuted and persons confined in the state prison by neither an indictment nor a valid information.

"On behalf of a government dedicated and sworn to uphold both the federal and state Constitutions and afford due process of law to all who enter the exterior boundaries of California, I apologize to the people of this state, the United States and the watching and concerned World, for the illegal prosecutions and the unlawful confinement of persons in this state's prisons.

"I have instructed the Attorney General and State Auditor to expand the current investigation of every county's District Attorneys to now include defense attorneys and judges of the Superior Courts and to seek indictments of the involved public officials, officers of the law and officers of the court for prosecution to the fullest extent of the law.

"Today, I am ordering the Secretary of the California Department of Corrections and Rehabilitation to commence processing for unconditional release, all prisoners from the California state prisons for whom no True Bill of indictment initiating the case under which they are held may be found.

"Further, the California Victims Compensation Board provides a sum equivalent to \$140 per day of incarceration served for the pecuniary injury sustained by those persons through their erroneous conviction and imprisonment.

"In the interest of justice and abating and mitigating damages, for the benefit of any wrongly confined person not unconditionally discharged from the state prison by July 4, 2020, I agree, by Executive Order or otherwise, to increase the above sum of \$140 to \$1,400 per day and, for each and every day of continued deprivation of the liberty of any person so unlawfully confined, an additional and not less than, amount of \$2,000, per day." End of statement.

**NOTICE:** Pursuant to Section 69, Subdivision (1)(b) of the Restatement of Contracts where silence or inaction operates as acceptance of the obligation to perform the act and to pay the amounts set forth above, I now give you every reason to believe and understand that assent by yourself as Governor of the state of California ("offeree"), may be manifested by silence or inaction and the offeree by remaining silent and inactive intends to accept the sum as set forth above and to make payment without objection in accordance therewith, and to make no objection to the publication of the above statement as though made by offeree in the first person, for reason of the unlawful prosecution, conviction, imprisonment and continuing illegal confinement of my person and those persons similarly situated.

**NOTICE TO THE AGENT IS NOTICE TO THE PRINCIPAL;  
NOTICE TO THE PRINCIPAL IS NOTICE TO THE AGENT.**



### Ultimate Accountability

Governor Ronald Reagan, in his office just East of the Capitol's rotunda and in which you now sit, prominently displayed a plaque on his desk which read "The buck stops here." Whether he left the plaque or not, the mantle of responsibility for the lives and liberty of the wrongly imprisoned has fallen on your shoulders. A Higher Authority than prior Governors is concerned and watching for your response. "I looked for someone who might rebuild the wall of righteousness that guards the land. I searched for someone to stand in the gap in the wall so I wouldn't have to destroy the land, but found no one'...'Yet who knows whether you have come to the kingdom for such a time as this?'" Ezekiel 22:30 NLT; Esther 4:14 NKJV.

I am housed in Building 21, Delta Yard, CSP Solano, where in January of this year a personable young man in his early twenties, whose daily repetitions of "I love you baby" to his girlfriend on the phone still rings in my ears, was brutally murdered. His alleged killer, months away from release, who had attended The Father's House ministry service at Chapel for the first time the prior week and was so affected, said "I know I need to get back in church and get my life turned around" had instead gotten caught up in prison politics. And similar story for the other attacker and youngster who died in the coordinated killings that day.

How many more wrongly imprisoned persons must die on your watch before you do what you know is right and must do?

Dare I mention the Coronavirus reality invading CDCR with over 2,200 confirmed cases and 14 deaths of inmates, 400 confirmed cases and 2 deaths of Correctional Staff; and two confirmed cases here on D-Yard, CSP Solano, as of today?

Do these tragedies qualify as wrongful death civil actions when the state has known of the illegal imprisonments and failed to decisively take action?

Tough decisions, but they must be made, by you...and soon.

It may seem lonely at the top, but you are not alone. Public expressions of your Jesuit faith portray your awareness of that fact. When you act in the interest of truth and justice you act in that which God delights (Jeremiah 9:23-24). He will teach, instruct, and guide you as you step out in faith. (Psalm 32:8 NKJV.)

Therefore, since we will all eventually be held to answer for the deeds we've done while here on earth (Romans 14:12), conduct yourself accordingly.

Respectfully,

A handwritten signature in dark ink, appearing to read "Lonnie G. Schmidt". The signature is fluid and cursive, with a large, stylized "L" and "S".

Lonnie G. Schmidt

Cc: Ralph Diaz, Secretary, CDCR  
Xavier Becerra, Attorney General (File No.: 184136)  
Elaine Howle, Auditor (Whistle-blower Case No.: 12019-1960)  
Mike Pence, Vice President of the United States  
Dave Patterson, Pastor, The Father's House  
Carl Specht, Chaplain, Chapel of the Good Shepherd  
Lisa Gonzales, KCRA News  
Glen Beck, The Glen Beck Program  
Sean Hannity, The Sean Hannity Program  
Rush Limbaugh, The Rush Limbaugh Show

## Footnotes

**1 Felony complaint:** bogus (fake): there is no mode in the Constitution or form in the Penal Code (§ 948, et seq.). However, the state prosecutors have simply used the same form and format sanctioned for use for indictments and informations: § 951 (infra).

See example of those felony complaints in continued use by the state at [www.withoutoneplea.com](http://www.withoutoneplea.com) (click on "state") last pages of "The Truth, The Whole Truth...And Nothing But" and "Citizen Complaint, Sacramento County, December 29, 2019" (Joseph DeAngelo felony complaint).

All "felony complaints" made by a district attorney as a first pleading in a felony case; violation of §§ 948, 949, for which no plea is available (§ 1016) and the filing of which by the state is a public offense: a felony (§ 115(a)).

**2 Indictment:** "An indictment is an accusation in writing, presented by the grand jury to a competent court, charging a person with a public offense"; "a formal written accusation charging one or more persons with the commission of a crime, presented by a grand jury to the court when the jury has found, after examining the evidence presented, that there is a valid case." § 889; Webster's New World Dict., 1991 p. 687.

**Information:** "A formal accusation of a crime made by a prosecuting officer as distinguished from an indictment presented by a grand jury" Webster's New Collegiate Dict., 1999 p. 599.

**Section 951 Form:** "The People of the State of California against A.B. In the superior court of the State of California, in and for the county of \_\_\_\_\_. The grand jury of the county of \_\_\_\_\_ hereby accuses A.B. of a felony (or misdemeanor), to wit: (giving the name of the crime, as murder, burglary, etc.), in that on or about the \_\_\_\_ day of \_\_\_\_\_, 19[20]\_\_\_\_, in the county of \_\_\_\_\_, state of California, he (here insert statement of act or omission, as for example, "murdered C.D."). §§ 951, (see, 959(2), for sufficiency.)

**3 Honorable J.S. Penny, Superior Court Judge, Placer County, California in May 2018:** "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." See, "Handling The Truth" p. 7 at [www.withoutoneplea.com](http://www.withoutoneplea.com) for citation.

**Illegal "felony complaint":** See, GROUNDS FOR RELIEF, Ground 1, Generally, pages 6.1-6.22. Specifically, pages 6.9-6.11 "The State is not authorized by law to initiate a felony prosecution by mode of complaint" at [www.withoutoneplea.com](http://www.withoutoneplea.com). This prohibition on government was made abundantly clear in 2005 by then Attorney General Bill Lockyer's public statement that "the government may not even be involved in the preparation, investigation and filing of a felony complaint." People v. Viray, (2005) 134 Cal.App.4th 1186, 1201. However, in almost every criminal case since 1951, government was involved with the preparation, investigation and filing of a felony complaint.

A felony complaint made by a government agent is a false instrument and when filed in the court does not confer jurisdiction. "A felony complaint, unlike a misdemeanor complaint, does not confer trial jurisdiction." Serna v. Superior Court, (1985) 40 Cal.3d 239, 257.

4 Under California and federal law, no court can acquire jurisdiction to try a person for an offense unless he is charged in the particular form and mode required by law (indictment or information). And, a person may not be punished for a crime without a formal and sufficient accusation.

"A court can acquire no jurisdiction to try a person for a criminal offense unless he has been 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, 8 (1927). No mode or form for felony complaint.

5 **Section 738:** "Before an information is filed there must be a preliminary examination of the case against the defendant and an order holding him to answer under Section 872. The proceeding for a preliminary examination must be commenced by written complaint, as provided elsewhere in this code." (Emphasis added.) (§§ 738, 740; (806).)

6 **Section 872:** "the magistrate shall make or indorse on the complaint an order, signed by him or her, to the following effect: 'the offense in the within complaint...has been committed,...I order that he or she be **held to answer** to the same.'" ((Emphasis added.) Inasmuch as the felony complaint is bogus, the judge's endorsement is without jurisdiction and void. The case must be dismissed. A valid information may not be filed.

7 "If a judge does not fully comply with the Constitution, then that judge's orders are void." In Re Sawyer, 124 U.S. 200 (1881).

8 "Whenever a Judge acts where he or she does not have jurisdiction to act, the judge is engaged in an act or acts of treason." U.S. v. Will, 449 U.S. 200, 216 (1980).

"We [Judges] have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the Constitution." Cohens v. Virginia, 6 Wheat. (19 U.S.) 264, 404 (1821).