

January 10, 2022

Dear Mike Schmidt,

Re: Letter of Resignation

Please consider this letter my official notice of resignation. After nearly 13 years as a Deputy District Attorney, and despite loving my job, I am no longer willing to continue at the Multnomah County District Attorney's Office. By way of explanation and with the hope of fostering improvement for the future of our office, I will provide my reasoning.

First, I am not leaving due to philosophical differences between your vision and my own. To the contrary, I believe change is long overdue and had hoped I would be part of the move into a more progressive, equitable, just and effective criminal justice system. I was looking forward to partnering with you to implement some of the ideas you expressed in your campaign.

However, the last 18 months have brought some aspects of your leadership and our office into clear focus. Like all women, I have struggled to overcome gender biases my entire career. Over the years, I have tried to make the Multnomah County DA's Office a workable office for women and mothers. I mentor, befriend, and advocate for women, mothers and parents. I am a role model for others in our office and show younger DDAs that it is possible to be both a fierce trial attorney and a dedicated mother. I am one of two trial attorneys in our office, and the only female, who has three young kids at home and a full-time working spouse. Since joining our office in 2006, MCDA has made baby steps of progress. Slowly, more women were recruited, retention improved, and women held an increasing number of leadership positions. I was confident my priorities would align with yours and that gender discrimination would be further mitigated through your administration and your stated preference for diversity in leadership.

In the last year and a half, not only has the forward progress women made in our office ceased, but under your leadership women have been set back decades. I'm unsure whether this failure is due to intentional gender discrimination on your part, or whether your implicit bias is running unchecked.

The attorney management in our office is comprised of only one female (17% of total management)¹, despite the current ratio for lawyers at about 50/50 men and women. Of the lawyers in leadership positions (management + Level 4 Supervisors), 80% are men and 20% are women (only 4 women).² The very next level down, non-supervisors (Level 3 lawyers) are nearly 70% women.³ The newly created

¹ Attorneys in management: DA Mike Schmidt (M), First Assistant Jeff Howes (M), Policy Director Aaron Knott (M), Chief Don Rees (M), Chief Glen Banfield (M), Chief Kirsten Snowden (F) = **83% male and 17% female**. (Highlighted = promoted/hired by DA Schmidt)

² Attorneys in management plus attorney supervisors: DA Mike Schmidt (M), First Assistant Jeff Howes (M), Policy Director Aaron Knott (M), Chief Don Rees (M), Chief Glen Banfield (M), Chief Kirsten Snowden (F), SDDA Tom Cleary (M), SDDA JR Ujifusa (M), SDDA Kevin Demer (M), SDDA Nathan Vasquez (M), SDDA Betty Yada (F), SDDA Amanda Nadell (F), SDDA John Casalino (M), SDDA Lori Fellows (M), SDDA Dave Hannon (M), SDDA Eric Zimmerman (M), SDDA Todd Jackson (M), SDDA Adam Gibbs (M), SDDA Shawn Overstreet (M), SDDA Ernie Warren (M) (Warren position currently vacant) = **80% male and 20% female**. (Highlighted = promoted/hired by DA Schmidt)

³ Level 3 lawyers (non supervisors): DDA Judy Swanson (F), DDA Caroline Wong (F), DDA Nicole Harris (F), DDA Amber Kinney (F), DDA Becky Freeman (F), DDA Kelley Rhoades (F), DDA Tara Gardner (F), DDA Melissa Marrero

designation of “Lead Level 3s” – the elite squad of major felony trial attorneys, recognized for our longevity in the office, complex caseload, and homicide call-out duty, but who are *not* supervisors – are almost all women (89% are women and 11% are men).⁴ This is a glass ceiling.

Under your leadership, seven consecutive men were promoted or hired into leadership positions.⁵ Under your leadership (or in anticipation of your leadership) eight high-level career lawyers have left our office, seven of the eight are women.⁶

For the first time in my career, and for the first time in decades, there is currently not a single female attorney leading a felony trial unit. This is an embarrassing reality in an office that prides itself on being progressive; in an office that serves and protects vulnerable victims of crime, many of whom are women who were subjected to physical and sexual violence by men, many of whom are, understandably, frightened and intimidated by men. Our community is better served by gender diversity in government agencies, especially prosecution. Our community and the vulnerable victims we serve deserve female prosecutors.

Further complicating this career choice is the overwhelming amount of work our individual DDAs are expected to carry. Being a prosecutor has always been a busy job. I am used to carrying a heavy caseload and working evenings and weekends. However, my caseload, and all caseloads in our office, have doubled in the last two years. I handle some of the most important crimes in our community, sexual and physical crimes against children and child homicides. To increase my caseload to double is unworkable and reckless. This crushing load has forced us all to work below our standards and for our community to receive lower quality prosecution.

To clearly illustrate my unmanageable caseload, I am attaching a copy of my trial calendar. Almost every case on this list is over a year old, some are three plus years old. Almost every case on this list involves a defendant in pretrial custody pending very serious charges of sexual violence against a child. My trials typically last one to two weeks. When in trial, I go days without seeing my children. I carry this load while also being subject to homicide call-outs where I am expected to keep my cell phone on at all times in the event I am called to the scene of a homicide, often in the middle of the night, often 10-20 straight hours of work without any notice.

Increased caseloads is not entirely your fault. The COVID pandemic has caused courts to operate at a lower capacity. Crime rates are high, due in part to the complex politics surrounding law enforcement

(F), DDA Kate Molina (F), DDA Nicole Hermann (F), DDA Kelly Burris (F), DDA Trista Speer (F), DDA Mariel Mota (F), DDA Adrienne Anderson (F), DDA Rachna Hajari (F), DDA Travis Sewell (M), DDA Chuck Mickley (M), DDA Jeff Lowe (M), DDA Chris Shull (M), DDA Sean Hughey (M), DDA BJ Park (M), DDA Brad Kalbaugh (M) = **32% male and 68% female.**

⁴ “Lead” Level 3 DDAs (non supervisors): DDA Amber Kinney (F), DDA Nicole Hermann (F), DDA Nicole Harris (F), DDA Kate Molina (F), DDA Kelley Rhoades (F), DDA Tara Gardner (F), DDA Kelly Burris (F), DDA Melissa Marrero (F), DDA Chuck Mickley (M) = **11% male and 89% female**

⁵ Hired/Promoted into leadership by DA Schmidt: Policy Director Aaron Knott (September 2020), SDDA Todd Jackson (March 2021), Chief Glen Banfield (June 2020), SDDA Ernie Warren (July 2020), Kevin Demer (September 2021), Shawn Overstreet (September 2021), SDDA Eric Zimmerman (September 2021) = **7 consecutive men**

⁶ Level 3 and above lawyers who have left the office: SDDA Traci Anderson (July 2020), Level 3 DDA Ashly Crockett (March 2021), SDDA Brian Davidson (August 2021), SDDA Jenna Plank (September 2021), Level 3 DDA Anna Fuller (September 2021), Level 3 DDA Susan O’Connor (September 2021), SDDA Amity Girt (October 2021), DDA Kelley Burris (December 2021) = **7 women, 1 man**

response. However, our caseloads are unreasonably high due also (and in large part) to mismanagement within our office. And that *is* your fault. The cases I handle are almost entirely comprised of Ballot Measure 11 (mandatory minimum) felonies, many subject to laws requiring a mandatory minimum of 25 years in prison (Ballot Measure 73 and Jessica’s Law). As you are keenly aware, you ran a campaign opposed to Ballot Measure 11 and mandatory minimum prison sentences. However, since taking office 18 months ago, you have not provided any new policies or direction to the DDAs about how we should handle mandatory minimum cases: whether we should resolve them differently, or whether we should issue them differently. We are met with frustration by judges and defense attorneys when we attempt to resolve cases and we make recommendations that are perceived to be inconsistent with your campaign rhetoric, yet we have received no direction to depart below our standard offers. In case resolution staffings with my Chief DDA and others in my unit, it has become clear that due to your lack of policy driven direction, nobody actually knows how our cases should resolve anymore. In a climate of uncertainty, in an office where I have watched my peers be reprimanded for resolving cases too aggressively or too low (under your leadership), and when dealing with people’s lives and years in prison – it is unnecessarily stressful to shoulder the burden of high-prison resolution without guidance. Lack of clear policy and vague statements by you to the media has generated tension between DDAs, defense attorneys, and our bench and created a climate within our office where DDAs are unsure of the right resolution. This climate has the potential to generate inconsistent results and introduce biases. This has made it more difficult to resolve major felony cases. Cases are languishing on our caseloads and clogging up the court dockets far longer than they should. As a result, criminal defendants are remaining in pretrial detention far longer than they ever have in my career. As a result, victims are prejudiced by the delay and subjected to increased stress and anxiety. You have undermined us, seasoned prosecutors, and deprived us of the confidence and ability to resolve major felony cases. To be clear, I am not opposed to lower-prison resolutions on mandatory minimum cases. If that is what you prefer, then I simply ask that you provide that guidance in the form of some new internal policy.

Increased workloads disproportionately impact women. Women, especially those of us who are also mothers, are often tasked with much of the domestic responsibilities in addition to our career responsibilities. Women are far less likely to have a career and a stay-at-home partner. In fact, I do not know of a single female attorney in our office who has a stay-at-home partner. By contrast, many male attorneys in our office do have stay-at-home partners. So when workloads increase, it disproportionately impacts those whose lives do not allow for continued absorption of increased work. If retaining female prosecutors is a priority, then MCDA must acknowledge the inherent differences between women and men. You must examine your implicit gender biases and make conscious accommodations to correct for the unequal impact of this work on women. This, coupled with the lack of leadership opportunities for women, is why we have lost so many experienced and talented female attorneys. Since you took office in August 2020, we have lost eight career prosecutors – seven of the eight are women. I am the ninth. And I will not be the last.

Meanwhile, you must know how your decision to hire Ernie Warren impacted women in the office. Many of us, had you asked, could have shared with you our discomfort with that decision based on our personal and previous experiences with him. You hired him to become the supervisor of the “Justice Integrity Unit” – the very unit tasked with bringing integrity back to the justice system. A unit tasked with remedying and correcting for the biases that have caused disproportionate impacts on criminal justice. Ironically, Mr. Warren lasted 42 days before he was forced to resign for sexually harassing a female colleague. Your poor decision making has left women in the office feeling vulnerable and our

opinions inconsequential. We are all waiting to see who you decide to fill the vacancy left by Mr. Warren, and whether this will be filled by yet another man.

As you know, I have worked as an MDT prosecutor handling cases involving child victims for over six years. I have never in my career received negative feedback, criticism, or caused drama. I do not seek out conflict in the office and am not typically outspoken as an agitator. To the contrary, I have kept my head down and worked my cases, with genuine loyalty to the victims I serve, deference to the court, and respect for my colleagues both inside and outside of our office. I have grown to love this work. When, six years ago, the office selected me to serve as one of four attorneys on our child abuse team, I was overwhelmed and did not think I had the emotional stamina and mental capacity to work the most serious and highest priority cases in prosecution. I surprised myself. My cases, the victims I meet, and the families I help are and will forever be the bright spot of my career. This work is important, and I feel grateful to MCDA and our community for giving me the opportunity to serve in this capacity. It saddens me deeply to think that I will leave this tremendously rewarding work. I feel intense loyalty to the victims and families on my caseload. I am sorry to them that I cannot continue to advocate for them, walk with them into the courtroom as I had promised, and assist them through one of the most difficult times in their lives. I hope they know that I am not leaving because of them, rather it is because of them that I have stayed. It has been a privilege to work with each and every one of them.

I am taken aback and disappointed by your lack of emphasis and priority on family and juvenile cases. Especially since I believe that this area of prosecution – protecting and supporting children and families – is the most essential area of criminal prosecution, with the largest potential impact on an individual's success as an adult. Research, practice, and my personal belief are that healthy families produce healthy children who become healthy and successful adults. Nearly every adult who intersects with the criminal justice system has trauma rooted in their childhood. Every child, youth, and family deserves our support. Supporting families is (in my opinion) the most progressive form of criminal justice reform, as it has the highest potential to divert would-be offenders before they ever offend. The State of Oregon is a party to juvenile dependency proceedings. But you decided that MCDA will no longer be representing the state in general juvenile dependency matters. You have essentially gutted our juvenile unit – at a critical time when the families in our community need support more than ever, during a time when we should be doubling-down on the support we give. You chose to cut this support. Without any recourse because you haven't told our community. In fact, you haven't even told us. In another example of poor management, there was no internal announcement or written policy. You simply made the decision unilaterally and told our courts that MCDA would no longer be appearing in general dependency cases. To this day, no one within management has asked me – a lawyer entrusted with this very work for the last six years – whether I valued dependency work. Had someone asked, my answer would be YES, very much so. I believe our community deserves a District Attorney who prioritizes children's health and safety, supports families, and values the State's involvement in dependency cases.

Finally, I am disappointed by how I have been treated personally by management. You are aware of my career trajectory in this office. You and I started working together as baby lawyers in 2007 and 2008. I trained you on misdemeanor row and at misdemeanor intake. You know that while I have never held a leadership position in this office, I have always been a leader informally. I mentor lawyers and law students both inside and outside our office. I am creative and dynamic – always finding new ways to inspire, teach, and advocate for others.⁷ I carry a robust caseload and am one of the most talented trial attorneys in our office. I was a rising star. This upward trajectory came to an abrupt halt in the last six

⁷ See Tiktok @knowabuse

to nine months. All of a sudden, I was passed over for promotion repeatedly by lawyers with less diversity and less experience than me. I don't know why this has happened, but I suspect it has something (or everything) to do with me becoming vocal about the mistreatment of women in our office. I attempted to seek feedback from management. I spoke separately to First Assistant Jeff Howes and Chief DDA Don Rees requesting feedback and recommendations for improvement, and was met with hostility and told they would not speak to me without union representation because they feared civil litigation. Not deterred by this hostility, I met with Jeff Howes with union reps present. Jeff told me that promotion decisions were made based on objective and subjective criteria. While I am meeting objective criteria (as documented by every one of my annual reviews), I am perhaps not meeting subjective criteria. Jeff Howes was unable or unwilling to provide me with any information as to what the subjective criteria are – except to say that it is your decision, not his. Likewise, in a follow-up meeting with Chief DDA Don Rees (my direct Chief who supervises me), he was unable to identify anything that I needed to improve and was unable to tell me why I was being passed over for promotion – except to say that it is your decision, not his. A promotion system based on unknown, subjective criteria is a system ripe for discrimination, implicit bias, and retaliation.

You campaigned on a promise of transparency and legitimacy in decision making impacting the criminal justice system and internally within our office. You are not living up to this promise. There is no transparency. I don't know whether the lack of transparency is due to your intentional desire to prevent scrutiny, or perhaps a genuine absence of structure and coherent decision making. The result is a current management scheme that operates without authority, consistency, or confidence. Your lack of transparency is felt by the staff you oversee and the public you serve. We are disappointed.

I will take one more Jessica's Law child sexual abuse case to trial before I leave. I have a case I indicted in 2018 set to begin trial on January 18, 2022. I expect this to be my last trial at MCDA. I am requesting my last day be February 3, 2022.

With sincere regret and disappointment,



Amber Kinney
Level 3 Child Abuse Prosecutor
Multnomah County District Attorney's Office

Amber Kinney's Trial Schedule

1/18/22 – TRIAL: Martinez Barrera, 18-CR-82841 (week 1)

- Booked 12/13/2018

Double Book: Hearon, 19-CR-69728

- Booked 12/16/2019

1/24/22 – TRIAL: Martinez Barrera, 18-CR-82841 (week 2)

- Booked 12/13/2018

Double book: Carmello, 19-CR-26932 (week 1)

- Custody 9/20/19

Teiple book: Perez Martinez, 20-CR-15737 (8 day trial)

- Custody since 3/10/20

1/31/22 – TRIAL Carmello, 19-CR-26932 (week 2)

- Custody 9/20/19

Double book: Perez Martinez, 20-CR-15737

2/7/22 – ITMO R.C. dependency trial (5 days)

- Complex Case: Fatality

2/14/22 – TRIAL: Oxford, 14-02-30856 (week 1)

- Full reversal on *Ramos*

Double book: TRIAL Benfit, 20-CR-36086 (one week)

2/21/22 – TRIAL: Oxford, 14-02-30856 (week 2)

2/28/22 – open

3/7/22 – TRIAL: Parsons, 16-CR-36224 (week 1)

- Full reversal on *Ramos*

Double Book: TRIAL ITMO M.S. Dependency (5 days)

- Complex case, child fatality

3/14/22 – TRIAL: Parsons, 16-CR-36224 (week 2)

3/21/22 – Spring Break

Trial: E.G. Dependency Trial

- Complex case; Abusive Head Trauma

3/28/22 – TRIAL: Rich, 18-CR-58866 (week 1)

- Out of custody; complex case

Double Book: TRIAL Howe, 21-CR-17608 (one week)

4/4/22 – TRAL: Rich, 18-CR-58866 (week 2)

- Out of custody; complex case

Double Book: Wilkins, 19-CR-37128 (week 1)

- Out of custody

4/11/22 – TRIAL: Rich, 18-CR-58866 (week 3)

- Out of custody; complex case

Double Book: Wilkins, 19-CR-37128 (week 2)

- Out of custody

4/18/22 – TRIAL: Perez Martinez. 20-CR-15737 (week 1)

- Custody since 3/10/20

4/25/22 – TRIAL Perez Martinez: 20-CR-15737 (week 2)

5/2/22

5/9/22 – JUDICIAL CONFERENCE

Dependency Trial: R.C. for T.G. and J.G. (5 days)

5/16/22 – TRIAL: Zamora Chona, 20-CR-63221 (week 1)

- Custody since 11/20/20

5/23/22 – TRIAL: Zamora Chona, 20-CR-63221 (week 2)

5/30/22

6/6/22 – TRIAL: Thomas, 20-CR-68325 (week 1)

- Custody since 1/26/21

6/13/22 – TRIAL: Thomas, 20-CR-68325 (week 2)

6/20/22 – Holiday Juneteenth (4 day week)

6/27/22

7/4/22 – Holiday (4 day week)

7/11/22

7/18/22

7/25/22

8/1/22

8/15/22

8/22/22

8/29/22

9/5/22

9/12/22

9/19/22 – TRIAL: Joseph, 19-CR-20311 (week 1)

- Booked 8/9/19

9/26/22 – TRIAL: Joseph, 19-CR-20311 (week 2)

- Booked 8/9/19

10/3/22