

Greetings,

I appreciate the ACLU's interest in the Jefferson County Prosecuting Attorney's / Coroner's race. Jefferson County is located in the North Olympic Peninsula; it has a population of just over 30,000 people. The county is 92% Caucasian and the average age is 54 years.

I am deeply committed to the ethical practice of law and to fair treatment of criminal defendants both in terms of whatever individual background that person may have as well as to the fair application of criminal procedural rules. The State of Washington provides charging standards for prosecutors in the Revised Code of Washington that encourages prosecutors not to charge crimes in a variety of circumstances, e.g. antiquated statutes, de minimis offenses, etc. (RCW 9.94A.411, 13.40.080). I review these statutes frequently. And I review criminal code which I am applying during charging EVERY SINGLE TIME. I will not charge cases where investigations are incomplete nor where probable cause exists, but nothing more. I will instruct my subordinate attorney's to do the same. I was trained to only look at the facts of the case and the law to be applied, furthermore, when I interned at the King County Prosecuting Attorney's Office I was instructed on their "conservative filing policy;" a policy that I am interested in bringing to Jefferson County. A person's ethnic background, race, sex, sexual orientation or other personal traits are not something that I have ever taken into consideration when charging a case, nor would I as I believe it is morally wrong and a violation of the Rules of Professional Conduct.

As I am sure you are well aware, prosecutors do not set bail; judges do. We are limited in the arguments we can provide to the court in requesting bail: the future likeliness of the individual to endanger the community, to interfere with the case, and their future likelihood to appear for court. This is with the understanding that pre-trial release is presumed. CrR 3.2. I evaluate every case individually using only that criteria – as I believe that is the only criteria that is relevant from both a legal point of view, but also a logical and moral one. It is interesting that the question of judge's using risk assessment tools has come up. I have neither witnessed this, nor ever heard of it. I think that so long as it comports with CrR 3.2 it could be helpful, but it is difficult for me to speculate having had zero experience with such tools.

I am in the business of prosecution because I think it is important and because I want the system to work. I am confident that the system will not work if the people in it do not want it to. This means having a criminal justice system that seeks to remediate the ills that cause people to come into contact with the criminal justice system. The two most common culprits are chemical dependency and mental health. I firmly believe that the State of Washington needs a more robust Department of Social and Health Services to assist us in combating these problems. In a perfect world DSHS would do much of the work that the county prosecutors do now. But until that time comes we must use the tools we have and partner with as many people and resources that we can to help those who are plagued by addiction and mental illness. I will not turn my back on them though. Drugs, particularly Heroin, which is resurgent, are deadly, they kill people. I see this frequently in my role as a coroner. Every person who succumbs to drug addiction is somebody's father, mother, brother, sister, son, or daughter. They are people who matter. Every contact they have with the criminal justice system is an opportunity for treatment, and it might just be the one time that treatment works. I have to take that chance. Incarceration is bad but death is worse.

Thank you for taking the time to read my response.

Sincerely,

James Kennedy
ACLU Member since 2012