

Dear Councilmembers and Executive Constantine:

The purpose of this email is to extend an offer to meet with you to discuss the Prosecuting Attorney's Office's (PAO's) work relating to sexual assault cases involving both juveniles and adults in the event that you or your constituents have questions about the PAO's response to sexual assault cases. I am happy to meet with you and share information. It is important to me that our county leaders and our community understands the work of the office and our decision-making.

There have been reports that the PAO "chooses" to file 17% of the juvenile sexual assault cases referred to our office. This is misleading. In many cases sent to the PAO, the investigating detectives do not believe there is evidence to prove a crime, and they clearly state this in the case referral. Law enforcement refers these cases to us, even though they do not believe a crime has been committed, because they are statutorily required to report this information to a prosecutor. These types of reports are referred to as "statutory referrals." For those who do not understand the nature of statutory referrals, they may believe that the PAO is declining to file charges in a viable case. However, these reports are referred to us by law enforcement without belief that a crime has been committed and without sufficient evidence to support the filing of charges. Nonetheless, each statutory referral is reviewed by the PAO to determine if any additional investigation would help uncover evidence which could support the filing of charges.

Every case referred to our office, including sexual assault cases, is independently reviewed, and the PAO files charges when there is sufficient admissible evidence. We decline to file charges in cases where we lack sufficient evidence to prove our case beyond a reasonable doubt. There is an oft-repeated adage that prosecutors can simply file charges and let the jury decide what "sticks." However circulated or oft-repeated this adage is, it does not accurately reflect a prosecutor's ethical obligation to *not* file charges where there is insufficient evidence.

I believe that anyone who takes the time to speak with the Senior Deputy Prosecuting Attorney's (DPAs) who carefully review detailed sexual assault police investigations, meet with victims, and inform victims and survivors of our decisions would appreciate the thoroughness, dedication, and commitment these DPAs bring to their work.

In 2020, the King County Auditor's Office examined declines in sexual assault cases. When auditors reviewed the PAO's decision-making, they determined that *no* cases were incorrectly declined and that the PAO's decision-making was sound in each decline. The PAO openly participated in this audit because we believe in transparency and welcome independent reviews of our work by impartial auditors.

There also have been questions about a 2021 case mentioned by KOMO. In this case involving a teenage victim and a teenage suspect, Seattle Police Department (SPD) detectives reported the case to us, but did not believe that there was evidence to charge a crime. While this case was sent to us as a statutory referral, the PAO still reviewed it, as we do with each statutory referral.

In this case, the PAO asked SPD to do some additional investigation, which they did. Despite this additional police work, SPD did not find additional evidence that would be sufficient to support the filing of charges. Even though our DPAs believed the victim in this case, we could not ethically file charges because we lacked sufficient evidence and did not believe we would be able to prove this case to a jury beyond a reasonable doubt. This case was carefully reviewed more than once by multiple Senior level

DPA's from both our adult and juvenile criminal divisions. The SPD detectives assigned to this case agreed with the PAO's conclusion that charges could not be filed.

The Senior DPAs who reviewed this case met with the victim's family and shared the detailed reasons behind our decision to decline. Understandably, the victim's family was upset. Subsequently, a complaint was filed against the police investigators with the Seattle Office of Police Accountability. The complaint was not sustained.

If you have questions about this case or the PAO's response and decision-making in sexual assault cases, I am happy to meet with you so that my Team and I can share detailed information regarding the PAO's approach to these cases. For now, here is some basic data:

- In 2022, the PAO received 263 referrals from law enforcement involving allegations of sexual abuse committed by juveniles.
- Of these 263 referrals, 104 (40%) were sent by law enforcement as "statutory referrals only" (SRO). SROs are the label given to referrals where the *referring detective* does not believe that a crime was committed or that there is sufficient evidence to support the filing of charges. Sexual assault investigations are the only type of crime where there is a state law that requires police to refer a case to the PAO, even if police do not believe a crime was committed and where police do not believe they have sufficient evidence to establish probable cause. As a result of this law, many sexual abuse allegations are sent to the PAO with the full understanding by law enforcement that there is *not* sufficient evidence to support the prosecution of *any* crime. Instead, these allegations are forwarded to the PAO because state law requires law enforcement to do so.
- When the 104 SROs are removed from the 263 referrals (forwarded by law enforcement in 2022), 159 cases remain. Of the 159 remaining cases, the PAO filed charges in 51 cases and 10 were *mandatory* (not discretionary) diversions under state law. The PAO is legally prohibited from filing charges in mandatory diversion cases. (This was not mentioned in a recent KOMO report even though this information was shared and discussed with the reporter.)
- In total, the PAO concluded that criminal legal action could be taken in 61 cases (51 charged, 10 mandatory diversions) – or 63%, a charging rate that has been consistent over decades, going back to when Norm Maleng was the Prosecuting Attorney.
- The PAO declined 36 of these cases in 2022 because there was insufficient evidence to support the filing of criminal charges. Whenever the PAO declines a sexual assault case, we notify the victim or victim family member, law enforcement, and the King County Sexual Assault Resource Center.

You may notice that these numbers (51 filed cases, 10 mandatory diversions, and 36 declines) do not add up to 263 (the number of sexual assault referrals involving juvenile respondents in 2022). That is because a case may be referred in one calendar year but filed or resolved in a subsequent calendar year. The PAO reports the number of cases received, filed, declined, and resolved by calendar year.

Thank you for taking the time to read this email. I am always happy to discuss or explain the PAO's decisions on sexual assault or other cases. Please let me know if you have any questions regarding this email or the work of the office.

Sincerely,
Leesa



Leesa Manion (she/her)

Prosecuting Attorney

King County Prosecuting Attorney's Office

516 3rd Avenue | Seattle | WA | 98104

Office: (206) 477-1200

Email: leesa.manion@kingcounty.gov