

# County of Santa Clara

Office of the District Attorney

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Jeffrey F. Rosen  
District Attorney

February 12, 2024

*Sent Via Electronic Mail*

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The Honorable Molly O'Neal  
Santa Clara County Public Defender's Office  
120 West Mission Street  
San José, CA 95110

Re: Mark McNamara

Dear Ms. O'Neal:

In November of 2023, a news story revealed that disgraced, former officer McNamara had sent a series of virulently racist text messages. While the investigation is on-going concerning further potential text messages, we had learned enough already to conclude that he is a bigoted man, a disgrace to public service, and we do not trust him.

To that end, the District Attorney instructed me to lead an effort to pull all our old cases where McNamara was involved. We did this by using our digital data management system to locate every case in which MacNamara was listed as an involved officer. Once we did this, we reviewed each case.

The District Attorney decided that even though the evidence of McNamara's bigotry came after these cases, for the purpose of this project we would assume that he held the same beliefs at the time of the older case. Furthermore, we did not limit this inquiry to cases where the defendant was a certain race. Instead, we decided that his bigotry made him untrustworthy irrespective of the race or ethnicity or gender of the defendant or victim.

Once we reviewed each case, our goal was to determine if we relied upon any testimony or evidence of McNamara. We then evaluated the case excluding that evidence. For example, if McNamara provided evidence that an individual acted suspiciously, we considered that a case where we relied upon McNamara's evidence. By contrast, if a woman testified that a defendant had beaten her, but McNamara had initially contacted the victim, we were relying upon *the victim's testimony* and not McNamara's initial report. As you know, in most cases the race or ethnicity of victim and perpetrator are the same. A grave threat of a bigoted police officer is both towards individuals he may unfairly target for excessive enforcement but also to victims who he may belittle. Therefore, we would not compound McNamara's bigotry by discounting the evidence and testimony of our victims who are

Public Defender Molly O'Neal  
Re: Mark McNamara  
Page 2 of 2  
February 12, 2024

predominantly people of color. Nonetheless, if the case relied upon his evidence, we will dismiss the case.

We discovered that McNamara was involved in approximately 54 cases where we filed charges. We had already dismissed about 13 of these cases prior to our review. After our review, we plan on dismissing five additional cases since we relied upon McNamara's evidence. The remainder were not dependent on McNamara's evidence.

While we gathered a diverse and committed team of prosecutors to evaluate these cases, we know that we can make mistakes, so we will share with you the docket numbers of all the public defender cases that we pulled. If you disagree with our assessment or believe we missed something, please let me know, and we can discuss further. You are of course always free to file any claims you might have if you disagree.

The 43 cases attributed to your office involving Mark McNamara that Office of the District Attorney has reviewed are: C1884597, C1884978, C1891298, C1895895, C1894273, C1894037, C1894243, C1896318, C1801395, C1897588, C1803070, C1803003, C1807674, C1808388, C1808593, C1808677, C1808677, C1903396, C1908776, C1904476, C1913467, C1911017, C1914004, C1917899, C1915436, C1916999, C1922457, C2001029, C1923467, C2000840, C2007883, C2005163, C2008038, C2011664, C2200553, C2208427, C2208803, C2213943, C2301881, C2303656, C2304106, C2306469.

After a comprehensive review of cases in which he provided evidence, we have concluded that some of them may be tainted. While we did not uncover any evidence of obvious racism or dishonesty, in an abundance of caution we intend to dismiss those specified cases and are open to discuss others.

Here is a list of 16 of your cases which we believe should be dismissed (dismissals have occurred in some of these cases already): C1884597, C1896318, C1897588, C1803003, C1808388, C1808677, C1808677, C1903396, C1904476, C1911017, C1917899, C1915436, C2001029, C2011664, C2200553, C2213943.

Once you've had a time to review this work and contact your clients as you deem appropriate, please feel free to contact me concerning next steps.

Yours truly,



David Angel  
Assistant District Attorney

DA/dm