



February 14, 2024

Prosecutor Michael C. O'Malley
The Justice Center
1200 Ontario Street, 9th Floor
Cleveland, OH 44113

Dear Prosecutor O'Malley:

We have received your February 11th letter and are disappointed that you have indicated you will not be present at Antioch Baptist Church to offer your responses to the questions we shared with you at our February 8th briefing. Up to 1,000 residents of Cuyahoga County, both in-person and online, will be deprived of your views on youth violence in our community. We will still have a seat for you next to the other primary candidate at the front of the sanctuary at Antioch Baptist Church should you reconsider.

Some of the points you made in your letter could not go unchallenged, and we have provided our responses below. We were especially troubled by your comments regarding extortion, which were exceedingly inflammatory and untrue. Please see our responses below.

Sincerely,

Rev. Ryan Wallace, co-chair, GCC Bindover Issue Team
Rev. Dr. Napoleon Harris V, co-chair, GCC Bindover Issue Team

Keisha Krumm, Executive Director/Lead Organizer

GCC Strategy Team Members: Rev. John Lentz, Rev. Lisa Goods, Rev. Jawanza Colvin, Rev. James Crews, Rabbi Steve Segar, Rev. James Quincy, Rev. Joanna D'Agostino, Louise McKinney, Amy Zipp, Donna Weinberger, Lee Markowitz

Dear Ms. Krumm,

Having had time to consider the commitments that your organization has asked me to make and having reviewed our email communications over the last month, I wanted to share the following thoughts with you.

I agreed to consider speaking at your assembly on February 20th provided I would not be asked to violate my oath of office. Unfortunately, according to your proposed meeting agenda, that condition has not been met.

Prosecutor O'Malley, we find it a bit disingenuous that attending a candidates' forum attended by 1,000 Cuyahoga County voters and answering questions related to youth bindover are a violation of your oath



of office. We know that you have attended other forums where you have answered questions from voters.

In Ohio, Marsy's Law is composed of both a constitutional provision as well as statutory sections in the Ohio Revised Code. Together these laws require the County Prosecutor to meet with victims and their families at critical stages of the criminal justice process and to provide them with an opportunity to be heard. Any request for a commitment by the GCC that would demand that I ignore a victim's input in a case is something that I will not do.

One of the commitments you intend to request is that I ignore Marsy's Law by imposing a moratorium on the filing of discretionary bind-over motions. As mentioned above, I believe making such a commitment would be a violation of my oath of office under which I have agreed to follow the Constitution and to uphold the laws of the State of Ohio.

Prosecutor O'Malley, at no point have we asked you to ignore the input of victims. We share your concerns that victims and their families are given voice and support, and we understand that you are bound by law to "confer with the victim and victim's representative if requested."

However, our request to put a moratorium on discretionary bindovers does not violate Marsy's Law. Even if a victim or victim's representative requested a discretionary bindover, your office is not required to accede to their request: "The court may not dismiss a complaint, charge, information, or indictment solely at the request of the victim or victim's representative over the objection of the prosecutor." [R.C. 2930.06(A)(4)]

I was surprised to learn during our discussion that the GCC's ultimate goal is to end all mandatory and discretionary bind-overs entirely. Given that 53% of the youths bound over in 2023 were for charges of Aggravated Murder, Murder, or Attempted Murder, I believe that achievement of your goal would have a significant impact on the safety of our community. I stress that directing your efforts toward preventing these crimes would be far more beneficial to the community.

Prosecutor O'Malley, we never stated a goal to "end all mandatory and discretionary bind-overs entirely." We stated a goal to reduce bindovers in Cuyahoga County, and we expressed a belief that all children are redeemable.

Further, the request that my office commit to delaying the filing of bind-over motions until more is learned about both the offense and the juvenile is a practical impossibility. By rule, it is the very act of filing the motion that triggers the ordering of a thorough investigation and preparation of a report. In 2022, upon reviewing these reports, my office withdrew 34% of the bind-over motions we filed. (2023 statistics are not yet available as many of those cases are still pending.)

Prosecutor O'Malley, a discretionary bindover motion is not required in order for a defendant's attorney to file a mitigation report. Your office could also request other diagnostic reports before you make a final decision about whether to file a bindover motion. The Public Defender's Office has previously



recommended that the Prosecutor's Office form an advisory committee to review relevant reports and make recommendations to your office about appropriate dispositions to pursue, including whether or not a discretionary bindover motion would be appropriate in a given case.

Perhaps most concerning is the request that the office of the County Prosecutor commit to providing \$500,000 from its budget to the GCC for programming. It is troubling that you would invite me to an assembly and demand that I allocate public money to your organization. In discussing your request with people in county government and within the criminal justice system, all are in agreement that it has both the look and feel of extortion. I do not say that lightly.

Prosecutor O'Malley, we did not ask your office to give any funds to Greater Cleveland Congregations. We requested that you commit \$500,000 in public funding to the Brenda Glass Trauma Center, which exists "to provide comprehensive outreach, case management, peer support, and mental health services in the greater Cleveland area to individuals and/or families who experience a violent crime and who are underserved or lack access to services and assistance needed to recovery holistically from that experience." We consider this a very reasonable request given our shared concern that victims and their families receive the care they need.

As a result, I must politely inform you that I will not be attending your February 20th assembly.
Sincerely,

Michael C. O'Malley