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October 19, 2020

Lindsey Callahan
Deputy Prosecuting Attorney
San Juan County Prosecutor's Office
350 Court Street
P.O. Box 760
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Re: *State v. Fopma 20-48; State v. Perry 20-07*

Dear Lindsey,

I write in response to your plea offer of October 12 and the restitution figures you provided me today regarding restitution.

My clients are prepared to accept the terms of your offer but for the State's requirement that my clients complete an approved course.

I ask that you reflect upon the wisdom of having the state condition prosecution on an accused's willingness to submit to social studies programming.

Your proposed courses, University of Colorado's, "Anti-Racism I"; Yale's, "African-American History: From Emancipation to the Present"; and, Stanford's "African-American History: Modern Freedom Struggle" are undoubtedly of interest and value to many.

Ms. Perry and Mr. Fopma believe that in America citizens should be free from compulsory political education. This holds especially true for viewpoint infused curricula.

The normative aspect of your office's proposed courses is inescapable. For instance, Stanford's Prof. Carson is only 3 minutes and 24 seconds into the course when he pronounces, "I think it can be said *without question* that [W.E.B. Dubois] is the most influential American intellectual of the century."¹ (Emphasis supplied.). While there is certainly no denying Mr. Dubois' contribution to thought in the 20th Century, reasonable minds might differ and as to his

¹ <http://www.openculture.com/african-american-history-modern-freedom-struggle-a-free-course-from-stanford>

preeminence – as an aside I would note that a fairly good argument could be made for Albert Einstein.

Your office's suggestion of University of Colorado's "Anti-Racism I" is even more curious. This from the course's syllabus:

"For this final week of the anti-racism course you will see how the application of these terms and concepts are tied to other overlapping oppressions and how they can be used for specific anti-racism work, such as defunding the police (and why this is not as radical as people may think it is, though in many ways to imagine an anti-racist world is a radical act) and specific actions that each of us can do to be anti-racism allies and educators."²

Simply, my clients are not interested in defunding the police. They are strong supporters of the police and the good and necessary work that they do. To the contrary, we think a Prosecutor such as yourself should be supportive of the police and their funding.

Yale's offering is similarly politically normative. The overview of Lecture #22 published on Yale's website tells students they might look forward to Prof. Holloway's view that "[w]hile Jimmy Carter diversified the executive branch of the federal government through White House appointments, Ronald Reagan had a more covert approach to racial politics. By claiming that the federal government was the real problem, and calling for a return to states' rights, Reagan implicitly supported the centralizing power of racists like Bull Connor and organizations like the KKK."³

I ask you to consider whether or not your offer unwittingly slouches uncomfortably towards those same methods used by totalitarian governments. Systems where political thought is prescribed according to the existing political proclivities of their leader of the day.

In short, Mr. Perry and Ms. Fopma, who have lived their respective 74 and 66 years with no criminal infractions, would prefer to sit in jail for their alleged misdemeanors than be forced a political agenda to which they do not subscribe.

Again, should the State wish to amend its offer so that Mr. Perry and Ms. Fopma might perform additional hours of constructive community service in lieu of the political (re)education you are currently mandating, my clients would accept that offer.

²https://www.coursera.org/learn/antiracism-1?utm_campaign=opencourse.stTx0slwEeqcAA5HucqXRQ.launch&utm_medium=email&utm_source=other#syllabus

³ <https://oyc.yale.edu/african-american-studies/afam-162/lecture-22>

Regards,

A handwritten signature in blue ink, appearing to be 'NP', with a long horizontal flourish extending to the right.

Nicholas Power