

July 16, 2019

**Open Letter to Marion County District Attorney  
Re: The Summer Street Siege, January 22, 2019  
and  
Petition for Release of Fire Department's Report on the Incident**

Paige Clarkson  
District Attorney, Marion County  
555 Court Street, NE  
Salem, Oregon 97301

Dear Ms. Clarkson:

I am a Marion County voter and have concerns about the integrity of your office. I am making this letter public, because no doubt you will want to put these public concerns to rest. In aid of this effort, I will be posting this letter to [www.everyones-business.org](http://www.everyones-business.org) after I deliver it to your office.

The incident at 1050 Summer Street, N.E. on January 22, 2019 began when a 39-year old man, Kenneth Ketchem, found an unlocked door in the home and unlawfully entered. Just previously, the apparently disoriented and obviously inept Mr. Ketchem had entered another nearby property and was chased out by that homeowner.

Upon discovering Mr. Ketchem in her home, the lady of 1050 Summer St. NE, fled, unharmed, leaving her two cats behind. The police were already in the vicinity, having answered a call from the first homeowner. The police went to 1050 Summer St., NE and demanded that Mr. Ketchem leave. When he did not, the Salem SWAT team was called in. As the saying goes, "All else is history."

Instead of using appropriate force, the SWAT team went RAMBO. It used tear gas and flash bangs in an attempt to flush Mr. Ketchem out. Media coverage showed smoke or tear gas vapor pouring out of the house. Eventually, after being wounded by a police missile, Mr. Ketchem was apprehended. You can read coverage of the incident at: <http://www.everyones-business.org/SummerStreet/index.html>

What Mr. Ketchem did was wrong, no doubt about it. He should be held responsible for his own actions, and charged appropriately. But it appears you are holding him accountable for not only what he did, but what he clearly could not have done.

In so doing, you are promoting a fanciful prosecutorial theory not supported by publicly available facts—in fact, your theory is *repudiated* by those facts. At the same time, you are violating the Bill of Rights of the U.S. Constitution, the Oregon Constitution, and damaging the public's trust in our justice system.

As you know, Mr. Ketchem recovered from his wound and as been in custody for more than five months. According to the County website, your office is charging him with the following offenses. <https://apps.co.marion.or.us/>

SID: 12789368	LOGGED		
Lodged: 01/29/2019 11:40	Max:	DoB: 01/08/1980	
Arrest: SMP	Type: WARRANT	Docket: 19CR05609	Hold Auth: MARION
Charge	Bail Status	Next Court	Release
1 BURG II	1000000	PRETRIA08/06/2019	08:45 CIRCUI
2 BURG I AT	CO BAIL	PRETRIA08/06/2019	08:45 CIRCUI
3 ASSA IV	CO BAIL	PRETRIA08/06/2019	08:45 CIRCUI
4 MENACING	CO BAIL	PRETRIA08/06/2019	08:45 CIRCUI
5 MISCH II	CO BAIL	PRETRIA08/06/2019	08:45 CIRCUI
6 BURG I	CO BAIL	PRETRIA08/06/2019	08:45 CIRCUI
7 BURG I	CO BAIL	PRETRIA08/06/2019	08:45 CIRCUI
8 ARSON I	CO BAIL	PRETRIA08/06/2019	08:45 CIRCUI
9 ARSON I	CO BAIL	PRETRIA08/06/2019	08:45 CIRCUI
10 ANIM AB I	CO BAIL	PRETRIA08/06/2019	08:45 CIRCUI
11 ANIM AB II	CO BAIL	PRETRIA08/06/2019	08:45 CIRCUI

Among other things, you charge Mr. Ketchem with arson, blaming him for starting a fire/fires in the home. But there are a few flaws in your prosecutorial theory:

**1. The Salem Fire Department was present during the alleged arson, but took no action to extinguish the fire/fires.**

If Mr. Ketchem had started the fire/fires, the Fire Department could have aimed its hoses at the windows of the house. The water pressure in these hoses is intense, and can easily break window glass. No firefighters would have had to enter the building. But the Fire Department took no action to put out the fire/fires Mr. Ketchem allegedly started.

So the Ketchem fires, if there were any, were not even worth squirting water on.

According to [kptv.com/news](https://www.kptv.com/news), ... “... the fire went out on its own.” ([https://www.kptv.com/news/police-burglary-suspect-arrested-after-barricading-himself-inside-salem-home/article\\_648114c4-1e6a-11e9-8b1b-93294a2a8e4a.html](https://www.kptv.com/news/police-burglary-suspect-arrested-after-barricading-himself-inside-salem-home/article_648114c4-1e6a-11e9-8b1b-93294a2a8e4a.html))

Salem-news.com reported: “... the flames self-extinguished.” (<http://salem-news.com/articles/january222019/salem-oregon-swat.php>)

A video taken by [www.koin.com/news](http://www.koin.com/news) that evening shows a light on upstairs. This is evidence the Fire Department did not even take the routine precaution of shutting down the electrical system when responding to Ketchem’s alleged arson.

The Salem Fire Department has refused to make its investigation report public. See No. 6, below.

**2. The tear gas and flash bangs used by the SWAT team were likely to have caused the extensive damage blamed on Ketchem’s alleged arson.**

Many types of tear gases are known to be flammable. And publicly available information concerning the dangers of flash bangs abound:

\* [Militarytimes.com](http://militarytimes.com) published a recent article (January, 2019) itemizing some problems with flash bangs, among them (1) both the initial flash and subsequent heat of the canisters can cause fires, and (2) standard flash bangs explode with enough force to make rocks and other debris act like shrapnel. (<https://www.militarytimes.com/news/your-army/2019/01/22/this-flash-bang-grenade-hassafety-tactical-and-timing-features-not-available-in-the-military-today/>)

\* “Hotter Than Lava” which appeared in *ProPublica* on January 12, 2015: The subhead states: Every day, cops toss dangerous military-style flashbang grenades during raids, with little oversight and horrifying results. “Hotter Than Lava” was simultaneously published in *The Atlantic*, January 12, 2015.

\* “Georgia family awarded \$3.6M after SWAT team throws grenade at baby,” (<https://rollingout.com/2016/02/27/846658/>).

\* “The flashbang menace.” *The Washington Post*, January 14, 2015. ([https://www.washingtonpost.com/news/the-watch/wp/2015/01/14/the-flashbang-menace/?utm\\_term=.fa04ef6d74aa](https://www.washingtonpost.com/news/the-watch/wp/2015/01/14/the-flashbang-menace/?utm_term=.fa04ef6d74aa))

\* “Up Close: Flash-Bang Options & Procedures” published by *Hendon Media Group*. The article cites a number of federal judicial opinions heavily condemning inappropriate use of flashbangs. ([http://www.hendonpub.com/resources/article\\_archive/results/details?id=4553](http://www.hendonpub.com/resources/article_archive/results/details?id=4553)).

Again, this information is widely and publicly available.

Note: It has been said by some that the SWAT team fired only one flash bang during the incident, and fired it outside the house. But that statement does not ring true. Flash bangs were not designed to be used in that manner, but rather to disorient a suspect with noise and light. Deploying a flash bang outside the house would serve no purpose.

### **3. The fate of the cats.**

You charge Mr. Ketchem with two counts of animal cruelty, holding him accountable for the death/loss of two pet cats. But given that no fire-extinguishing action was required by the Fire Department, the death/loss of the cats through Mr. Ketchem’s alleged self-extinguishing arson seems unlikely. Perhaps it is more likely the cats suffered from the effects of the tear gas and flash bangs?

### **4. Months later, the stench of SWAT tear gas still permeated the house. That damage was not caused by Ketchem.**

More than five (5) months after the incident, 1050 Summer Street, NE is still uninhabitable. Remediation workers have reported that the interior of the house was so badly contaminated by the stench of tear gas that they are still struggling with the problem. You can find a photo of the interior, taken on June 30, at: <http://www.everyones-business.org/SummerStreet/index.html>

### **5. You ignore obvious conflict of interest.**

The agency most likely responsible for causing the damage to 1050 Sumer St. NE was the Salem SWAT team. The Fire Chief of the Salem Fire Department was responsible for the fire investigation. Both the SWAT team and the Fire Department personnel are employees of the City of Salem. City employees have a vested interest in exonerating each other and their employer.

The Fire Department’s report of its investigation is not available to the public, but has doubtlessly been made available to your office. Does that report explain why the Fire Department took no action to put the fire/fires out? It’s explanation of “self-extinguishing” arson may provide enlightenment to the fire-fighting community.

The public has been told release of the Fire Department’s report may negatively influence a potential jury pool against Mr. Ketchem. On the other hand, for months after the incident, yellow and black “Crime Scene” tape cordoned off 1050 Summer St. N.E. For months, the tape was obvious to anyone who drove by, yet there was no concern about its influence on a potential jury pool.

### **6. Petition to have Fire Department’s report made available to the public.** I requested the Fire Department’s report. On April 3, the Fire Department responded, stating that ORS 192.345(3)

prohibited its release. The Fire Department also said I could petition your office for its release. I now hereby petition for its release.

## **7. Tacit acceptance of responsibility by SWAT Team.**

To the credit of the SWAT team commander, Lt. Shawn Adams, on April 4, he publicly admitted at a Grant Neighborhood Association meeting that he was not pleased with the results of the police handling. Lamenting the fire damage, he said, “We are not happy about that outcome.”

<http://www.everyones-business.org/SummerStreet/Salem-PD-Officer-at-grant-meeting-a.mp3> .

To Lt. Adams’ credit, he changed SWAT team tactics. In an incident reported on March 17, the SWAT team apprehended a suspect *without* using tear gas and flash bangs: <https://www.statesmanjournal.com/story/news/crime/2019/03/17/man-steals-police-car-barricades-home-swat-salem/3194531002/>

Again, on April 12, the Salem SWAT team apprehended another suspect *without* using tear gas and flash bangs: <https://katu.com/news/local/swat-team-arrests-man-after-a-nearly-eight-hour-standoff-in-salem>

Again, on May 15, the Salem SWAT team apprehended another suspect *without* using tear gas and flash bangs. <https://www.koin.com/news/crime/suspected-salem-cop-shooter-in-custody/amp/>

Lt. Adams’ actions speak louder than words. Given the results of the SWAT team’s action at 1050 Summer St., NE, he changed the tactics. He is a responsible public servant.

Are you aware of this change in the SWAT team’s approach? How does it all fit into your theory of the case?

### **Violations of 5<sup>th</sup> and 6<sup>th</sup> Amendments to U.S. Constitution and Oregon Constitution**

Mr. Ketchem has been held in custody without a trial for more than five (5) months. The 5th and 6th Amendment to the US Constitution (the Bill of Rights) guarantees citizens cannot be denied life, liberty or property in a capricious manner, but must be accorded a speedy public trial with due process of law. The words of the Sixth Amendment include these: “In all criminal prosecutions, the accused shall enjoy the right to a speedy public trial ...” See also Section 10 of Oregon Constitution.

### **Violation of the 8<sup>th</sup> Amendment to U.S. Constitution and Oregon Constitution**

Mr. Ketchem’s bail is set at \$1,000,000 – one million dollars. That is four times the value of the entire property at last sale. No human lives were lost, and property damage was likely caused by the Salem SWAT team. The Eighth Amendment states: “Excessive bail shall not be required ...” See also Section 16 of Oregon Constitution.

### **You Appear To Be Coercing Mr. Ketchem Into Accepting A Plea Bargain:**

It appears that you are coercing Mr. Ketchem into accepting a plea bargain: If you persuade Mr. Ketchem to accept a plea agreement, you may want him to plead guilty to

- entering 1050 Summer St. N.E. unlawfully
- arson
- causing the damage done by the SWAT team
- being cruel to two cats
- other miscellaneous charges.

He sits in jail, away from any family, friends, personal belongings, personal obligations. Perhaps he will run out of money to pay his lawyer?

If Mr. Ketchem agrees to a plea bargain, the City of Salem will continue to be shielded from public embarrassment and from any possible legal liability for the fiasco.

Your tactic seems to be: “Let’s hold him in jail until he pleads guilty to ... whatever.”

Please tell us about the plea deals you have offered Mr. Ketchem.

Sincerely,

/signed

Carol DeCoursey

<http://www.everyones-business.org/SummerStreet/index.html>

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