AMERICAN EQUITY
& JUSTICE GROUP

March 4, 2021

Dear Criminal Justice System stakeholder:

I write due to two important developments in Washington state.

First, the Washington State Supreme Court overturned our state's drug possession statute, RCW 69.50.4013, finding it was unconstitutional. This was *State v. Blake* decision, issued on February 25, 2021. This decision will impact hundreds of thousands of people touched by our justice system, often in harsh and disparate ways. As the Justice Stephen's concurrence to the majority's decision explains:

> … "[t]he fact of racial and ethnic disproportionality in our criminal justice system is indisputable." Research Working Grp. Of Task Force on Race and the Criminal Justice Sys. *Preliminary Report on Race and Washington's Criminal Justice System*, 35 Seattle U.L. Rev. 623, 627 (2012) "[S]cholars have shown that the poor, people of color, sexual minorities, and other marginalized populations have borne the brunt of criminal punishment and police intervention." Benjamin Levin*, Mens Rea Reform and Its Discontents*, 109 J. Crime. L. & Criminology 491, 530 (2019).

Second, we are nearing the launch of our nonprofit, the **American Equity and Justice Group ("AEJG")**. AEJG will manage the **Public Equity and Justice System ("PEJS"),** a soon-to-be-public database that contains criminal justice system data and displays that data in a format that is quickly accessible to a wide range of stakeholders – be they interested individuals, lawyers, judges, policymakers, legislators, academics, or others. Simply put, we believe that increasing access to data will help improve the fairness and equity of our criminal justice system.

Currently, the PEJS combines 20 years of Caseload Forecast Council ("CFC") sentencing data, as well as census and population data from Washington State. Future planned updates include integrating more data from different points in the life of a criminal case so we can see the full justice continuum, starting from the first contact with law enforcement all the way through to ultimate resolution of the case. We also look forward to adding and comparing the data from multiple redundant sources, in order corroborate results.

The PEJS will be available to help you quickly and reliably access data so that we can better understand the implications of events such as the *Blake* decision. For instance, using the PEJS, we could easily

determine that, between the years 2000 and 2019, **126,175 prison sentences** were for, in whole or in part, a violation RCW 69.50.4013. [1]

We used the PEJS to create the Disproportionality Analysis also sent with this letter. This analysis demonstrates what is recognized by our Supreme Court: racial disproportionality in our criminal justice system is rightfully attributed, in part, to disparities in drug law enforcement. In the vast majority of Washington's 39 counties, the percentage of black or Native American people sentenced under this statute is **greater** than their percentage in Washington's 2019 population. In the vast majority of counties, the percentage of White people sentenced under this statute is **lower** than their percentage in Washington's 2019 population.[2]

Finally, we filtered the CFC data to make available the cause number, the county of conviction, and other data related to every case involving a prison sentence and a violation of RCW 69.50.4013. That spreadsheet is attached.[3]

You may have already seen a presentation by my AEJG colleagues and I, as we have begun sharing the PEJS's capabilities with stakeholder groups throughout Washington. If you wish to schedule a presentation or set up a meeting to discuss our work, please reach out via equityjusticegroup@outlook.com. We look forward to connecting. In the meantime, an additional PEJS information sheet is also enclosed.

Very Truly Yours,

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[1] This number is based on CFC data. .

[2] Because the census data does differentiate by Latinx, we cannot yet make a comparison of sentencing-to-population percentages for this demographic. Additionally, for this example, 2019 Census and Population data was used. It is possible to make a year-to-year comparison to capture historical changes in population or sentencing rates.

[3] This data does not include the names of the individuals sentenced, only the cause number. This is a deliberate decision. Names can be found through court records, but will not be aggregated or disseminated via the PEJS.