



June 6, 2013

Via overnight mail
Sheriff Keith Merritt
Orange Sheriff Department
205 S. Border Street
Orange, TX 77630

Dear Sheriff Merritt,

We write to call your attention to the alarming racial disparity in marijuana possession arrests between black and white individuals in Orange County. Based on an ACLU analysis of arrest statistics, we have concluded that your department is one of the primary drivers of this disparity. The ACLU released a report this week documenting the racial disparities in marijuana possession arrests,¹ and Orange County ranks the sixth worst in the state, with blacks being over six times more likely than whites to be arrested for marijuana possession. Your leadership is essential in solving this problem: we call on you to take immediate and affirmative steps to correct this disturbing disparity so that the people of Orange County are treated equally and fairly, regardless of race.

The American Civil Liberties Union Criminal Law Reform Project's report, *The War on Marijuana in Black and White*, documents the racial disparities in marijuana possession arrests in counties across the country. The arrest data presented in the report were obtained from the Uniform Crime Reporting ("UCR") Program of the Federal Bureau of Investigation. This program annually collects crime data, including arrest data, reported by state and local law enforcement agencies. The arrest data reveal disturbing trends in Texas as a whole: while blacks make up 12.2% of Texas's population, they account for 25.8% of arrests for marijuana possession. In many Texas counties, the racial disparities are even worse and come at great cost. The state of Texas spent \$251,648,800.00 enforcing marijuana laws in 2010 alone.

In fact, in Orange County the racial disparity in marijuana possession arrests is amongst the highest in the state. This disparity is deeply concerning because studies consistently show that whites and blacks use marijuana at roughly the same rates.² Yet despite parity in use, blacks have been arrested for marijuana possession at significantly higher rates than whites in Orange County. For example, in 2010 blacks accounted for 39% of the marijuana possession arrests in the County even though they comprise less than 9% of the County's population. In the same

¹ For your convenience, we have appended a copy of the report with an insert highlighting the relevant Texas data. The report can also be found here: <http://www.aclu.org/files/assets/aclu-thewaronmarijuana-rel2.pdf>.

² American Civil Liberties Union, *The War on Marijuana in Black and White* 66 (2013).

year, the National Household Survey on Drug Abuse and Health documented that, nationally, 14% of blacks and 12% of whites reported using marijuana in the past year.³

This disparity in arrest rates in your jurisdiction suggests that your department is targeting blacks for enforcement of marijuana possession laws. That kind of biased policing offends the Constitution and our country's commitment to equal treatment before the law. We therefore request the following information⁴ from the Orange County Sheriff Department pursuant to the Texas Public Information Act, Texas Government Code Chapter 552:

1. Any policies, from 2010 to the present, including handbooks and training manuals, concerning:
 - a. racial profiling; and
 - b. enforcement of drug laws.
2. Documents sufficient to show the total number of marijuana possession arrests from 2011 to the present, broken down by race.
3. Documents sufficient to show the total number of arrests from 2010 to the present, broken down by race.
4. Information concerning any federal funding received by your department including, but not limited to, funding from the Byrne Justice Assistance Grant Program, from 2010 to the present, and sufficient to show:
 - a. The name of the funding source;
 - b. The purpose for which funds are issued;
 - c. The purpose for which the Orange County Sheriff Department uses the funds received;
 - d. Any reports or data provided to funders.
5. Information concerning any performance measures and metrics used by the Orange County Sheriff Department.

We are deeply troubled by the racial disparity in Orange County and in your department's marijuana possession arrests. We assume you are as well. We would like to work with you to better understand the causes of this disparity and to formulate forward-looking solutions. By bringing the data to your attention and working collaboratively, we hope we can address this pressing problem.

³ *Id.*

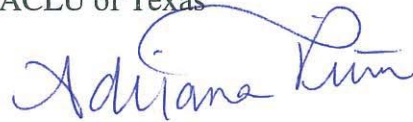
⁴ The term "information" includes all records or communications in written or electronic form, including but not limited to correspondence, documents, data, videotapes, audio tapes, emails, faxes, telephone messages, logs, files, guidance, guidelines, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, training manuals, other manuals, or studies.

Please do not hesitate to contact Christopher Clay at cclay@aclutx.org, or by phone at 713-942-8146 x 106 with any questions. In addition, please send any records responsive to our public information request that are available electronically to the attention of Mr. Clay at the email address above. Records that are not available electronically can be mailed to his attention at ACLU of Texas, P.O. Box 8306, Houston, Texas 77288.

Sincerely,



Rebecca L. Robertson
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*Licensed in New York State only; practice limited to federal constitutional and statutory matters

Encl.