



March 18, 2026

Mr. Steve T. Descano
Fairfax County Commonwealth's Attorney
4110 Chain Bridge Road, Suite 114
Fairfax, VA 22030

Dear Commonwealth's Attorney Descano,

We write with serious concern regarding recent reports about charging and plea decisions in Fairfax County that appear to reflect a troubling pattern of leniency toward repeat and violent offenders, with devastating consequences for public safety.

Recent public reporting has raised alarming questions about your office's exercise of prosecutorial discretion in cases involving repeat offenders, violent conduct, and offenses with clear community-safety implications. Those reports describe instances in which individuals with lengthy criminal histories or prior serious allegations were repeatedly released, received reduced charges, or avoided meaningful incarceration, only to be accused of committing additional grave harm. The reporting surrounding the killing of Stephanie Minter has brought these concerns into especially sharp focus.¹

Fairfax County residents are entitled to a prosecutor who understands that the first duty of the office is public safety and faithful enforcement of the law. Your own office states that it prosecutes misdemeanor and felony crimes committed under the Code of Virginia within Fairfax County. That responsibility is not a license to nullify duly enacted laws based on ideology, nor to create a system in which repeat offenders can reasonably expect endless second, third, or thirtieth chances while victims and neighborhoods bear the cost.²

Your own public statements reinforce these concerns. You have described prosecutorial discretion in plea bargaining as "one of the Commonwealth's Attorney's greatest powers," and stated that you intended to shape office-wide policies governing "charging, diversion, plea offers, and sentencing." You have also said your office would take immigration consequences into account in charging and plea decisions and, "[w]herever possible," would make decisions that "limit or avoid immigration

¹ <https://theappeal.org/politicalreport/interview-with-descano-fairfax-commonwealths-attorney/>

² <https://static1.squarespace.com/static/5b08d8fd85ede1b5cc3e7d9c/t/5d8b5b91def8834a61161e22/1569414039552/ProgressiveJustice-SteveDescano.pdf>

consequences.”³ These statements raise serious concerns that prosecutorial decision-making may be shaped by ideological or policy-driven considerations, rather than grounded in the impartial enforcement of the law shaped by the unique facts of each case.

Most significantly, you have publicly stated that you would not prosecute certain offenses even if they remained violations of Virginia law. In 2019, you said you “would not prosecute marijuana possession,”⁴ and in 2022 you stated, “no matter what the law in Virginia says, I will not prosecute a woman for having an abortion or for being suspected of inducing one.”⁵ Those statements are significant not because they concern any one issue in isolation, but because they reflect a broader view that a prosecutor may choose which laws to enforce based on personal or ideological agreement with them. That is deeply troubling. The role of a Commonwealth’s Attorney is to enforce the law faithfully and fairly — not to cherry-pick which laws to follow and which to set aside.

Whatever one’s political views, the law should be applied evenhandedly and with a primary commitment to the safety of the public. When a prosecutor publicly embraces selective non-enforcement as a matter of ideology, it undermines public confidence in the justice system and raises serious concerns that the same mindset may influence discretionary decisions in other areas, including cases involving repeat or violent offenders. That concern is only heightened when real people are harmed after prior opportunities for intervention were missed.

While Governor Spanberger cannot personally direct Fairfax charging decisions or summarily remove a locally elected Commonwealth’s Attorney, she can and should use the full weight of her office to insist on accountability, support corrective legislation, and isolate prosecutors whose ideological refusal to enforce the law puts Virginians at risk. The lack of direct control does not excuse silence when prosecutorial failures have serious public-safety consequences.

We therefore urge your office to take the following steps immediately:

1. Conduct and publicly announce a review of cases in which repeat violent offenders received declinations, dismissals, or sharply reduced charges and then went on to commit additional serious crimes.
2. Release transparent data regarding declination decisions, plea reductions, and case outcomes for repeat offenders, including those charged with violent, sexual, and weapons-related crimes.
3. Reevaluate office policies that treat categories of offenders more leniently for ideological reasons where doing so compromises public safety.

³<https://static1.squarespace.com/static/5b08d8fd85ede1b5cc3e7d9c/t/5d8b5b91def8834a61161e22/1569414039552/ProgressiveJustice-SteveDescano.pdfv>

⁴ <https://www.nbcwashington.com/news/local/northern-virginia/fairfax-co-commonwealths-attorney-declining-to-prosecute-simple-marijuana-possession/2195529/>

⁵ <https://theappeal.org/politicalreport/interview-with-descano-fairfax-commonwealths-attorney/>

Prosecutors wield enormous discretion, but that discretion must be exercised in service of justice, not ideology. When repeated discretionary choices leave dangerous offenders on the street and innocent Virginians pay the price, public officials owe the public an explanation — and a course correction.

We ask that you respond and explain whether your office intends to review these matters, revise any relevant policies, and provide the transparency Fairfax County residents deserve.

Sincerely,

Leigh Ann O'Neill

Leigh Ann O'Neill
Chief Legal Affairs Officer
America First Policy Institute