

Third Annual Charlotte E. Ray
Lecture and Conference on
White Collar Crime

Howard University School of Law
April 15, 2025

Panel 2: State and Local Prosecution
Offices' Perspectives on Enforcement
Priorities



A Note From D.A. Bragg

In the Manhattan D.A.'s Office, we work hard every day to advance public safety.

In 2024, we continued to drive down gun violence by holding shooters accountable, cracking down on ghost guns, and investing in community-based prevention. Our Special Victims Division expanded services for survivors and took on challenging cases of sexual assault, domestic violence, and human trafficking. In a year when reports of antisemitic and other hate crimes increased nationwide, we worked with partners in



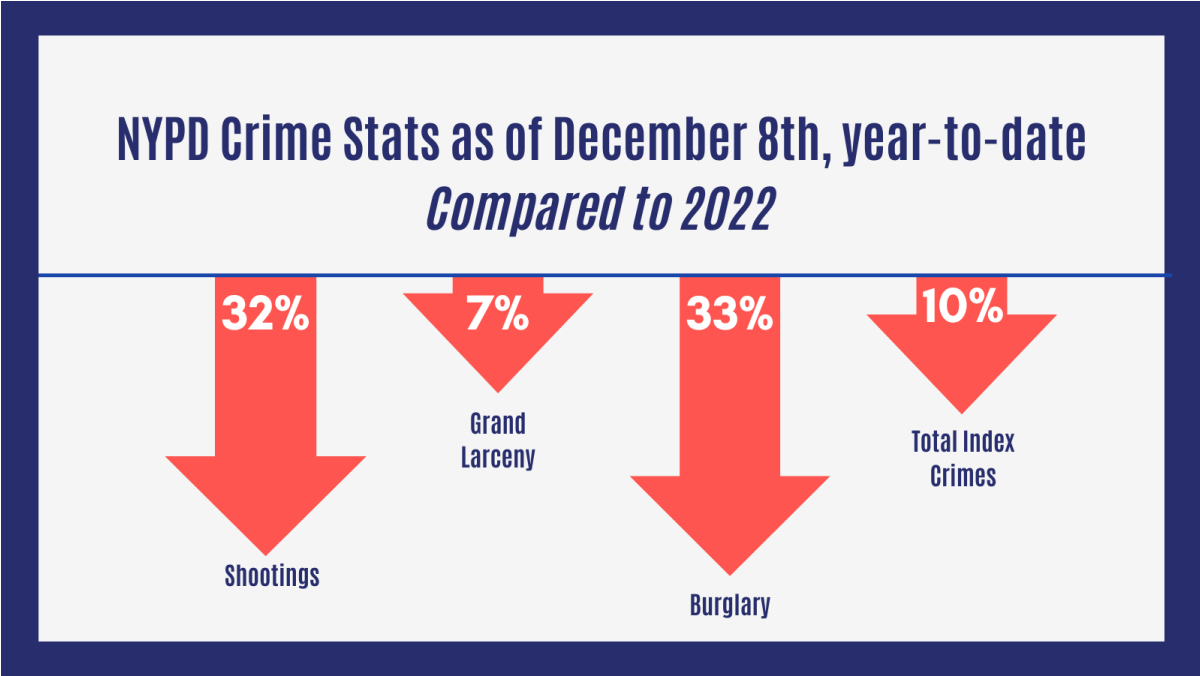
Albany to strengthen New York's Hate Crimes law and initiated a record number of hate crimes prosecutions. We protected New Yorkers' wallets by pursuing complex fraud cases and stood up for everyday New Yorkers by prosecuting employers for stealing wages and charging landlords for alleged tenant harassment. We're addressing disorder, quality of life issues, and retail theft with a multifaceted approach. We are focusing retail theft prosecutions on repeat offenders and dismantling largescale fencing operations. We've doubled our use of court-based treatment to address mental illness and substance use disorder and reduce recidivism. We've funded neighborhood and court-based outreach workers to connect people in need with long-term services. And we're working closely with city agencies, business and civic leaders on an ongoing basis to address quality-of-life concerns. In addition to our forward-looking work, our Post-Conviction Justice Unit continues to investigate and vacate conviction where we no longer have confidence in the outcome.

In the coming year, we will double down on our investments in youth gun violence prevention, replicate successful strategies that have gotten shooters off our streets, and launch a new early engagement model for domestic and sexual violence to connect survivors to services earlier and enhance investigations. In the next state legislative session, we will continue to advocate for additional tools and investments to address the mental health crisis. And we will also push for legislation to improve the discovery laws, counter the threat of 3D-printed ghost guns, and reduce barriers to prosecuting sexual assault and human trafficking. I am deeply honored to serve the people of Manhattan. I look forward to continued collaboration with our community and law enforcement partners in 2025 to further enhance

our community and law enforcement partners in 2025 to further enhance safety and fairness in Manhattan.

Driving Down Crime

Major crime is down so far this year in Manhattan compared to 2022, and Manhattan is driving the citywide declines.



D.A. Bragg joined Brian Lehrer for a wide-ranging conversation on *WNYC* where they looked back on the Office’s public safety work from the last year, discussed mental health interventions, and talked about what’s to come in 2025.

Read D.A. Bragg, Council Member Keith Powers, and Manhattan Borough President Mark Levine's op-ed in the *New York Daily News* advocating for new legislation that would make it easier to take down sidewalk sheds where crime can flourish, and safety is compromised.

Combatting Gun Violence

Driving down gun violence is our top priority and in Manhattan, we are taking a comprehensive approach to getting guns off our streets. Our office is holding accountable those who jeopardize the safety of our communities with firearms. For instance, in April, we indicted a man for committing two shootings in Tompkins Square Park within five days, seriously injuring two people. In September, Mohamed Sawaneh was indicted for allegedly killing 37-year-old Jeremy Cummings in a drive-by shooting, after which he crashed into a car and committed a gunpoint robbery while he attempted to flee the scene. In November, Christopher Brown was sentenced to a significant prison term for arming himself with an illegal firearm as part of his plan to commit an act of terror targeting Manhattan's Jewish community.

We've also continued to target drivers of gun violence, and, in November, we indicted 30 gang members for widespread gun violence over six years; those groups were responsible for approximately 50 percent of shootings in Washington Heights and Inwood in 2024.



Centering Survivors

Centering survivors means elevating the dedicated professionals who provide services and support to victims of crime. This year, D.A. Bragg expanded the services our Office provides to crime survivors and witnesses through the creation of the Survivors Services Bureau, an evolution of our Office's long-standing Witness Aid Services Unit that ensures crime victims, witnesses, and their families can access the services they need to rebuild their lives.

In June, D.A. Bragg and NOW-NYC president Sonia Ossorio called on the New York State Assembly to close the voluntary intoxication loophole in our laws.

By supporting victims in the criminal justice process, we increase our ability to hold people accountable for serious crimes. In January, we indicted an apartment super for raping, sexually abusing and assaulting an undocumented immigrant from Paraguay who cleaned apartments in a Flatiron building where he worked. In September, we announced an additional indictment of Harvey Weinstein for sexually assaulting a woman in a lower Manhattan hotel in Spring 2006.

Stemming the Flood of Ghost Guns

As the technology behind 3D weapons continues to improve, the guns being produced are only becoming more sophisticated and pose an even greater threat to our communities. That's why earlier this year we called on YouTube to take additional steps to stop the proliferation of videos on its platform, many of which are pushed towards young children and adults through its algorithm, that show how to make and manufacture ghost guns and 3D-printed guns. So far this year we've seized 65 ghost guns and ghost gun receivers over the course of our investigations.



We also filed an amicus brief with Mayor Adams to the U.S. Supreme Court in support of federal regulations issued by the Bureau of Alcohol, Tobacco, Firearms and Explosives that require ghost gun parts to have serial numbers and compel background checks for prospective buyers of ghost gun home-assembly kits. In March, we announced the indictments of several people in a sprawling investigation into a wide range of conduct, including two ghost gun conspiracies and in June, we announced the indictment of Hayden Espinosa for selling firearms and gun parts through Telegram to an undercover officer.

Protecting Everyday New Yorkers

In Manhattan, we're standing up for hard-working New Yorkers as we hold accountable companies that line their pockets at the expense of their employees. In February, we indicted Valor Security and Investigations, including six of their executives and employees, for operating a sham safety training school that issued safety certificates and cards to approximately 20,000 students. In May, we announced the guilty pleas of a Grimaldi's Pizzeria owner and Manhattan manager for stealing \$32,080 in wages from 18 employees.



It is essential for government officials to abide by the law and uphold their duty to the People of New York. In December, we indicted Ingrid Lewis-Martin, her son and two real estate investors for an alleged \$100,000+ bribery conspiracy committed while Lewis-Martin served as Chief Advisor to the Mayor of the City of New York. Lewis-Martin allegedly abused her position to illegally influence Department of Buildings and other city decisions in exchange for cash and benefits for herself and her son. We're committed to fighting corruption in city government that should strive to serve everyone equally instead of allowing bribes to circumvent independent expertise.

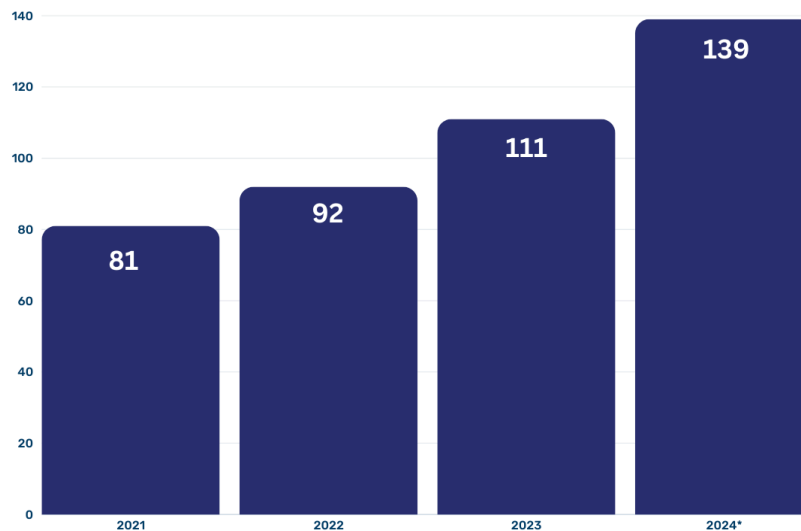
New Yorkers deserve to live in their apartments without fearing for their safety. In April 2024, we indicted Daniel Ohebshalom and his companies for allegedly harassing rent-regulated tenants with horrific living conditions to induce them to vacate their apartments.



Standing Against Hate

We will continue using all the tools at our disposal to hold accountable those who commit acts driven by hate and discrimination. In April, we announced the hate crime trial conviction of Gino Sozio for slashing a 22-year-old Muslim-American, while he was out with friends, in an anti-Muslim attack in Midtown on New Years Eve. In May, we indicted Skiboky Stora for assaulting, stalking and harassing strangers in a series of anti-female, anti-white, and antisemitic incidents.

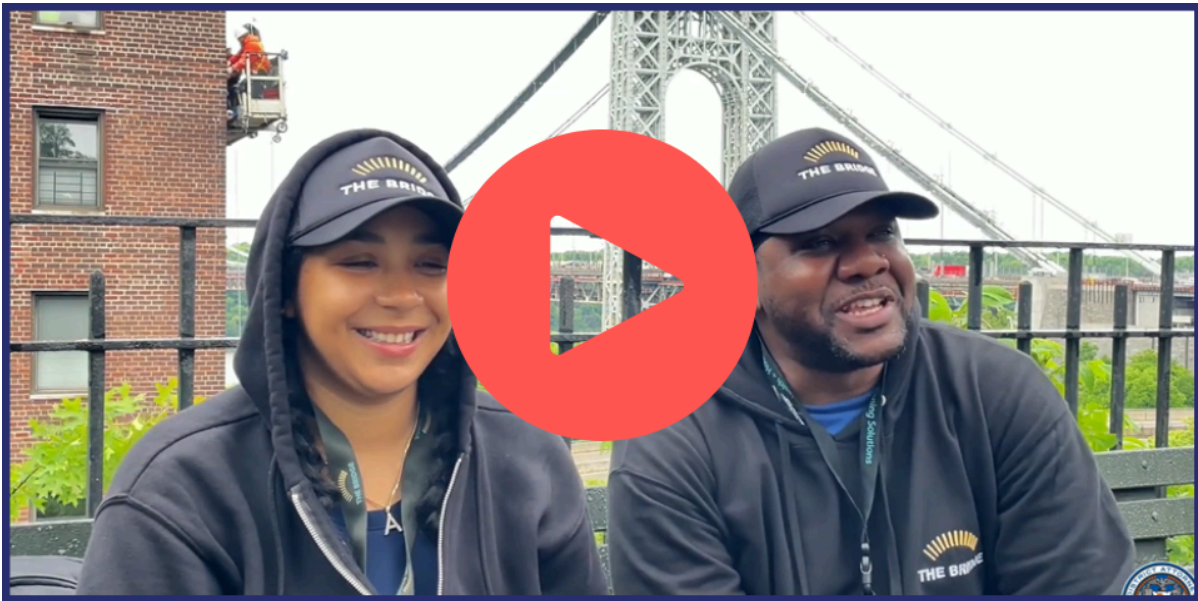
New Hate Crime Cases Initiated Per Year



*as of 12/3/2024

Investing in Mental Health

In February, our neighborhood navigators hit the streets in six neighborhoods across Manhattan where they conducted proactive outreach to build relationships with individuals who are unhoused, living on the street and experiencing challenges with mental health or substance use. Since the launch of the program, navigators have connected with hundreds of individuals throughout the borough, connecting them to housing, treatment, employment resources, and more.



We also continue to enhance and elevate our use of programming and diversion. This year we expanded our Rapid Reset initiative targeting cases for diversion that are often dismissed and providing intervention at earlier stages when a person comes to court. The D.A. also penned an op-ed last April calling for the state legislature to make additional investments in New York's mental health infrastructure.

Prosecuting Transit Crime

New Yorkers rely on public transportation and our transit system should be a safe environment for all Manhattanites. This year we've continued to prosecute those who jeopardize the safety of its commuters, riders and workers. In April, we indicted a man for pushing 54-year-old Jason Volz onto the tracks of an oncoming train at the 125th Street subway station in East Harlem, killing him. In June, we indicted a man for attempting to shoot a 35-year-old Good Samaritan and shooting a 32-year-old man on a crowded train at an Upper East Side station.

MTA workers should not have to fear for their safety when on our buses and subways, and those who jeopardize their safety are being held accountable. In February we indicted two men for two separate attacks on MTA employees who were just doing their jobs.

Investing in our Youth

Engaging young New Yorkers in prevention initiatives is one the ways we're driving down gun violence. This past year, we provided funding for 8 community-based organizations that served 95 young New Yorkers, including 28 brand new to the organizations. In December, we also announced extended funding for the fourth consecutive summer of this initiative investing up to \$300,000 - up from \$200,000 in previous years.



Cracking Down on Fraud

Manhattan is a global financial capital, and our Office is uniquely positioned to fight white-collar crime and continues to root out people who steal from investors and corrupt the market. In the past year, we've indicted a real estate company, and other industry executives for stealing more than \$86 million from investors, subcontractors, and New York City through a series of frauds and schemes that began in 2015. In June, we sentenced Nelson Counne to 4-to-8 years in state prison for stealing more than \$1.8 million from five women through a series of romance and investment scams. In November, we indicted a woman for distributing personal identifying information of TD Bank customers on Telegram while working in the anti-money laundering department at the bank.

In January, we called on the companies that own Venmo, Zelle, and Cash App to demand better consumer protections for customers in the wake of financial app thefts sweeping Manhattan and across the U.S. This year we also announced the creation of the Cyber Crime Bureau, an evolution of the Office's longstanding cyber-crime practice, tasked with the prosecution of computer crimes and cyber-enabled crimes.

With evolving technology, scammers are increasingly targeting older New Yorkers through scams that prey on their perceived unfamiliarity with new technology. We are also zeroing in on frauds committed against older New Yorkers, including the indictment of Rosalind Hernandez, a building superintendent, for allegedly stealing over \$350,000 from a 100-year-old man who lived in her building and granted her Power of Attorney. We also announced the guilty plea of Juan Velez, a former personal banker at Citibank, for stealing approximately \$166,000 from a 79-year-old client who was suffering from dementia.

We will continue to hold scammers accountable who prey on hopeful New Yorkers seeking residency or citizenship. In January, we announced the indictment of Pablo Israel Ortega Cuenca for posing as an immigration attorney to numerous people and collecting thousands of dollars in legal fees from them. In May, we announced the indictment of Analie Vargas for diverting her clients' checks intended for immigration application fees into her personal bank account.

Reviewing and Vacating Old Convictions

It is never too late to reconsider the integrity of old convictions, because everyone in New York deserves equal justice under the law. Since the creation of the Post-Conviction Justice Unit in 2022 we have vacated 10 convictions through reinvestigations and 500 more related to law enforcement members convicted of misconduct. In January, we moved to vacate the unjust murder convictions of Eric Smokes and David Warren for a fatal robbery and assault that occurred on New Year's Day 1987 near Times Square. In September, we joined in an application to vacate the conviction of JJ Velazquez for the murder of Albert Ward in 1998.

Engaging With Our Communities

Our Community Partnerships Unit conducts essential work increasing trust between the community and our office and facilitating partnerships that prevent crime and increase the quality of life for the communities we serve. Over the course of the year they've volunteered across the borough at schools and community centers, and hosted numerous trainings as we worked to increase trust within our community. This year we've joined marches to raise awareness for Domestic Violence, engaged young New Yorkers through our High School Internship program and anti-gun violence prevention initiatives and attended community events throughout Manhattan.





Zeroing in on Retail Theft

Manhattan is the retail capital of the country, and we need our business community to thrive. This year, we've continued to target the small number of recidivists who are driving a significant amount of retail theft and ensure appropriate accountability. As of October, our office has prosecuted more than 6,000 alleged instances of retail theft. Misdemeanor retail theft prosecutions have more than doubled this year compared to 2021. Our office has rolled out trainings to Manhattan Business Improvement Districts to enhance the use of Trespass Notices, an important tool in our close collaboration with retailers and law enforcement to protect businesses and drive down retail theft in the borough.

We are using every tool in our toolbox to address the root causes of retail theft, and a critical piece of that is upstream, proactive investigations into those who stand to profit. In May, we announced the indictment of two individuals and their store for possessing more than \$1 million in stolen goods as part of a retail theft fencing operation.



Repatriating Cultural Artifacts

Over the last three years, our Antiquities Trafficking Unit has recovered almost 2,100 antiquities stolen from 39 countries and valued at \$250 million. These repatriation ceremonies show our continued commitment to protecting cultural heritage and returning stolen antiquities back home. This year we announced the return of three more drawings to the family of Fritz Grünbaum, an Austrian-Jewish cabaret performer whose art collection was stolen by the Nazi regime.



Keith Ellison

Juul Litigation and Settlement

Minnesota settles lawsuit against Juul and Altria for \$60.5 million

After a three-week trial, settlement value is largest per capita in US, exceeds JUUL's gross revenues from marketing and selling to Minnesotans; State to receive 60% of the funds within one year. Minnesota also wins prohibitions against marketing to youth and young adults and publication of industry documents

May 17, 2023 (SAINT PAUL) — Minnesota Attorney General Keith Ellison today announced the details of his Office's settlement with Juul and Altria for deceptively marketing e-cigarettes, which includes \$60.5 million in combined payments by the two companies and public disclosure of Juul and Altria internal documents. This announcement follows Minnesota's three-week trial against the companies in March and April 2023.

Under the terms of the Consent Judgment filed today with the Hennepin County District Court, Juul and Altria will together pay a total of \$60.5 million to the State of Minnesota over an eight-year period. The payment schedule is frontloaded: it requires JUUL and Altria to pay \$22.75 million within 30 days and another \$12.75 million by March 2024, meaning that the State will receive nearly 60% of the total value of the settlement in less than one year.

The value of Minnesota's settlement with Juul and Altria is the largest per capita of all 48 states and territories that have settled with Juul. It also greater than the total value of Juul's gross revenue from sales of its products in Minnesota from 2015–21.

Attorney General Ellison supports pending legislation that, if passed before the end of the current legislative session, would ensure that Minnesota's recovery from the case is placed into a special fund administered by the Minnesota Department of Health that is dedicated to the prevention of youth smoking and e-cigarette use.

In the settlement, Juul and Altria are also paying the state's legal costs, including the costs of litigation and attorneys' fees. The near-final estimate of case costs that Juul and Altria are paying in the settlement is \$8.6 million, which covers the cost of depositions, discovery, expert witnesses, and more. A portion of the payment will also be used to compensate the State's outside counsel for their tremendous work on this matter, currently estimated at approximately \$8.9 million, based on a contract between the State and outside counsel that received legislative approval in 2019. Even after costs and fees, the value of Minnesota's settlement will still be the largest per capita in the country.

The settlement also requires Juul and Altria to publish their internal documents related to the litigation in a public document depository. The settlement ensures that Minnesota-specific Juul documents will be made public in addition to the document disclosure already secured by other states' settlements with Juul. Furthermore, the settlement agreement requires Altria to make

public the documents from Minnesota's litigation, as well as from similar litigation by other states against Altria and from the federal multidistrict litigation matter involving Juul and Altria.

The settlement requires Juul to abide by substantial conduct restrictions, including:

Prohibiting Juul from marketing and selling to children and young adults, including use of models under the age of 35, advertising on apparel, entertainment, and social media platforms, and the sale of flavored products;

Restricting Juul's ability to sponsor events and use outdoor advertising in Minnesota;

Preventing Juul from distributing product samples;

Requiring that Juul accurately disclose the nicotine content of Juul products;

Directing how Juul products may be sold in-store and limiting online sales; and

Creating a retailer compliance program for Minnesota stores to ensure that Juul products are being sold with proper age verification.

The agreement requires Altria to abide by restrictions on the sale of its own e-cigarette products that it sells in the future.

"In late March, I told a Hennepin County jury that Juul and Altria baited, deceived, and addicted a whole new generation of kids — all so they could make money. They did this after Minnesotans had slashed youth smoking rates down to the lowest level in a generation. As we did in the Big Tobacco litigation 25 years ago, Minnesotans once again demonstrated leadership by being the first, and so far only, state in the nation to take Juul and Altria to trial," Attorney General Ellison said. "After three weeks of trial where we demonstrated over and over how Juul and Altria knowingly deceived Minnesotans — and on the verge of closing arguments — we reached this historic settlement that will quickly get resources into prevention and will put a stop to the deceptive behavior that led to this crisis in the first place. This settlement, which is the largest of its kind in the country, also sends a clear message: we will not tolerate marketing nicotine products to children and youth in Minnesota and we will hold you accountable if you do."

"Minnesota is a state that stands up for and protects our young people. As a father and as Governor, I am proud that Minnesota is holding Juul accountable for the harm it caused so many young Minnesotans," said Governor Tim Walz. "I am grateful to Attorney General Ellison for leading this charge and to the trial team for their work. This settlement brings us another step closer to making Minnesota the best state for kids."

"Three and a half years ago, we heard firsthand the devastating impacts that nicotine addiction and e-cigarette use had on our young people's physical and mental health and overall well-being," said Lieutenant Governor Peggy Flanagan. "We have a responsibility to protect our kids. Allowing deceptive, harmful marketing to target young children is unacceptable — and we are not going to tolerate it here in Minnesota. Thank you to the Attorney General and his team for their work and to the young people who had the courage to share their stories and inspire action."

About the Litigation

In December 2019, Attorney General Ellison sued Juul on behalf of the people of Minnesota, and with the support of Governor Walz and Lt. Governor Flanagan, for violating Minnesota's consumer-protection laws, breaching its duty of reasonable care, and creating a public nuisance. When Attorney General Ellison sued Juul, the epidemic of youth vaping was reaching its peak in Minnesota and across the country. Prior to Juul's emergence, Minnesota had been experiencing the lowest levels of youth tobacco use in decades and those numbers were still declining when the e-cigarette industry — which Juul dominated with a majority share of the market — wiped out the State's hard-earned progress in combatting youth tobacco use.

The State's 2019 lawsuit detailed how JUUL developed sleek devices and flavors that were appealing to youth, and how JUUL's youth-oriented marketing deceptively attracted and addicted young people. In 2020, Minnesota amended its complaint to include Altria as a defendant: in 2018, Altria spent \$12.8 billion to acquire a 35% share in JUUL.

Of the many state and local governments that sued JUUL or Altria, Minnesota was the first to go to trial. The trial began on March 28, 2013 as Attorney General Ellison delivered the first part of the State's opening statement.

At trial, the State showed the jury how, among other things:

The launch of the Juul product and the accompanying "Vaporized" marketing campaign heavily appealed to youth users, as seen in Juul's own internal video summarizing the success of the launch; Juul's design, flavors, and marketing attracted youth and garnered JUUL a 75% share of the youth vaping market by the end of 2018; Internal messages from Juul marketing executives showed them joking about advertising Juul flavors directly to teen and underage users, even referring to teen users as "feens"; and the CEOs of Juul and Altria later acknowledged Juul's responsibility for inciting a teen-vaping crisis.

The State presented 11 witnesses in support of its claims against JUUL and Altria before Attorney General Ellison rested the State's case on April 11. The parties reached a settlement on April 17 and the case was stayed by the Hennepin County District Court, pending the finalization of the Consent Judgment that was filed today.

"We are proud to stand with Governor Walz, Attorney General Ellison, and Lieutenant Governor Peggy Flanagan today to close another chapter in the fight against the tobacco companies putting Minnesota youth at risk through deceptive marketing," said Tara Sutton, lead trial counsel from Robins Kaplan. "From the groundbreaking tobacco trial in 1998 to today, Robins Kaplan has been honored to play a role in protecting Minnesota's children."

"As the first state to go to trial against Juul, Minnesota has proven once again, as it did 25 years ago, that it will hold tobacco companies accountable for their actions," said Munir Meghjee, a partner at Robins Kaplan and co-lead trial counsel. "Thank you to Attorney General Ellison and our co-counsel Zimmerman Reed for partnering with us in this hard-fought battle for the benefit of Minnesota youth."

“We knew from the outset that this litigation would be exceptionally hard-fought. And it was. But we also knew that protecting Minnesota’s youth from the dangers and addictiveness of e-cigarettes was a responsibility we owed to the future. We had to challenge these tobacco companies over their role in fueling Minnesota’s youth e-cigarette epidemic,” said Zimmerman Reed partner June Hoidal. “It has been an honor to work alongside our Attorney General and his Office and our co-counsel at Robins Kaplan to achieve such a great result for our State. We are grateful for the work we were able to contribute to this case and take satisfaction knowing that our success has made Minnesota, our cities, and communities healthier and better places for the next generation.”

High Light Vapes Litigation

Attorney General Ellison sues e-cigarette manufacturer, launches investigation of another High Light Vapes promoted products as ‘stealthy’ way to vape because of ‘striking resemblance to actual highlighters’; AG alleges violations of state laws against marketing tobacco to children, consumer fraud

January 15, 2025 (SAINT PAUL) – Attorney General Ellison today announced that his office has filed a lawsuit against High Light Vapes for violating state laws against deceptive tobacco marketing, marketing vapes to children, and consumer fraud, and has launched an investigation into e-cigarette manufacturer Loon to determine whether Loon has violated these or similar laws.

“My job as Attorney General is to protect Minnesotans — especially our children — when corporations try to harm us to make a profit. I will not allow any corporation to illegally manufacture, market, and sell dangerous and addictive e-cigarette products to Minnesota youth,” said Attorney General Ellison. “The actions I’m announcing today should put vaping businesses on notice: designing vaping products to appeal to young people will not be tolerated in Minnesota. I’m taking action to stop unlawful practices and prevent a generation of younger Minnesotans from becoming hooked on nicotine.”

High Light Vapes is the maker of e-cigarette products that mimic highlighters and are designed to be easily concealable and usable by school-age children.

promotional image of High Light Vapes with the tagline - Vape the difference

A promotional photo for High Light Vapes, which illustrates how closely they mimic highlighters

High Light intentionally advertised its products as a “stealthy” and “disguise[d]” way to have “seamless and covert vaping in any setting,” due to their “striking resemblance to actual highlighters.” At an August 29, 2024 press conference, Attorney General Ellison demonstrated the similarity in appearance between an actual highlighter and a High Light Vape. High Light’s e-cigarettes not only mimic children’s school supplies, but also come in a wide variety of “fruity, minty, or dessert flavors,” including Strawberry Cheesecake, Blueberry Raspberry, Sour Apple, and Magic Fruit. Attorney General Ellison alleges that by manufacturing and marketing these products, High Light Vapes has violated a new state law that prohibits the advertising, sale, or distribution of e-cigarettes that imitate school supplies or are described or depicted as imitating

candy, desserts, or beverages that are commonly marketed to minors, among other things, and has violated other tobacco-related and consumer-fraud laws.

Attorney General today also announced he has begun a civil investigation into Loon (also known as Maduro Distributors), a Minnesota-based manufacturer of several brands and flavors of e-cigarettes. As part of this investigation, the Attorney General's Office served a civil investigative demand on Loon, which require the company to produce documents and answer questions under oath. The purpose of the investigation is to gather information to determine whether Loon may have violated Minnesota's consumer protection and deceptive vaping laws.

Multistate action to prevent harms to youth of flavored, disposable e-cigarettes

Flavored disposable e-cigarette products are largely manufactured and imported illegally into the United States from China. Many of the companies who manufacture and distribute these products have declined to participate in the FDA's mandated marketing order process, and these products are considered adulterated and unlawful for sale. However, despite the fact that new e-cigarettes require FDA approval, the U.S. market has been flooded with flavored disposable e-cigarettes, and the number of unique disposable products has gone up 1500% since 2020.

These products are designed to appeal to and are marketed to youth. Despite containing dangerously high amounts of nicotine, disposable e-cigarettes come in a myriad of kid-friendly flavors, playful shapes, bright colors, and some even include video games that encourage young consumers to earn virtual coins by vaping. To date, these products are the most widely used tobacco product among youth, jeopardizing their health and well-being.

Despite the federal government's efforts to control the proliferation of these products, they remain widely available and represent an ongoing threat to youth. For this reason, Attorney General Ellison has joined a bipartisan coalition of nine attorneys general from around the country that share a commitment to protecting their youth from these dangerous products and predatory marketing practices and are working in coordination to hold companies accountable for unlawfully manufacturing, distributing, selling, and marketing flavored disposable e-cigarette products. Their multistate efforts address the continued distribution and sale of harmful and addictive tobacco products to our youth by enforcing each state's tobacco and consumer-protection laws. Using their available legal tools and support, California, Connecticut, Illinois, Hawaii, New York, New Jersey, Ohio, Vermont, and Washington D.C., are joining Minnesota today in taking steps to enforce their respective licensing and consumer protection laws to hold the companies accountable for importing, distributing, selling, and marketing flavored disposable e-cigarettes.

Minnesotans who wish to report any instances of the marketing or sale of potential illegal e-cigarette or other tobacco products in Minnesota to the Attorney General's Office may do so by emailing vaping@ag.state.mn.us or by completing the Illegal Vaping Products report form on the Attorney General's website. These reports will help the Attorney General's Office effectively monitor Minnesota's marketplace and ensure businesses comply with Minnesota law.

Protecting Minnesotans from illegal tobacco products

In December 2019, Attorney General Ellison sued e-cigarette maker Juul on behalf of the people of Minnesota, for violating Minnesota's consumer-protection laws, breaching its duty of reasonable care, and creating a public nuisance. The lawsuit detailed how JUUL developed sleek devices and flavors that were appealing to youth, and how JUUL's youth-oriented marketing deceptively attracted and addicted young people. In 2020, Minnesota amended its complaint to include Altria as a defendant: in 2018, Altria spent \$12.8 billion to acquire a 35% share in JUUL.

Of the many state and local governments that sued JUUL or Altria, Minnesota was the first to go to trial. After a trial at which the State presented 11 witnesses in support of its claims against JUUL and Altria, the parties reached a settlement in mid-April 2023.

Under the terms of the Consent Judgment, Juul and Altria will together pay a total of \$60.5 million to the State of Minnesota over an eight-year period, which makes Minnesota's settlement with JUUL the largest per capita in the country. The payment schedule is frontloaded: JUUL and Altria have already paid \$35.5 million under the settlement, meaning that the State has received nearly 60% of the total value of the settlement in less than one year. Even after costs and fees, the value of Minnesota's settlement was the largest per capita in the country. Money Minnesota receives under the settlement is dedicated by law to preventing youth smoking and e-cigarette use.

Settlements with the tobacco industry are widely recognized as landmark public health achievements. Since Minnesota's first historic settlement with Big Tobacco in 1998, overall cigarette use has declined by more than 50% and cigarette use among high school students dropped from more than 35% in 1997 to 1.9% in 2023.

AG Ellison's General Enforcement Priorities

It's my job as Attorney General and the People's Lawyer to help Minnesotans afford their lives and live with dignity, safety, and respect — especially when they have nowhere else to turn for help. That's what I've done for Minnesotans, in the tradition of strong Minnesota attorneys general, and what I'll keep doing — because the fight for a fair economy is still on.

Helping People Afford Their Lives

It's my job as Attorney General job to help Minnesotans afford their lives in the face of the rising costs of prescription drugs, healthcare, and higher education; declining wages and purchasing power; scams, unscrupulous landlords, and pandemic profiteering; and fraud, deception, and antitrust practices by corporations. When I ran for attorney general, I made promises about helping people afford their lives: I kept those promises and did much more.

Promise made: Stop price-gouging by big pharmaceutical companies

Promise kept: No one should have to choose between affording their lives and affording to live: when pharmaceutical companies gouge people on the price of the drugs, it's unconscionable. I successfully defended the Alec Smith Insulin Affordability Act in court against industry efforts to protect their profits over people's lives. I joined almost every state in the country in suing

manufacturers of generic drugs for illegal price-fixing and illegal allocation of markets in what's been called the "largest cartel in history," which has artificially inflated drug prices for consumers while making billions in profits for pharmaceutical companies. I've continued the State's lawsuit against insulin manufacturers for fraudulently setting an artificially high "list" price for the products, then negotiating a much lower, secret, actual price with pharmacy benefit managers. I've also fought at the Legislature for bills to ban unconscionable price-gouging on pharmaceutical drugs and for more transparency in drug pricing, against Republican opposition. And I kept my promise to convene a task force on how to bring down pharmaceutical drug costs: we published a plain-language report with 14 recommendations that call for making overly complex, opaque, and dysfunctional markets work better for people; using public power to make drugs more affordable and accessible, especially life-saving ones; and requiring more transparency and accountability in the pharmaceutical-drug market. The report won an award from the National Council for State Legislatures. I will keep fighting to turn all its recommendations into reality, many of which the Legislature can adopt in Minnesota.

Promise made: Crack down on the opioid epidemic

Promise kept: No amount of money can make up for the death and destruction that opioid companies have wrought on Minnesota families and communities, but we must hold them accountable. I expanded the State's lawsuit against Purdue Pharma to include eight members of the Sackler family as individual defendants for defrauding and deceiving Minnesotans about the harmful effects of their powerful, blockbuster opioid, Oxycontin. We showed that they knew but denied and downplayed the risks of Oxycontin, stigmatized people who were addicted to it, then paid themselves \$4 billion in profits. Minnesota and other states have reached settlements with eight opioid companies that may put hundreds of millions of dollars into a dedicated fund for treatment, abatement, and prevention, which my office helped create with legislators of both parties. I also fought successfully in these settlements for transparency and disclosure of tens of millions of internal documents from the opioid companies: history will know exactly how they did what they did to us so that it can never happen again.

Promise made: Defend the Affordable Care Act

Promise kept: Affordable healthcare is a fundamental human right. I am proud to have been part of a broad coalition of AGs that successfully defended the Affordable Care Act all the way to the U.S. Supreme Court, which upheld it against years of right-wing challenges. This means that the ACA will continue to provide coverage to 2.3 million Minnesotans with pre-existing conditions, will continue to guarantee preventive healthcare to 2.7 million Minnesotans — including contraceptive healthcare for 1 million Minnesotans — and will continue to provide coverage for 300,000 lower-income Minnesotans who might have lost it if the ACA had been overturned.

Promise made: Protecting workers' paychecks

Promise kept: You should take home every dollar you've earned on the job: this means your employer should pay you every dollar you've earned, including overtime. I promised that as Attorney General, I would protect Minnesotans' wages from theft, and I've kept that promise. I created the first-ever Wage Theft Unit in the Attorney General's Office that investigates and

litigates complaints of wage theft and other workplace fraud and abuse perpetrated against Minnesotans of all backgrounds, especially the most vulnerable. So far we've put more than \$270,000 back into Minnesotans' pockets by enforcing a new law I helped pass to fight wage theft. I also stood up to a Trump administration rule that would have removed overtime protections for 8 million workers nationwide.

Promise made: Affordable and fair housing

Promise kept: Every Minnesotan deserves a safe, stable home for themselves and their families. This includes tenants and renters, who can be vulnerable to exploitation and abuse. I filed a lawsuit against a Minneapolis landlord who preys on low-income and vulnerable tenants in an "eviction for profit" scheme, and another lawsuit against the owner of a manufactured-home park in Marshall for charging illegally high fees and failing to maintain the park. During the COVID-19 peacetime emergency, my office was also charged with enforcing the executive order banning evictions: we investigated 3,200 complaints from Minnesotans and filed nine lawsuits to block landlords from illegally evicting tenants during the pandemic. I won't hesitate to use Minnesota landlord-tenant, consumer-protection, and other laws that protect consumers to make sure all Minnesotans have a safe place to live.

Promise made: Fair student loans

Promise kept: People take out loans for higher education to better their futures and afford their lives. My office has continued to hold unscrupulous schools and loan-servicing companies accountable when they take advantage of students. We concluded a seven-year-long investigation and lawsuit against Minnesota School of Business/Globe University for defrauding students and enticing them into taking student loans at illegally high rates of interest, winning more than \$40 million in restitution and debt-forgiveness for affected MSB/Globe students. We've also won several million dollars in debt relief for former students of now-defunct ITT Technical Institute, I'm fighting to discharge loans that ITT students took out when the school was engaged in systemic fraud, and I've sought relief for students unfairly harmed by the sudden closure of Argosy University and Art Institutes. My office has also won settlements from a number of private student-debt companies for misleading or defrauding Minnesotans and we have banned some of them from doing any more business in Minnesota. I sued Trump Education Secretary Betsy DeVos to protect Minnesota students from fraud and abuse and joined a national coalition of attorneys general in calling for the cancellation of up to \$50,000 in federal student debt per borrower.

Promise made: A level playing field

Promise kept: No matter whether we live in urban, suburban, or rural communities, we are all Minnesotans and all connected to each other. But people in Greater Minnesota face particular challenges in affording their lives. That's why I've held a cable company accountable for deceptive advertising and substandard service in Greater Minnesota, and pushed back against telecom industry efforts to reduce landline service to communities where broadband is unavailable. I've joined a group of bipartisan attorneys general in calling for a federal investigation of antitrust practices in the beefpacking industry and more federal protections for

workers in the meatpacking industry. I'm looking at other creative ways to help rural Minnesotans get out from under the high costs of market concentration and potentially unfair competition in the retail sector.

Promise made: Stop predatory lending and financial scams

Promise kept: Everyone should be protected from financial exploitation and scams. That's why I stood up to a number of Trump administration attempts to delay, skirt, or eliminate protections against unconscionable predatory lending. To help people fight scams and abuse, we mediate disputes between consumers and businesses: last year, we put \$7.8 million back into Minnesotans' pockets. We also make sure charities follow the law and have shut down several that have not, including ones that exploited veterans and people who donated to support them. During the pandemic, we alerted the public to COVID-related scams and partnered with federal and local law enforcement in fighting them. We've also shut down several companies that fraudulently advertised forgiveness of student loans and charged people money to fill out forms that they can fill out for free.

Promise made: Protect women's access to safe healthcare choices

Promise kept: Access to safe and legal reproductive health care is a human right and an issue that affects people of every gender. I have fought throughout my term as attorney general for the constitutional right to reproductive health care, including access to abortion care. I'm proud to join attorneys general from around the country in fighting the unconstitutional laws from Texas and Mississippi at the U.S. Supreme Court and fighting to uphold Roe vs. Wade against orchestrated right-wing attacks. We cannot let our country go back to the dark days of before Roe.

Promise made: Hold health insurance companies and care providers accountable

Promise kept: When healthcare providers and insurance companies don't treat all Minnesotans fairly, I'll hold them accountable. My office reached a settlement with a hospital that had unilaterally changed billing terms on its patients: we required them to restore more favorable billing terms, which led to \$184,000 in debt forgiveness and significant discounts on patients' bills. We will continue to enforce the hospital agreement that protects patients against aggressive billing and debt collection practices by Minnesota nonprofit hospitals. I'm also working to make sure that health insurance companies provide Minnesotans with all the benefits to which they are entitled, including mental-health coverage.

Promise made: Protect Medicaid

Promise kept: People who rely on Medicaid for the healthcare should be able to trust that every dollar is being spent on their care. My office has continued to support the integrity of the Medicaid program by partnering with the federal government to make sure that all Medicaid dollars are spent on the care of people who need it, and to hold people criminally and civilly accountable when they defraud patients and taxpayers. My office has won millions of Medicaid dollars back for taxpayers.

Promise made: Protect seniors from fraud and abuse

Promise kept: The great Minnesotan, Hubert Humphrey, once said that “the moral test of government is how that government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life, the sick, the needy and the handicapped.” I agree. My office has held accountable bad actors who have exploited low-income seniors through Medicaid fraud, and is prosecuting the operators of an assisted-living facility in Aitkin County for manslaughter, assault, neglect, racketeering, theft, and Medicaid fraud. Protecting seniors from scams is also important: my office regularly works with seniors to help them recoup money lost to scammers and other unscrupulous businesses, and we have especially targeted “tech support” scams that exploit seniors.

In addition to keeping these promises, I’ve done more work to help Minnesotans afford their lives.

Protecting Minnesota consumers from fraud, overbilling, and abuse. When corporations and trade associations hurt Minnesotans, it’s my job to stand up and hold them accountable. I have reached settlements with CenturyLink, Xfinity, and Frontier for improperly or fraudulently overbilling customers and other fraudulent practices, which put millions of dollars back in Minnesotans’ pockets. I’m protecting consumers from utility overbilling by arguing that utilities should not pass on to consumers nearly \$400 million in costs they incurred during the 2021 winter storm in Texas, because the utilities mismanaged the effects of the storm and did not do enough to avoid those costs. I’ve sued e-cigarette manufacturer JUUL for deceiving Minnesotans about the true addictiveness of their product and its effect on our youth. And I’ve sued ExxonMobil, the American Petroleum Institute, and Koch Industries for deceiving and defrauding Minnesotans about the real causes of climate change and passing the costs onto us, while reaping hundreds of billions in profit.

Protecting Minnesotans from price-gouging and pandemic profiteering. Price-gouging isn’t illegal in Minnesota, but it should be — and profiteering during a pandemic is immoral. I used our Office’s authority under Governor’s executive order against price-gouging on food and essential goods and services during the emergency to investigate more than 2,600 complaints of pandemic profiteering. We held accountable companies that gouged prices on eggs, masks, and other PPE items. Because Minnesota is one of only 11 states without any laws banning price-gouging, I’ve fought for a law that would protect consumers against it.

Protecting Minnesotans from antitrust and anticompetitive behavior. It’s hard enough to afford your life: it’s even harder to afford your life when corporations conspire illegally. I’m building out a robust antitrust practice in the Attorney General’s office to address that problem. I’ve continued Minnesota’s lawsuit against insulin manufacturers for conspiring to keep prices artificially high, and have sued manufacturers of generic drugs for conspiring to fix prices and illegally allocate markets. I’ve also joined many other states in suing Google and Facebook for anticompetitive, monopolistic behavior. On top of that, I’ve continued to focus on issues of particular importance to farmers, the agricultural and food sectors, and rural Minnesotans,

involving the livestock and protein production, the food supply chain, and other agricultural and food products that are key to Minnesota.

Protecting law-abiding businesses from unfair, illegal competition. Well over 99% of all Minnesota businesses complied with the Governor's COVID-19 executive orders to keep their employees, customers, and communities safe, and they deserve our thanks for being good citizens. A very small number of businesses violated the orders and exposed law-abiding businesses to unfair competition. My office, which was charged with enforcing those orders, held 13 businesses accountable for endangering their communities and competing illegally against law-abiding businesses. We won reasonable settlements with almost all of them that allowed them to continue operating while holding them accountable for breaking the law.

Protecting low-income school children. Income should never be a bar to children learning. I issued a binding opinion that public school districts cannot "lunch shame" students by barring them from participating in graduation and other events if they have a school-lunch debt. I also reached an agreement that will help school districts provide milk to low-income students at reasonable prices in the face of market consolidation and anticompetitive behavior.

Satana Deberry

Durham County DA tells prosecutors to seek cash bonds only in 'rare circumstances'

By Virginia Bridges

More people charged with property crimes and low-level drug offenses in Durham are getting out of jail without having to put up any money, under a new District Attorney's Office policy. The internal pre-trial release policy favors releasing people from jail on a written promise to appear on most misdemeanor and lesser felony charges except for those that involve domestic violence or physical harm to another person, District Attorney Satana Deberry said in an interview. The policy, which took effect in February, was formally announced Tuesday.

"If the court insists on setting a bond, we ask the court to have a hearing on whether or not that person can afford that or not," Deberry said. Durham County voters elected Deberry last year on promises of criminal justice reforms, including rethinking cash bail for low-level charges. Ultimately, a judge determines the conditions of pre-trial release, including whether to set a bail and require electronic monitoring. In March, Senior Resident Superior Court Judge Orlando Hudson and Chief District Court Judge Pat Evans released a new policy that Hudson said "de-emphasizes" cash bonds in favor of unsecured bonds, written promises to appear in court and electronic monitoring, The News & Observer reported. The judges' policy set pre-trial release conditions for magistrates, who set initial bail amounts after someone is arrested. They also serve as a general guideline for judges, who can use their own discretion in setting bail amounts. Deberry's policy is different as it instructs prosecutors, who historically have argued for higher bail amounts. It also asks judges who require cash bail to hold hearings on why and whether the person can afford the amount. The policy notes state law already says judges should consider whether a person will return to court, potential destruction of evidence, danger to the community and witnesses.

"Despite statutory limitations on the use of secured bonds, the practice in this county has been to impose secured bonds in many cases pursuant to a bond schedule which fails to consider the unique circumstances of the individual and the individual's ability to pay the secured bond," the policy states. "Although this practice may be what many in the criminal justice system have become accustomed to, it unjustly and disparately treats defendants with limited financial means." For higher-level felonies, a prosecutor may consent to the release of a defendant upon a written promise to appear or options such as electronic monitoring and house arrest. Those options should only be requested "if there is evidentiary showing and written finding that less restrictive conditions of release will fail to protect the community from the risk of physical harm to persons or prevent tampering with witnesses or destruction of evidence," the policy states. When judges order electronic monitoring or a secured bond, prosecutors should request that the reasoning be put in writing, the policy states. "Rare cases will exist," in which "the threat to the community is such that a de facto order of detention will be necessary," the policy states.

Under the policy, a prosecutor should only request an "unattainable" secured bond when

- The defendant is charged with a crime involving the use or threatened use of force
- A substantial probability exists that the defendant committed the crime
- Evidence demonstrates that the defendant's release creates a risk of injury, destruction of evidence or the intimidation of

witnesses. “Because setting an unattainable bond” equals a detention order, the prosecutor should request that a judge make written findings on why the secured bond is necessary, the policy states. The policy also states that prosecutors shouldn’t seek orders for arrest if someone charged with a misdemeanor or lower-level felony misses a court date for the first time. When a prosecutor requests or consents to a bond, the policy recommends that a pre-trial assessment be sought, and the defendant be given an opportunity to participate in court-date notification system. Prosecutors should encourage judges to recommend the use of transportation, child care and mental-health services “demonstrated to improve rates of court appearance,” the policy states.

The DA’s policy marks another step court officials are taking in Durham to reduce the number of people in jail before they have been convicted of a crime. According to information provided by the District Attorney’s Office and the Sheriff’s Office, the jail population is already down, possibly to a record low. Between 2007 and 2018, the average annual jail population fell from 629 to 498. In March the average monthly jail population fell to 393 and then 366 in April, according to information provided by Deberry. Those months mark the first time the population has been below 400 since at least 2004.

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Panel 3: Economic Justice

Dawn N. Ison

United States Attorney Dawn N. Ison and HUD Inspector General Rae Oliver Davis Host Safe Housing Summits

DETROIT – United States Attorney for the Eastern District of Michigan Dawn N. Ison and U.S. Department of Housing and Urban Development Inspector General Rae Oliver Davis hosted two summits yesterday focused on promoting the health, safety, and civil rights of tenants living in HUD-assisted housing. The program focused on combatting sexual misconduct and eliminating environmental hazards in HUD-assisted housing.

The summits, which took place at Anderson Enrichment Center in Saginaw and Kemeny Recreation Center in Detroit, were part of the U.S. Department of Justice's and Inspector General's complementary initiatives to promote safe housing related to eliminating environmental hazards such as lead-based paint and how to recognize and report sexual harassment and misconduct.

"Everyone should be able to live safely in their homes, free from exposure to environmental hazards, and free from being subjected to harassment from their landlord," said U.S. Attorney Ison. "We convened these summits today to raise awareness that residents have protections under federal law and that the U.S. Attorney's Office, together with our partners at HUD OIG, will continue to work every day to eradicate sexual harassment and environmental hazards in housing throughout the Eastern District of Michigan."

"In partnership with U.S. Attorney Ison and her colleagues across the Nation, we remain dedicated to combatting sexual misconduct by housing providers and ensuring HUD-assisted tenants live in units free from lead and other environmental hazards," said Inspector General Oliver Davis. "Opportunities like those we held today engaging community stakeholders in safe housing summits demonstrate HUD OIG's commitment to holding accountable housing providers for putting the health and safety of HUD-assisted families at risk, and bringing to justice those who victimize vulnerable tenants."

Participants included representatives from organizations that routinely work with vulnerable populations most likely to be impacted by environmental hazards, such as lead-based paint in their homes, or subjected to sexual harassment in housing by their landlords, property managers, or others with control over housing. The organizations represented included legal services offices, fair housing organizations, civil rights groups, shelters, and social service organizations.

Ismail Ramsey

CEO of company providing homes for parolees and probationers sentenced to 17 years in prison for bank fraud, wire fraud, witness tampering, and other offenses

Jury found defendant guilty on forty-four felony counts

Attila Colar, aka Dahood Sharieff Bey, aka Sharieff Dahood Bey, aka Sharieff Pasha, aka David Lee, aka Georgi Petrakov, was sentenced to serve 204 months (17 years) in prison after being convicted of forty-four (44) felonies including conspiracy, bank fraud, wire fraud, aggravated identity theft, false statements to a bank, destruction of property to prevent a search, possession of a firearm as a felon, making a false tax return, obstruction, and witness tampering. The sentence was handed down by the Honorable Haywood S. Gilliam, Jr., U.S. District Judge.

Colar, of Richmond, Calif., was convicted of the crimes by a jury on June 23, 2023, after a three-week trial. Colar is the former Chief Executive Officer of All Hands on Deck, a Richmond, Calif., company that held itself out as providing a residential reentry home for probationers, parolees, homeless persons, and persons with mild mental illness. In finding him guilty of the sundry crimes, the jury concluded Colar carried out multiple schemes to defraud, including defrauding organizations that placed residents at his company's transitional housing facilities and defrauding several lenders that were participating in the Paycheck Protection Program (PPP). The jury also found that Colar attempted to destroy evidence, obstructed the FBI's and grand jury's investigations into his crimes, and tampered with a witness by attempting to conceal the witness while law enforcement was taking steps to execute a material witness order.

"In the wake of a national crisis, the government established programs, including the Paycheck Protection Program, to ease the pain inflicted by a global pandemic," said Ismail J. Ramsey, United States Attorney for the Northern District of California. "Colar took this opportunity to defraud the government, while also defrauding several other initiatives intended to help the homeless, newly released prisoners, and those with drug problems, to name just a few of his victims. This sentence should serve as a warning that this office will pursue with vigor those who seek to line their own pockets by defrauding government efforts to address our communities' needs."

"Mr. Colar attempted to defraud the U.S. government by filing multiple false tax documents to further his Paycheck Protection Program scheme. Along the way, he harmed the members of the community those funds are designed to aid and protect," said IRS-Criminal Investigation Special Agent in Charge Darren Lian of the Oakland Field Office. "This sentencing reinforces that people who abuse the U.S. tax system and victimize taxpayers will be held accountable. IRS Criminal Investigation agents work closely with multiple agencies to help ensure those who choose to break the law are caught and punished. I would like to thank the United States' Attorney's Office's and its federal partners for working together to achieve a just result."

"Colar is now facing the consequences for his attempt to steal from a taxpayer-funded program designed to offer crucial relief to those businesses affected during the pandemic," said Robert K. Tripp, Special Agent in Charge, San Francisco Field Office, Federal Bureau of Investigation.

"We are proud to have worked in close coordination with our federal partners to ensure justice prevailed in this case."

"This sentencing sends a clear warning that you will be brought to justice if you defraud the federal government of pandemic relief funds," said Jon Ellwanger, Special Agent in Charge, Western Region, Office of Inspector General for the Board of Governors of the Federal Reserve System and Consumer Financial Protection Bureau. "We are proud to have worked with our federal law enforcement partners and the U.S. Attorney's Office to hold Mr. Colar accountable for his crimes."

"Abusing SBA's pandemic relief programs that are intended to provide critical relief to small businesses is unconscionable," said SBA OIG's Western Region Special Agent in Charge Weston King. "This sentencing further showcases that those who fraudulently take advantage of federal government programs will face justice for their selfish deeds. I want to thank the U.S. Attorney's Office and our law enforcement partners for their dedication and commitment to seeing justice served."

"When individuals corruptly obstruct the due administration of the Internal Revenue Code and file documents under false pretenses, they defraud and steal funds from taxpayer-funded programs intended to assist small businesses. TIGTA will always pursue these individuals and ensure they are prosecuted to the fullest extent of the law," stated Special Agent in Charge Rod Ammari. "I want to thank our law enforcement partners and the U.S. Attorney's Office for their joint efforts to hold these criminals accountable for their actions."

Evidence at trial showed that starting in late 2018, Colar engaged in a scheme to defraud, among others, GEO Reentry, which provided treatment and supervision programs for adult probationers, parolees, and pretrial defendants in residential, in-custody, and non-residential reentry centers for the California Department of Corrections and Rehabilitation (CDCR). Specifically, in or about 2019, Colar fraudulently induced GEO Reentry to refer parolees to All Hands on Deck using falsified fire inspection clearance reports, a false letter of recommendation, false security clearance documents, and false and misleading information about its staff.

Additional evidence demonstrated that in April and June of 2020, Colar engaged in a second scheme to defraud lenders participating in the PPP lending plan authorized by the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The CARES Act was designed to provide emergency financial assistance to the millions of Americans who were suffering from the economic effects caused by the COVID-19 pandemic. Pursuant to the CARES Act, the SBA managed the PPP lending plan. Trial evidence established Colar submitted multiple loan applications on behalf of All Hands on Deck to lenders that were false and misleading. For example, the applications substantially overstated the number and payroll of All Hands on Deck employees—while Colar's loan applications stated All Hands on Deck had approximately 73 to 81 employees, the business had, in fact, perhaps other than himself, no salaried employees.

Colar was also convicted of offenses related to the submission of multiple fraudulent loan applications in the name of other companies. The evidence demonstrated Colar hastily revived two dormant companies, and then submitted loan applications from the PPP lending plan for the

bogus businesses. To carry out this scheme to defraud, Colar used, without legal authority, the names and identities of two persons living in his residential reentry facility. Colar falsely represented that the residents were "CEO"s of companies with hundreds of employees with million-dollar payrolls.

In all, the evidence at trial showed that Colar submitted a total of 16 fraudulent loan applications to the PPP lending plan seeking approximately \$34,655,437 in PPP loans.

Colar also was convicted of obstruction and witness tampering relating to the investigations into his crimes. Colar has been found guilty of destroying documents during a search of his home, lying to the FBI about a firearm, falsifying records produced to the grand jury, interfering with the representation by counsel of a material witness by impersonating the witness's Power of Attorney, coaching a witness to falsely state that the witness was the CEO of one of Colar's bogus companies that submitted fraudulent loan applications, and concealing a witness in multiple hotels and other locations in the Bay Area to forestall or prevent the witness from providing testimony in the federal grand jury.

In sum, Colar was convicted of forty-four (44) federal criminal offenses for his conduct. The convictions include the following: one count of conspiracy to commit wire fraud, in violation of 18 U.S.C. § 1349; one count to commit conspiracy to commit bank fraud and wire fraud, in violation of 18 U.S.C. § 1349; two counts of bank fraud, in violation of 18 U.S.C. § 1344; sixteen counts of wire fraud, in violation of 18 U.S.C. § 1343; eight counts of aggravated identity theft, in violation of 18 U.S.C. § 1028A; two counts of false statement to a bank, in violation of 18 U.S.C. § 1014; one count of possession of a firearm by a felon, in violation of 18 U.S.C. § 922(g); one count of destruction of property to prevent a search or seizure, in violation of 18 U.S.C. § 2232(a); one count of obstruction of justice, in violation of 18 U.S.C. § 1512(c)(2); two counts of falsification of records in a federal investigation, in violation of 18 U.S.C. § 1519; six counts of making a false tax return, in violation of 26 U.S.C. § 7206; one count of conspiracy to tamper with a witness, in violation of 18 U.S.C. § 1512(k); one count of tampering with a witness, in violation of 18 U.S.C. § 1512(b)(1); and one count of tampering with a witness, in violation of 18 U.S.C. § 1512(b)(2).

In addition to the prison term, Judge Gilliam also ordered Colar to serve 60 months (five years) of supervised release, to begin after his prison term. Restitution will be determined at a later date. Colar is currently in federal custody and will begin serving his prison term immediately.

Assistant U.S. Attorneys Barbara J. Valliere, Adam A. Reeves, and Ross D. Mazer are prosecuting the case with the assistance of Paralegal Specialist Laurie Worthen and Legal Assistant Kathy Tat. The prosecution is the result of an investigation by IRS-Criminal Investigation, the FBI, Office of Inspector General for the Board of Governors of the Federal Reserve System and Consumer Financial Protection Bureau, Internal Revenue Service: Criminal Investigation, Treasury Inspector General for Tax Administration, and Office of Inspector General for the U.S. Small Business Administration.

Markenzy Lapointe

Southern District of Florida recognizes World Elder Abuse Awareness Day

MIAMI – Markenzy Lapointe, U.S. Attorney for the Southern District of Florida, joined national, state, local, and Tribal leaders today in recognizing World Elder Abuse Awareness Day (WEAAD). Since 2006, WEAAD has been commemorated to promote awareness and increase understanding of the many forms of elder abuse as well as the resources available to those at risk.

Highlighting the partnership between law enforcement and the public, U.S. Attorney Lapointe emphasized the importance of awareness and education.

“Our Office is committed to protecting and supporting the most vulnerable among us, including the elderly,” stated U.S. Attorney Markenzy Lapointe for the Southern District of Florida.

“Exploitative practices that target seniors inflict great financial, emotional and at times physical harm. Elder abuse, fraud, and neglect remain urgent problems in our country. If you or your loved ones are victims of elder fraud and/or abuse, contact law enforcement for help. No one should fight this battle alone.”

Elder abuse is an act that knowingly, intentionally, or negligently causes or creates a serious risk of harm to an older person by a family member, caregiver, or other person in a trust relationship. Such harm may be financial, physical, sexual, or psychological. The Justice Department maintains a variety of programs and initiatives to combat elder abuse.

The Transnational Elder Fraud Task Force marshals federal and state agencies working collaboratively to investigate and prosecute foreign-based schemes that target older Americans. In addition to aggressively investigating the individuals, organizations, and networks responsible for these crimes, this initiative provides the public with information to guard against both traditional scams, like tech support fraud, as well as trending schemes, such as romance scams.

Using one scam to perpetrate or conceal another, some fraudsters rely on money mules to move the proceeds of their illegal activity. Preying on the good will or financial vulnerability of their targets, scammers recruit people, many times older victims, to participate in schemes to move money in ways that avoid notice. The Money Mule Initiative identifies and addresses money mule activity to disrupt these fraud schemes, and helps people to recognize and avoid participation in perpetuating fraud. The U.S. Attorney’s Office recently issued the following announcement regarding money mules..

“Our Office is committed to dismantling criminal networks, to include those designed to inflict financial harm upon older Americans,” said U.S. Attorney Markenzy Lapointe for the Southern District of Florida. “We will continue to work with our federal partners to disrupt money mule networks, educate consumers about scams, and prosecute criminals who defraud the public. Our goal is to keep money out of the hands of domestic and international fraudsters and in the pockets and bank accounts of the South Florida residents and visitors we serve.”

To help older individuals and their families identify and avoid fraudulent activity, the Justice Department provides Senior Scam Alerts with information about the tactics used in specific schemes. For example,

- In Social Security Administration impostor schemes, scammers impersonate government administrators and falsely report suspicious activity to request that the victims provide their Social Security number for confirmation.
- In tech support scams, fraudsters contact victims, sometimes through internet pop-up messages, to warn about non-existent computer problems, ask the victim to give them remote access to their computer, and identify a non-existent problem, then demand large sums of money for unnecessary services.
- In lottery scams, telemarketers falsely notify victims that they have won a sweepstake and tell them they must first pay fees for shipping, insurance, customs duties, or taxes before they can claim their prizes.

To learn more about the Justice Department's elder justice efforts please visit the Elder Justice Initiative page. U.S. Attorney Lapointe's elder fraud Public Service Announcement (PSA) can be viewed by visiting this link.

The U.S. Attorney's Office for the Southern District of Florida continues to work with federal, state, local, and Tribal law enforcement partners, to include the FBI, Homeland Security Investigations (HSI), U.S. Postal Inspection Service (USPIS), U.S. Treasury Inspector General for Tax Administration (TIGTA), U.S. Secret Service (USSS), and Federal Deposit Insurance Corporation Office of Inspector General (FDIC-OIG), to investigate and prosecute elder abuse crimes.

Recent South Florida elder abuse cases include the following:

- Monique C. Clarke, a/k/a "Monique Clark-Mootoo," a/k/a "Rebecca White," and a/k/a "Mark Hilton," and Jon-Michael Hudson were charged by indictment with conspiracy to commit money laundering for their involvement in a Jamaican lottery scheme that targeted over 50 elderly victims throughout the United States and resulted in over \$6.6 million in losses. The trial is scheduled for Aug. 12, before U.S. District Judge Melissa Damian in Fort Lauderdale. An indictment contains mere allegations, and all defendants are presumed innocent unless and until proven guilty in a court of law.
- Five people, including a home health aide and her daughter, were sentenced to federal prison for their involvement in a South Florida elder fraud scheme.

Trini Ross

Leader in Debt Collection Scheme Going to Prison

BUFFALO, N.Y. - Homeland Security Investigations (HSI) Buffalo Special Agent in Charge Erin Keegan announced the Nov. 19 sentencing of Joseph Ciffa of Tonawanda, New York, to 37 months in prison. Ciffa, age 56, was convicted of conspiracy to commit wire fraud and filing a false tax return.

The sentencing is the result of an investigation by HSI Buffalo Special Agent in Charge Keegan; the U.S. Attorney's Office for the Western District of New York, under the direction of U.S. Attorney Trini E. Ross; the Internal Revenue Service, Criminal Investigation Division, under the direction of Special Agent-in-Charge Thomas Fattorusso; the United States Postal Service Inspection Service, under the direction of Acting Inspector-in-Charge Ketty Larco-Ward; and the New York State, Office of Inspector General, under the direction of Inspector General Lucy Lang.

“Joseph Ciffa led a network of fraudsters who exploited the well-meaning public through the use of intimidation and bogus threats of criminal procedure, and in turn collected over \$3 million in illicit funds,” said HSI Buffalo Special Agent in Charge Erin Keegan. “HSI Buffalo, in coordination with our law enforcement partners, will not stand idly by as criminal opportunists target the public with impunity. We are committed to ensuring the safety and wellbeing of New Yorkers whenever and wherever possible.”

According to the investigation, Ciffa was involved in the debt collection business since at least 2013. Since early 2015, Ciffa ran, and conspired with others to run, an illegitimate debt collection business, operating out of multiple locations, which included: 1625 Buffalo Avenue in Niagara Falls, NY; 870 Ontario Street and 1567 Military Road, both in Kenmore, NY; and out of his home office on Grand Island. The operation utilized fraudulent means to collect debts, to recollect on debts already collected, to over-collect on debts actually owed, and to process and transfer payments related to the collection of such debts. Debt collectors made threatening statements over the telephone to debtors in an effort to induce payment of debts. Those statements included reference to criminal statutes, and the filing of criminal complaints and/or warrants. In order to intimidate debtors and induce payment, debtors were routinely routed to employees who posed as attorneys during the calls.

Between January 2015, and December 2016, Ciffa's operation collected approximately \$3,061,205 from victims. Ciffa also filed a false tax return for the tax year 2015, underreporting his business income, thereby avoiding a total tax liability of approximately \$15,651. In addition, in 2016 Ciffa committed fraud involving Medicaid benefits. He lied in an application to the Erie County Department of Social Services, by under-reporting his income, in order to obtain benefits for himself and his children.

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Panel 4: Women in Criminal Justice

Dena J. King

Life Lessons: U.S. Attorney Dena J. King

Charlotte native, South Meck alumna turned grief into fuel for a pioneering career

January 16, 2023

Cheryl Spainhour

Dena J. King, a Charlotte native, is the first person of color ever to serve as U.S. attorney in Charlotte. She's navigated personal pain to achieve her professional status. In 1994, her older brother, De'Von, was killed in a car accident, and her father, Bobby, died of a heart attack 10 months later. King, 41, turned her grief into motivation.

As a child in south Charlotte, she was inspired by the character Clair Huxtable on The Cosby Show. King excelled academically at South Mecklenburg High School, where her peers voted her "most likely to succeed"; was accepted into the Honors and Scholars program at N.C. State and graduated magna cum laude with a business management degree in 2003; and earned her law degree from N.C. Central. In 2006, she went to work for the district attorney's office in Charlotte, where she was the DA's designated representative in drug treatment and mental health cases.

From 2009 to 2014, she worked as an enforcement attorney for the securities division of the N.C. secretary of state's office. King then joined the U.S. attorney's office in Raleigh, where she prosecuted narcotics cases, and moved to the Charlotte office in 2020 as deputy criminal chief overseeing the violent crimes and narcotics section.

President Biden nominated her in September 2021 to replace Andrew Murray, a Donald Trump appointee who had announced his resignation in February. The U.S. Senate confirmed King as U.S. Attorney for the Western District of North Carolina on Nov. 19, 2021. She's the first person of color to hold that position. (The same day, the Senate confirmed Sandra Hairston as the first woman of color to serve as U.S. attorney for the Greensboro-based Middle District. The Justice Department has had U.S. attorney's offices in North Carolina since 1872, in the era of Reconstruction.)

King says her head and heart are devoted to public service—"It's who I am"—and that she's serious about serving as a role model and mentor to young people. Her words have been edited for space and clarity.

I was born in Charlotte and grew up here. My father and mother are both from Charlotte. My father worked at Duke Power (now Duke Energy) for over 20 years. My mother worked at Carolinas Medical Center. I come from an extensive, tight-knit family with a host of aunts, uncles, and cousins, all of whom played a vital role in shaping who I am today, particularly after I lost my brother and my father at a young age.

My father passed away when I was 14 years old, 10 months after my brother, who was 15 at the time, was killed after being hit by a car. My father died of a heart attack, but I truly believe that the loss of his child was unbearable for my father, and he died of a broken heart.

My father and my brother always have been and continue to be very inspiring and driving forces in my life. In both of their eyes, I was the smartest girl on earth. When both of them were taken away from us so suddenly, I was devastated, and I learned for the first time the true meaning of grief. In many ways, the grief became my inspiration, and I thought that the best way to honor my brother and father's legacy was to make them proud by continuing to be the smartest girl on earth, at least in their eyes. They both knew I wanted to be an attorney, as that is all I ever talked about, and fulfilling that in their honor became more important to me.

My mother still lives in Charlotte, and we are extremely close. My mother is also a very inspiring and important figure in my life. After my mom was forced to become a single parent, my mom instilled several things in me: emphasis on faith; hard work; determination. Faith, in that we must have faith in something greater than yourself, especially having gone through what I experienced as a teenager. She required me to work hard, as she would tell me that nothing would be given to me. Instead, she told me I had to earn it.

To get through my grief and to stay focused, my mom also pushed me and made me challenge myself and grow in ways I did not comprehend at the time. For example, she made sure I participated in speeches and other public speaking events at church, but, unbeknownst to me, that assisted in developing my comfort level to speak in front of people, something that later in life I've had to do a great deal of as a trial lawyer and as a public figure.

While in the Eastern District, I was a federal prosecutor, but in addition, I was a reentry coordinator. There were times that I would see people in prison when I actually prosecuted their case. And so in one day, as an example, I could that morning be asking a judge to send someone to prison for 10, 15, 20 years, and that afternoon going to prison, talking to the offender who is about to be released, and helping ensure that he had the resources that he needed to be successful. And I think many people thought that was weird.

As a prosecutor, I believe it is important to follow the rule of law, to hold wrongdoers accountable for their actions, and to seek justice on behalf of crime victims.

I do believe that people can be rehabilitated. I believe that people can recognize the errors in their mistakes and want to do better. And so I believe in second chances.

As federal prosecutors, we have a broader reach but also a bigger seat at the criminal justice table. It's important to understand that and leverage the power in ways that have a long-lasting, positive impact in the community. We cannot arrest our way out of crime. At times, there are alternative solutions to correcting behaviors other than the criminal justice system. In the words of philosopher and writer Julian Baggini, "Society needs both justice and compassion, a head and a heart, if it is to be civilized."

As the chief federal law enforcement officer in the district, it is important to be visible. It is important for people to know who we are, what we do, and why we do it. So staying engaged with the community is extremely important. Also, you will frequently hear me say that it's important to be a friend before we need a friend. What that means is, it is important to have good relationships not only with law enforcement but also community organizations and service providers who provide vital assistance and perform an array of functions for victims, survivors, and individuals who are transitioning back to society following incarceration.

I want to ensure that, first and foremost, we reinvigorate the Department of Justice's core mission, which is advancing equal justice under the law. It is important as a federal prosecutor because I think we are at a point where, as a nation, many of our challenges have exposed and quite honestly exacerbated the inequities that exist while we are also seeing a movement for equality and justice highlighting those issues that have long been problems.

To meet these needs, especially within the justice system, in order to put justice and equity at the forefront of what we seek to change, we must ensure that those within the systems represent diversity, inclusion, and equality. I hope that my development of a civil rights team will continue. Additionally, I hope that an emphasis on diversity and inclusion within the office will continue.

(On the attorneys she admires)

First and foremost, since I'm from Charlotte and an N.C. Central graduate, local giant Julius Chambers comes to mind first, followed by James Ferguson, a close second. Also, former (U.S.) Attorney General Loretta Lynch has been a female lawyer I've long admired, and of course Elreta Melton Alexander-Ralston, who was a true trailblazer as a Black female lawyer and state judge at a time when there were very few practicing female or Black lawyers in North Carolina. There is also Judge Shirley Fulton, the first Black female prosecutor in Mecklenburg County and the first Black woman on the Superior Court bench in North Carolina. Also, recently retired Judge Rickye McKoy-Mitchell, Mecklenburg County's longest-serving District Court judge, has been my mentor throughout my legal career.

I love public service. It's who I am, it's what I believe in, and what I enjoy doing. It is how I have chosen to spend my professional time, and it is what I do in my personal time through involvement with Delta Sigma Theta Sorority Inc., a public service organization. I believe in doing my part to ensure that I'm taking care of my community and being a strong minority voice within the justice system. I serve as a mentor for several minority undergraduate and law students, both young men and women interested in becoming lawyers. Representation matters. Role models matter, and real ones matter even more.

Today's young people not only need to be told that they can be all that they can be, but they need to see someone who looks like them in those shoes. My role model was a fictional character. My hope is that, when minority young women see me, they see a possible future for themselves. So, while I am the first person of color to serve as U.S. attorney, I hope I am the first of many.

I am grateful to have the opportunity to lead in this role. I care deeply about our state and its people, and I feel a great sense of responsibility toward our communities. First and foremost, I

am a prosecutor, tasked with the responsibility to implement the law to protect our communities and to safeguard the rights of all those living within the Western District of North Carolina. As a prosecutor, I believe it is important to follow the rule of law, to hold wrongdoers accountable for their actions, and to seek justice on behalf of crime victims.

As U.S. Attorney, I have the discretion to balance national priorities set by the Justice Department with local priorities that specifically reflect the needs of our communities. For example, safeguarding civil rights, including hate crimes and human trafficking; addressing violent crime by identifying violent repeat offenders and reducing gun trafficking; tackling drug trafficking by focusing on upper level distributors and suppliers; prosecuting white collar crimes such as COVID fraud, corporate crime, investment fraud, and bank fraud; and protecting vulnerable members of our society from traffickers, child predators and those that seek to victimize older adults, are some of the areas we will be prioritizing. Equally important is engaging with our law enforcement counterparts at the federal, state and local level, and working with them to determine how my office can support their work to address the needs in our district and the needs of our law enforcement community.

Heather Pinckney

A Supreme Court justice who looks like me

OPINION: Heather Pinckney, executive director and board chair of the Black Public Defenders Association, is excited about the new perspective Judge Ketanji Brown Jackson—a former federal public defender—would bring to the high court.

Judge Ketanji Brown Jackson, President Joseph Biden's nominee to be the 116th associate justice of the U.S. Supreme Court, just concluded four days of confirmation hearings. Unlike President Reagan's nomination of Sandra Day O'Connor, the first woman appointed to the court in 1981, Jackson's nomination is unlikely to be unanimously confirmed.

As a nation, we are much more polarized today, with Jackson's nomination prompting some commentators to criticize Biden's vow to appoint a Black woman (Reagan made a campaign pledge to appoint a woman to the high court to shore up support among women voters), including one Georgetown professor who tweeted that Biden wasn't going with "the objectively best pick" but a "lesser Black woman."

Despite a handful of snipers and the ludicrous dog whistle demand of Fox News' Tucker Carlson's to see her qualifications, Judge Jackson's credentials are unassailable and comparable to the other justices on the high court—108 of the 115 of whom have been white males.

As a four-foot, 10-inch Black woman defense attorney, I'm proud of Judge Jackson's accomplishments, but I'm proudest of the new perspective she will bring to the high court.

Someone once said that what you see depends not only on what you look at but also one where you look from.

The daughter of former public-school teachers who attended historically Black colleges and universities, Judge Jackson was a star debater at her Miami, Fla., public high school, received an A.B. magna cum laude graduate from Harvard University and a J.D., cum laude from Harvard Law School.

She has a proven commitment to ethics, justice, and the rule of law.

I've had the short person's perspective since I was a child, especially when it comes to bullies. I was the one who always had something to say to bullies that I encountered while growing up, often to the point that my mother used to advise me to keep quiet before I found myself in fights that were not even about me.

But it is one of the reasons that I'm a defense attorney, to defend those who are often beaten down and disparaged by society.

Jackson would be the first former federal public defender to serve on the high court. No justice has had substantial criminal defense experience since Justice Thurgood Marshall retired more than 30 years ago.

Today, the majority of the high court justices have prosecutorial backgrounds.

Does it make a difference? Yes.

Public defenders are the ones who stand up for the vast majority of people charged with crimes in America. More than 90 percent of such cases, including lawsuits involving state laws, family law issues such as marriage and divorce, etc., are adjudicated in state courts. In some states, people with few nonviolent felony convictions can face mandatory life imprisonment.

As a defense attorney, I've learned to see past the crime and see the person, something that Judge Jackson knows well and emphasized during her 2021 confirmation hearings as a judge for the U.S. District Court for the District of Columbia.

She told the senators that during her time as a public defender, she was "struck" by how little her clients understood the legal process, despite the obviously serious implications of criminal proceedings for their lives. As a trial judge, Jackson said she took "extra care" to make sure that defendants were aware of what was happening to them and why.

"I speak to them directly, not just to their lawyers, using their names," she said.

She reiterated that commitment in her 2021 remote commencement address to the graduating law class at the University of Pennsylvania Carey Law School, noting that the graduates had a "once in a lifetime" experience because of the Covid-10 pandemic that "fundamentally altered the way you studied, and process, and learned."

That shift in mindset, she said, gave them the "confidence to do hard things," most importantly ensuring "equal justice under the law... to clients who might not be able to pay for your service."

And that perspective makes all the difference in the world.

Confirming Jackson to the high court would bring an eminently qualified jurist, one who has not only the legal background but the Solomonic compassion needed on the highest court in the land.

A PUBLIC DEFENSE PERSPECTIVE: AN INTERVIEW WITH
HEATHER PINCKNEY, DIRECTOR OF PUBLIC DEFENDER
SERVICE FOR THE DISTRICT OF COLUMBIA

Aasha Rajani*

INTRODUCTION

The Public Defender Service for the District of Columbia (“PDS”) has been a fixture in Washington, D.C. since its establishment as a Legal Aid Agency (“LAA”) in 1960. Even before the United States Supreme Court decision in *Gideon v. Wainwright*,¹ which guaranteed legal counsel to indigent defendants, PDS, then known as LAA, was representing individuals who could not afford counsel in serious criminal, juvenile, and mental health legal cases.

It is often described as a model public defender office for its unique organizational and funding structure and the caliber of its staff, which includes lawyers, social workers, investigators, and community outreach specialists.² PDS is federally funded and governed by an eleven-member apolitical board of trustees which preserves its autonomy.³ The organization prides itself on meeting the holistic needs of each of the clients it represents. This client-centered approach is possible because of its unique organizational structure, which includes a blend of legal services as well as legal support divisions.⁴ The latter consists of professionals who work closely with attorneys and provide

* Aasha Rajani is an evening law student at Georgetown University Law Center and an extern for the Civil Legal Services Division at PDS. This interview would not have been possible without the support of her supervisor, Chief of the Civil Legal Services Division, Robert Hornstein and special projects manager, Tanya Hatton. She is immensely grateful to Director Pinckney for being incredibly generous with her time to provide this candid interview.

¹ *Gideon v. Wainwright*, 372 U.S. 335 (1965).

² See, e.g., *Mission and Purpose*, PUBLIC DEFENDER SERVICE FOR THE DISTRICT OF COLUMBIA (last visited April 29, 2023), <https://www.pdsdc.org/about/mission-purpose>.

³ *Id.*

⁴ *The Story of PDS: 60 Years as a Model Defender Program*, PUBLIC DEFENDER SERVICE FOR THE DISTRICT OF COLUMBIA (last visited April 29, 2023), <https://www.pdsdc.org/about/historical-timeline>.

technical assistance on individual cases.

PDS provides adult and juvenile clients with lawyers for whichever stage they are at in their contact with the criminal legal system—trial lawyers, appellate lawyers for handling direct appeals and other appellate litigation, parole lawyers, civil lawyers for a range of collateral civil matters, mental health division lawyers to handle involuntary civil commitment cases and post-commitment proceedings, lawyers to support reentry into society, and special litigation lawyers for defending complex constitutional and statutory rights in federal courts.⁵ These legal services across the various divisions are made possible by wraparound support provided by an indispensable staff of investigators who diligently investigate cases and provide trainings and licensed social workers and counselors who work with clients through a broad range of emotional, social, psychiatric, and substance-abuse related problems.

In addition to direct client representation, PDS has passionately defended constitutional and statutory rights during some of the major historical events of the past sixty years. Examples include providing legal representation to protesters following the assassination of Martin Luther King Jr. in 1968⁶ and anti-war demonstrators during the 1971 May Day protests,⁷ pushing for reforms in the Criminal Justice Act for appointing and compensating legal representation in the 1980s,⁸ and filing litigation that led to changes by the United States Parole Commission for resolving parole and supervised release revocation cases in the 2000s.⁹

Throughout its more than sixty-year tenure, PDS has been led by lawyers fiercely committed to standing up for the needs of their clients. In September 2022, Heather Pinckney took the helm after Avis Buchanan, who served as Director of PDS from 2002 to 2022, decided

⁵ *Legal Services Divisions*, PUBLIC DEFENDER SERVICE FOR THE DISTRICT OF COLUMBIA (last visited April 29, 2023), <https://www.pdsdc.org/about/legal-services-divisions>.

⁶ *The Story of PDS: 60 Years as a Model Defender Program*, PUBLIC DEFENDER SERVICE FOR THE DISTRICT OF COLUMBIA (last visited April 29, 2023), <https://www.pdsdc.org/about/historical-timeline>.

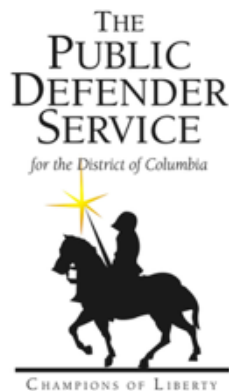
⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

to retire.¹⁰ Born and raised in Washington, D.C., Director Pinckney started her legal career as a trial attorney at PDS and has since continued to be led by her relentless belief that everyone, no matter their circumstances, deserves effective counsel. Prior to returning to PDS, she served as a managing partner of a law firm, Harden & Pinckney, and as the Executive Director of the Black Public Defender Association. She received her Juris Doctor from George Washington University Law School.

In this interview—a first in-depth conversation with *American Criminal Law Review*—Director Pinckney discusses her professional journey, shares her vision for PDS, and offers insight into the importance of public defense work.



INTERVIEW

- 1. You began your career as a trial attorney at the Public Defender Service for the District of Columbia (“PDS”) and now serve as the Director. Can you share a bit about what interested you in a career in criminal defense and the trajectory that led you to this moment?**

¹⁰ Keith L. Alexander, *D.C. Public Defender Service Names Veteran Lawyer As Its New Director*, WASHINGTON POST (June 21, 2022), <https://www.washingtonpost.com/dc-md-v/2022/06/21/pinckney-director-public-defender-service/>.

I was born and raised in Washington, D.C., and I always knew that I wanted to help people. I had experience working for community-based organizations. I worked for an organization fighting against apartheid in South Africa; the Washington Legal Clinic for the Homeless doing civil defense work; and the Civil Rights Division at the Department of Justice working on educational opportunity law.

Once in law school, I met two people interning at PDS—Dehlia Umunna, now Clinical Professor of Law at Harvard Law School, and Judge Lloyd Nolan, a magistrate judge on the D.C. Superior Court—who shared that if you really want to help people, you should go work at PDS. At the time I did not have a concept of what PDS was but upon further research of the type of cases they took on, I applied and came in as a law clerk during law school. Right after law school I joined PDS as a trial attorney, and didn't leave until I planned to open my law practice.

PDS was the perfect mix of advocacy, community, and trial work. When I started at PDS in the Trial Division, I spent my first year representing juvenile clients in delinquency cases. Soon after, I was working on serious felony cases, including Accelerated Felony Trial Calendar (“AFTC”)¹¹ cases in which our clients were entitled to a trial within 100 days. Finally, I moved to Felony I¹² cases which include our most serious cases involving murder and sexual assault.

I left PDS in 2008, as the Deputy Trial Chief overseeing the team of trial attorneys, with the idea that I could still do this work through my own business. I, along with my business partner, applied and became what we call Criminal Justice Act or CJA Attorneys¹³ group in D.C.

¹¹ AFTC is for cases in which the accused is held without bond for offenses designated as “Dangerous Crimes” or “Crimes of Violence” such as assault with intent to kill, armed robbery, burglary, aggravated assault, kidnapping, and armed carjacking. The AFTC calendars were designed to deal with preventive detention cases which would have to be tried within 100 days.

¹² There are two different categories of offenses adjudicated in D.C. Superior Court—felony and misdemeanor. In order to effectively manage cases, the Court established three felony calendars: Felony I, Accelerated Felony, and Felony II. Felony I calendars include the most serious offenses—first-degree murder and serious sexual assaults.

¹³ The Criminal Justice Act (“CJA”) was enacted in 1964 and establishes a comprehensive system for appointing and compensating legal representation for accused persons who are financially unable to retain counsel in federal criminal proceedings. Attorneys who are on the “panel” approved to appointment to criminal cases from the court are called CJA attorneys. *See UNITED STATES COURT:*

This allowed us to maintain connection to the public defense work we loved but also work on other types of cases in civil and family law.

I spent almost thirteen years in private practice and simultaneously taught trial work and practice at George Washington Law School and all across the country, mostly to public defenders because I know that, unlike PDS, most offices do not have the resources to provide their attorneys effective training and support.

My hope always was that if I ever came back to PDS, it would be in the capacity to lead it. In November 2021, Avis Buchanan, the prior director announced she was going to retire. The decision to come back, though it would mean I would be giving up substantial autonomy in my work in private practice, was ultimately influenced by the people and culture at PDS, and in June 2022, I accepted an offer to return as the Director.

2. For someone who has never heard of PDS, can you describe its mandate?

We take care of the most vulnerable people in Washington, D.C. Our clients are typically facing serious criminal charges and we represent them through a client-centered approach. This means that we are meeting the full needs of our client, which includes the criminal case before us, but also the collateral consequences that occur as a result of the criminal case. Thus, our team of lawyers, social workers, and investigators work together to serve as advocates and provide holistic support to each client.

3. PDS represents clients in Washington, D.C. and has often been lauded as a model public defender office. What makes it unique?

There are several factors that perhaps contribute to us being called a model public defender office.

CRIMINAL JUSTICE ACT (CJA) GUIDELINES (2009),
<https://www.uscourts.gov/rules-policies/judiciary-policies/criminal-justice-act-cja-guidelines#:~:text=Enacted%20in%201964%2C%20the%20CJA,counsel%20in%20federal%20criminal%20proceedings.>

First, PDS is governed by an independent Board of Trustees, not the judges that we appear before.

Second, PDS has an intensive training program to prepare lawyers for the courtroom and for the responsibilities of being a defender. Before any trial lawyer is assigned a single case, they receive approximately 2 months of training.

Third, PDS has been fierce about keeping client caseload manageable. The work that public defenders do is crushing at times. They serve as social workers, friends, confidantes, family counselors, team managers, and of course legal advisors. In order to give each client the representation required by the Constitution and legal ethics, it is important not to have 150 to 200 clients at one time, which is unfortunately the case for public defender offices in other parts of the country. Keeping our caseloads manageable allows our lawyers to be the thoughtful and consistent advocates they really want to be.

Fourth, we pay our lawyers a decent living wage for what they do which is in parity with pay given to prosecutors. PDS is located in an expensive city and our lawyers come from amazing law schools across the country, many with deep law school debt. We believe that for the incredible work they do, they should earn a decent amount of money to take care of themselves and families. Other public defender offices across the country are also now fighting for pay parity with the district attorney's office since both sides handle the same number of cases.

Fifth, as I mentioned above, PDS approaches our work through a client-centered lens, addressing all aspects of our client's needs in addition to their legal needs. We are lucky because we have the budget and resources to develop such programming.

I feel society has a very narrow understanding of how a criminal charge affects our client's lives more broadly and we have often been criticized for taking on more than our role requires. Furthermore, the system that we work in, which includes the judges, prosecutors, and probation officers, approaches this work on a volume basis. They have to move and close cases quickly, and this conflicts with the approach our office takes. Our public defenders are accused of slowing down the process.

We believe the process should be slowed down. We should not be moving people through the system. There should be thought, effort, time, dignity, and humanity afforded to each person.

4. What is your vision for PDS during your tenure?

It is my vision that PDS remains as exemplary as it is but advances its community engagement.

My hope is to get each attorney at PDS more connected to the community they are serving, outside of just the one client. I want community groups to be able to feel like they can come in and support our client populations because we have had a hand in showing them that our clients are not the monsters that the media sometimes portrays them to be. Our clients have redeeming qualities and just want to work and take care of their families like everyone else. I also want community members to see PDS as a partner and a resource, not an organization they call when a bad situation enters their life.

We have started a couple of different types of programming to advance our community engagement work. First, we have an internal racial-justice group, formed after the death of George Floyd, that helps to implement anti-racist policies and principles across PDS. And second, we have monthly community engagement programs where community organizations come and share their programming and resources that we can use to better support our clients. For example, this month we had D.C. filmmakers host a viewing of “Barry Farm: Community, Land and Justice,” a documentary film that chronicles the history of Barry Farm, a Southeast D.C. neighborhood, and its residents.¹⁴ The viewing is important because it helps PDS employees understand how the neighborhoods where our clients are from, predominantly Black and brown, have evolved over time, displacing residents to make way for commercial districts and housing.

5. PDS, since its inception, has often played a role in addressing

¹⁴ “Barry Farm: Community, Land and Justice” is a 50-minute documentary by filmmakers Dr. Sabiyha Prince and Sam George. It tells the story of Barry Farm, the migration of newly freed Black Americans to the area in the 1860s and what is happening to the residents and homes of Barry Farm today in the context of gentrification and residential development in Washington, D.C. BARRY FARM: COMMUNITY, LAND AND JUSTICE IN WASHINGTON DC (DC Legacy Project 2022). See Chelsea Cirruzzo, “Barry Farm: Community, Land, and Justice” *Documentary screens this weekend*, AXIOS (June 17, 2020), <https://www.axios.com/local/washington-dc/2022/06/17/documentary-land-justice-barry-farm-dc>.

systemic issues in the criminal justice system. Most recently, PDS representatives served as advisors for the D.C. Revised Criminal Code Act. Can you talk about PDS’s advocacy role within the broader legal system and why a systems-level approach is important? What are some of your current priorities at the systems-level?

PDS is working on the front lines of the criminal justice system every day and therefore, we believe we have an important voice to add to system-level conversations such as reforming the D.C. criminal code.¹⁵ There is probably no other group in the criminal legal system that touches the client with the full 360-degree lens that public defenders do and yet we are often not asked to the table, which is slightly infuriating.

We established our Special Litigation Division specifically to litigate constitutional and statutory rights of PDS clients and challenge the pervasive unfair practices in our criminal system. Additionally, because our clients are sent to Bureau of Prison facilities all over the country, our work has never really been truly local.¹⁶

¹⁵ The Revised Criminal Code Act of 2022 is a bill overhauling and modernizing D.C.’s criminal code, which has not been comprehensively updated since 1901. *See* Martin Austermuhle, *The D.C. Council Is Set To Overhaul The Entire Criminal Code. Here’s Everything You Need To Know*, DCIST (November 15, 2022), <https://dcist.com/story/22/11/15/dc-council-will-vote-overhaul-criminal-code/>. In November 2022, the D.C. Council passed the revised code. *See id.* Washington D.C. Mayor Muriel Bowser vetoed the bill in January 2023, and the D.C. Council subsequently voted to override the Mayor’s veto. *See id.* The United States Congress blocked the revised criminal code from going into effect in March 2023, the first time Congress overturned local D.C. legislation in more than thirty years. *See id.* President Biden supported Congress’ position and opted not to step in and, ultimately, to veto the measure. *See id.*

¹⁶ The Lorton Reformatory was a former prison complex in Lorton, Virginia established in 1910 for Washington, D.C. *See* Joanne Tang, *Here’s A Fascinating Story About the Old Lorton, Virginia Prison*, GREATER GREATER WASHINGTON (July 9, 2020), <https://ggwash.org/view/78346/the-old-lorton-virginia-prison-is-being-turned-into-homes-heres-its-fascinating-story#:~:text=The%20Lorton%20Reformatory%20opened%20in,other%20people%20given%20short%20sentences>. After the National Capital Revitalization and Self-Government Improvement Act of 1997, felons from D.C. were transported to Federal Bureau of Prison facilities. *See id.* The last prisoners were removed from Lorton Reformatory in 2001. *See id.*

One way we like to do system-level work is by supporting other public defender and legal aid offices across the country who are not as resourced as us, with the hope that we are able to share resources and start reforms in other places. For example, we receive calls from other offices on strategies for systematically attacking *Brady*¹⁷ in their jurisdictions and our lawyers often share our pleading documents and the approach we have taken here.

6. Last year, you wrote an article applauding the nomination of Justice Ketanji Brown Jackson as the first Black woman to serve on the U.S. Supreme Court and acknowledged the importance of having a former public defender on the highest Court in the nation. Can you discuss how Justice Jackson's background might allow her to make a unique contribution to the Court?

All of us were unbelievably excited by Justice Jackson's nomination. She is a woman; she is Black; and she was a federal public defender. People ask me what do you identify with most and I say, I am Black first and foremost. I live with that and work through that every day. Being Black and a Black mother in this country is a perspective that we have not seen on the Supreme Court but is a perspective that matters.

Second, I am also a woman, a Black woman. There is a different way we look at things, different ways we process things. Finding your place at the table and advancing in your legal career as a woman is not easy and Justice Jackson brings that perspective to the Court.

Third, she was a federal public defender. Most good public defenders have an ability to see a humanity in their clients and truly see the person behind the case. They are thinking about how a criminal case will truly affect someone.

I am happy she is there. I am hopeful that she makes an impact. I am also realistic. She is not coming onto a bench that looks like her. Her background, however, will serve her well as she sits on the Court.

¹⁷ *Brady v. Maryland* was a landmark Supreme Court case that held that the prosecution must turn over all evidence that might exonerate the defendant to the defense. 373 U.S. 83 (1963).

7. This year marks sixty years since *Gideon v. Wainwright* which guaranteed the right to legal counsel to anyone accused of a crime, regardless of their ability to pay. And yet, public defense today appears to be in a state of crisis. We often hear about public defender offices that are understaffed, overburdened with caseloads, underpaid, and undervalued. Is that a characterization you agree with? What would need to happen for us to get closer to fulfilling *Gideon's* promise?

We have failed *Gideon* across the country.¹⁸

I taught for a program called Gideon's Promise¹⁹ while I was first an attorney at PDS. Gideon's Promise provided training to public defender offices, and I would consistently meet fellow public defenders with caseloads of 100 to 200 cases at a time. Sometimes there was one public defender assigned to two counties. These were public defenders who were one year out of law school and often without any supervisors and support staff such as investigators and social workers. It is a joke to expect anyone to provide the "zealous..." representation outlined in *Gideon* without any support. This was a complete contrast to my experience with PDS at the time. PDS should not be an anomaly.

The situation is much worse now. The fact that in 2023 we are still not paying public defenders a living wage shows that we do not care about the things that were talked about in *Gideon*. Lawyers who serve as public defenders love the work but have to leave the work because the salary does not allow them to live a decent life. This, of course, often is not the case for lawyers who become prosecutors.

There is a lot that needs to be done to realize *Gideon's* promise. The Department of Justice, which reestablished the Office for Access to Justice in 2021 to address the access-to-justice crisis in the criminal and

¹⁸ *Gideon v. Wainwright* was a landmark United States Supreme Court case, which held that the Sixth Amendment of the United States Constitution requires the government to provide an attorney to indigent criminal defendants. 372 U.S. 335 (1965).

¹⁹ Gideon's Promise, formerly known as the Southern Public Defender Training Center ("SPDTC"), is a nonprofit organization founded by Jonathan Rapping to train and mentor public defenders working in under-resourced communities in the South. See GIDEON'S PROMISE (last visited April 29, 2023), <https://www.gideonspromise.org/>.

civil justice systems,²⁰ recently said they will dedicate more resources to this work, and I welcome it. Much more, of course, needs to be done.

8. What are your thoughts on the growing movement to elect progressive prosecutors?²¹ What sort of impact could this movement have on public defense lawyering?

A progressive prosecutor to me is someone who is willing to take on the racism, the sexism, and the class issues on the criminal legal side—someone who is willing to hold police officers and judges accountable. I just have not seen a lot of that.

The movement is, however, very effective at branding itself as something new and exciting in the criminal justice space that will bring about positive change. Public defenders could use their branding experts. When progressive prosecutors say we are not going to prosecute cases for marijuana possession anymore, that is often lauded as a big win. We should never have been prosecuting and holding people in jail for marijuana possession to begin with.

That being said, I do think some people who serve as so-called “progressive prosecutors” have good intentions. For example, Philadelphia District Attorney Larry Krasner was a career public defender before he switched over. Upon taking office, it was said that he immediately made several changes that have benefited public

²⁰ The Office for Access to Justice (“ATJ”) was established in 2015 by the Obama administration. See Maggie Jo Buchanan, Maha Jweied, Karen Lash, *The Need to Rebuild the DOJ Office for Access to Justice*, CENTER FOR AMERICAN PROGRESS (November 24, 2022), <https://www.americanprogress.org/article/need-rebuild-doj-office-access-justice/>. That same year, President Obama signed a presidential memorandum elevating the ATJ’s successful Legal Aid Interagency Roundtable (“LAIR”) to a White House initiative and called on federal agencies to work together to help the most vulnerable and underserved people by recognizing the importance of legal services to their programs. See *id.* In May 2021, President Biden signed a presidential memo restoring ATJ and reinvigorating LAIR after both were suspended during the Trump administration. See *id.* ATJ is currently led by Rachel Rossi, a former public defender. See *id.*

²¹ The progressive prosecutor movement began around 2014, in which a growing number of reform-minded prosecutors began using their prosecutorial discretion to implement a range of policies that include cash bail reforms, declining to prosecute certain low-level offenses, etc. Cf. 60 AM. CRIM. L. REV. (2023) (symposium Issue covering the topic of “Reform-Minded Prosecution”).

defenders and our clients. It is said that he attempted to stack his office with people who are honest and genuine in their case work and negotiations with public defenders. Additionally, he had his staff go through the wrongful conviction cases and look for the cases where the prosecutor's office did not turn over evidence. This benefits public defenders because it is often our clients that are negatively impacted by such games.

I am often asked whether one should become a public defender or a prosecutor. I would say become a public defender in a jurisdiction that needs good leadership and lead an office. The population that public defenders serve needs you more and the impact you will have is far greater. Prosecutors, even progressive ones, are still sending people to prison and can't say loudly that they will not send people to prison because that is not the constituency they serve. I truly doubt that a prosecutor would be elected to the position if they say that people deserve redemption, justice, mercy and no jail time. On the other hand, there is power in public defenders because we are able to step into various roles, be honest with politicians and communities, and educate the public about the clients we represent.

The last point I will make is that for me, being progressive means seeing the client as human and starting from there as opposed to starting from the criminal conviction. If I can outline the type of prosecutor I would like to see in the court room, it would be someone who is fair and just; willing to negotiate and work alongside public defenders; and most importantly, sees our clients as humans and actual members of that same community.

**9. Why should law students consider a career in public defense?
What advice would you give to students seriously considering
a career in public defense?**

I love this younger generation who have a spirit of activism and abolitionism, particularly post-George Floyd and Michael Brown. They are upset at the systemic and institutional racism, and I think for young people who are part of this movement, there is a space for them in public defense work. This could include being a lawyer, but also investigators, social workers, mitigation specialists, paralegals. As PDS employees, we work long and hard hours but the work is also especially fulfilling. We get close to the ground and to our clients and learn intimate details

about their lives so that we can better support them. Through this process, we also learn a tremendous amount about ourselves.

One thing I will caution young people in this space is that, particularly for those who become public defenders, it is important to remember that as passionately as you feel about the movement to reform the system, you are not there to solely advance your own agenda. Your primary job is to represent the client and you must be careful to not allow one's personal agenda to overtake that responsibility. I have seen some young people struggle because they come into this work and while rightly attacking the actors in the system, they get caught up personally and forget how to connect with the needs of the person that they are representing.

I see the criminal legal system as a building that is on fire. Public Defenders however, are working to try and rescue all those still stuck inside the building before it is finally burned to the ground. There is space for both those things to coincide together. I appreciate how April Frazier Camara²², the President and CEO of the National Legal Aid & Defender Association (“NLADA”) describes our work: we are liberators, trying to liberate as many people as possible.

10. What keeps you up at night?

There has been a resurgence of hate that I did not think had ever totally left but nevertheless is alarming to see. People are feeling bolder to be explicit in their racism and sexism. The banning of books in Florida and the attempt to retell African American history is worrying. Every step we have taken forward over the past few decades is now being challenged, and all of this ultimately plays into the public defense work we do. We have an even tougher time now to show the humanity and dignity of our clients who are accused of crimes. Nevertheless, it is important for us public defenders to continue to highlight the stories of our clients against the backlash we are seeing in society today.

11. What are you most excited about?

I am most excited about this influx of new blood and energy in the

²² National Legal Aid & Defender Association, *April Frazier Camara* (last visited April 29, 2023), <https://www.nlada.org/april-frazier-camara>.

criminal legal space and beyond. We are in a moment in history where anything is possible. There is a segment of young people who are better than the previous generation, who are smarter than us, who are willing to engage in the tough conversations around racism and sexism in our society, and who are really going to change the world.