

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

1. **Name**: State full name (include any former names used).

Raymond Joseph Lohier, Jr.

2. **Position**: State the position for which you have been nominated.

United States Circuit Judge for the Second Circuit

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

United States Attorney's Office
Southern District of New York
One St. Andrew's Plaza
New York, New York 10007

4. **Birthplace**: State year and place of birth.

1965; Montreal, Canada

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

1988-1991, New York University School of Law; J.D., 1991

1984-1988, Harvard College; A.B., 1988

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2000-Present

United States Attorney's Office for the Southern District of New York
One St. Andrew's Plaza
New York, New York 10007
Assistant United States Attorney
Chief, Securities and Commodities Fraud Unit (2009-present)
Deputy Chief, Securities and Commodities Fraud Unit (2007-2009)
Chief, Narcotics Unit (2006-2007)
Deputy Chief, Narcotics Unit (2005-2006)

1997-2000

United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
Senior Trial Attorney, Civil Rights Division (1998-2000)
Trial Attorney, Civil Rights Division (1997-1998)

1991-1992 & 1993-1997

Cleary, Gottlieb, Steen & Hamilton
One Liberty Plaza
New York, New York 10006
Associate

1992-1993

United States District Court for the Southern District of New York
500 Pearl Street
New York, New York 10007
Law Clerk to Hon. Robert P. Patterson, Jr.

1990

Patterson, Belknap, Webb & Tyler LLP
1133 Avenue of the Americas
New York, New York 10036
Summer Associate

1989

United States Court of Appeals for the Third Circuit
James A. Byrne United States Courthouse
601 Market Street
Philadelphia, Pennsylvania 19106
Summer Intern to Hon. A. Leon Higginbotham, Jr. (uncompensated)

7. **Military Service and Draft Status:** Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

I have not served in the military. I have registered for selective service.

8. **Honors and Awards:** List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

Attorney General's John Marshall Award for Outstanding Legal Achievement
Department of Justice Special Achievement Awards (multiple)
Black, Latino, Asian Pacific American Law Alumni Association Distinguished Service Honor
New York University School of Law Vanderbilt Medal
Editor-in-Chief, Annual Survey of American Law
Harvard National Scholarship
John Harvard Scholarship

9. **Bar Associations:** List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

Association of the Bar of the City of New York
Young Lawyers Committee (1994-1995)
Minorities in the Courts, Subcommittee Chair (1994-1997)
Inter-American Affairs Committee (1994-1997)
Government Ethics Committee (2001-2004)
National Bar Association
National Black Prosecutors Association

10. **Bar and Court Admission:**

- a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

New York (First Department), 1993

There has been no lapse in membership.

- b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

United States Court of Appeals for the Second Circuit, 2004
United States District Court for the Eastern District of New York, 1993
United States District Court for the Southern District of New York, 1993
New York State Supreme Court, Appellate Division, First Department, 1993

There has been no lapse in membership.

11. **Memberships:**

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Friends of Brooklyn Community Board 6, Inc. (2008-present)
First Vice-Chairperson
American Constitution Society (2008-present)
Brooklyn Community Board 6 (2006-present)
First Vice-Chairperson (2008-present)
Second Vice-Chairperson (2007-2008)
Chairperson, Public Safety Committee (2008-present)
Chairperson, Environmental Protection Committee (2008-2009)
Chairperson, Budget Committee (2007-present)
Chairperson, Community Development Committee (2007-2008)
New York University Law Alumni Association (2008-present)
Center For Labor Law and Employment (2001-present)
Advisory Board Member (2001-present)
United States Department of Justice Association of Black Attorneys
Vice-Chairperson (1999-2000)
Second Circuit Task Force on Gender, Racial, and Ethnic Fairness in the Courts
Race and Ethnicity Subcommittee on Court Appointments (1996)
Black, Latino, Asian Pacific American Law Alumni Association (1993-present)
Advisory Board Member (1998 to present)
Treasurer (1993-1998)
New York University School of Law Public Interest Law Foundation
Board Member (mid-1990s)

- b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

None of the organizations listed above currently discriminates or formerly discriminated on the basis of race, sex, religion or national origin.

12. **Published Writings and Public Statements:**

- a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

Letter to the Editor, The American Lawyer, December 2001

I was editor-in-chief of the Annual Survey of American Law during 1990-1991.

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

New York Gubernatorial Task Force Report On Judicial Diversity (January 1992)

Comment of Minorities in the Courts Committee of the Bar Association of the City of New York (1996)

Inter-American Affairs Committee Report of the Bar Association of the City of New York (1994)

As a member of Brooklyn Community Board 6, I have contributed to the Board's work, including policy statements on local issues.

I do not recall preparing or contributing in the preparation of other reports, memoranda, or policy statements.

- c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

As a member of Brooklyn Community Board 6, I participate in the Board's monthly meetings. I do not give formal testimony or retain notes from such participation.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions,

conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

Presentation regarding federal securities laws and criminal prosecutions, The International Enforcement Institute, United States Securities and Exchange Commission (Washington, D.C., November 2, 2009)

Panel Discussion on securities and commodities fraud prosecutions and investigations, New York County Lawyers Association (New York, New York, October 15, 2009) (no notes)

Panel Discussion entitled "Ethical Considerations for Corporate Internal Investigations," Association of the Bar of the City of New York (New York, New York, September 17, 2009)

Panel Discussion entitled "Federal Sentencing: A Revolution Without Results? Examining the Present to Shape the Future," Association of the Bar of the City of New York (New York, New York, October 22, 2009)

Panel Discussion entitled "Response to Ponzi and other schemes: Alternative Investment Funds under Scrutiny," Practising Law Institute (New York, New York, June 30, 2009)

Panel Discussion on strategies in connection with international securities fraud investigations and cases, International Bar Association (New York, New York, June 12, 2009)

Panel Discussion entitled "Regulation by Prosecutors," New York University School of Law's Center on the Administration of Criminal Law (New York, New York, May 8, 2009) (video recording available at http://www.youtube.com/watch?v=PpxXwIS-p5U&feature=player_embedded; and http://www.law.nyu.edu/news/Cacl_Regulation_Prosecutors)

Panel Discussion entitled "Developments in Attorney-Client Privilege and Work Product Protection in State and Federal Courts," New York State Bar Association (New York, New York, January 27, 2009)

Speech accepting the Distinguished Service Award of the Black, Latino, Asian Pacific American Law Alumni Association (New York, New York, April 18, 2008)

Panel Discussion entitled “Diversity Initiatives in the Practice of Law,” New York University School of Law, Center for Labor and Employment Law (New York, New York, January 25, 2008) (moderator)

Various panel presentations to federal and state agencies regarding securities and commodities fraud investigations and prosecutions (Atlanta, Georgia; Chicago, Illinois; Salt Lake City, Utah; Washington, D.C.; New York, New York, 2007-2009)

Speech regarding criminal penalties in connection with internet narcotics schemes involving diverted pharmaceutical drugs, John Jay College of Criminal Justice (New York, New York, June 2007)

Introduction of law school recipients of the Black, Latino, Asian Pacific American Law Alumni Association scholarship (New York, New York, April 2001)

Panel Discussion at Harvard Law School “Celebration of Black Alumni” event, regarding public service and the United States Department of Justice (Cambridge, Massachusetts, September 22, 2000)

Speech for dedication of 1990 volume of Annual Survey of American Law to Justice Harry Blackmun, New York University School of Law (New York, New York, April 9, 1991)

Speech introducing New York University School of Law Dean John Sexton for dedication of 1989 volume of Annual Survey of American Law to Honorable Barbara Jordan, New York University School of Law (New York, New York, April 26, 1990)

As an Assistant United States Attorney in charge of securities and commodities fraud investigations and prosecutions in the Southern District of New York, I have made presentations at Department of Justice functions.

- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

The American Lawyer, October 2001

In 2001, I was interviewed by a student from the Columbia School of Journalism in connection with a seminar course.

13. **Judicial Office:** State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

I have not held judicial office.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment?
 - i. Of these, approximately what percent were:
jury trials? ___%; bench trials ___%
civil proceedings? ___%; criminal proceedings? ___%
- b. Provide citations for all opinions you have written, including concurrences and dissents.
- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).
- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.
- e. Provide a list of all cases in which certiorari was requested or granted.
- f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.
- g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.
- h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

- i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.
14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:
 - a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;
 - b. a brief description of the asserted conflict of interest or other ground for recusal;
 - c. the procedure you followed in determining whether or not to recuse yourself;
 - d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

I have not served as a judge.

15. **Public Office, Political Activities and Affiliations:**

- a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

Member, Brooklyn Community Board 6 (2006-present). I was appointed by Brooklyn Borough President Marty Markowitz. Since 2008, I have served as First Vice-Chairperson of Brooklyn Community Board 6 by appointment of the Chairperson.

I have had no unsuccessful candidacies for elective office or unsuccessful nominations for appointed office.

- b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of

the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I worked as an unpaid volunteer doing voter outreach during the campaign of Roberto Ramirez (a law school classmate), who was running for Public Advocate of New York City, August and September 1993.

In 1994, I did a single shift of telephone polling as a volunteer for the Governor Mario Cuomo re-election campaign. In 2000, I did a single shift of telephone polling as a volunteer for the Hillary Clinton for Senate Campaign.

I may have done very limited volunteer work for other political candidates, but I do not recall specifics.

16. **Legal Career:** Answer each part separately.

a. Describe chronologically your law practice and legal experience after graduation from law school including:

- i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I served as a law clerk to the Honorable Robert P. Patterson, Jr., United States District Court for the Southern District of New York, from 1992-1993.

- ii. whether you practiced alone, and if so, the addresses and dates;

I have not practiced law alone.

- iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

1991-1992 & 1993-1997
Cleary, Gottlieb, Steen & Hamilton
One Liberty Plaza
New York, New York 10006
Associate

1997-2000
United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
Senior Trial Attorney, Civil Rights Division (1998-2000)
Trial Attorney, Civil Rights Division (1997-1998)

2000-Present

United States Attorney's Office for the Southern District of New York
One St. Andrew's Plaza

New York, New York 10007

Assistant United States Attorney

Chief, Securities and Commodities Fraud Unit (2009-present)

Deputy Chief, Securities and Commodities Fraud Unit (2007-2009)

Chief, Narcotics Unit (2006-2007)

Deputy Chief, Narcotics Unit (2005-2006)

- iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have not served as a mediator or arbitrator in alternative dispute resolution proceedings.

b. Describe:

- i. the general character of your law practice and indicate by date when its character has changed over the years.

Currently, as Chief of the Securities and Commodities Fraud Task Force at the United States Attorney's Office, I supervise securities and commodities fraud investigations, prosecutions and trials, including accounting fraud, Ponzi schemes, insider trading, market manipulation, including so-called "pump and dump" schemes, boiler rooms, commercial and stockbroker bribery, money laundering, investment adviser fraud, foreign exchange currency schemes and other securities and commodities fraud. I also supervise and prosecute other complex white collar fraud cases.

Prior to that, as Deputy Chief and then Chief of the Narcotics Unit at the United States Attorney's Office from 2005 to 2007, I was responsible for supervising nearly all federal domestic narcotics cases investigated and prosecuted in the Southern District of New York.

From 2000 to 2005, as an Assistant United States Attorney, I investigated and prosecuted federal crimes, including white collar fraud crimes, narcotics violations and immigration-related offenses.

From 1997 to 2000, as a Trial Attorney and Senior Trial Attorney at the Civil Rights Division's Employment Litigation Section of the United States Department of Justice, I directed and participated in investigations, litigation, and trials involving alleged Title VII violations by public entities.

As an Associate at the New York-based law firm of Cleary, Gottlieb, Steen & Hamilton from 1991 to 1992, and from 1993 to 1997, I primarily worked on commercial litigation and pro bono litigation matters, as well as corporate matters, including mergers and acquisitions, joint ventures, and public offerings.

- ii. your typical clients and the areas at each period of your legal career, if any, in which you have specialized.

Since 1997, my sole client has been the United States. Previously, as an Associate at Cleary, Gottlieb, Steen & Hamilton, my typical clients were corporations both in the United States and abroad. In some pro bono cases that I undertook, my clients were individuals who could not afford an attorney.

- c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

From 1991 to 1992 as an Associate at Cleary, Gottlieb, Steen & Hamilton, I occasionally appeared in state court. In 1993 and 1994 as an Associate at Cleary, Gottlieb, Steen & Hamilton, I appeared in federal court frequently due to one case. From approximately 1995 through 1996 as an Associate at Cleary, Gottlieb, Steen and Hamilton, I appeared in court occasionally and devoted approximately one third to one half of my practice to corporate, non-litigation matters. Thereafter, as an attorney for the United States Department of Justice from February 1997 to November 2000, I appeared in federal court fairly occasionally in 1997 and more frequently from 1998 to 2000. As an Assistant United States Attorney starting in December 2000, I appeared in federal court frequently.

- i. Indicate the percentage of your practice in:

- 1. federal courts: 95%
- 2. state courts of record: 5%
- 3. other courts:
- 4. administrative agencies:

- ii. Indicate the percentage of your practice in:

- 1. civil proceedings: 25%
- 2. criminal proceedings: 75%

- d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I have tried 10 cases to verdict, judgment or final decision as chief counsel or co-counsel.

i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 80% |
| 2. non-jury: | 20% |

e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have not practiced before the Supreme Court of the United States.

17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

- a. the date of representation;
- b. the name of the court and the name of the judge or judges before whom the case was litigated; and
- c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. United States v. Dreier, 09 Cr. 85 (S.D.N.Y. Dec. 2008 to July 2009).

This was a criminal case involving a \$750 million dollar Ponzi scheme by a prominent attorney of a 250-lawyer firm. I represented the United States Government, participated in the investigation and prosecution of Dreier and directly supervised the disposition of the case against and sentencing of Dreier. I participated in the drafting of charging instruments, plea documents, and sentencing documents. Dreier was sentenced to 20 years in prison and ordered to forfeit more than \$740 million.

The case was before District Judge Jed S. Rakoff and Magistrate Judge Douglas Eaton. Co-counsel was Jonathan Streeter, Assistant United States Attorney, One St. Andrew's Plaza, New York, NY 10007, 212-637-2200. Defense counsel was Gerald L. Shargel, 570 Lexington Avenue, 45th Floor, New York, NY 10022, 212-446-2323.

2. United States v. Madoff, 09 Cr. 213 (S.D.N.Y. Feb. 2009 to Aug. 2009).

This was a criminal case involving a multi-billion dollar Ponzi scheme. I represented the United States Government and supervised the disposition of the case against and sentencing of Bernard Madoff. I participated in the drafting of sentencing and related forfeiture documents. Madoff was sentenced to 150 years in prison and ordered to forfeit more than \$70 billion.

The case was before District Judge Denny Chin. Co-counsel were Lisa Baroni and Marc Litt, Assistant United States Attorneys, One St. Andrew's Plaza, New York, NY 10007, 212-637-2200. Defense counsel was Ira Lee Sorkin, Dickstein Shapiro, LLP, 1177 Avenue of the Americas, New York, NY 10036, 212-277-6576.

3. United States v. Adelson, 05 Cr. 325 (S.D.N.Y. 2004 to 2007).

This was a criminal case involving the top two executives of a biotechnology company who were convicted of charges arising out of their role in an accounting fraud that caused a \$260 million decline in the company's market capitalization. I represented the United States Government, directly handled the trial and disposition of the cases against both executives and several cooperating witnesses, and handled the appeal of one defendant in United States v. Adelson, No. 06-2738-CR, 2008 WL 5155341 (2d Cir. Dec. 9, 2008), and No. 06-2738-CR, 2007 WL 2389681 (2d Cir. Aug. 16, 2007). The first defendant was sentenced to 42 months in prison, ordered to forfeit \$1.2 million, and ordered to pay restitution in the amount of \$50 million to victims. His conviction and sentence were affirmed on appeal. The second defendant was sentenced principally to a term of imprisonment of 3 months in prison after a plea of guilty to three securities-related charges. Other cooperating defendants were sentenced to terms of imprisonment ranging from time served to one month.

The case was before District Judge Jed S. Rakoff. Co-counsel was Alexander Southwell, now of Gibson Dunn & Crutcher, 200 Park Ave., New York, NY 10166, 212-351-3981. Defense counsel were Mark S. Arisohn, Labaton Sucharow LLP, 140 Broadway, New York, NY 10005, 212-907-0840 & Peter Chavkin, Mintz Levin, 666 Third Ave., New York, NY 10017, 212-692-6231.

4. United States v. Skelly, 02 Cr. 986 (S.D.N.Y. 2004 to 2005).

This criminal case involved the two principals of a securities broker dealer who were convicted of multiple conspiracy and substantive securities fraud charges for engaging in a stock manipulation scheme that defrauded investors out of tens of millions of dollars. I represented the United States Government, handled the trial and disposition of the cases against both principals and cooperating witnesses, and worked on the appeal of United States v. Skelly and Gross, No. 06-2738-CR, 2008 WL 5155341 (2d Cir. Dec. 9, 2008), and No. 06-2738-CR, 2007 WL 2389681 (2d Cir. Aug. 16, 2007). Each defendant was sentenced principally to a term of imprisonment of 57 months. The convictions and sentences were affirmed on appeal.

The case was before District Judge Richard M. Berman. Co-counsel were Joshua Klein, now of Petrillo Klein LLP, 1221 Avenue of the Americas, 42nd Floor, New York, NY 10020, 212-899-5052 and Rhonda Jung, Securities and Exchange Commission, 3 World Financial Center, Suite 4300, New York, NY 10281, 212-336-0479. Defense trial counsel were Joseph W. Ryan, Jr., Melville Law Center, 225 Old Country Road, Melville, NY 11747, 631-629-4968 & Stephen P. Scaring, 666 Old Country Road, Suite 501, Garden City, NY 11530, 516-683-8500. Defense counsel at sentencing and on appeal were David Debold & Miguel Estrada, Gibson, Dunn & Crutcher, 1050 Connecticut Ave., N.W., Washington, DC 20036, 202-955-8500.

5. United States v. Patterson (S.D.N.Y. 2002 to 2003).

This was a criminal case involving approximately 12 individuals who were charged with a conspiracy to distribute more than one ton of marijuana in the New York City area as part of a wiretap investigation conducted by the Drug Enforcement Administration. Two defendants were also charged with possessing a firearm in furtherance of a drug trafficking crime. I represented the United States Government and handled trial preparation and the disposition of these cases. All of the defendants save one pleaded guilty just prior to trial, with sentences ranging from 21 months to 180 months in prison. A nolle prosequi was filed by the Government in connection with the charges against one of the defendants, and those charges were dismissed.

The case was before District Judge William H. Pauley III. Co-counsel was Christopher Conniff, now of Ropes & Gray, 1211 Avenue of the Americas, New York, NY 100-36, 212-596-9036. Counsel for Defendant Patterson was Isabelle A. Kirschner, Clayman & Rosenberg, 305 Madison Ave., Suite 1301, New York, NY 10165, 212-922-1080. Counsel for Defendant Gaynor was Jonathan Marks, 220 5th Avenue, Third Floor, New York, NY 10001, 212-545-8008. Counsel for Defendant Brown was Earl A. Rawlins, 2090 7th Avenue, Suite 203, New York, NY 10027, 212-222-7005. Counsel for Defendant Barrett was Jeffrey McAdams, 305 Broadway, Suite 610, New York, NY 10007, 212-406-5145. Counsel for Defendant Anderson was Michael Hurwitz, Hurwitz Stampur & Roth, 299 Broadway, Suite 800, New York, NY 10007, 212-619-4240. Counsel for Defendant Munroe was Pamela D. Hayes, 200 W. 57th St., Suite 900, New York, NY 10019, 212-687-8724. Counsel for Defendant Snape was Jeffrey G. Pittell, 299 E. Shore Rd., Great Neck, NY 11023, 516-829-2299. Counsel for Defendant Robinson was Richard Palma, 381 Park Ave. South, Suite 701, New York, NY 10016, 212-686-8111. Counsel for Defendant Medford was Allan Laurence Brenner, 536 W. Penn St., Long Beach, NY 11561, 516-897-6145. Counsel for Defendant Williams was Jerry L. Tritz, now with the Second Circuit Executive's Office, United States Courthouse, 500 Pearl Street, New York, NY 10007, 212-857-8700.

6. United States v. Southeastern Pennsylvania Transportation Authority (SEPTA), 2000 WL 1790125 (E.D. Pa. Dec. 7, 2000); 1998 WL 341605, E.D. Pa, June 25, 1998) (1998 to 2000).

In this civil case, the Department of Justice alleged that SEPTA was engaged in a pattern or practice of employment discrimination against women in violation of Title VII through the use of its physical abilities test for SEPTA's transit police officer applicants. I represented the United States Government. Following a bench trial, the court ruled in favor of SEPTA. We appealed to the Court of Appeals for the Third Circuit, which vacated and remanded the case. After a supplemental trial, the district court again ruled in favor of SEPTA.

The case was before District Judge Clarence Newcomer. Co-counsel were Robert Libman and Benjamin Blustein, now both of Miner, Barnhill and Galland, 14 W. Erie St., Chicago, IL 60610, 312-751-1170. Defense counsel was Saul H. Krenzel, 1055 Westlake Drive, Suite 300, Berwyn, PA 19312, 215-977-7230.

7. Archie v. Grand Central Partnership, Inc., 95 Civ. 0694, 997 F. Supp. 504 (S.D.N.Y. 1998) (1995 to 1996).

In this civil case, undertaken pro bono by Cleary, Gottlieb, Steen & Hamilton, I represented former homeless and jobless participants in an employment program in a lawsuit against three non-profit organizations. The plaintiffs alleged that they were paid sub-minimum wages in violation of the Fair Labor Standards Act and the New York State Minimum Wage Act. The non-profits maintained that the participants in this program were trainees not entitled to minimum wage payment. I represented the plaintiffs and litigated the case, including through discovery and motion practice, up to and in preparation for trial. I resigned as an associate with Cleary, Gottlieb, Steen & Hamilton prior to trial in order to join the Department of Justice.

The case was before then-District Judge Sonia Sotomayor. Co-counsel were Mitchell Lowenthal, Cleary, Gottlieb, Steen & Hamilton, One Liberty Plaza, New York, NY 10005, 212-225-2000 & Yves Denize, now of TIAA-CREF, 730 Third Ave., New York, NY 10017, 212-916-6261. Defense counsel was Molly Boast, now Deputy Assistant Attorney General, U.S. Department of Justice, 950 Pennsylvania Ave., NW, Washington DC 20530.

8. Moodie v. Federal Reserve Bank of New York, 861 F. Supp. 10 (S.D.N.Y. 1994); 862 F. Supp. 59 (S.D.N.Y. 1994); 58 F.3d 879 (2d Cir. 1995) (1993 to 1995).

In this civil case, undertaken pro bono by Cleary, Gottlieb, Steen & Hamilton, I represented a plaintiff who alleged that he had been discharged by the Federal Reserve Bank of New York in violation of applicable federal and state law prohibiting discrimination based on race. After a jury trial on the state law claim resulted in a mistrial, and after a concurrent bench trial on the federal law claim, the district court ruled against my client on the federal law claim and also dismissed the plaintiff's state

law claim pursuant to a specific provision of New York State law regarding election of remedies. The district court's dismissal of the state law claim was affirmed on appeal. I represented the plaintiff and, with co-counsel, tried the case and worked on the appeal.

The case was before District Judge Morris E. Lasker. Co-counsel was Thomas Moloney, Cleary, Gottlieb, Steen & Hamilton, One Liberty Plaza, New York, NY 10005, 212-225-2000. Defense counsel was Thomas C. Baxter, Jr., General Counsel, Federal Reserve Bank of New York, 33 Liberty Street, New York, NY, 212-720-5035.

9. United States v. Marano, 04 Cr. 735 (2004 to 2005).

This was a criminal insider trading case involving a director at a major credit rating agency charged with obtaining material nonpublic information about certain of the agency's clients and transmitting that information to his brother and a close family friend. Both the brother and the family friend were also charged, and all three eventually were convicted and sentenced. The director was sentenced principally to a term of 15 months in prison. I represented the United States Government and handled the litigation as well as the disposition of all cases.

The case was before District Judge Shira A. Scheindlin. Defense counsel were Jeffrey D. Smith, DeCotiis, Fitzpatrick & Cole, Glenpointe Centre West, 500 Frank W. Burr Blvd., Teaneck, NJ 07666, 201-907-5228; Robert Baum, Federal Defenders Division, Legal Aid Society, 52 Duane St., 10th Floor, New York, NY 10007, 212-417-8760; and Jay K. Musoff, Orrick, Herrington & Sutcliffe, 666 Fifth Ave., New York, NY 10103, 212-506-3782.

10. Chock Full O'Nuts Corp. v. Tetley, Inc., 94 CIV. 8262, 1997 WL 452330 (S.D.N.Y. Aug. 8, 1997); 152 F.3d 202 (2d Cir. 1998) (1994 to 1997).

This was a commercial civil litigation involving a claim of breach of contract in which parties executed an agreement for the purchase and sale of substantially all the assets of defendant's business located in New Jersey, and pursuant to which the defendant agreed to be responsible to pay for a pension liability in the event that plaintiff closed that business before a specified date. The court granted the defendant's summary judgment motion after extensive discovery. I represented the defendant, conducted most of the discovery, and argued the summary judgment motion.

The case was before District Judge Peter K. Leisure. Co-counsel was David Brodsky, Cleary, Gottlieb, Steen & Hamilton, One Liberty Plaza, New York, NY 10005, 212-225-2000. Defense counsel was Fran M. Jacobs, Duane Morris LLP, 1540 Broadway, New York, NY 10036, 212-692-1060.

18. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe

the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

Since July 2007, I have served as Chief (2009-present) and Deputy Chief (2007-2009) of the Securities and Commodities Fraud Unit of the United States Attorney's Office for the Southern District of New York. In that capacity, I have been engaged in several significant criminal securities and commodities fraud matters. Specifically, I have closely supervised and made final decisions about the following: investigative techniques; charging, including whether or not to charge and the nature of the charges; negotiations regarding appropriate dispositions of cases, including plea negotiations and cooperation agreements; the government's position relating to significant procedural and substantive issues arising in the course of each prosecution, including in connection with trial preparation, trial, and post-trial motion practice; the position of the government regarding sentencing in a particular case, including issues relating to forfeiture; and restitution, bankruptcy and other victim-related issues. Where necessary and appropriate, I have also personally negotiated with opposing counsel regarding these issues and personally handled reviewing, discussing, substantively editing documents relating to, and making recommendations about all of these issues. I have also supervised or co-supervised all securities fraud trials in the Southern District of New York since July 2007. The categories of securities fraud cases that I have investigated, prosecuted and supervised include: accounting fraud, Ponzi schemes, insider trading, market manipulation, including so-called "pump and dump" schemes, boiler rooms, commercial and stockbroker bribery, money laundering, investment adviser fraud, foreign exchange currency schemes, and other securities and commodities fraud. Finally, I have been responsible for coordinating securities and commodities fraud investigations and cases with other governmental agencies, including the United States Securities and Exchange Commission, the Commodity Futures Trading Commission, the Federal Bureau of Investigation, the United States Postal Inspection Service, the Department of Labor, and the Department of the Treasury, as well as various self-regulatory organizations and foreign governmental agencies.

From October 2005 to July 2007, I served as Chief (2006-2007) and Deputy Chief (2005-2006) of the Narcotics Unit of the United States Attorney's Office. In that capacity, I supervised the investigation and prosecution of domestic federal narcotics cases in the Southern District of New York that involved large-scale local or national drug distribution networks. I directly supervised hundreds of domestic narcotics investigations and cases, as well as a few international narcotics cases and cases involving violent drug traffickers who used or possessed firearms in furtherance of their drug trafficking activity. The cases I supervised during this period involved a wide range of illegal narcotics, including heroin, cocaine base, cocaine, marijuana, ecstasy (also known as MDMA), hashish, and methamphetamine (including crystal methamphetamine). A small percentage of these cases also involved illegally diverted pharmaceutical drugs. I closely supervised and personally handled reviewing, discussing, substantively editing documents relating to, and making final decisions about the following: the use of various investigative techniques, including wiretaps, informants, and the enlistment of

cooperating witnesses; charges and charging decisions, ranging from declinations to the filing of prior felony informations; the disposition of domestic narcotics cases, including plea agreements and cooperation agreements; and documents articulating the government's position regarding sentencing in particular cases. I also closely supervised several trials conducted by the Narcotics Unit within the Southern District of New York. Finally, I was responsible for coordinating narcotics investigations and cases with other governmental agencies, including the Drug Enforcement Administration, the Department of Homeland Security's Immigration and Customs Enforcement, the Federal Bureau of Investigation, the United States Postal Inspection Service, the New York City Police Department, and the Food and Drug Administration, as well as an anti-money laundering task force.

As a senior trial attorney at the Employment Litigation Section of the Department of Justice's Civil Rights Division from 1997 to 2000, I directed investigations and litigations involving alleged Title VII violations by public entities, including individual claims of sex, race or religious discrimination and claims of a pattern or practice of illegal discrimination based on sex, race or religion.

In 1991 and 1992, I was a staff member on the New York State Gubernatorial Task Force tasked by the Governor of New York with reviewing whether New York State's method of electing judges—in particular, New York State Supreme Court Justices—violated the Voting Rights Act of 1965. At the request and direction of the Task Force members and its chairperson, I conducted research for and helped to draft preliminary versions of a report issued by the Task Force that ultimately concluded (in a final version issued in January 1992) that, as then structured, the system for the election of Supreme Court Justices in New York State likely would not survive a legal challenge under the Voting Rights Act.

I have never performed lobbying activities.

19. **Teaching:** What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

None.

20. **Deferred Income/ Future Benefits:** List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

None.

21. **Outside Commitments During Court Service:** Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

I have no plans, commitments, or agreements to pursue outside employment, with or without compensation, during my service with the court.

22. **Sources of Income:** List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding \$500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

See attached Financial Disclosure Report.

23. **Statement of Net Worth:** Please complete the attached financial net worth statement in detail (add schedules as called for).

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

- a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

If confirmed, I would recuse myself from all cases I supervised or on which I personally worked as an Assistant United States Attorney. Although I am aware of no other circumstance likely to present a conflict of interest, I would carefully examine each case for any conflict or appearance of conflict. I would disclose potential conflicts and recuse myself from cases as called for by the recusal statutes and by the Code of Conduct for United States Judges.

- b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

I will follow the recusal statutes and Canon 3 of the Code of Conduct for United States Judges. I will recuse myself when necessary to resolve any real or apparent conflict of interest.

25. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

I served on the pro bono committee of Cleary, Gottlieb, Steen & Hamilton. In that capacity and as an associate, I worked on a variety of significant pro bono matters, including the representation at trial of an indigent individual in a lawsuit alleging racial discrimination. I also represented more than 40 homeless and jobless participants in an employment program in a lawsuit alleging that the plaintiffs were paid sub-minimum wages by three non-profit organizations, in violation of the Fair Labor Standards Act and the New York State Minimum Wage Act. At the Department of Justice, I have worked diligently on both civil and criminal cases to ensure that victims in these cases obtain appropriate redress.

26. Selection Process:

- a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

I was first contacted by telephone by the White House Counsel's Office on January 12, 2010. By request, I submitted to that Office my curriculum vitae. Since mid-January 2010, I have been in contact with pre-nomination officials at the Department of Justice. I met with Senator Charles Schumer on January 24, 2010. I interviewed in Washington with attorneys from the White House Counsel's Office and the Department of Justice on February 12, 2010. On March 10, 2010, the President submitted my nomination to the Senate.

There is no selection commission for the Court of Appeals for the Second Circuit in New York.

- b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

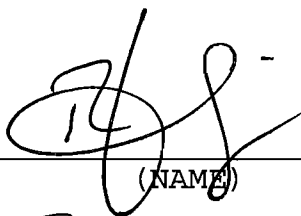
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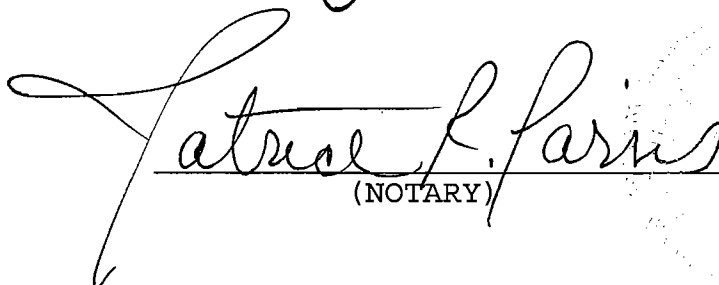
I, **RAYMOND JOSEPH LOHIER, JR.**, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

3/9/10

(DATE)



(NAME)



(NOTARY)

PATRICE R. PARRIS
Notary Public, State of New York
No. 01-HE5036389
Qualified in Queens Co.
Commission Expires November 28, 2010

RAYMOND J. LOHIER, JR.

[REDACTED]
New York, New York 10007

April 15, 2010

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
224 Dirksen Senate Office Building
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

I write to update the Committee that, effective March 28, 2010, I have assumed a new position with the United States Attorney's Office for the Southern District of New York as Special Counsel to the United States Attorney.

I also would like to provide the Committee with the following additions to my Senate Questionnaire responses:

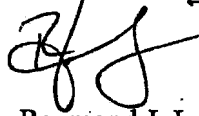
Question 12.b – Reports. In the questionnaire I submitted to the Committee, I provided as an attachment to Q 12.b., the Report of the Second Circuit Task Force on Gender, Racial, and Ethnic Fairness in the Courts, Race and Ethnicity Subcommittee on Court Appointments (2007). However, I neglected to list the report in the body of the questionnaire itself.

Question 12.d – Speeches and Talks. I have identified two further responsive entries to this question in connection with my affiliation with the Black, Latino, Asian Pacific American (BLAPA) Law Alumni Association of New York University School of Law. At BLAPA's spring 2000 annual dinner, I presented three scholarship awards to law student recipients. At the spring 1999 annual dinner, I gave a very brief update to BLAPA members on the state of the organization's fundraising campaign. I recall giving similar brief updates about the state of the organization's fundraising campaign at BLAPA's annual dinners during the period of time that I served as BLAPA's Treasurer. I have no notes, transcript, or recording for these events. Descriptions of the events from New York University Law School Alumni newsletters in 1999 and 2000 are attached.

Question 12.e – Interviews. My Senate questionnaire listed an interview I gave to a student from the Columbia School of Journalism in 2001. I have since located a copy of the article the student wrote. It is attached.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to be 'R. Lohier, Jr.', written in a cursive style.

Raymond J. Lohier, Jr.

cc:

The Honorable Jeff Sessions
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

BLAPA Honors Alumni and Students at Annual Dinner

The smooth sounds of Latin jazz welcomed guests to the annual Black, Latino, Asian Pacific American Law Alumni Association (BLAPA) Dinner Party. The music by Mambo Negro, and a generous bar featuring the Rums of Puerto Rico, were perfect compliments to this year's theme, "Celebrating the Ethnic Explosion."



(L-r): Gregory Braithwaite, Beverly Alexander, Fritz Alexander II ('51), Karen Alexander, and Betty Staton ('79)

NYU Law faculty and alumni joined current and admitted students in the Law School's Martin Lipton Hall to honor the outstanding achievements of distinguished Law School alumni, and to award the BLAPA Public Service Scholarship to three remarkable students.

Dean John Sexton opened the evening by praising the Law School's considerable gains in faculty and student diversity, and admonishing current students to exploit the experience and wisdom of the Law School's distinguished alumni who were present. New York State Chief Judge Judith Kaye ('62) and the Honorable Betty Staton ('79) then joined the Dean for a special presenta-

tion honoring "one of our brightest stars," Fritz W. Alexander II ('51). It was the last public appearance for Judge Alexander, who died two weeks later.

Seated near the portrait of his likeness commissioned for the occasion, Judge Alexander spoke of the humble beginnings of the Law School, and praised the contributions of the current and former deans to the growth of the School "from the ninth and tenth floor of a factory" to the "preeminent institution of global legal learning" today. With his wife and colleagues by his side, Alexander also reflected on his "deep love and affection" for the Law School, the fifty years he had given to it, and the spirit

of the School that sustained him "and all those who came along."

The formal dinner program began with remarks by current BLAPA President Carol Robles Roman ('89). As guests located their seats, still buzzing from Alexander's moving reflections, Roman commented on current trends in the legal and national markets. "The trend," she said, "is us. We are hot!" Roman continued, "There is a dynamic force called the minority community in America today; it is hip to be a person of color."

Roman then introduced the program's Special Speaker, Londell McMillan ('90), a partner in his own entertainment firm. Jokingly referred to as "the Johnnie Cochran of the entertainment industry, McMillan boasts an impressive client list that includes the artist formerly known as Prince, fashion designer FUBU, Def Jam Records, and filmmaker Spike Lee. In his remarks, McMillan agreed that ethnic ideas and products are in demand. "We have flavor," he said, and "we are advancing our culture from Japan to Iran." McMillan added, "all over the world, they want the music that comes from the streets of New York and Miami, and the fashion that comes from L.A." Despite the high demand, McMillan noted, "few minorities have the opportunity to advise in these industries or capitalize on this growth. Minorities have come a long way, but we've got so far to go."

The program continued with the presentation of honorees by Herbert Barbot ('91) and of the student recipients of the Public Service Scholarships by Raymond Lohier ('91). This year's honorees included Judge Arthur Gonzales (LL.M.'90) of the U.S. Bankruptcy Court, Nancy Chang ('78), Senior Litigation Attorney of the Center for Constitutional Rights, and O. Peter Sherwood ('71), a partner at the law firm of Kalkines, Arky, Zall & Bernstein. The Public Service Scholarship recipients were current students Jennifer Ching ('00), Vida Johnson ('00), and Sejal Zota ('00).

The 2000 BLAPA Awards Dinner ended with an update on the endowment drive and the Induction of the New Board of Officers. The formal close of the dinner program in no way marked the close of the evening. The warmth and spirit of the evening carried over into the post-dinner networking, where the guests mingled, alumni reminisced and the Latin jazz of the Mambo Negro band flavored the night. ■



Alan Kline (LL.M.) was promoted to the position of Special Trial Attorney for the Northeast Region of the IRS in Manhattan.

Judith McMillan (LL.M.) has joined the Dallas/Fort Worth office of Deloitte & Touche as a tax partner.

David Schmutter (LL.M.) has been named partner to the New York office of Arthur Andersen, where he is a key member of the State and Local Tax practice.

1989

Stefanie Cohen will serve as Managing Director, Planning and Development at Schnader, Harrison, Segal & Lewis.



Steven Cohen was named partner at Morgan Lewis' Philadelphia office where he is a member of their Business and Finance Section.

Marc Davis became a junior equity analyst at Brundage, Stoy and Rose in New York.

Alan Goldberg was named partner at Whiteman Osterman & Hanna in Albany.

Abraham Goren (LL.M.) was appointed Chairman of the Board of Directors of Elscint Ltd., a subsidiary of Elbit Medical Imaging.

Malcolm Kratzer was named partner at O'Melveny & Myers.



Christopher Leh has joined the firm of Caplan and Earnest in Boulder, CO.



John McAleese, III was named partner at Morgan Lewis in Philadelphia where he is a member of their Regulation Section.

Margot Metzger has become a member of the firm Robinson, Silverman, Pearce, Aronsohn & Berman in New York.

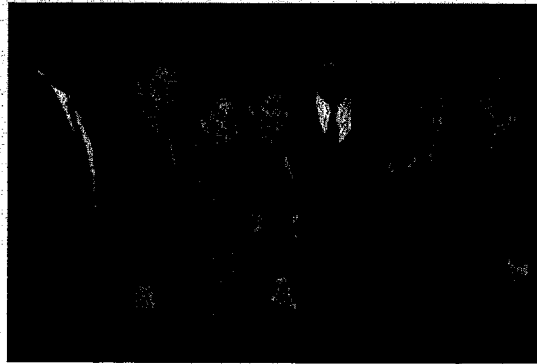
Elizabeth O'Connor was named partner at Flemming, Zulack & Williamson.

BLAPA Honors Alumni and Students

A special celebration of outstanding achievement: such is the essence of the NYU Black, Latino, Asian Pacific American Law Alumni Association (BLAPA) Annual Dinner. Each year, BLAPA gathers to honor alumni and a select group of current graduating law students who have made extraordinary contributions to the Law School, to the profession and to the community. The recipients are representative of the best of NYU Law and provide role models to which our students can aspire to emulate.

At this year's dinner, BLAPA celebrated the tenth anniversary of the Students Coalition for Change. Held in the Law School's Martin Lipton Hall, the dinner opened with welcoming remarks by Donna Lee ('91), BLAPA President. Zachary Carter ('75), US Attorney for the Eastern District of New York, delivered the Keynote Address on activism and the importance of standing up for one's beliefs. The BLAPA Distinguished Service Alumni Awards were then given to Phoebe Eng ('89), L. Londell McMillan ('90), John Quinones ('90), and Carol Robles-Roman ('89); and the BLAPA Public Service Recipients were Mayra Peters-Quintero ('99), Munir Pujara ('99), and LaShanda Dionne Taylor ('99).

The formal program ended with a report by BLAPA's Treasurer Raymond Lohier ('91) on the ongoing fundraising campaign to increase the endowment. The BLAPA Endowment Campaign seeks to raise \$300,000. The BLAPA Board awards the



(L-r): Patrick Bradford ('89), past BLAPA President; John Quinones ('90); Carol Robles-Roman ('89), current BLAPA President; Phoebe Eng ('89); L. Londell McMillan ('90); Judge Betty Staton ('79), past BLAPA President and co-founder; Zachary W. Carter ('75), speaker; Donna Lee ('91), past BLAPA President.

scholarships each year to third year law students who have chosen to pursue careers in public interest. The awards are for \$5,000 and are applied to the students highest interest rate loan. To date, BLAPA has raised roughly \$240,000 in cash and pledges. BLAPA hopes to end the campaign by December 31, 1999.

Mary Lou Parker (LL.M.) has been appointed as a trustee of the New Jersey State Bar Foundation.

Steven Suzzan was named partner at the New York office of Fluorite & Jaworski. Steven focuses on corporate and securities matters.

T. Robert Zochowski was named partner at the law firm of Shearman & Sterling, New York in the bank, finance, and bankruptcy group.

1990

Carole Aciman (M.C.J.) has joined the firm of Skadden, Arps, Slate, Meagher & Flom as counsel in the Internet & E-commerce Group.

Stephen Breitstone (LL.M.) of Miltzer, Lippe, Goldstein, & Schlissel testified before the House Committee on Small Business, Subcommittee on Tax, Finance, and Exports.

Dennis Duane was named partner at Milbank, Tweed, Hadley & McCloy's Financial Restructuring Group in New York, NY.



Raymond Fisher was named partner at Milbank, Tweed, Hadley & McCloy's Global Corporate Finance Group in New York, NY.

Joanne Goldhand was named partner at Schottenstein, Zox & Dunn.

Jennifer Rosenfeld has been promoted to Vice President-Corporate Counsel of Menlo Logistics.

Cynthia Rubin was named partner at Flemming, Zulack & Williamson.

William Russell, Jr. was named a partner at Simpson Thacher & Bartlett.



An anthology prepared by students in Professor Gissler's 2001 seminar

Black Prosecutors

Dealing With Race in the Criminal Justice System

By Emily Kopp

When New York City police officers fired 41 shots and killed the unarmed West African immigrant Amadou Diallo in 1999, Kenneth Montgomery knew they would go free. "I knew justice would not be served," he said.

Montgomery, a 28-year-old prosecutor in Brooklyn, was in the Kings County criminal courthouse on the day the verdict was announced. As he finished his duties in the courtroom, he heard shouts coming from a nearby lounge. There he found colleagues from the district attorney's office standing around the television set. "They were cheering," he recalled. "Tears swelled up in my eyes. I didn't want to be near them."

All he wanted, he said, was for "white people to look at black men differently - we're not all criminals."

Montgomery, who is black, is considered a rising star in the district attorney's office in Brooklyn. Judges have praised him and introduced him to politicians. Colleagues admire him. He cites the black philosopher Cornell West in casual conversation. He stops secretaries in the elevator to ask about their health.

But he plans to leave the office someday.

Since he was a child, Montgomery has wanted to be a lawyer to help others in his community. But he finds that this job constantly challenges his values. "Here, when someone gets a conviction," he said, "it's a tradition to go out and drink to celebrate." Montgomery doesn't see reason to celebrate.

His career goal is a bit different: He wants to improve impoverished, crime-ridden black communities, such as Crown Heights and Brownsville, where he grew up and went to school. But he doubts whether he can do that in a profession that sees only wins and losses. After winning a trial against a 20-year-old gang member sentenced for robbery, he recalls, he had a lump in his throat because he realized that the young man's life was messed up. "He's not going to do great things," Montgomery said.

Prosecutors have enormous control over people who are arrested for crimes. They decide whether to press charges, determine what charges to pursue and request bail. While a majority of prosecutors are white, most defendants are people of color.

Race is an important factor in the criminal justice system. Of the nation's nearly 1.8 million prison inmates in 2000, 45 percent were

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black, although blacks made up just 14 percent of the total U.S. population. Nearly one in eight black men were incarcerated last year. That's 18 times the rate for white men, according to the U.S. Justice Department. Montgomery, who works in the gang unit, says he has tried only one white defendant in his career. Colleagues in other departments agree that a small percentage of their defendants are white.

The nation's 1,000 African-American prosecutors represent just 3.3 percent of all prosecutors, according to the National Black Prosecutors Association. Some of them, such as Montgomery, find themselves trying to serve both the government and their black communities, which have often been at odds.

As a teenager, Montgomery did not view the government - or white people - positively. The whites he knew were either teachers or police officers - law-and-order types who children tried to avoid. That sentiment extended to district attorneys, too. "A lot of black and Hispanic males have an innate distrust of white prosecutors," he said.

When he goes into similar neighborhoods now, he sometimes feels resentment or disgust from people on the street who see him as an arm of the government. One time, he rode with a black police officer to a crime scene in an unmarked police car. "All the black men we passed rolled their eyes," he said. "I used to do that."

Some say black prosecutors should expect such treatment from the black community. "If you take a job in an office that has shown no concern for people of color, then you have to be prepared to deal with whatever people say, rather than faulting folks for raising questions," said Bryan Stevenson, a black public defender who teaches at New York University School of Law.

In the office, Montgomery senses a different resentment from white prosecutors toward defendants, victims and witnesses of color. He has heard young white colleagues curse them or call them "crackheads." He doesn't say anything about it - he says his sarcastic attitude and bad temper could make things ugly. But their behavior bothers him.

"As I see it, that could be my aunt or my neighbor," Montgomery said of the witnesses. As for defendants, he said, "I can understand why a 16-year-old guy got to the point of selling drugs." His colleagues' words reinforce his first impression of white law-enforcement officials.

"This puts me in somewhat of an uncomfortable position," Montgomery said.

Black prosecutors are the mediators in this cold war. John Newton, 34, used to work as an assistant district attorney in the Bronx before becoming counsel to the Environmental Protection Agency in Washington, D.C. Bronx juries are more than 80 percent black and Latino. They acquit defendants in nearly half of the felony cases.

Newton remembers reading about Larry Davis, a black man charged with murdering four drug dealers in 1986. When police officers tried to arrest Davis, he shot at them and fled. Davis' lawyers said he acted in self-defense, Newton recalled. The jury

acquitted him, although he later served time for illegally carrying a gun. As a Bronx native, Newton sometimes felt obliged to explain these acquittals to his white colleagues. "A lot of white prosecutors didn't understand that fear of the police," Newton said. But to the community, he said, the officers "were just another gang in the neighborhood." Despite the culture clashes, Newton said he might return to prosecution someday.

Kirby Clements, 35, a supervisor in the Kings County District Attorney's School Advocacy Bureau, which handles all school-related crimes, also finds himself between white colleagues and blacks involved in a case. Sometimes, he said, a white prosecutor will bombard a black witness with questions during a pre-trial meeting. The witness won't respond. In frustration, the white colleague asks Clements, who is black, to help. Clements sits with the witness and asks, "What's up?" The witness talks. "It's all in how you deal with someone," Clements explained.

Sometimes witnesses and victims ask Clements to step in on their behalf. Once, the black grandmother of a sex-crimes victim insisted on working with a black prosecutor instead of the white one to whom she was assigned. "The grandmother needed to feel comfortable," Clements said. "People have stereotypes about whites" in law enforcement.

Clements said those stereotypes stem from a belief that law-enforcement officials want to lock away black people and don't care about black victims of crime. While Clements doesn't believe that's true, he says the legacy of racism in this country - coupled with media reports that often describe suspects simply as "a black male" - fuel the fear.

When Montgomery talks about his childhood, he mentions the robberies he witnessed on his subway rides to school in Brownsville, Brooklyn. He remembers the heroin addicts who loitered outside his elementary school, P.S. 327. And he says drug dealers killed one of his friends in seventh grade. As he toys with a Notorious B.I.G. compact disc, he says race isn't the only barrier between most prosecutors and the people they work with during a trial. Class plays a role.

"Some black prosecutors don't know the neighborhood, the streets," he said, referring to his colleagues who grew up in middle-class or wealthy suburbs. "They don't know how to relate. Certain white prosecutors do." But Montgomery says that both the district attorney's office and Brooklyn's black community make assumptions based on race.

Supervisors "look at me as a decent guy, funny, from the neighborhood - he'll get us some convictions," Montgomery said. After only a few weeks on the job, he was told that he would win over Brooklyn juries because he was young, articulate and black. And while some people in the black community give him dirty looks, most appreciate him, if only for his skin color. An informal survey of black defendants at the courthouse in Brooklyn one recent morning corroborated that notion. Those surveyed thought all prosecutors would treat them equally. Nonetheless, they preferred black prosecutors to white ones.

"We need more of them," said Natania Rowe, 21, of Jamaica,

Queens, who came to the courthouse because she had been in a fight. "They can see where you're coming from."

"White prosecutors don't understand the ghetto, but blacks have been there," said her boyfriend, Everic Clayton, 27.

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Nonetheless, race is a heavy weight in the office. It dictates style and, even, job placement. Colleagues call Montgomery "the angry black man."

"That's why he's in the gang bureau," where an aggressive attitude is most effective, said Assistant District Attorney Michael Choi, who is Korean.

Montgomery said he is passionate and intense, but not angry. Nonetheless, he doesn't mind the characterization. It keeps people on their toes.

District attorneys' offices use black prosecutors to promote an illusion of racial equality, said Kenneth Nunn, a professor at Levin College of Law at the University of Florida in Gainesville.

While working as a public defender in Washington, D.C., and in California during the 1980s, Nunn noticed that district attorneys' offices assigned black prosecutors to cases involving prominent black defendants, he said. When asked to give an example, Nunn mentions Christopher Darden, the black assistant district attorney who prosecuted O.J. Simpson in Los Angeles in 1995. Nunn says district attorneys should make such assignments to stymie notions of impropriety. "But they say race has nothing to do with it," he said.

Why then, he asked, don't black prosecutors try cases in mostly white neighborhoods? "They'll hire African-American guys in areas where they need them but not elsewhere," he said. "They're being used by the office to deflect racial policies."

Clements, the School Advisory Bureau supervisor, said he doesn't feel used. "Symbolism is important," he said. He offered this example: A black friend in Atlanta, his hometown, was charged with a traffic offense. When the friend walked into the courtroom, all he saw were white faces. "I never felt so black in my life," the friend told Clements.

Clements hopes blacks who see him in court "might think, 'At least they hire somebody,'" he said.

That was not the case for Darden. Many people saw O.J. Simpson as the latest black man to fall victim to the criminal justice system. "I was branded as an Uncle Tom, a traitor used by 'The Man,'" Darden wrote in his book, "In Contempt." In subsequent interviews, he said he received death threats from whites and blacks alike. He regretted taking the case.

But Durman Jackson, president of the National Black Prosecutors Association, said that people who say such things overlook the fact that most crime victims are people of color, too. "Most of the crimes are not multiracial," he said. "Justice for all includes victims as well."

Black prosecutors can speak for the community and say, 'We've had enough, and something has to be done.' "

Montgomery agrees. "Do I ever feel funny with other young black males looking at me and I ask for 15 years?" he asked. "No, because the victim is a guy who got shot in the back, and he looks like me, too."

Ray Lohier, 35, a black federal prosecutor in Manhattan, chose his career because he wanted to change the system. He says black prosecutors can have an impact on their workplaces and the community. "If there's enough of us, we can raise the level of public confidence," he said. He acknowledged that there is a long way to go but said, "half a loaf of bread or a quarter of a loaf is better than nothing. If I have enough discretion, I might have an impact."

He knows black lawyers who would never want to be in his shoes; they don't trust law enforcement. He used to feel that way, too. "But in the big picture, would I rather have the attorneys, police officers and sheriffs, and no blacks?" he asks. "I think that's terrible and, if that's the case, I should step up."

As a law student at Emory University in Atlanta, Clements planned to become a defense attorney because he thought, "The Man is out to get us," he said. But he wouldn't change careers now. Prosecutors can use their powers to make decisions they believe are fair. "I can look at a case and say, 'It's crap, throw it away,' or 'You did it, and I'm going to pin you to the wall,' " Clements said. "I can mete out justice before the trial."

Nonetheless, few black law students plan to become prosecutors. Shana Fulton, a third-year student at Columbia Law School, says that only 3 out of 90 black students at her school are choosing that path. She is one of them. Other types of law are more popular because they offer better pay and aren't attached to any stigma. Fulton said some of her peers have asked her, "You want to put our people in jail?" She tells them, "When you're working within a community, there have to be attorneys from those communities."

But lone prosecutors can't change the system, Nunn said. "I don't think an individual prosecutor has the capability to change things," he said. Unless they are supervisors, "prosecutors don't have that kind of authority." He cites pressures working against a black prosecutor.

"There's pressure to be tough on crime," he said. "It's hard to maintain your integrity within the system if you're trying to act compassionately. A lot of prosecutors have political aspirations, too." They fear those political opportunities will slip through their hands if they stray from office policy, he said.

Montgomery plans to leave the Kings County District Attorney's Office someday to start his own legal practice. He wants to make a difference in his community, but he says he can't do it as a prosecutor. "Someone needs to be here," he said, "but it's only so effective."

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district attorney's office. There is only one district attorney of color-African-American Robert Johnson of the Bronx-in New York City.

Nunn equates becoming a prosecutor with joining a gang: you don't become a member to change it. Therefore, he said, blacks should refuse jobs as prosecutors to encourage social change. Only when the district attorneys' offices are "lily white," will they be forced to address these racial inequalities. They wouldn't be able to "use black prosecutors for window dressing," he said.

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BLAPA Honors Alumni and Students at Annual Dinner

The smooth sounds of Latin jazz welcomed guests to the annual Black, Latino, Asian Pacific American Law Alumni Association (BLAPA) Dinner Party. The music by Mambo Negro, and a generous bar featuring the Rums of Puerto Rico, were perfect compliments to this year's theme, "Celebrating the Ethnic Explosion."



(L-r): Gregory Braithwaite, Beverly Alexander, Fritz Alexander II ('51), Karen Alexander, and Betty Staton ('79)

NYU Law faculty and alumni joined current and admitted students in the Law School's Martin Lipton Hall to honor the outstanding achievements of distinguished Law School alumni, and to award the BLAPA Public Service Scholarship to three remarkable students.

Dean John Sexton opened the evening by praising the Law School's considerable gains in faculty and student diversity, and admonishing current students to exploit the experience and wisdom of the Law School's distinguished alumni who were present. New York State Chief Judge Judith Kaye ('62) and the Honorable Betty Staton ('79) then joined the Dean for a special presenta-

tion honoring "one of our brightest stars," Fritz W. Alexander II ('51). It was the last public appearance for Judge Alexander, who died two weeks later.

Seated near the portrait of his likeness commissioned for the occasion, Judge Alexander spoke of the humble beginnings of the Law School, and praised the contributions of the current and former deans to the growth of the School "from the ninth and tenth floor of a factory" to the "preeminent institution of global legal learning" today. With his wife and colleagues by his side, Alexander also reflected on his "deep love and affection" for the Law School, the fifty years he had given to it, and the spirit

of the School that sustained him "and all those who came along."

The formal dinner program began with remarks by current BLAPA President Carol Robles Roman ('89). As guests located their seats, still buzzing from Alexander's moving reflections, Roman commented on current trends in the legal and national markets. "The trend," she said, "is us. We are hot!" Roman continued, "There is a dynamic force called the minority community in America today; it is hip to be a person of color."

Roman then introduced the program's Special Speaker, Londell McMillan ('90), a partner in his own entertainment firm. Jokingly referred to as "the Johnnie Cochran of the entertainment industry, McMillan boasts an impressive client list that includes the artist formerly known as Prince, fashion designer FUBU, Def Jam Records, and filmmaker Spike Lee. In his remarks, McMillan agreed that ethnic ideas and products are in demand. "We have flavor," he said, and "we are advancing our culture from Japan to Iran." McMillan added, "all over the world, they want the music that comes from the streets of New York and Miami, and the fashion that comes from L.A." Despite the high demand, McMillan noted, "few minorities have the opportunity to advise in these industries or capitalize on this growth. Minorities have come a long way, but we've got so far to go."

The program continued with the presentation of honorees by Herbert Barbot ('91) and of the student recipients of the Public Service Scholarships by Raymond Lohier ('91). This year's honorees included Judge Arthur Gonzales (LL.M.'90) of the U.S. Bankruptcy Court, Nancy Chang ('78), Senior Litigation Attorney of the Center for Constitutional Rights, and O. Peter Sherwood ('71), a partner at the law firm of Kalkines, Arky, Zall & Bernstein. The Public Service Scholarship recipients were current students Jennifer Ching ('00), Vida Johnson ('00), and Sejal Zota ('00).

The 2000 BLAPA Awards Dinner ended with an update on the endowment drive and the Induction of the New Board of Officers. The formal close of the dinner program in no way marked the close of the evening. The warmth and spirit of the evening carried over into the post-dinner networking, where the guests mingled, alumni reminisced and the Latin jazz of the Mambo Negro band flavored the night. ■



Alan Kline (LL.M.) was promoted to the position of Special Trial Attorney for the Northeast Region of the IRS in Manhattan.

Judith McMillan (LL.M.) has joined the Dallas/Fort Worth office of Deloitte & Touche as a tax partner.

David Schmutter (LL.M.) has been named partner to the New York office of Arthur Andersen, where he is a key member of the State and Local Tax practice.

1989

Stefanie Cohen will serve as Managing Director, Planning and Development at Schnader, Harrison, Segal & Lewis.



Steven Cohen was named partner at Morgan Lewis' Philadelphia office where he is a member of their Business and Finance Section.

Marc Davis became a junior equity analyst at Brundage, Stoy and Rose in New York.

Alan Goldberg was named partner at Whiteman Osterman & Hanna in Albany.

Abraham Goren (LL.M.) was appointed Chairman of the Board of Directors of Elscint Ltd., a subsidiary of Elbit Medical Imaging.

Malcolm Kratzer was named partner at O'Melveny & Myers.



Christopher Leh has joined the firm of Caplan and Earnest in Boulder, CO.



John McAleese, III was named partner at Morgan Lewis in Philadelphia where he is a member of their Regulation Section.

Margot Metzger has become a member of the firm Robinson, Silverman, Pearce, Aronsohn & Berman in New York.

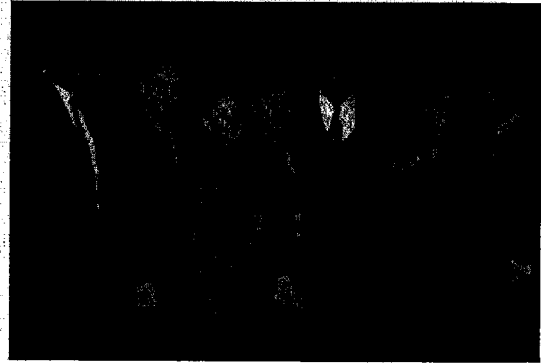
Elizabeth O'Connor was named partner at Flemming, Zulack & Williamson.

BLAPA Honors Alumni and Students

A special celebration of outstanding achievement: such is the essence of the NYU Black, Latino, Asian Pacific American Law Alumni Association (BLAPA) Annual Dinner. Each year, BLAPA gathers to honor alumni and a select group of current graduating law students who have made extraordinary contributions to the Law School, to the profession and to the community. The recipients are representative of the best of NYU Law and provide role models to which our students can aspire to emulate.

At this year's dinner, BLAPA celebrated the tenth anniversary of the Students Coalition for Change. Held in the Law School's Martin Lipton Hall, the dinner opened with welcoming remarks by Donna Lee ('91), BLAPA President. Zachary Carter ('75), US Attorney for the Eastern District of New York, delivered the Keynote Address on activism and the importance of standing up for one's beliefs. The BLAPA Distinguished Service Alumni Awards were then given to Phoebe Eng ('89), L. Londell McMillan ('90), John Quinones ('90), and Carol Robles-Roman ('89); and the BLAPA Public Service Recipients were Mayra Peters-Quintero ('99), Munir Pujara ('99), and LaShanda Dionne Taylor ('99).

The formal program ended with a report by BLAPA's Treasurer Raymond Lohier ('91) on the ongoing fundraising campaign to increase the endowment. The BLAPA Endowment Campaign seeks to raise \$300,000. The BLAPA Board awards the



(L→): Patrick Bradford ('89), past BLAPA President; John Quinones ('90); Carol Robles-Roman ('89), current BLAPA President; Phoebe Eng ('89); L. Londell McMillan ('90); Judge Betty Staton ('79), past BLAPA President and co-founder; Zachary W. Carter ('75), speaker; Donna Lee ('91), past BLAPA President.

scholarships each year to third year law students who have chosen to pursue careers in public interest. The awards are for \$5,000 and are applied to the student's highest interest rate loan. To date, BLAPA has raised roughly \$240,000 in cash and pledges. BLAPA hopes to end the campaign by December 31, 1999.

Mary Lou Parker (LL.M.) has been appointed as a trustee of the New Jersey State Bar Foundation.

Steven Suzzan was named partner at the New York office of Fluorite & Jaworski. Steven focuses on corporate and securities matters.

T. Robert Zochowski was named partner at the law firm of Shearman & Sterling, New York in the bank, finance, and bankruptcy group.

1990

Carole Aciman (M.C.J.) has joined the firm of Skadden, Arps, Slate, Meagher & Flom as counsel in the Internet & E-commerce Group.

Stephen Brekstone (LL.M.) of Miltzer, Lippe, Goldstein, & Schlissel testified before the House Committee on Small Business, Subcommittee on Tax, Finance, and Exports.

Dennis Duane was named partner at Milbank, Tweed, Hadley & McCloy's Financial Restructuring Group in New York, NY.



Raymond Fisher was named partner at Milbank, Tweed, Hadley & McCloy's Global Corporate Finance Group in New York, NY.

Joanne Goldhand was named partner at Schottenstein, Zox & Dunn.

Jennifer Rosenfeld has been promoted to Vice President-Corporate Counsel of Menlo Logistics.

Cynthia Rubin was named partner at Flemming, Zulack & Williamson.

William Russell, Jr. was named a partner at Simpson Thacher & Bartlett.



An anthology prepared by students in Professor Gissler's 2001 seminar

Black Prosecutors

Dealing With Race in the Criminal Justice System

By Emily Kopp

When New York City police officers fired 41 shots and killed the unarmed West African immigrant Amadou Diallo in 1999, Kenneth Montgomery knew they would go free. "I knew justice would not be served," he said.

Montgomery, a 28-year-old prosecutor in Brooklyn, was in the Kings County criminal courthouse on the day the verdict was announced. As he finished his duties in the courtroom, he heard shouts coming from a nearby lounge. There he found colleagues from the district attorney's office standing around the television set. "They were cheering," he recalled. "Tears swelled up in my eyes. I didn't want to be near them."

All he wanted, he said, was for "white people to look at black men differently - we're not all criminals."

Montgomery, who is black, is considered a rising star in the district attorney's office in Brooklyn. Judges have praised him and introduced him to politicians. Colleagues admire him. He cites the black philosopher Cornell West in casual conversation. He stops secretaries in the elevator to ask about their health.

But he plans to leave the office someday.

Since he was a child, Montgomery has wanted to be a lawyer to help others in his community. But he finds that this job constantly challenges his values. "Here, when someone gets a conviction," he said, "it's a tradition to go out and drink to celebrate." Montgomery doesn't see reason to celebrate.

His career goal is a bit different: He wants to improve impoverished, crime-ridden black communities, such as Crown Heights and Brownsville, where he grew up and went to school. But he doubts whether he can do that in a profession that sees only wins and losses. After winning a trial against a 20-year-old gang member sentenced for robbery, he recalls, he had a lump in his throat because he realized that the young man's life was messed up. "He's not going to do great things," Montgomery said.

Prosecutors have enormous control over people who are arrested for crimes. They decide whether to press charges, determine what charges to pursue and request bail. While a majority of prosecutors are white, most defendants are people of color.

Race is an important factor in the criminal justice system. Of the nation's nearly 1.8 million prison inmates in 2000, 45 percent were

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black, although blacks made up just 14 percent of the total U.S. population. Nearly one in eight black men were incarcerated last year. That's 18 times the rate for white men, according to the U.S. Justice Department. Montgomery, who works in the gang unit, says he has tried only one white defendant in his career. Colleagues in other departments agree that a small percentage of their defendants are white.

The nation's 1,000 African-American prosecutors represent just 3.3 percent of all prosecutors, according to the National Black Prosecutors Association. Some of them, such as Montgomery, find themselves trying to serve both the government and their black communities, which have often been at odds.

As a teenager, Montgomery did not view the government - or white people - positively. The whites he knew were either teachers or police officers - law-and-order types who children tried to avoid. That sentiment extended to district attorneys, too. "A lot of black and Hispanic males have an innate distrust of white prosecutors," he said.

When he goes into similar neighborhoods now, he sometimes feels resentment or disgust from people on the street who see him as an arm of the government. One time, he rode with a black police officer to a crime scene in an unmarked police car. "All the black men we passed rolled their eyes," he said. "I used to do that."

Some say black prosecutors should expect such treatment from the black community. "If you take a job in an office that has shown no concern for people of color, then you have to be prepared to deal with whatever people say, rather than faulting folks for raising questions," said Bryan Stevenson, a black public defender who teaches at New York University School of Law.

In the office, Montgomery senses a different resentment from white prosecutors toward defendants, victims and witnesses of color. He has heard young white colleagues curse them or call them "crackheads." He doesn't say anything about it - he says his sarcastic attitude and bad temper could make things ugly. But their behavior bothers him.

"As I see it, that could be my aunt or my neighbor," Montgomery said of the witnesses. As for defendants, he said, "I can understand why a 16-year-old guy got to the point of selling drugs." His colleagues' words reinforce his first impression of white law-enforcement officials.

"This puts me in somewhat of an uncomfortable position," Montgomery said.

Black prosecutors are the mediators in this cold war. John Newton, 34, used to work as an assistant district attorney in the Bronx before becoming counsel to the Environmental Protection Agency in Washington, D.C. Bronx juries are more than 80 percent black and Latino. They acquit defendants in nearly half of the felony cases.

Newton remembers reading about Larry Davis, a black man charged with murdering four drug dealers in 1986. When police officers tried to arrest Davis, he shot at them and fled. Davis' lawyers said he acted in self-defense, Newton recalled. The jury

acquitted him, although he later served time for illegally carrying a gun. As a Bronx native, Newton sometimes felt obliged to explain these acquittals to his white colleagues. "A lot of white prosecutors didn't understand that fear of the police," Newton said. But to the community, he said, the officers "were just another gang in the neighborhood." Despite the culture clashes, Newton said he might return to prosecution someday.

Kirby Clements, 35, a supervisor in the Kings County District Attorney's School Advocacy Bureau, which handles all school-related crimes, also finds himself between white colleagues and blacks involved in a case. Sometimes, he said, a white prosecutor will bombard a black witness with questions during a pre-trial meeting. The witness won't respond. In frustration, the white colleague asks Clements, who is black, to help. Clements sits with the witness and asks, "What's up?" The witness talks. "It's all in how you deal with someone," Clements explained.

Sometimes witnesses and victims ask Clements to step in on their behalf. Once, the black grandmother of a sex-crimes victim insisted on working with a black prosecutor instead of the white one to whom she was assigned. "The grandmother needed to feel comfortable," Clements said. "People have stereotypes about whites" in law enforcement.

Clements said those stereotypes stem from a belief that law-enforcement officials want to lock away black people and don't care about black victims of crime. While Clements doesn't believe that's true, he says the legacy of racism in this country - coupled with media reports that often describe suspects simply as "a black male" - fuel the fear.

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