

**UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY**

**QUESTIONNAIRE FOR JUDICIAL NOMINEES**

**PUBLIC**

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

Lara Elizabeth Montecalvo  
Lara Elizabeth Ewens (maiden name)

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

United States Circuit Judge for the First 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.

Office: Rhode Island Public Defender's Office  
160 Pine Street  
Providence, Rhode Island 02903

Residence: Barrington, Rhode Island

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

1974; Syracuse, New York

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.

1997 – 2000, Boston College Law School; J.D. (*magna cum laude*), 2000

1992 – 1996, Swarthmore College; B.A., 1996

1994, King's College London; no degree received (study abroad program)

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.

2004 – present  
Rhode Island Public Defender's Office  
160 Pine Street  
Providence, Rhode Island 02903  
Rhode Island Public Defender (2020 – present)  
Chief, Appellate Division (2014 – 2020)  
Assistant Public Defender, Appellate Division (2010 – 2014)  
Assistant Public Defender, Trial Division (2004 – 2010)  
Supervising Attorney, Newport County (2007 – 2009)

2000 – 2004  
United States Department of Justice, Tax Division  
950 Pennsylvania Avenue, Northwest  
Washington, DC 20530  
Trial Attorney

Summer 1999  
Winthrop, Stimson, Putnam & Roberts (now Pillsbury Winthrop Shaw Pittman LLP)  
31 West 52nd Street  
New York, New York 20019  
Summer Associate

Summer 1998  
East Bay Community Law Center  
1950 University Avenue, Suite 200  
Berkeley, California 94704  
Summer Associate

Spring 1997  
People Connection Temporary Agency  
57 Post Street, Suite 701  
San Francisco, California 94104  
Temporary Paralegal

1996  
New York City Department of Parks & Recreation  
The Arsenal, Central Park  
830 Fifth Avenue  
New York, New York 10065  
Associate

Other affiliations (uncompensated):

2020 – present  
Criminal Justice Policy Board for the State of Rhode Island  
311 Danielson Pike

North Scituate, Rhode Island 02857  
Board Member

2004 – present  
Rhode Island Association of Criminal Defense Lawyers  
P.O. Box 23101  
Providence, Rhode Island 02903  
Executive Board Member (2008 – 2014)  
Member (2004 – present)

2009 – 2020  
Gordon School Advisory Council  
Gordon School  
45 Maxwell Avenue  
East Providence, Rhode Island 02914  
Member

2006 – 2012  
Common Cause Rhode Island  
245 Waterman Street, Suite 400A  
Providence, Rhode Island 02906  
State Governing Board Member  
Secretary (2011)

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 did not serve in the military. I was not required to register for the 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.

2020 Newsmaker of the Year, Rhode Island Women's Bar Association and Rhode Island Lawyers Weekly (2020)

Outstanding Attorney Award, United States Department of Justice, Tax Division (2003)

Outstanding Attorney Award, Political Asylum/Immigration Representation ("PAIR") Project (2000)

Managing Editor, Boston College Law School International and Comparative Law Review (2000)

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.

Criminal Justice Policy Board for the State of Rhode Island  
Board Member (2020 – present)

Rhode Island Association of Criminal Defense Lawyers  
Executive Board Member (2008 – 2014)  
Member (2004 – present)

Rhode Island Bar Association  
Supreme Court Bench/Bar Committee (2018 – present)  
Member (2000 – present)

Rhode Island Bar Association Foundation  
Fellow (2020 – present)

Rhode Island Women’s Bar Association (2015 – present)

State of Rhode Island General Assembly, Special Legislative Commission to Study Justice Reinvestment Proposals and Provide Recommendations for Reducing the Incarceration of Women  
Member (2021 – present)

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.

Rhode Island, 2000  
New York, 2003

In 2006, I was two days late in paying my Rhode Island bar dues; on Monday, July 3—the first business day after I realized I missed the Saturday, July 1 deadline—I went to the Rhode Island Supreme Court, paid the balance owed, and was reinstated to the Rhode Island bar. Otherwise, there have been no lapses 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 District Court for the District of Rhode Island, 2018

There have been no lapses 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.

Common Cause Rhode Island

State Governing Board Member (2006 – 2012), Secretary (2011)

Gordon School Advisory Council (2009 – 2020)

Nayatt Public Elementary School Parent-Teacher Organization (2019 – present)

Public Defender Matthewson Street United Methodist Church Soup Kitchen Outreach Program (approximately 2006 – 2012)

- 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.

To the best of my knowledge, none of the organizations listed above currently discriminates 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.

**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.

*No Exit, No End: Probation in Rhode Island*, 21 Roger Williams L. Rev. 316 (Spring 2016). Copy supplied.

*Seed Wars: Biotechnology, Intellectual Property and the Quest for High Yield Seeds*, B.C. Int'l & Comp. L. Rev. XXIII, No. 2 (Spring 2000). Copy supplied.

*Arboretum in Full Bloom*, Swarthmore Phoenix (Sept. 18, 1992). Copy supplied.

- 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.

2006 – 2012: As a state governing board member of Common Cause Rhode Island, I regularly attended governing board meetings and participated in meetings on occasion. I did not offer legal opinions. The state board's work focuses on organizational issues (such as hiring personnel, fundraising, and office management) and providing direction to its executive director and issue committees. During 2011, I served as the board's secretary. Minutes supplied for the following meetings:

July 25, 2011  
April 25, 2011  
March 28, 2011  
October 25, 2010  
May 24, 2010,  
March 15, 2010  
January 25, 2010  
October 2, 2009  
May 26, 2009  
March 23, 2009  
January 26, 2009  
November 24, 2008  
March 24, 2008  
January 28, 2008

Common Cause Rhode Island also produced newsletters which contained the governing board member's names on the letterhead. I played no role in drafting or editing the newsletters. Newsletters supplied for the following dates:

Winter 2011  
Summer 2011  
Fall 2010  
Spring 2010  
Spring 2008  
Winter 2007  
Fall 2007

Summer 2007

- 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.

Letter from Lara Montecalvo, Rhode Island Public Defender, to Mavis Nimoh, Executive Director Center for Health and Justice Transformation, Regarding the Center's grant proposal to the Substance Abuse and Mental Health Services Administration (March 31, 2022). Copy Supplied.

On September 22, 2021, I attended a meeting of the Public Safety Grant Administration Office Criminal Justice Policy Board of the State of Rhode Island, on which the Public Defender or her designee sits. Minutes supplied.

Letter from Lara Montecalvo, Rhode Island Public Defender, to Andrew Cortés, Executive Director of Building Futures, Regarding Building Futures' Application for Bridge to Opportunity Grant (June 15, 2021). Copy supplied.

Testimony, Budget Hearing, Rhode Island House Finance Committee Subcommittee on Public Safety (Apr. 27, 2021). Video available at <http://ritv.devosvideo.com/show?video=5f7fa9d550d9&apg=52ab780b>.

Letter from Lara Montecalvo, Rhode Island Public Defender, to Providence Board of Contract and Supply, Regarding OpenDoors' Application to Assist City of Providence with Fine and Fees Community Engagement Project (Nov. 9, 2020). Copy supplied.

Letter from Peter Neronha, Rhode Island Attorney General, and Lara Montecalvo, Rhode Island Public Defender, to Chief Justice Paul A. Suttell, Rhode Island Supreme Court, Regarding Student Practice Rule (Oct. 14, 2020). Copy supplied.

On October 6, 2020, I attended a virtual meeting of the Public Safety Grant Administration Office Criminal Justice Policy Board for the State of Rhode Island, on which the Public Defender or her designee sits. Minutes supplied.

Testimony, Confirmation Hearing, Rhode Island Senate Judiciary Committee (May 26, 2020). Video available at <http://ritv.devosvideo.com/show?video=a25a5b71fdf1&apg=234d9d19>.

Additionally, I have attended meetings of the Steering Committee of the Criminal Justice Policy Board for the State of Rhode Island, on which the Public Defender or her designee sits, for which I have no notes, transcripts, or recordings. The dates of these meetings were September 2, 2021, August 12, 2021, July 8, 2021, and June 17, 2021.



- 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.

August 13, 2021: Guest Speaker, Introduction to the Public Defender's Office, Roger Williams University School of Law 1L Orientation, Providence, Rhode Island (virtual). I spoke to law students about the work of the Rhode Island Public Defender's Office. I have no notes, transcript, or recording. The address of the Roger Williams University School of Law is Ten Metacom Avenue, Bristol, Rhode Island 02809.

June 23, 2021: Panelist, Civil and Criminal Case Law Update, Rhode Island Bar Association Annual Meeting, Providence, Rhode Island (virtual). Notes supplied.

April 18, 2021: Panelist, High School Mock Trial Championship, Rhode Island Legal Education Fund (virtual). I served as a judge for the finals of a high school mock trial championship. I have no notes, transcript, or recording. The address of the Rhode Island Legal Education Fund is P.O. Box 8608, Warwick, Rhode Island 02888.

November 19, 2020: Speaker, Newsmaker of the Year, Rhode Island Women's Bar Association and Rhode Island Lawyers Weekly (virtual). Outline supplied.

August 14, 2020: Guest Speaker, Introduction to the Public Defender's Office, Roger Williams University School of Law 1L Orientation, Providence, Rhode Island (virtual). I spoke about the work of the Rhode Island Public Defender's Office. I have no notes, transcript, or recording. The address of the Roger Williams University School of Law is Ten Metacom Avenue, Bristol, Rhode Island 02809.

July 16, 2020: Speaker, Swearing in Ceremony for Public Defender Lara Montecalvo, Office of the Governor of the State of Rhode Island, Rhode Island State House, Providence, Rhode Island. Outline and press coverage supplied.

February 24, 2020: Panelist, Rhode Island's Criminal Justice System: Reporting Crime and Justice, Journalism Course, Brown University, Providence, Rhode Island. Notes supplied.



November 21, 2019: Speaker, Investiture Ceremony for United States District Court Judge Mary S. McElroy, United States District Court for the District of Rhode Island, Providence, Rhode Island. Transcript supplied.

October 4, 2019: Co-presenter, The Fourth Amendment's Application to Digital Evidence: Search Warrants and Other Requirements, Judicial Conference of the State of Rhode Island's District Court Judges, Providence, Rhode Island. Notes and PowerPoint supplied.

September 13, 2019: Presenter, The Intersection of State Occupational Licensing and the Criminal Process, Rhode Island Bar Association, Cranston, Rhode Island. PowerPoint supplied.

June 28, 2019: Panelist, Annual Ethics Continuing Legal Education Presentation, Rhode Island Association of Criminal Defense Lawyers, Providence, Rhode Island. The panel discussed ethical rules governing lawyers. I have no notes, transcript, or recording. The address of the Rhode Island Association of Criminal Defense Lawyers is P.O. Box 23101, Providence, Rhode Island 02903.

June 13, 2019: Panelist, Civil and Criminal Case Law Update, Rhode Island Bar Association Annual Meeting, Providence, Rhode Island. Notes supplied.

April 10, 2019: Guest Speaker, Appellate Advocacy in the Rhode Island Supreme Court, Advanced Appellate Advocacy Class, Roger Williams University School of Law, Providence, Rhode Island. I discussed practicing before the Rhode Island Supreme Court. I have no notes, transcript, or recording. The address of the Roger Williams University School of Law is Ten Metacom Avenue, Bristol, Rhode Island 02809.

June 22, 2018: Panelist, Civil and Criminal Case Law Update, Rhode Island Bar Association Annual Meeting, Providence, Rhode Island. Notes supplied.

Spring 2018 (specific date unknown): Guest Speaker, Appellate Advocacy, Advanced Appellate Advocacy Class, Roger Williams University School of Law, Bristol, Rhode Island. I spoke about how to draft an effective statement of facts for an appellate brief. I have no notes, transcript, or recording. The address of the Roger Williams University School of Law is Ten Metacom Avenue, Bristol, Rhode Island 02809.

February 26, 2018: Panelist, Rhode Island's Criminal Justice System: Reporting Crime and Justice, Journalism Course, Brown University, Providence, Rhode Island. The panel discussed the criminal justice system in Rhode Island. I have no notes, transcript, or recording. The address of Brown University is 68 Brown Street, Providence, Rhode Island 02906.

January 11, 2018: Speaker, Expungement and Sealing Training, Rhode Island Public Defender's Office, Providence, Rhode Island. I was a speaker with other public defender lawyers discussing recent changes to Rhode Island's sealing and expungement laws. I have no notes, transcript, or recording. The address of the Rhode Island Public Defender's Office is 160 Pine Street, Providence, Rhode Island 02903.

June 16, 2017: Panelist, Civil and Criminal Case Law Update, Rhode Island Bar Association Annual Meeting, Providence, Rhode Island. Notes supplied.

June 17, 2016: Panelist, Civil and Criminal Case Law Update, Rhode Island Bar Association Annual Meeting, Providence, Rhode Island. Notes supplied.

February 26, 2016: Panelist, Rhode Island's Criminal Justice System: Reporting Crime and Justice, Journalism Course, Brown University, Providence, Rhode Island. The panel discussed the criminal justice system in Rhode Island. I have no notes, transcript, or recording. The address of Brown University is 68 Brown Street, Providence, Rhode Island 02906.

February 4, 2016: Moderator, False Confession Litigation Panel, Rhode Island Association of Criminal Defense Lawyers, Warwick, Rhode Island. Notes supplied.

Fall 2013 (specific date unknown): Guest Speaker, Negotiating Misdemeanor Cases in the District Court, Criminal Defense Clinic Class, Roger Williams University School of Law, Providence, Rhode Island. I spoke about negotiating misdemeanor cases in Rhode Island state court. I have no notes, transcript, or recording. The address of the Roger Williams University School of Law is Ten Metacom Avenue, Bristol, Rhode Island 02809.

May 1, 2009: Panelist, Rhode Island Superior Court Law Day Presentation, Newport Superior Court, Newport, Rhode Island. The panel spoke to seventh-grade students about music piracy and the criminal justice system. I have no notes, transcript, or recording, but press coverage is supplied. The address of the Newport Superior Court is Murray Judicial Complex, 45 Washington Square, Newport, Rhode Island 02940.

- 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.

Katie Mulvaney, *Criminal Justice Reform: Innovative RI program seeks to break cycle of incarceration*, Providence J. (May 28, 2021). Copy supplied.

Barry Bridges, *Public Defender-MD Partnership Seeks Improved Health Outcomes*, R.I. Laws. Wkly. (Mar. 12, 2021). Copy supplied.

*A Conversation with Women's Bar Association 'Newsmaker of the Year' Lara Montecalvo*, R.I. Laws. Wkly. (Dec. 21, 2020). Copy supplied.

Katie Mulvaney, *Montecalvo sworn in as Rhode Island Public Defender*, Providence J. (July 16, 2020). Copy previously supplied in response to Question 12d.

Paul Edward Parker, *It's Judge McElroy, finally! After four years and two administrations, Mary S. McElroy is formally invested as a U.S. District Judge*, Providence J. (Nov. 22, 2019). Copy supplied.

Ellen Liberman, *Rhode Islanders on Probation*, R.I. Monthly (Dec. 1, 2016). Copy supplied.

Jennifer Z. Chen, *After three tough losses, women's lacrosse beats Muhlenberg*, Swarthmore Phoenix (Apr. 19, 1996). Copy supplied.

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 cases, approximately what percent were:
- jury trials: \_\_\_\_\_%
- bench trials: \_\_\_\_\_%
- ii. Of these cases, approximately what percent were:
- 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 of 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 (4) the citation of the case (if reported) or the docket number and a

copy of the opinion or judgment (if not reported).

- d. Information for counsel who had a significant role in the trial of the case; and (4) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).
- e. 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.
- f. Provide a list of all cases in which certiorari was requested or granted.
- g. 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.
- h. 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.
- i. 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.
- j. 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:

I have not held judicial office.

- 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.

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.

Since July 2020, I have served as the Rhode Island Public Defender. I was nominated to that position by Rhode Island Governor Gina M. Raimondo on March 5, 2020, and confirmed by the Rhode Island Senate on June 18, 2020. I have had no unsuccessful candidacies for public 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.

None.

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 have not served as a clerk to a judge.

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

I have never 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;

2000 – 2004  
United States Department of Justice, Tax Division  
950 Pennsylvania Avenue, Northwest  
Washington, DC 20530  
Trial Attorney

2004 – present  
Rhode Island Public Defender's Office  
160 Pine Street  
Providence, Rhode Island 02903  
Assistant Public Defender, Trial Division (2004 – 2010)  
Supervising Attorney, Newport County (2007 – 2009)  
Assistant Public Defender, Appellate Division (2010 – 2014)  
Chief, Appellate Division (2014 – 2020)  
Rhode Island Public Defender (2020 – present)

- 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 never 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.

I have practiced as a litigator since I became a lawyer in 2000.

From 2000 to 2004, I was a Trial Attorney in the Tax Division of the United States Department of Justice. In that role, I litigated civil tax matters on behalf of the United States government in various federal district and bankruptcy courts. I handled a variety of cases—ranging from bringing suits to collect unpaid assessments or to foreclose federal tax liens, to defending the United States in tax refund lawsuits, as well as litigating government tax claims in bankruptcy proceedings, and engaging in tax shelter litigation. Working either as the sole attorney assigned to a case, or, occasionally, with co-counsel, I was responsible for all stages of litigation, including drafting complaints, engaging in significant discovery, and drafting and arguing substantive motions of law. I also served as co-counsel for bench trials in the United States District Courts for the District of Massachusetts and the Western District of New York (one of which settled after post-trial briefing but before final verdict).



Since 2004, I have worked for the Rhode Island Public Defender's Office in various roles, representing indigent individuals in criminal matters in Rhode Island state courts. For my first seven years in the Public Defender's Office, I was a staff attorney. In that capacity, I represented individuals charged with misdemeanors and felonies of all kinds, including disorderly conduct, drug possession and distribution, and murder, as well as bail and probation violations. I also spent two years as the supervising attorney for the Rhode Island Public Defender's Newport County Office, where I handled all public defender felony cases in the county. I appeared in court on behalf of my clients almost every day and frequently litigated probation violation hearings, suppression hearings, bench trials, and, less frequently, jury trials.

From 2010 to 2020, I served in the Rhode Island Public Defender's Office Appellate Division, first as an Assistant Public Defender (2010 to 2014) and then as the Division's Chief (2014 to 2020). In the Appellate Division, I briefed and argued appeals from criminal convictions in over 45 reported Rhode Island Supreme Court cases. I handled more than 20 other appeals that were not resolved by reported decision. I also represented parents in civil appellate proceedings appealing the termination of their parental rights. Additionally, from time to time, I represented clients in appeals in civil post-conviction matters. And as Chief, I supervised more than 80 additional appeals, including the Office's litigation of two habeas petitions in the United States District Court for the District of Rhode Island, one of which was appealed to the United States Court of Appeals for the First Circuit.

Since 2020, I have served as the Rhode Island Public Defender. As the Public Defender, I continue to handle some of my own cases, including various appeals in the Rhode Island Supreme Court, as well as a civil post-conviction proceeding in state trial court. Additionally, I have significant managerial responsibilities. I research, make, and execute legal and policy decisions involving the Office and its employees in areas of employment law, labor law, landlord-tenant law, contracts, and ethics. I also supervise a staff of nearly 100 lawyers, social workers, investigators, interpreters, and administrative assistants. As part of that supervision, I regularly present trainings to defense attorneys. And I provide strategic advice to public defenders in their ongoing cases at both the trial and appellate level.

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

At the United States Department of Justice, I represented the United States in a variety of civil tax matters in various federal courts. Throughout my employment at the Rhode Island Public Defender's Office, I have represented indigent individuals who are eligible for the appointment of



counsel in all manner of criminal and post-conviction proceedings at both the trial and appellate levels.

- 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.

The entirety of my practice has been in litigation. At the United States Department of Justice, I regularly appeared in court, approximately monthly. At the Rhode Island Public Defender's Office, I appeared in court approximately once per day as a trial attorney, approximately once per month as an appellate lawyer, and occasionally now that I am the Rhode Island Public Defender.

- i. Indicate the percentage of your practice in:

- |                             |     |
|-----------------------------|-----|
| 1. federal courts:          | 5%  |
| 2. state courts of record:  | 95% |
| 3. other courts:            | 0%  |
| 4. administrative agencies: | 0%  |

- ii. Indicate the percentage of your practice in:

- |                          |     |
|--------------------------|-----|
| 1. civil proceedings:    | 10% |
| 2. criminal proceedings: | 90% |

- 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 more than 20 cases to verdict, judgment, or final decision. Six of those cases were felony jury trials; I was sole counsel in two, and co-counsel in the other four. The remaining approximately 14 cases were felony and misdemeanor bench trials; I was sole counsel in all but one of them. With co-counsel, I also litigated two federal bench trials (though one settled after post-trial briefing but before final verdict).

- i. What percentage of these trials were:

- |              |     |
|--------------|-----|
| 1. jury:     | 25% |
| 2. non-jury: | 75% |

- 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. *State v. Narcovich*, 244 A.3d 549 (R.I. 2021)

In 2017, Mr. Narcovich was convicted of eight offenses, including several counts of assault, one count of reckless driving with injury resulting, and three counts of violation of a no-contact order. The charges stemmed from a 2015 fight outside a bar in East Providence, Rhode Island during which Mr. Narcovich struck and injured two women with a vehicle and fled the scene. Mr. Narcovich appealed, challenging a jury instruction and asserting a double jeopardy violation. The Rhode Island Supreme Court vacated his conviction on all counts, holding (i) that the intoxication instruction was improper and may have misled the jury or otherwise affected the jury's verdict, and (ii) that two of the counts of violation of a no-contact order must merge under double jeopardy principles. The case was remanded to the trial court for a new trial, which has not yet been held. As sole counsel for Mr. Narcovich from 2018 to 2021, I successfully briefed and argued his appeal to the Rhode Island Supreme Court. I do not represent Mr. Narcovich in the trial court.

Opposing Counsel:

Owen Murphy  
Rhode Island Office of the Attorney General  
150 South Main Street  
Providence, RI 02903  
(401) 274-4400

2. *State v. Blandino*, 171 A.3d 21 (R.I. 2017)

In October 2015, Mr. Blandino was convicted of one count of first-degree murder, one count of discharging a firearm resulting in violence, assault with a dangerous weapon, discharging a firearm during a crime of violence, discharging a firearm from a motor vehicle, and possession of a pistol without a license. The question for the jury was whether Mr. Blandino acted with premeditation when he shot and killed the victim in the case, or whether, as he testified at trial, he had fired his weapon in self-defense when a

gang member pulled alongside his car and pointed a gun at him. The trial justice sentenced Mr. Blandino to an aggregate sentence of life plus life, plus ten consecutive, non-parolable years. Mr. Blandino appealed, arguing that the trial court erred in failing to order the state to disclose the investigation notes of the lead detective which, Mr. Blandino claimed on appeal, both *Brady v. Maryland*, 373 U.S. 83 (1963), and Rule 16 of the Rhode Island Superior Court Rules of Criminal Procedure required to be produced to the defense. He also contended that the trial court erred in denying Mr. Blandino's motion for a new trial. In October 2017, the Rhode Island Supreme Court held that because trial counsel had not properly raised and articulated either a due process claim under *Brady v. Maryland* or a discovery violation, neither argument had been adequately preserved for appellate review. The court further held that the trial justice had not erred in denying Mr. Blandino's motion for a new trial and, accordingly, affirmed his conviction. As sole counsel for Mr. Blandino from 2016 to 2017, I handled all aspects of his appeal, briefing and arguing the case before the Rhode Island Supreme Court.

Opposing Counsel:

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3. *State v. Gonzalez*, 136 A.3d 1131 (R.I. 2016)

In February 2013, Mr. Gonzalez was convicted of one count of first-degree murder, one count of assault with intent to commit murder, and two counts relating to the discharge of a firearm while committing crimes of violence in the 2012 killing of a young man in West Warwick, Rhode Island. Mr. Gonzalez appealed to the Rhode Island Supreme Court, arguing that his arrest inside his home without a warrant and the subsequent search of his bedroom violated the Fourth Amendment of the United States Constitution. The state contended that the warrantless entry into Mr. Gonzalez's home was supported by both the consent and exigent circumstances exceptions to the warrant requirement. The Rhode Island Supreme Court reversed Mr. Gonzalez's conviction, concluding that the facts surrounding the arrest did not constitute a true exigency, and there was no voluntarily given consent to the search. On remand, a jury found Mr. Gonzalez guilty of first-degree murder, and in March 2018, he was sentenced to consecutive life sentences plus an additional 20 years. Mr. Gonzalez appealed again, and the Rhode Island Supreme Court affirmed. *State v. Gonzalez*, 254 A.3d 813 (R.I. 2021). As sole counsel for Mr. Gonzalez from 2014 to 2016, I handled all aspects of his first appeal, successfully briefing and arguing the case before the Rhode Island Supreme Court. I did not represent Mr. Gonzalez in the trial court or on his second appeal, where he appeared *pro se*.

Opposing Counsel:

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4. *State v. Arciliares*, 108 A.3d 1040 (R.I. 2015)

In 2013, Mr. Arciliares was convicted of first-degree murder and several related firearm offenses stemming from the 2010 drive-by shooting of a man in Pawtucket, Rhode Island. Mr. Arciliares challenged his conviction on appeal, arguing that the trial court erred when it precluded the defense from cross-examining a detective about whether he had provided details about the murder to Mr. Arciliares and a Department of Corrections investigator. In January 2015, the Rhode Island Supreme Court reversed Mr. Arciliares's conviction, concluding that the trial court had improperly barred cross-examination by the defense on a critical topic. On remand, the jury found Mr. Arciliares not guilty. As sole counsel for Mr. Arciliares from 2013 to 2015, I handled all aspects of his appeal, successfully briefing and arguing the case before the Rhode Island Supreme Court. I did not represent Mr. Arciliares on remand.

Opposing Counsel:

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5. *State v. Baillargergeron*, 58 A.3d 194 (R.I. 2013)

In March 2011 Mr. Baillargergeron was charged with one count of threatening a public official with bodily harm "as a result of the lawful performance of his official duties" under Rhode Island General Laws § 11-42-4, after Mr. Baillargergeron sent an insulting letter containing foul language to a Rhode Island state representative who had approached him in a bar to discuss a truck that Mr. Baillargergeron had refurbished. The following month, the Rhode Island Superior Court granted Mr. Baillargergeron's motion to dismiss the charge for want of probable cause since there was no evidence that he had threatened a public official because of the official's performance or nonperformance of a public duty, as the statute required. The state appealed the dismissal of the case to the Rhode Island Supreme Court, arguing that the charging papers contained probable cause to support the inference that Mr. Baillargergeron threatened a public official in his official capacity. The state further urged the Court to take a broader view of the statute and find that probable cause existed to establish a violation of a different section of the statute, even though that clause of the statute was not specifically charged. The Supreme Court affirmed the trial court's ruling, rejecting the state's contentions and finding that Mr. Baillargergeron had not directed a threat towards a public official in the discharge of his professional, political, or public responsibilities. Accordingly, the Rhode Island Supreme Court concluded, as Mr.

Baillarger on had argued on appeal, that the case was properly dismissed by the lower court. From 2011 to 2013, I served as sole counsel for Mr. Baillarger, handling all aspects of his appeal, successfully briefing and arguing the case before the Rhode Island Supreme Court.

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6. *State v. Price*, 68 A.3d 440 (R.I. 2013)

Mr. Price was convicted of one count of possession of marijuana and two counts of possession of cocaine with the intent to deliver while armed or having available a firearm. Mr. Price appealed to the Rhode Island Supreme Court, arguing that the state statute penalizing “having available” a firearm while possessing narcotics should be interpreted to apply to firearms that are present or ready for immediate use and that it should not apply in his case, where two unloaded firearms were located inside a closet, underneath piles of clothing, and inside a woman’s purse. Mr. Price additionally contended that the trial court erred in permitting the state to impeach his credibility by questioning him on cross-examination about his prior criminal history with facts that were either faulty or nonexistent. In June 2013, the Rhode Island Supreme Court reversed Mr. Price’s conviction based on the improper impeachment issue, concluding that the prosecutor’s erroneous and misleading questions of Mr. Price had such a prejudicial effect that vacating the conviction was required. On remand, Mr. Price pleaded no contest and was sentenced to four years’ imprisonment. As sole counsel for Mr. Price from 2012 to 2013, I handled all aspects of his appeal, successfully briefing and arguing the case before the Rhode Island Supreme Court. I did not represent Mr. Price on remand.

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7. *State v. Lopez*, No. P2-2008-1764A (R.I. Sup. Ct.) (Darigan, J.), *aff’d*, 78 A.3d 773 (R.I. 2013)

Mr. Lopez was charged with and tried for breaking and entering and assault with a dangerous weapon (his hands). Mr. Lopez allegedly broke into an apartment and assaulted the woman living there by pushing her down on a bed and putting his hands around her neck. Mr. Lopez argued that the woman was mistaken in her identification of him as the perpetrator. After a three-day trial, the jury found Mr. Lopez guilty on both



counts, and the trial court sentenced him to 20 years' imprisonment, with 12 years to serve, the remainder suspended. Mr. Lopez appealed to the Rhode Island Supreme Court, contending that there was insufficient evidence to establish that his hands were used as a dangerous weapon, and that defense counsel was improperly foreclosed from questioning the prospective jurors during voir dire about their understanding of eyewitness perception and the reliability of eyewitness identification evidence. The Rhode Island Supreme Court disagreed and affirmed Mr. Lopez's convictions. From 2009 to 2013, I served as sole counsel for Mr. Lopez, handling every aspect of the litigation in the trial court and on appeal. Before trial, I litigated several important motions in limine and conducted voir dire. At trial, I gave the opening statement, examined and cross-examined witnesses, and presented the closing argument. I also briefed and argued Mr. Lopez's appeal before the Rhode Island Supreme Court.

Opposing Counsel:

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8. *State v. Doe* (R.I. Sup. Ct.) (Thunberg, J.)

Along with two co-defendants, Mr. Doe was charged in a multicount indictment stemming from a robbery of several young men. Following a multiday trial, the jury acquitted Mr. Doe of all charges. Thereafter, the case was ordered sealed, and the court file and accompanying records (including the case name and number) were destroyed pursuant to Rhode Island General Laws § 12-1-12. From 2008 to 2010, I was sole counsel for Mr. Doe, handling every aspect of his case, from the bail hearing where he was released on bail, through the jury trial after which he was acquitted. Before trial, I litigated various motions to suppress and motions in limine, and at trial, in 2010, I conducted voir dire, gave the opening statement, examined and cross-examined all of the witnesses, and presented closing argument.

Opposing Counsel:

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9. *Moulton v. United States*, No. 1:01-cv-11751, 2003 U.S. Dist. LEXIS 22007 (D. Mass. Dec. 8, 2003) (Saris, J.)

In this case, the United States alleged that three individuals—an accountant, an investor, and a business founder—were liable to the government for the willful failure to collect,

truthfully account for, and pay income and FICA taxes withheld from employee paychecks over certain quarterly tax periods for a business that specialized in making thin film coatings for computer chips, glass, and auto trims. A default judgment was entered against the business's founder, but the accountant and investor challenged whether the government's evidence established that they had sufficient authority over the company's financial matters during the time periods in question. After a two-day bench trial, the district court determined that the accountant and investor exercised significant control over the financial affairs of the company in the fourth quarter of 1996, but did not exercise significant control during the other quarters at issue. Accordingly, judgment was entered in favor of the government for all quarters regarding the business founder who defaulted, and for the fourth quarter of 1996 for the investor and accountant. In 2003, I served as second chair for the United States at trial, handling various key aspects of the litigation. The lead attorney and I divided the trial work between us, including giving the opening statement, examining and cross-examining witnesses, presenting closing argument, and drafting pre- and post-trial briefing.

Co-counsel:

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Paul J. Dee, Jr. (formerly with Truelove, Dee & Chase LLP)  
(retired)

10. *Gallagher's Stud, Inc. v. United States*, 1:01-cv-01373 (N.D.N.Y. Sept. 12, 2003)  
(Kahn, J.)

In this case, the plaintiff, a restaurant employing workers who customarily received income from tips, brought suit against the United States to claim a refund for money it paid to satisfy the IRS's assessment of the plaintiff restaurant for FICA taxes due on unreported tips for two tax years. In a letter dated September 26, 1994, the IRS served a Notice and Demand on the plaintiff, and an assessment was made on December 19, 1994. The plaintiff contended that the three-year statute of limitations period began to run at the time the employees received the tips and that it had expired by the time of the government's assessment of the plaintiff for the FICA taxes due, thereby barring the assessment of additional employer FICA taxes. The government contended that nothing in the statutory language of 26 U.S.C. § 3121(q) limits the time for issuing a Notice and



Demand and that the assessment made in December 1994 was timely under the statute. In granting the government's summary judgment motion, the court found that the explicit language of 26 U.S.C. § 3121(q) establishes that for purposes of taxation, employees are deemed to have received unreported tips on the date of the IRS's Notice and Demand letter. The statute of limitations period thus begins to run on the date the Notice and Demand letter is sent and, here, the assessment was made well within that time frame. Accordingly, summary judgment was granted in favor of the United States. From 2001 to 2003, I served as sole counsel for the United States in this case, handling all aspects of the litigation in the District Court. I answered the complaint filed by the plaintiff, participated in conferences with the court, and wrote and filed the motion and memorandum of law in support of the government's motion for summary judgment, which was granted by the District Court.

Opposing Counsel:

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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.)

On top of the significant litigation experience discussed above, I have been involved in various other legal activities throughout my legal career. For instance, at the Rhode Island Public Defender's Office, I have performed various managerial responsibilities, including organizing and participating in training programs for the Office's attorneys on all manner of topics. From 2014 to 2020, I also managed the Appellate Division's law student internship program, designing a program that recruits nationwide and offers a several-week immersive writing workshop through which students work on active appeals.

I have also long participated in efforts to improve access to justice in Rhode Island. For example, when former Rhode Island Governor Gina M. Raimondo formed the first of two Justice Reinvestment Working Groups, I attended the Group's public meetings and

helped draft memoranda detailing criminal defense reforms. Additionally, the budget of the Rhode Island Public Defender's Office is proposed by the Rhode Island Governor and approved by the Rhode Island House and Senate each fiscal year. As part of the Office's budget advocacy, I appeared and testified at the House Finance Subcommittee Meeting on Public Safety in 2021. Finally, in my role as the Rhode Island Public Defender, I monitor, research, and assess proposed legislation impacting the Office's clients and indigent defense more generally.

I have never performed any lobbying activities and I have never registered as a lobbyist.

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.

I have not taught any courses.

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.

I am a beneficiary of the State of Rhode Island's employee retirement plan. As such, I am entitled to receive retirement benefits at age 67. I have no other anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts, or other future benefits that I expect to derive from previous business relationships, professional services, firm memberships, former employers, clients, or customers.

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.

None.

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).

When my nomination is formally submitted to the Senate, I will file my Financial Disclosure Report and will supplement this Questionnaire with a copy of that 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.

I am not aware of any individual or entity with whom I have a personal, financial, or professional relationship that is likely to present a conflict of interest when I first assume the position to which I have been nominated. If confirmed, I would recuse myself from any case with which I previously had been involved, any case involving any individual whom I had personally represented, and any other case in which I had an interest raising an appearance of bias or which presented a ground on which my impartiality might reasonably be questioned. I will evaluate any potential conflict of interest by applying the standards of 28 U.S.C. § 455, the Code of Conduct for United States Judges, and any other applicable statutes, canons, and rules.

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

If confirmed, I would evaluate and resolve any potential conflicts of interest by applying 28 U.S.C. § 455, the Code of Conduct for United States Judges, and any other applicable statutes, canons, and rules. Additionally, I would consult with other judges or the parties as necessary and appropriate.

- 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.

My entire legal career has been dedicated to public service. From 2000 to 2004, I served as a Trial Attorney in the Tax Division of the United States Department of Justice. Since 2004, I have worked for the Rhode Island Public Defender's Office, where I represent indigent individuals charged with or convicted of crimes who are unable to afford counsel. As a government lawyer, I have otherwise been precluded from taking on pro bono representations. I have, however, sought to serve the community in other ways. For instance, since 2016, I have provided legal advice to veterans during Rhode Island's yearly Operation Standdown program. And from 2006 to 2012, I periodically volunteered at the Matthewson Street United Methodist Church Soup Kitchen in Providence, Rhode Island as part of the Public Defender's Office outreach program.

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.

On August 3, 2021, I submitted an application to Senators Jack Reed and Sheldon Whitehouse to be considered for a position on the United States Court of Appeals for the First Circuit. On August 24, 2021, I interviewed with staff from both Senators' offices. On September 1, 2021, I interviewed with the Senators themselves. On October 4, 2021, I interviewed with attorneys from the White House Counsel's Office. Since November 30, 2021, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On April 27, 2022, the President announced his intent to nominate me.

- 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.

No.