



THE PROSECUTOR

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Join Us in Congratulating Our 2021 Distinguished Prosecutor Award (Chief Prosecutor) Recipient!



Jackie Lacey
Former District Attorney (Los Angeles County, CA)

Former District Attorney Jackie Lacey spent most of her professional life as a prosecutor, manager and executive in the Los Angeles County District Attorney's Office. On Dec. 3, 2012, she was sworn in as the 42nd District Attorney, making her the first African-American to serve as Los Angeles County District Attorney since the office was established in 1850.

Her top priority as District Attorney was keeping the streets of Los Angeles County safe from violent and dangerous criminals. She committed to safeguarding children from human sex traffickers, seniors from financial elder abuse and communities from environmental crimes.

Maintaining the office's tradition of pursuing justice, the Honorable Jackie Lacey established the Conviction Review Unit to assess claims of actual innocence based on newly discovered evidence.

Former District Attorney Lacey launched the Financial Elder Abuse Outreach Campaign to alert seniors about scams that target them and their assets. The effort was honored in 2014 with the Los Angeles County Quality and Productivity Commission's Top Ten Award.

She also assembled the Occupational Safety and Health Administration (OSHA) and Environmental Crimes Rollout Team, which dispatches specially trained prosecutors and investigators to the scene of environmental threats and industrial accidents involving occupational deaths or serious injuries.

She created the Human Sex Trafficking Section, the Complex Child Abuse Section and a special unit dedicated to protecting children from abuse through the enhanced monitoring of the countywide electronic suspected child abuse reporting system.

Within the office, the Honorable Jackie Lacey worked to improve the hiring and training of prosecutors as part of a continuing effort to assure the public that deputy district attorneys are maintaining the highest ethical standards.

As District Attorney, she continued to be active in her profession as a member of the National District Attorneys Association, the California District Attorneys Association, and the National Black Prosecutors Association. She served on the boards of the Los Angeles County Prosecutors Association and the Peace Officers Association of Los Angeles County.

A graduate of the University of California, Irvine, and Dorsey High School, the Honorable Jackie Lacey began her legal career as an associate in a small civil law firm. She then became a trial deputy in the Santa Monica City Attorney's Office.

Jackie Lacey and her husband, David, have two adult children.

Learn more and nominate someone you know at:
<https://ndaa.org/membership/nominate-a-distinguished-prosecutor/>

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The Prosecutor encourages its readers to submit articles of interest to prosecutors for possible publication in the magazine. Send articles to Nelson Bunn, nbunn@ndaajustice.org

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Seeking Justice and Serving Communities

By **BILLY WEST**

**NDAAs President-Elect
District Attorney, Cumberland County (NC)**

“Seeking Justice and Serving Communities” is not only the theme for our 2021 NDAAs Summer Summit but also a goal for our organization. During a time when there has never been more attention on the criminal justice system, the voice of America’s prosecutors and its over 5,000 members are leading the way. Our prosecutors are developing strategies to address a nationwide rise in violent crime while continuing to advance diversion programs, treatment courts and alternative dispositions. This unique time in the history of our country provides NDAAs and its prosecutors many opportunities.

During a time when there has never been more attention on the criminal justice system, the voice of America’s prosecutors and its over 5,000 members are leading the way.

Major American cities saw a 33% increase in homicides last year and 63 of the 66 largest police jurisdictions saw increases in at least one category of violent crime in 2020. Prosecutors seek justice for victims of homicide, sexual assault, robberies, child abuse, domestic violence, property crimes and countless other offenses. New technology such as genetic genealogy is being used to solve cold cases such as sexual assaults and homicides. NDAAs members Anne Marie Schubert (Sacramento, CA) and Greg Totten (Ventura, CA) were instrumental in solving and successfully prosecuting the Golden State Killer cases using this technology and are training other prosecutors on this technique.

Prosecutors across the country are partnering with law enforcement to combat violent crime. Human Trafficking Task Forces, Domestic Violence Units, and satellite-based monitoring for violent criminals on pretrial release or probation are just a few of the many initiatives. NDAAs members are also utilizing trauma informed prosecution

with programs such as: trauma therapy for children exposed to violence, victim support groups, and service animals to assist victims of violent crime.

America’s prosecutors have the ability to fight the rising tide of violent crime while still being leaders in criminal justice reform. NDAAs prosecutors from coast to coast are advancing diversion programs, treatment courts, and alternative dispositions. Many prosecutors’ offices partner with law enforcement to create pre-charge diversion programs especially for those with substance abuse and mental health issues. In my hometown of Fayetteville, North Carolina, our LEAD Program (Law Enforcement Assisted Diversion) allows addicts with low-level drug offenses to seek treatment. Our program was the first in the Southeast and has received national recognition. Across the country, numerous treatment courts such as Drug Treatment Court, Mental Health Court, Human Trafficking Court, Veterans Court and Opioid Addiction Court help nonviolent offenders seek treatment for their substance abuse and mental health issues while going through the criminal justice system.

In appropriate cases, prosecutors enter into alternative dispositions that avoid a final conviction in cases involving first-time nonviolent offenders. Prosecutors recognize the direct and collateral consequences a conviction can have on the life of a person. Many prosecutors’ offices across the country including my office and NDAAs member Lorrin Freeman’s Office (Raleigh, NC) have created expungement clinics which allow an individual without the financial means to afford legal counsel the opportunity to expunge a dismissal or a conviction for a one-time nonviolent offense. These individuals are legally entitled to this relief, but these clinics allow them to seek it without their financial means being an obstacle. Prosecutors across the country believe that initiatives providing a second chance and treatment for substance abuse and mental illness are an integral part of the role of the prosecutor in a modern criminal justice system.

Many prosecutors have also created conviction integrity units to prevent, identify, and remedy false convictions.

Darcel Clark (Bronx, NY), John Flynn (Buffalo, NY), and Summer Stephen (San Diego, CA) are all NDAAs members who have successfully formed these units. Their units and other units in many other jurisdictions across the country have exonerated individuals who were innocent.

The future is bright for NDAAs and its prosecutors in the coming year as we continue to be leaders in criminal justice reform. Under the leadership of NDAAs President Nancy Parr (Chesapeake, VA), our organization has expanded our Diversity and Inclusion Committee as well as our Well-being Task Force. NDAAs remains committed to promoting diversity and inclusion in prosecutors’ offices across the nation. Mike Freeman (Minneapolis, MN), John Belton (Ruston, LA), La Bravia Jenkins (Fredericksburg, VA) and Mark Dupree (Kansas City, KS) have been instrumental in furthering this goal and will continue to be going forward. Our Well-being Task Force lead by Kirsten Pabst (Missoula, MT) and Mary Ashley (San Bernardino, CA) is bringing awareness to the realities of vicarious trauma for prosecutors and the need for self-care. Under the leadership of Mark Vargo (Rapid City, SD), NDAAs will continue to have a strong presence on Capitol Hill advocating for prosecutors and victims on the national level while supporting common sense criminal justice reform efforts.

NDAAs will soon begin a community engagement initiative with a committee dedicated to this purpose. The initiative will highlight and encourage relationships between the local prosecutor and government, schools, non-profits, the business community and the faith community. These relationships promote and provide a safer and healthier community. For example, Past NDAAs Presidents Bill Fitzpatrick (Syracuse, NY) and Jon Blodgett (Salem, MA) started after school programs for at risk youth in their communities. NDAAs member Ben David (Wilmington, NC) has an initiative entitled “Hometown Hires” that is a partnership between the criminal justice system, the local community college, and the business community to provide employment opportunities for those with prior criminal records who have turned their life around. There are countless other examples to highlight and promote going forward of the local prosecutor leading the way to a safe and healthier hometown.

Robert H. Jackson, who served as a U.S. Supreme Court Justice, U.S. Attorney General, and Chief U.S. Prosecutor at the Nuremberg trials once said, “The citizen’s safety lies in the prosecutor who tempers zeal with human kindness, who seeks truth and not victims, who serves the law and not factional purposes, and who approaches his task with humility.” Prosecutors across this great nation live up to this quote daily and NDAAs stands ready to support America’s Prosecutors seek justice and serve their communities.



Emerging from the Pandemic: Lessons Learned and a Call for Research



By **APRIL FAITH-SLAKER**
Harvard Access to Justice Lab (MA)

As the pandemic spread across the United States, many of the country's institutions were severely compromised. The criminal justice system was no exception. To comply with health and safety mandates, most courts completely closed for at least some period of time, causing delays that rippled throughout the system. And, as highlighted in media coverage of COVID-19 outbreaks at various jails and prisons, legitimate concerns about how to protect the health and safety of the individuals in the system led to efforts to lower incarceration rates temporarily. The public health crisis emerged during a rise in violent crime and a burgeoning racial equity movement. The result was unprecedented pressure on the system and a demand for new ways of thinking, among them, a sharp focus on public health. It was no longer sufficient to consider only accountability, rehabilitation, and public safety.

We would all be remiss if we didn't at least consider some of the ways the criminal justice system might use lessons from the past 18 months to evolve.

We would all be remiss if we didn't at least consider some of the ways the criminal justice system might use lessons from the past 18 months to evolve. To facilitate this reflection, the Access to Justice ("A2J") Lab conducted semi-structured interviews with prosecutors across the country. These interviews covered a specific set of topics but were also open-ended enough to solicit the prosecutors' own subjects of interest and views of the challenges presented during the pandemic. Between September and December 2020, the A2J Lab interviewed fifteen prosecutors. The individuals involved represented a range of geographies, office sizes, and population demographics. Some clear themes emerged.

PROSECUTORIAL ADAPTATIONS AND COORDINATION

During the height of the pandemic, prosecutors could and did make changes to their processes that would lead to jail population reductions. Many of the prosecutors we talked to made adjustments in coordination with other stakeholders in the system. In jurisdictions where collaborative relationships among the stakeholders had already been established, efforts to coordinate during this time were more successful. Such jurisdictions reported that their collaborative relationships with these other stakeholders were productive and grew stronger during the pandemic. Only a minority of the interviewed prosecutors reported no notable change to their relationships with other stakeholders.

Coordinated efforts among criminal justice stakeholders focused on the following activities: regular meetings to review jail population lists; working groups to address the transition from in-person to remote interactions; and other procedures to reduce the burden on the courts. Some prosecutors shifted their decision-making towards a reduction in incarceration and increased leniency at one or more of the steps in the process, including pretrial release recommendations, charging decisions, sentence reduction and the use of diversion programs. These changes tended to not be applied generically but were applied selectively to identified types of cases, crimes or individuals.

Many prosecutors expressed surprise that these adjustments had no detrimental effect on public safety. They suggested that in the pre-pandemic world, they might have been making some assumptions about the need for harsh, punitive decision-making that turned out to not necessarily be justified. For example, advocating for increased pre-trial releases did not result in an observed increase in crime among the individuals released. Some prosecutors indicated that this realization would inform their practices going forward, while others expressed a plan to return to pre-pandemic decision-making.

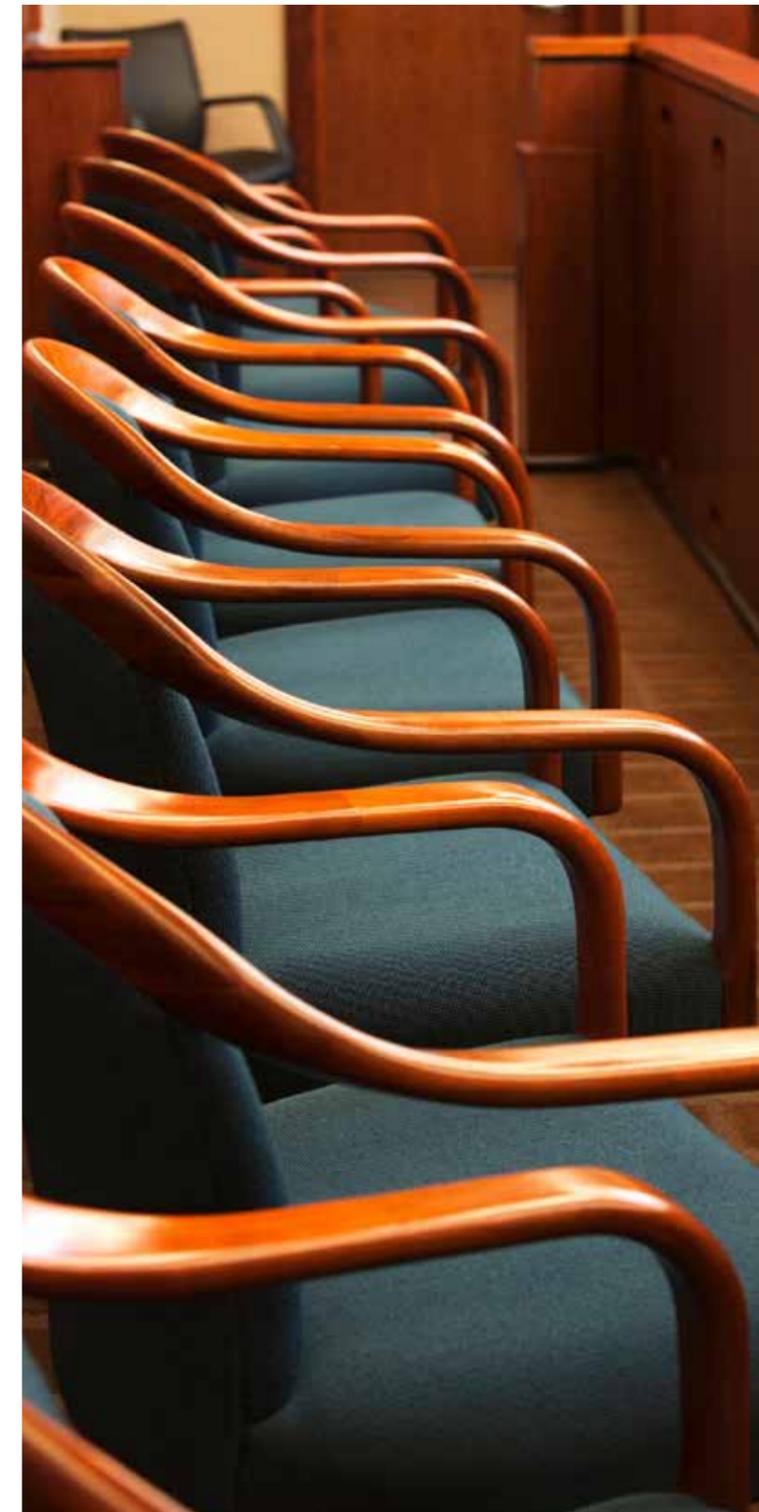
The pandemic presented prosecutors with an opportunity to try out new ways to exercise their discretion and observe the results. Some reexamined assumptions, not just about the day-to-day decisions, but also about how to balance the goals of the system. For these interviewees, the pandemic blurred the line between the prosecutor role and the roles of others in the system, begging the question of when collaboration is essential and when a decision should rest squarely on the shoulders of the prosecutor. Indeed, the pandemic forced a reexamination of this question beyond the criminal justice system, as some justice systems ended up working closely with public health care professionals to establish a safer office environment as well as to create policies and procedures that were responsive to the pandemic context.

JURY TRIALS AND CONSTITUTIONAL ISSUES

One ubiquitous concern was potential Constitutional and other legal challenges to pandemic-induced adaptations. The pandemic highlights the unpleasant reality that justice is inextricably linked to and dependent on practical realities and constraints. Whether we want to admit it or not, justice requires resources, and resources are always scarce.

The most salient example of this concern was jury trials, which were put on hold in most jurisdictions during the peak of the pandemic due to the inability to accommodate a socially distant and safe process. The result was backlog in most jurisdictions, with those awaiting trial left, sometimes incarcerated, waiting for indeterminate amounts of time. This issue brought up conversations about the right to a speedy trial as well as the bargaining dynamic between prosecutor and the defense, as trials typically create a deadline for navigating case resolutions. Many jurisdictions are now grappling with how to get through the backlog of cases without additional resources.

To keep the wheels of justice in motion, some jurisdictions experimented with using videoconferencing for aspects of their trials. Several prosecutors raised concerns about the Confrontation Clause in the case of using videoconferencing for trials. In the case of using videoconferencing for jury selection, some prosecutors expressed concerns that this approach might make it more difficult to get a representative cross-section of individuals from the community. Other jurisdictions avoided the use of videoconferencing entirely, fearing that such cases will generate legal challenges.





TECHNOLOGICAL DEVELOPMENTS

Court closures altered the way that prosecutors interacted with court personnel, public defenders, and the defendants. Initially, the most common response from the courts was to replace some of the court's in-person processes with videoconferencing. This approach tended to be restricted to hearings and appearances that did not require testimony, such as first appearances, bond hearings, diversion program appearances, minor evidentiary hearings, and depositions.

The use of technology to facilitate the court process for defendants who were not in custody was novel in most jurisdictions and had not been attempted before the pandemic. Prosecutors discussed a variety of approaches for remote appearances for defendants who were not in custody: some defendants appeared on their own smart phone/computer, others relied on public facilities such as libraries to access internet, and still others had the option of coordinating with their public defender or with the court to use on-site technology.

Requiring the use of technology corresponded with fewer defendants participating in the court process during this time. Balky technology made it necessary to be more lenient about failures to appear, especially if the defendants contacted their public defender to report an issue. As expected, technology issues were more likely in rural jurisdictions. That said, remote interactions also had

their upside. They bridged important gaps by bypassing transportation challenges. In many types of hearings, the defendant's presence could be and was waived. Many prosecutors reported an increased use of such waivers or an increase in the judges not requiring the defendant to attend.

These statements highlight the need for research into the effect of the transition to technology in the criminal justice system, as the full effect and potential of this transition remains unknown. Many prosecutors indicated that videoconferencing seemed to foster a more informal approach among the attorneys and defendants; it was reported that attorneys and defendants made statements during video-court sessions that they might not have otherwise made in an in-person court context. Some defendants behaved in an inappropriately informal way when appearing via Zoom, by smoking cigarettes and not wearing shirts, for example. Additionally, a lack of familiarity with how to use the technology sometimes resulted in disruptions to the hearings, as individuals often did not know how or when to use the mute function. This dynamic raised three concerns: 1) defendants may not be appreciating the gravity of their situation due to the informal setting, 2) the court actors (judge, attorneys, etc.) may experience bias due to viewing the defendants' personal lives or informal behavior, and 3) public perceptions might be affected by viewing such hearings, as a number of jurisdictions broadcasted public

hearings on YouTube. Additionally, several prosecutors lamented that the videoconferencing approach compromised their ability to have conversations with the public defenders.

In addition to challenges related to engaging defendants in the process, some jurisdictions struggled to assure that stakeholders were able to run videoconferencing software on their computers. There were some challenges due to a lack of computers with video capabilities or security concerns with Zoom in particular.

As before, increased use of technology also had upsides. Many prosecutors discovered that, with regard to some aspects of their jobs, technology offered them efficiencies without compromising their responsibilities. These technological changes include paperless case management, videoconferencing for routine and non-evidentiary court processes, better electronic communications between stakeholders, and some remote working and work schedule flexibility. Some prosecutors have indicated that they may continue to conduct slightly more complicated processes, such as depositions, using videoconferencing in a post-COVID world. Almost all of the prosecutors, however, indicated that more complicated cases, such as special violence and cases involving children as witnesses, need to be conducted in person.

PUBLIC TRUST

Due to pandemic restrictions, the extent to which prosecutors were able to engage victims changed. Some prosecutors attempted to conduct victim meetings using videoconferencing software, but they generally found that using such technology was not appropriate for the sensitive nature of such meetings.

Likewise, engaging with the public became an issue. Some prosecutors believed that measures such as court closures and attempts to reduce the jail population, which corresponded with a rise in crime, led to a community perception that the criminal justice system was not working. In some jurisdictions, urban areas have become less populated due to remote working, which resulted in more tents and encampments in business areas; this may have also contributed to public perceptions about the functioning of the criminal justice system. Other prosecutors indicated that they were not sure if community perception changed, but that prosecutors in general might be worried about

The pandemic introduced so many unique and unpredictable challenges that it is understandably difficult to anticipate what our world will look like as we emerge from this.

a perception of the system being too lenient. Either way, prosecutors got the sense that public may hold them responsible for changes in crime in the community.

Many prosecutors' offices have at least some mechanisms for communicating with the public, and some offices paid increased attention to community relations during the pandemic. Other offices worked to implement new strategies, such as community advisory panels or task forces, to conduct community outreach. Several of the offices have created dashboards in an effort to make their data available to the public, promoting more transparency. While many prosecutors' offices were working on such dashboards, more of an effort is required to assure that the dashboards respond to community interests in addition to the prosecutor interests.

CONCLUSION

The pandemic introduced so many unique and unpredictable challenges that it is understandably difficult to anticipate what our world will look like as we emerge from this. Some prosecutors predicted retaining some of the new practices they instituted during the pandemic. Indeed, some prosecutors admitted that the pandemic provided them with the political opportunity to institute changes that they had already intended or hoped to make.

Without research on these topics, however, it is difficult to know how these changes really affected justice and public safety, let alone whether and how any of these practices will be beneficial in a post-pandemic world. The prosecutors' impressions regarding the impact of various program and policy changes during this time are an important starting point from which some valuable research hypotheses might be developed. But, research — and especially rigorous research — is needed in this area in order to strategically move forward and determine whether, when, and how to implement changes.

Smart Prosecutions: Data Driven Approaches to Gun Violence



By **KATHERINE FERNANDEZ RUNDLE**
Miami-Dade County State Attorney, Miami (FL)

STEPHEN K. TALPINS
Miami-Dade County Chief Assistant State Attorney, Miami (FL)

Miami has come a long way from its well-known Cocaine Cowboy and Miami Vice days during the past 30 years. As of 2019, the crime rate was down almost 70%. Unfortunately, like most major urban areas, the past year-and-a-half brought more than a virus to Miami-Dade County.¹ During this time, the county has experienced a surge in the number of assaults and homicides.

Research suggests that a number of conditions contribute to gun violence, including a lack of adequate housing, healthcare, education, and employment.

Research suggests that a number of conditions contribute to gun violence, including a lack of adequate housing, healthcare, education, and employment. While prosecutors have limited ability to address these kinds of social injustices and barriers, we can make our communities safer by building relationships, working closely with those who live there, and aggressively, but appropriately, targeting the small number of people responsible for the vast majority of the crimes in the areas where they are committing them.²

Like every other prosecutor's office, we assign our homicide cases to the most senior prosecutors. However, we supplement

their efforts through various preventative, proactive, and reactive measures. In this article, we explore some of the less common methods we have employed during the past three decades, as well as our prevention and enforcement strategies that have impacted future crime.

SMART PROSECUTIONS

Consistent with our Smart Justice approach, the Miami-Dade County State Attorney's Office (SAO) employs evidence-based outcome-oriented strategies for preventing crime and addressing hardened criminals and street violence. In essence, we work hard to prevent the crimes we can, but do not hesitate to incapacitate those we must.

COMMUNITY BASED INITIATIVES TO REDUCE VIOLENCE

Prevention

The SAO's Community Outreach Division (COD) engages in numerous activities to prevent and address criminal activities. COD's activities have helped the SAO develop critical relationships in the community that enhance our ability to obtain justice.

The SAO also is a proud partner in Miami-Dade County's Anti-Violence Initiative, which has a strong prevention component. AVI staff give gang awareness presentations, conducting reading sessions with early learners at childcare

centers, speak with youth about bullying and other forms of violence, conduct peace walks, and more. The AVI conducts "Walking One Stops," which brings together elected officials, providers, activists, faith leaders, and justice personnel to deliver federal, state, and local social and economic services to the doorstep of residents in impacted neighborhoods.

Deterrence and Suppression

As part of the AVI, the county's Group Violence Initiative (GVI) deters violent behavior by fostering relationships between law enforcement officers and community members. Through the GVI, community members with "moral authority" deliver credible anti-violence messages to at-risk individuals in "call-ins." These messages are supported as appropriate by local law enforcement officers.

The GVI is part of a national initiative designed to reduce gun-related deaths. It is operated by the Miami-Dade County Juvenile Services Department and closely affiliated with the National Network for Safer Communities and John Jay College Group Violence Intervention. Research suggests that focused deterrence activities, like the GVI, can have a statistically significant moderate crime reduction effect.³

ON-CALL PROSECUTORS — GENERALLY

The SAO actively supports local, state, and Federal agencies by providing "on-call" prosecutors 24 hours a day, seven (7) days a week. At any given moment prosecutors are available for general questions regarding legal issues, cybercrimes, domestic crimes, environmental crimes, hate crimes, human trafficking, narcotics, police shootings, public corruption, robbery, sexual battery, traffic homicide, and, of course, homicide. Our on-call prosecutors answer legal questions, help police officers develop their cases, and approve arrest and search warrants.

At least one prosecutor responds to every homicide scene. The prosecutor is responsible for the case until the

initial investigation is completed and an arrest is made. In some circumstances, cases may be specially assigned to a prosecutor who handles the case from start to finish.

CAREER CRIMINAL/ROBBERY CASES

Our Career Criminal and Robbery (CCR) Unit prosecutes violent crimes committed by the most recalcitrant defendants. The unit is staffed by a Division Chief, three (3) Assistant Chiefs, five (5) line attorneys, and one (1) Repeat Offender Court (ROC) attorney, five (5) secretaries, and three (3) victim/witness coordinators. The Division Chief and her Assistant Chiefs supervise all career criminal cases pending in the County. They determine who should be enhanced under one or more of our career criminal statutes, help attorneys throughout the office analyze their cases, and approve all plea offers for enhanced defendants. The line CCR attorneys prosecute the most complex and serious (other than homicide) cases in regular felony divisions for enhanced defendants.

In 2006, at our urging, the judiciary implemented the ROC Court to prioritize particularly dangerous career criminals.



¹ Rosenfield, R., Abt, T., and Lopez, E., *Pandemic, Social Unrest, and Crime In U.S. Cities — 2020 Year-End Update* (Council on Criminal Justice January 2021).

² Martinez, N., Lee, Y., Eck, J., and O. S., *Ravenous wolves revisited: a systematic review of offending concentration*, 6 *Crime Sci.* 10 (2017); Braga, A., Papchristos, A., and Hureau, D., *Hot spots policing effects on crime*, 8 *Campbell Systematic Reviews* 1 (2012); Braga, A. and Bond, B., *Policing Crime and Disorder Hot Spots: A Randomized Controlled Trial*, 46 *Criminology* 577 (2008).

³ Braga, A., Weisburd, D., Turchan, B., *Focused Deterrence Strategies and Crime Control — An Updated Systematic Review and Meta-Analysis of the Empirical Evidence*, 17 *Am. Soc. Criminology* 205 (2018).

GANG PROSECUTIONS UNIT AND GANG STRIKE FORCE

In 1997, State Attorney Fernandez Rundle created the Gang Strike Force (GSF) and the Gang Prosecutions Unit (GPU) to eradicate the most recalcitrant criminal street gangs, one by one. The GSF is a grant-funded prosecutor led task force that includes key local, state, and Federal law enforcement agencies. Participating agencies detail officers, investigators, and agents to the SAO.

The GSF, as originally conceived and implemented, was led by one prosecutor and designed to eliminate traditional street gangs, one by one. It was the first known task force in the country that exclusively conducted racketeering (RICO) based investigations and prosecutions, effectively holding individual gang members responsible for the conduct of the entire group. During its first two years, it permanently eradicated Miami and Miami Beach’s most violent gangs, the 10th Street Thugs and South Beach Posse, along with one of Hialeah’s most active youth gangs, Cambridge Young Latin Organization (C-YLO), by indicting or informing against over 100 of their members and requiring each and every defendant to sign cooperative agreements or proceed to trial. While it may have been “cool” to be a member of the 10th Street Thugs, no one wanted to be part of the 10th Street snitches.

The combined success of local law enforcement investigations and GSF initiatives was so successful that it drove would be gang members underground. Today, it is rare to see gang members “flying their colors” publicly. Accordingly, the GSF has expanded its scope to include drug groups.

As the gangs have become more sophisticated, the GSF has expanded and evolved. Today, the unit is staffed by six (6) prosecutors and supported by multiple secretaries, victim/witness coordinators, a paralegal, and a crime analyst. Further, the Miami-Dade Police Department, City of Miami Police Department, Miami Gardens Police Department, Miami-Dade School Board Police, and the Florida Department of Law Enforcement have committed agents and officers to the unit. It is supported by a grant from South Florida High Intensity Drug Trafficking Area (HIDTA).

The GSF prosecutors and officers learned that RICO style investigations work well, but RICO prosecutions can be overly burdensome and time consuming. Accordingly, they adjusted their approach. They currently supplement their

proactive investigations by handling reactive prosecutions (cases brought by officers or agents from outside the unit) involving the county’s most dangerous gang members. Gang prosecutors and investigators rely on the most advanced technologies, along with traditional tried and true methods, to proactively investigate gang crimes and dangerous offenders.

Gang Unit attorneys also prosecute cases of individuals who are investigated and arrested by other agencies, rather than the GSF. They manage large caseloads and are regularly consulted by other agencies and prosecutors but are intimately involved in numerous investigations. In December 2019, the Gang Unit began collecting and maintaining data on a variety of performance measures. Their incredible work is reflected by the below chart, which provides a summation of data from December 2019 through April 2021.

Advice to out of division prosecutors	445
Advice to other law enforcement officers	2,655
Search Warrants	405
Pen Warrants	34
Arrest Warrants	89
Debriefings	41

GUN VIOLENCE REDUCTION INITIATIVE (GVRI)

Years of violence in northern Miami-Dade County led State Attorney Fernandez Rundle to implement a pilot program where a prosecutor, victim/witness coordinator, and SAO investigator were embedded within the Miami-Dade Police Department’s (MDPD) Northside District unit.

The SAO team worked closely with MDPD personnel to establish relationships with the community and respond to contact shootings as quickly as possible. Their efforts fostered increased community trust and resulted in a large number of arrests.

Based on the program’s success, we established a permanent unit to continue meeting the needs of Miami-Dade’s Northside District, as well as the City of Miami’s North District. In 2019, at the request of then Mayor Oliver Gilbert, we expanded the unit to include Miami Gardens. The State Attorney’s Gun Violence Reduction Initiative (GVRI) is

staffed by three attorneys, three investigators, a victim/witness coordinator, and a secretary. A member of our COD team provides additional support as needed. Later this year, we plan to embed another prosecutor in Miami-Dade’s South District to address the increasing violence in that sector.

Our attorneys and investigators respond to every homicide and contact shooting in the targeted areas, working hand-in-hand with police officers in the field. They issue subpoenas and help draft/approve the same types of warrants as the Gangs prosecutors as needed.

GVRI prosecutors have assisted in investigations resulting in the confiscation of more than 200 illegally possessed firearms (including AR-15s, Ak-47s, and handguns with extended magazines). GVRI prosecutors work closely with police officers to ensure that charges are filed in most of their cases. Remarkably, during the past year-and-a-half prosecutors have been able to file charges in 31 of 32 contact shootings and 21 of 22 homicides.

In 2021, the GVRI began collecting data on several performance measures on a monthly basis for each prosecutor. The below chart contains data for January through April 2021. As it reflects, GVRI prosecutors are extremely productive.

Advice to out of division prosecutors	75
Advice to other law enforcement officers	798
Search Warrants	241
Arrest Warrants	18
Debriefings	1

OPERATION SUMMER HEAT

In response to the recent increase in violent crime, the County implemented Operation Summer Heat (OSH) in cooperation with local, state, and Federal law enforcement agencies, including the SAO, in June 2021.

During the initiative, the agencies are targeting a group of 100 of the county’s most recalcitrant and violent offenders. Building on the successful Gangs and GVI units, State Attorney Fernandez Rundle created the Summer Heat Task Force (SHTF) to support the OSH by drafting and approving warrants and reviewing, assigning, and/or directly prosecuting OSH cases. The GVI Division Chief is coordinating the task force, which is staffed by top prosecutors from our Gangs, GVI, Narcotics, and Career Criminal units.

CONCLUSION

We are committed to keeping local residents and visitors safe regardless of where they live. While the past year-and-a-half has presented some additional challenges, we are addressing them in a smart, strategic, and evidence-based way and are confident that better days lie ahead.

While the past year-and-a-half has presented some additional challenges, we are addressing them in a smart, strategic, and evidence-based way and are confident that better days lie ahead.

NIBIN Toolkit for PROSECUTORS

- ✓ Target your “worst of the worst” gun offenders
- ✓ Use forensics to strengthen and expand your gun cases
- ✓ Track your gun-crime reduction impact
- ✓ Gain a better understanding of how NIBIN can be an essential pillar for a successful prosecution

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Join Us in Congratulating Our 2021 Jackie Lacey Award for Aspiring Women Prosecutors Recipients!



Malak Behrouznami
Deputy District Attorney II (San Diego County, CA)

Malak Behrouznami graduated from University of San Diego School of Law in 2018 and began her career with the San Diego District Attorney's Office at that time. She currently works in the Family Protection Division of the San Diego County District Attorney's Office as a prosecutor. Malak always knew she wanted to study law but she wanted to ensure that this would serve as the best vehicle to promote social justice and change. In 2009, Malak graduated with honors and received her B.A. from U.C. Berkeley where she studied Peace and Conflict Studies with a self-created concentration focused on Conflict Transformation through Arts and Media. Shortly thereafter, Malak moved to Israel and Palestine where she lived for eight months and worked with local communities and organizations to better understand the conflict and advocate for social justice.

Malak's motivation for advocacy work stems from her personal experiences and exposure to social injustices in the Valle of Juarez and in Ciudad Juarez where she grew up as a child, and their stark contrast to the protections her and her family received when they were in the United States. Upon returning from Palestine and Israel, Malak wanted to work in an arena that would amplify those voices muted by mainstream media so she worked as a journalist at a non-profit news network for three years in the East Coast and Canada. Malak decided to pursue law because she knows what it feels like to grow up in a system that affords minimal protection to victims. Prior to attending law school, Malak owned and operated a juice bar in the neighborhood of Point Loma here in San Diego for several years. Malak used her business as a means for providing healthy fast food alternatives to the community and as an opportunity to expose her clientele to the fruit-stand culture of Mexico where she grew up as a child.

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Sorina Samali Puzzo
Assistant District Attorney (Essex County, MA)

Sorina Samali Puzzo is an Assistant District Attorney with the Essex County District Attorney's office located in Lawrence, Massachusetts, where she began her career as an attorney six years ago. She graduated from the University of Massachusetts Dartmouth with a Bachelor of Business Administration (B.B.A) in Operations Management and a Juris Doctor (J.D.) from Suffolk University Law School.

For the past six months, she has been the sole supervisor of the Lawrence District Court, overseeing a team of ten ADAs in a courthouse that typically runs six courtrooms at once while primarily working with victims of domestic violence and sexual assault. As a woman prosecutor, Sorina feels that the most important role she has every day is advocating for the rights of victims of some of the Commonwealth's most violent crimes.

Sorina works diligently to mentor younger ADAs, taking the time to help them understand their roles and develop effective courtroom advocacy strategies. She leads by example through hard work and remaining calm and efficient under pressure, without compromising the quality of her work.

She has worked through a pregnancy, cancer treatment, and a global pandemic with professionalism, passion, and dedication during her short career. When she is at the courthouse, she is entirely focused on work. Sorina's dedication and passion to protect and seek justice for victims were particularly evident during her battle with cancer as she never missed an opportunity to answer "ready for trial" despite experiencing the grueling side effects of her treatment.

Sorina and her husband, Anthony, have a three year old daughter named Lyla, who is her biggest blessing in life. She is a 31 year old survivor of breast cancer and notes that "without the love and support of my daughter, husband, mother, father, sister, and brother I would not be half the prosecutor or woman I am today."

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Red Flags That Somebody Is a Fugitive

By **WENDY L. PATRICK**

San Diego County Deputy District Attorney, San Diego (CA)

Is there a wanted person in your midst? Here are some surprisingly subtle signs that someone is on the run.

The term “fugitive” calls to mind Bonnie and Clyde-type sensational stories, or high-profile criminals who have escaped police custody. But in reality, fugitives are not all armed and dangerous serial killers. What most have in common, however, regardless of the allegations against them, is a willingness to evade submitting to the criminal justice system.

How do you spot someone who is intentionally elusive? Ironically, often through their efforts to avoid being spotted.

HIDING IN PLAIN SIGHT

As a career prosecutor, I have seen in practice what is portrayed in Hollywood crime dramas: the amount of time and effort devoted to tracking “wanted” persons depends on what they are wanted for. Police use different methods of tracking fleeing felons versus fraudsters. But either way, the reality is that outlaws walk among us. We may work with them, live near them, or (gulp) pay them to watch our children. This is concerning to many law-abiding citizens because regardless of the alleged crime, the choice to flee rather than face the music can reflect disrespect for the law and lack of responsibility.

How do you spot someone who is intentionally elusive? Ironically, often through their efforts to avoid being spotted.

FACELESS IS FORGETTABLE

You won’t remember someone you don’t see in the first place. Accordingly, you are unlikely to “see” a fugitive at a social event; you are unlikely to see them at all if they can help it. Notice how the ax murderer next door is often described as having “kept to himself.” Research on sex offender fugitives who failed to register found they were five times more likely to live alone, even after controlling for other background and demographic factors.¹

BLAND AND BORING BLENDS

If you want to be noticed, go bold. Smart fugitives go bland. Bland and boring. How can you tell if the yawn factor is intentional? After all, many people dress down, avoid flashy clothing, and keep a low profile.

Here is a clue: expending energy and effort to be intentionally nondescript can itself be a red flag. Most people like to be recognized, acknowledged, appreciated. Someone running from the law will avoid even being seen, much less recognized in any setting.

INVISIBLE VISUALLY AND VIRTUALLY

While many people wear bright colors and fashion trends hoping you notice their sense of style and therefore notice them, wanted persons often wear neutral colors and avoid displaying identifying features on anything they own. Be suspicious of someone who has removed the designer label from an article of clothing or bag, wears an expensive shirt inside out to hide the designer logo, or strategically covers it up.

Online, someone lying low will not have a digital footprint — because those are easier to track than real

ones. In a day and age where almost everyone has some type of a profile on Facebook or elsewhere, digital absence likely reflect intentional discretion.

EMOTIONALLY ABSENT

Wanted persons are often mild-mannered and unmemorable. Hot heads keep a trail burning by making waves through complaining or displaying anger. A wanted man or woman will often be cool as a cucumber as they glide through their day without leaving anything for you to remember them by. They avoid doing or saying anything out of the ordinary. From conversation word choice to restaurant meal choice, their behavior is calculated to be typical and forgettable.

NOBODY FROM NOWHERE

We might expect fugitives to alter their appearance, seeking to deceive through disguise. But we won’t know they have done so unless we have something to compare it to. Although not singularly determinative, someone who has zero photographs of themselves or their families in a day and age where everyone’s devices are full of photo galleries might be hiding their identity. Because consistency is credibility, someone who seems to have no past may have a criminal past.

So whether you want to fight crime or just choose your friends carefully, these signs will help you detect when someone does not want to be seen.

This article was originally published in *Psychology Today*.



¹ Bierie, David M., and Paul J. Detar. 2016. “Geographic and Social Movement of Sex Offender Fugitives.” *Crime & Delinquency* 62 (8): 983–1002. doi:10.1177/0011128714530658.



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George Brauchler
Former District Attorney (18th Judicial District, CO)

George H. Brauchler served as the elected District Attorney for the 18th Judicial District (JD), which includes Arapahoe, Douglas, Elbert, and Lincoln counties, from 2013–2021.

Each of Colorado's 22 judicial districts elects a district attorney who serves as the chief law enforcement officer for that district. The 18th JD is the most populous in Colorado, with a population in excess of 1.1 million people.

Over his career, George has served as a Deputy District Attorney, Special Assistant U.S. Attorney, military prosecutor, criminal defense attorney, military defense attorney, and just prior to his election, the Chief of Military Justice — the chief prosecutor — for Fort Carson, the 4th Infantry Division, and the U.S. Division North in Tikrit, Iraq.

As a state prosecutor, he has handled the felony cases from the Columbine High School mass shooting case, the Aurora Theater (Batman) mass shooting case, and the STEM Academy school mass shooting case.

Colonel Brauchler serves as a military judge and legal advisor for NORAD-NORTHCOM in the Colorado National Guard.

He has served as an adjunct professor at the University of Colorado School of Law, University of Denver College of Law, the U.S. Army JAG School, and has trained state, military, and international prosecutors across the United States and worldwide.

George is married with four children.

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Amy M. Watroba
Assistant State's Attorney (DuPage County, IL)

Amy Watroba is a career trial and appellate prosecutor who concentrates on litigating cases involving complex DNA and forensic science issues, providing legal support and training for attorneys, law enforcement officers and scientists, and developing policies and procedures related to forensic evidence.

Amy began her career as an Assistant State's Attorney in Cook County in 2001 and joined the DuPage County State's Attorney's Office in 2019. She has prosecuted high-profile and serious felony jury and bench trials involving complex DNA, serology, microscopy, trace chemistry, firearms identification, blood stain pattern analysis, forensic pathology, historic cell tower analysis, and fingerprint evidence. Amy also has litigated appeals in the Supreme Court of the United States, Illinois Supreme Court, and Illinois Appellate Court.

Amy serves as the NDAA representative on the FBI's Rapid DNA Crime Scene Technology Advancement Task Group, is a member of four AAFS Consensus Bodies, and was appointed by the Illinois governor to the Governor's Task Force on Forensic Science in 2020. Amy co-authored and edited the NDAA's 2019 Trial Advocacy Manual and is a member of the NDAA's Forensic Science Working Group. In addition to training prosecutors through NDAA, Amy develops and presents training programs for local, state, and federal prosecutors' offices, law enforcement agencies, and forensic testing laboratories on issues related to forensic evidence, trial practice, expert testimony, and constitutional law.

Amy received her law degree from Loyola University-Chicago School of Law in 2001. She graduated with Honors from the University of Michigan-Ann Arbor in 1998 with a B.A. in Creative Writing. Amy resides in Illinois with her husband, her teenage son, and their rescue dog Martha.

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Wrong Side of the Bed: Why Prosecutors Should Be Pursuing Cases on Bedsharing Related Deaths



By **TODD G. THOMPSON**

Leavenworth County Attorney, Leavenworth (KS)

When police entered the bedroom, they could smell alcohol. They saw an empty Fireball Whiskey bottle, multiple empty vodka bottles as well as one with about an inch of alcohol remaining in it. Along with officers and EMS, the Sedgwick, Kansas fire department arrived on scene to check on a person not breathing. The first responders found a two-month-old infant, pale and without a pulse and immediately began life saving measures. When they asked the mother what happened, she said the father must have rolled over on him. One EMS officer said, “you shouldn’t sleep with your baby in the bed.” This one story in a sea of similar stories across the nation.

Every year, 3,500 babies die in the United States due to sleep-related causes according to Centers for the Disease Control and Prevention.

Every year, 3,500 babies die in the United States due to sleep-related causes according to Centers for the Disease Control and Prevention (CDC).¹ Bedsharing is the most common cause of Sudden Infant Death Syndrome (SIDS), especially in children younger than three months.² The CDC said that infant deaths in the last 20 years have quadrupled.³ The American Academy of Pediatrics (AAP) recommends that babies sleep on their backs, have a firm surface to sleep on, no blankets or toys in the area, a cool

and well-ventilated environment, and room-sharing without bed-sharing.⁴ They recommend room-sharing without bed-sharing for at least six months but preferably a year (Some literature refer to co-sleeping and bed-sharing synonymously when in fact bed-sharing is a type of co-sleeping).⁵ Other factors the AAP recommends to reduce death of a baby is to avoid exposure to smoke, alcohol, and illicit drugs.⁶

When officers went to talk to the baby’s mother they noticed she could not smoke her cigarette without dropping it. She wobbled when she walked, and would hold on to the door so she would not fall. She was still intoxicated from the night before. In discussions with officers, she said that she and the father began drinking around noon. They left in an Uber to get McDonald’s and vodka. When they came back, they continued drinking. The mother slept on the floor with one of the babies, and the father slept with the other baby cradled under his right armpit.

There is a growing trend for families to bed-share with their babies in the U.S.⁷ According to data through the AAP, since 1993, the practice of bed-sharing has grown from about six percent of parents to 24 percent in 2015.⁸ Bristol Professor of Epidemiology and Statistics Peter Blair, who has been studying SIDS deaths for nearly 25 years, has said that a baby sleeping next to an intoxicated parent is 18 times more likely to die from Sudden Infant Death Syndrome (SIDS).⁹ Infants have the same rate of potential death when placed on sofas, chairs and water beds due to potential suffocation.¹⁰ Studies have shown smoking around infants can be another cause of SIDS generally due to respiratory issues.¹¹

When the mother woke, she found her baby snuggled against the right side of the father’s chest. The baby wasn’t breathing. She rolled the baby over and noticed blood. She woke the father up who responded, “Oh, sh@! I must’ve rolled over on him,” and then, “They told us not to sleep with the baby.”

Dr. Blair has said that certain bed-sharing deaths are quite lethal.¹² All states have enacted laws that define state roles and responsibilities in protecting vulnerable children from abuse and neglect. For example, in my state of Kansas, child endangerment is defined as “willfully and unreasonably causing or permitting child under age of 18 years to be placed in situation in which its life, body or health may be injured or endangered.”¹³ Kansas’ child endangerment statute was written broadly because it’s designed to cover a broad range of conduct and circumstances. The word “may” means more than just a chance, but a reasonable probability that harm would occur. The issue to think about in prosecuting under this, or a similar statute, is proving the “unreasonableness”.¹⁴ Kansas courts found unreasonableness would be doing something or not doing something an average person with normal mental facilities would not do or do.¹⁵ The laws in Kansas are similar laws other prosecutors have used when receiving cases on babies dying due to bed-sharing.

After the investigation into the death of the baby, it was determined the infant died due to suffocation. The Sedgwick County, Kansas District Attorney’s office filed charges on the mother and father for involuntary manslaughter and four counts of endangering a child resulting of the death of their child and negligence of the twin.

When reviewing a case like this for charges, one should look at extenuating circumstances beyond mere bed-sharing. There are many people who believe in the benefits of bed-sharing. People who support bed-sharing often say the infant sleeps better, the infant develops healthy sleeping habits, they are easier to breastfeed, and they form a stronger

bond with the parents.¹⁶ The rise of this philosophy, and the fact that many parents have at least at one time slept with their infant in their bed, make it difficult to prove any case where co-sleeping occurred unless there were other contributing factors. The fact is that bed-sharing death is quite low if all other conditions (i.e., sober, non-smoking, firm bed, no sheets, etc.) are properly followed. A study by the British Medical Journal (BMJ) on bed-sharing found that 1-in-16,400 low-risk babies die when sleeping with parents. (That statistic is opposed to the 1-in-46,000 that die when sleeping in a crib in the parent’s bedroom).¹⁷ At this time, the mere act of sharing a bed with an infant will probably not rise to the level of endangering a child, even though bed-sharing is strongly discouraged by the AAP.¹⁸

The mother and father of the twins plead guilty to involuntary manslaughter and the four counts of child endangerment. In Kansas, involuntary manslaughter is the killing of a human in the commission of a misdemeanor that is enacted for the protection of human life or safety.¹⁹ Sedgwick County prosecutors had evidence these parents knew bed-sharing was dangerous. They had the alcoholism of both parents, particularly being extremely intoxicated at the time of the suffocation of the baby. All these facts gave prosecutors what they needed to prove that the parents’ actions were unreasonable and their unreasonable actions were the cause of death of the child. The statement by the father corroborated his knowledge that bed-sharing can be dangerous. This is something almost all pediatricians and obstetricians are now telling new parents and caregivers. We may still need extraneous circumstances to get a conviction in these cases, but education is what it will take to prevent many other countless infant deaths.

States across the country have also seen convictions similar to the couple above. North Carolina, Arkansas, Virginia, Missouri, Minnesota, Michigan, Georgia, Wisconsin, Pennsylvania, Texas, and Utah to name just a few.

¹ <https://www.cdc.gov/media/releases/2018/p0109-sleep-related-deaths.html>.

² <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5029573/>.

³ <https://www.foxnews.com/story/cdc-infant-suffocation-strangulation-deaths-quadruple-over-20-years>.

⁴ <https://www.aap.org/en-us/advocacy-and-policy/aap-health-initiatives/safe-sleep/Pages/Safe-Sleep-Recommendations.aspx>.

⁵ <https://pediatrics.aappublications.org/content/138/5/e20162940>.

⁶ <https://www.aap.org/en-us/advocacy-and-policy/aap-health-initiatives/safe-sleep/Pages/Safe-Sleep-Recommendations.aspx>.

⁷ <https://www.chicagotribune.com/news/ct-xpm-2006-02-15-0602150199-story.html>.

⁸ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3903787/>.

⁹ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3903787/>.

¹⁰ <https://www.publicradiotulsa.org/post/sleeping-your-baby-dangerous-doctors-say#stream/0>.

¹¹ <https://www.parentingscience.com/bed-sharing.html> https://www.cdc.gov/tobacco/data_statistics/fact_sheets/secondhand_smoke/health_effects/index.htm#:~:text=SIDS%20is%20the%20leading%20cause%20of%20death%20in%20otherwise%20healthy%20infants.&text=Secondhand%20smoke%20increases%20the%20risk%20for%20SIDS.&text=Smoking%20by%20women%20during%20pregnancy%20increases%20the%20risk%20for%20SIDS.&text=Infants%20who%20are%20exposed%20to,at%20greater%20risk%20for%20SIDS.

¹² <https://www.npr.org/sections/goatsandsoda/2018/05/21/601289695/is-sleeping-with-your-baby-as-dangerous-as-doctors-say>.

¹³ K.S.A. 21-5601.

¹⁴ *State v. Wilson*, 1999, 987 P.2d 1060, 267 Kan. 550.

¹⁵ *State v. Fisher*, 1981, 230 Kan. 192, 631 P.2d 239.

¹⁶ <https://www.medicalnewstoday.com/articles/284275>.

¹⁷ <https://www.npr.org/sections/goatsandsoda/2018/05/21/601289695/is-sleeping-with-your-baby-as-dangerous-as-doctors-say>.

¹⁸ <https://www.aap.org/en-us/advocacy-and-policy/aap-health-initiatives/safe-sleep/Pages/Safe-Sleep-Recommendations.aspx>.

¹⁹ K.S.A. 21-5405(a)(2).



When we prosecute these cases, it highlights the potential risk of bed-sharing, and hopefully deters others from doing the same thing.

Obviously, Maryland’s majority opinion did not follow the precedent of other states. Hopefully, their decision is an aberration. We need prosecutors to know they can prosecute these types of cases. We need law enforcement to thoroughly investigate these infant deaths thinking that there may be something more than a mere accident. When we prosecute these cases, it highlights the potential risk of bed-sharing, and hopefully deters others from doing the same thing.

Finally, the fact that people and courts still do not realize the risk of bed-sharing, particularly when a person is impaired and/or have dangerous sleeping conditions, clearly indicates more education and communication are necessary. Christy Schunn, the director of the Kansas Infant Death and SIDS (KIDS) Network (a statewide non-profit with a mission to provide grief support and community education to eradicate infant mortality) knows consistent safe sleep messages are required to eliminate these senseless sleep-related deaths. Schunn says, “It takes all of us; doctors, childcare providers, parents and caregivers alike to implement and practice infant safe sleep to keep our youngest and most vulnerable population safe. Nearly every state has similar networks and coalitions, as does the Nation, that seek to educate and reduce these co-sleeping deaths.”

Besides the education and communication that programs like Schunn oversees, prosecutors need to be able to prosecute these cases. Granted, not every bed-sharing death may rise to the level of criminal prosecution, but the ones with extraneous circumstances should be pursued.

Todd Thompson is currently serving his fourth term as Leavenworth County Attorney. He is the Past-President of the Kansas County and District Attorney’s Association, also serving as their Legislative Chair. Mr. Thompson has been a member of the NDAA for the past 17 years, serving on their pre-trial justice initiative. He has chaired the Kansas Continuing Legal Education Committee and served on the Kansas Supreme Court Ad Hoc Pretrial Justice Task Force. Mr. Thompson can be reached at 913.684.0899 or tthompson@leavenworthcounty.gov.

A decision split down gender lines, found a four to three split to throw out the mother’s conviction.⁵³ Judge Michele D. Hotten wrote, “Co-sleeping with a four-month old after consuming beer does not necessarily pose such an inherent risk of death or serious physical harm,” and was joined by Chief Judge Mary Ellen Barbera and Judges Shirley M. Watts and Brynja M. Booth.⁵⁴

The dissenting judges, Judge Jonathan Biran, Judges Robert N. McDonald and Joseph M. Getty, found it was not up to question the jury’s conclusions.⁵⁵ They felt it quite reasonable that a jury could find a person to be grossly negligent while being intoxicated and co-sleeping.⁵⁶

- A Michigan woman pled to involuntary manslaughter, having second degree child abuse charges dismissed for the death of her 5-month-old.³⁷ She had drunk the night before and went to sleep with her baby next to her.³⁸ She woke up in the morning to find the baby dead, lodged between the mattress and the wall.³⁹
- A Wisconsin woman received a sentence of one year in jail for second-degree reckless homicide and 14 years on extended supervision.⁴⁰ The mother was intoxicated and went to sleep in a makeshift bed.⁴¹ Her 3-month-old was found asphyxiated due to the mother rolling over the child.⁴²
- A Pennsylvania woman pleaded no contest to misdemeanor charges of involuntary manslaughter and endangering the welfare of a child.⁴³ The woman went to sleep on a couch with her 2-month-old son after smoking marijuana and getting intoxicated.⁴⁴
- In another Kansas case, a daycare provider was convicted when she left a child on a bed with only a pillow border around the bed.⁴⁵ The baby fell between the wall and the bed, dying.⁴⁶ Evidence showed the daycare provider knew the risk of harm to the child and listened to the baby cry for 15–30 minutes without doing anything.⁴⁷

Similar to the couple from Sedgwick County, Kansas, all of the cases above had some type of extenuating circumstances. Many of the people had been told that bed-sharing was a risk. Almost all of these cases involve a person impaired on some substance.

Interestingly enough, Maryland’s highest court ruled just last year that a bed-sharing death with an intoxicated parent was not “grossly negligent” enough to uphold a conviction.⁴⁸ In Maryland, a woman attended a virtual happy hour while her infant and four-year-old slept.⁴⁹ Afterwards, she changed the baby’s diaper, pumped, and got in to bed with the infant.⁵⁰ In the morning, she had discovered that she had suffocated her infant daughter to death.⁵¹ A Maryland jury convicted her in the death of her child and sentenced her to 20 years.⁵²

- A North Carolina woman received a 10 to 21-months suspended sentence for the death of her children.²⁰ She had a history of alcohol abuse and had two of her children die under questionable sleep surroundings.²¹ Medical examiners concluded that both babies suffocated.²²
- An Arkansas couple pled guilty to child endangerment and manslaughter of their 6-month-old son.²³ The parents had been awake for several days using methamphetamine before using marijuana to help them sleep.²⁴ The couple pushed two loveseats together and placed their son between them, as they said they liked to cuddle with him.²⁵ Both parents admitted they were told co-sleeping was a risk for death, but did it anyway.²⁶ The child died of asphyxiation under the father’s armpit.²⁷
- A Virginia woman pled to involuntary manslaughter and child neglect when her 4-month-old died by suffocation.²⁸ Evidence showed that the mother fed and swaddled her baby, then placed him face down on a makeshift bed of a chair cushion and blanket.²⁹ The judge gave the mother a five-year suspended sentence.³⁰
- A Missouri woman, charged with involuntary manslaughter, pled guilty to a charge of endangering the welfare of a child under a plea agreement that includes suspended imposition of sentence and places her on probation for the death of her 3-month-old son.³¹ Drug test records showed she was under the influence of methamphetamine, marijuana and Xanax while sleeping with the infant.³²
- A Minnesota man was sentenced to 14–60 days in jail and ten years of probation for the death of his 2-month-old son.³³ After spending a night out drinking and celebrating, the man placed his “fussy” son in bed between he and his wife.³⁴ He woke up to his wife screaming frantically looking for the child.³⁵ He had rolled over on him causing him to asphyxiate.³⁶

²⁰ <https://www.arkansasonline.com/news/2017/jan/30/parents-can-face-charges-20170130/>.
²¹ Id.
²² Id.
²³ <https://www.arkansasonline.com/news/2017/jan/30/parents-can-face-charges-20170130/>.
²⁴ Id.
²⁵ Id.
²⁶ Id.
²⁷ Id.
²⁸ <https://www.arkansasonline.com/news/2017/jan/30/parents-can-face-charges-20170130/>.
²⁹ Id.

³⁰ Id.
³¹ <https://www.fourstateshomepage.com/news/mother-gets-probation-in-babys-suffocation-death/pleaded-guilty-to-a-charge-of-endangering-the-welfare-of-a-child-under-a-plea-agreement-that-includes-suspended-imposition-of-sentence-and-places-her-on-probation-for-two-years>.
³² Id.
³³ https://www.hometownsource.com/sun_thisweek/news/publicsafety/eagan-man-to-serve-jail-time-on-anniversary-of-son-s-death/article_0759dcf8-1d87-5634-a11f-1ec0e270d919.html.
³⁴ Id.
³⁵ Id.
³⁶ Id.

³⁷ <https://www.hometownlife.com/story/news/local/livonia/2018/02/14/livonia-woman-takes-plea-her-infant-sons-death/332407002/>.
³⁸ Id.
³⁹ Id.
⁴⁰ <https://www.wbay.com/content/news/Mother-gets-a-year-in-jail-for-smothering-baby-425528913.html>.
⁴¹ Id.
⁴² Id.
⁴³ <https://www.pressandjournal.com/stories/middletown-woman-pleads-no-contest-in-death-of-infant-son-will-be-sentenced-in-june,31303>.
⁴⁴ Id.
⁴⁵ *State v. Bolze-Samm*, (2015, 352 P.3d 511, 302 Kan. 198).

⁴⁶ Id.
⁴⁷ Id.
⁴⁸ <https://www.courts.state.md.us/data/opinions/coa/2020/56a19.pdf>.
⁴⁹ Id.
⁵⁰ Id.
⁵¹ Id.
⁵² Id.
⁵³ Id.
⁵⁴ Id.
⁵⁵ Id.
⁵⁶ Id.



MEET THE NDAA TEAM

COURTNEY JAN

Project Coordinator

Job Responsibilities

NTLC and Grants Project Coordinator, CLE

Qualifications

Graduated in 3.5 years with a Bachelor of Arts in Public Relations with a focus in Event Planning from Virginia Tech, 2018

Professional Memberships and Activities

American Society of Association Executives (ASAE)

Association of Meeting Professionals (AMPs — Special Events Committee)

Professional Convention Management Association (PCMA)

Keeper (Restorative Justice Program).

- 1 **What is your favorite part about working for NDAA?**
How much it is a team environment instead of everyone working solo. Each team/project works so closely together it is nice to get input and new ideas from everyone.
- 2 **Who would you most like to swap places with for a day?**
Chrissy Teigen
- 3 **If you could visit anywhere in the world you've never been, where would you go?**
Maldives or Bora Bora
- 4 **Favorite travel spot?**
San Diego or Oahu/Maui
- 5 **How do you define success?**
Happiness
- 6 **What do you always want to try and never did?**
Parasailing, I am terrified of heights
- 7 **What kinds of hobbies and interests do you have outside of work?**
Interior design, yoga/pilates, baking



Join Us in Congratulating Our 2021 Distinguished Prosecutor Award (Assistant Prosecutor) Recipient!



Kevin Takata

Former Supervising Deputy Attorney General
(State of Hawaii Criminal Justice Division)

Kevin K. Takata was a prosecutor for thirty-three years. He supervised the Criminal Justice Division in the Hawaii Department of the Attorney General and is a former Kauai first deputy prosecutor and a former Honolulu deputy prosecutor. He led the unsolved homicide unit on Kauai and was on the homicide team and Trials Division Chief in Honolulu. He successfully prosecuted numerous high publicity homicides and is credited with the most homicide convictions in Hawaii.

While Kevin prosecuted many noteworthy cases during his long career, perhaps none was more high stakes than that of Xerox gunman Byran Uyesugi, who perpetrated the deadliest mass shooting in Hawaii's history, murdering seven of his co-workers in cold blood in Honolulu on November 2, 1999. Kevin served on the team of three Deputy Prosecutors along with Prosecuting Attorney Peter Carlisle and on June 13, 2000 successfully obtained a guilty verdict in the case.

Kevin was born on the tiny, rural island of Lanai, Hawaii. He moved to the windward side of the island of Oahu at age 6 when his father was appointed to serve as the principal of Kahaluu Elementary School. Kevin is a graduate of the University of Hawaii at Manoa (1978) and Case Western Law School (1984).

Kevin has been active in innumerable committees and task forces dedicated to the furtherance of the profession over the course of his career. Kevin served on the following initiatives:

- Committee on Professionalism, Committee Member (2005–present)
- Appointed by Hawai'i Supreme Court Chief Justice Ronald Moon to assist in the improved practice of law
- Penal Code Project Advisory Committee, Committee Member (1993–1994)
- Appointed by Hawai'i Supreme Court Associate Justice Steven Levinson to conduct comprehensive review of the Hawaii State Penal Code and recommend alterations to the Legislature
- Pattern Criminal Jury Instructions, Committee Member (1991–present)
- Appointed by Hawai'i Supreme Court Chief Justice Herman Lum to participate in drafting standard criminal jury instructions
- Recognizing the importance of teaching and mentoring, Takata was an instructor at the National Advocacy Center, a litigation training facility for prosecutors and has taught trial techniques for the National District Attorneys Association and the Conference of Western Attorneys Generals, including regularly training homicide prosecutors in Mexico.

Most recently, Kevin has served as chair of the Hawaii Police Shootings Review Board and as the chair of the Hawaii Committee Against Human Trafficking.

Learn more and nominate someone you know at: <https://ndaa.org/membership/nominate-a-distinguished-prosecutor/>

NDAA's magazine, *The Prosecutor*, is the premiere publication for prosecutors around the country. To make sure that the publication's content aligns with NDAA's mission to be the voice of America's prosecutors, we would like to invite you to contribute content.



For more information, please visit

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