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Rachael Rollins
Suffolk County District Attorney
One Bulfinch Place
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Dear District Attorney Rollins,

As you know, the criminal legal system has been turned on its head during the past few months. This pandemic has caused all of us to work harder and differently under unprecedented circumstances and adjust our goals to mitigate the loss of life, while upholding our sworn duties under the constitution. Hundreds of staff public defenders and private bar advocates have risen to the occasion and are doing their best to maintain the sanctity of an adversarial system that, in normal times, has serious flaws that weigh against our clients. COVID-19 has only added weight to that burden.

It is with this backdrop in mind that I consider your recent interview on WGBH. What began as an educational discussion about the state of the legal system devolved into a series of insults directed at my staff and the many bar advocates that serve our clients every day. In my role as chief counsel, I expect to be taken to task for flaws – real and perceived - in our organization. I also recognize that CPCS is not a finished product, and like your office, we are working hard to assemble a diverse, talented staff, and to reduce racial and ethnic disparities throughout the justice system.

But to generalize and say that our “overwhelmingly privileged” staff is too busy to care about their “poor black and brown” clients strikes directly at the heart of our organization. So too does your comment that the many dedicated private attorneys who take our cases are simply showing up to court to get a paycheck. Nothing could be further from the truth. These unprovoked attacks on your fellow attorneys did not go unnoticed, and I am afraid you may have alienated some who believed in your campaign promises, but then found themselves in the crosshairs of an off-the-cuff diatribe.

It is worth mentioning what initiated your commentary about the defense bar. An individual called in and indicated that he was unable to get in touch with his attorney - no doubt an issue that should not occur. You then suggested that he should call the local prosecutor's office in order to get information on his case. We firmly believe that this is wrong, and the many defense attorneys who contacted the show host - and our own staff attorney who called in - were right to push back on this suggestion. Moments later, you said: "I am not going to let these defense attorneys let these defendants suffer in silence."

Claiming that we let our clients "suffer in silence" may make for good radio, but it is not an accurate statement. Our lawyers, social workers and investigators, both staff and private, are fighting every day seeking justice in the trial and appellate courts of the state. Just before this pandemic hit our shores, we successfully sued to protect attorney-client communications that were being thwarted by a lockdown at Souza-Baranowski Correctional Center. After COVID-19 came to Massachusetts, our lawyers worked with the Massachusetts Association of Criminal Defense attorneys and the ACLU to get our clients out from behind the wall. As a result of this effort, hundreds of individuals have been released.

As we speak, our team is fighting through remarkably challenging circumstances to save their clients' lives. We are remotely advocating for people we are unable to see face-to-face, and we are trying to learn and tell their stories despite institutional roadblocks that have only been exacerbated by the pandemic.

We are fighting to amplify our clients' voices. We refuse to be silent as they suffer.

The general public has been conditioned to shrug off the sometimes-contentious relationship between public defenders and prosecutors. It is certainly not a man-bites-dog story to see adversaries become adversarial.

Your office, however, has bucked the trend. We have fought shoulder-to-shoulder on major issues, and I believe we are on the right side of history in these important battles. A few weeks ago, your office sided with us in our decarceration efforts, writing in a brief that any "view of decency in the current situation would include protections and action to prevent the unnecessary spread of COVID-19 regardless of custodial status of an individual." Just this week, you wrote a letter to Gov. Charlie Baker indicating that you would help him pinpoint individuals who should be pardoned and released. These moments of leadership should be commended by the defense bar and emulated by your fellow prosecutors.

But your commentary does not help us in this shared mission. By saying we are unresponsive, overly privileged and just showing up for the paycheck, you needlessly denigrated an entire population of attorneys to an audience that may not know what we do every day. This type of rhetoric can cause people already beaten down by an unfair system to lose trust in the very lawyer tasked with fighting their battle.

The client who called in should have heard back from his attorney promptly. All attorneys should be communicating with their clients regularly to keep them informed. Our voicemail should not be full. We are all trying to adjust to these difficult times, and there are many lessons that can be taken from this moment.

On this same WGBH program, you mentioned a courtesy you have paid others. In the past, you indicated that you have reached out to U.S. Attorney Andrew Lelling prior to making comments on issues that may affect his office. Yesterday, you said you reached out to Gov. Baker's team prior to sending your offer to assist with pardons.

I ask that, in the future, you extend that same courtesy to public defenders. It is more constructive to have a dialogue about perceived issues one-on-one than it is to broadcast an unfair depiction of the many great lawyers who work tirelessly - pandemic or not - for their clients. I am always willing to work with you in our common pursuit toward a just system.

I hope you, your family and team are safe and healthy during these trying times.

Sincerely,



Anthony J. Benedetti
Chief Counsel