

UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Mary Kay Lanthier

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

United States District Judge for the District of Vermont

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.

Rutland County Public Defender's Office  
117 Strongs Avenue  
Rutland, Vermont 05701

Residence: Orwell, Vermont

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

1971; Rutland, Vermont

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.

1993 – 1996, Northeastern University School of Law; J.D., 1996

1989 – 1993, Amherst College; B.A., 1993

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.

2007 – present  
Rutland County Public Defender's Office  
117 Strongs Avenue

Rutland, Vermont 05701  
Supervising Attorney (2007 – present)  
Staff Attorney (2007)

2017 – 2023  
Vermont Law and Graduate School  
164 Chelsea Street  
South Royalton, Vermont 05068  
Adjunct Professor

2003 – 2007  
Marsh & Wagner, P.C.  
62 Court Street  
Middlebury, Vermont 05753  
Partner (2005 – 2007)  
Associate (2003 – 2004)

2000 – 2003  
Addison County Public Defender's Office  
102 Court Street, Suite C  
Middlebury, Vermont 05753  
Staff Attorney

1998 – 2000; Spring 1996; Fall 1995  
Keiner & Dumont, P.C.  
72 Court Street  
Middlebury, Vermont 05753  
Associate (1998 – 2000)  
Law Clerk (compensated) (Spring 1996)  
Law Clerk (uncompensated) (Fall 1995)

1996 – 1998  
Vermont Trial Court Law Clerk  
Court Administrator's Office  
120 State Street  
Montpelier, Vermont 05602  
Law Clerk for Chittenden County District Court and Addison County

Other Affiliations (uncompensated)

Spring 1995  
Office of the Defender General  
Prisoners' Rights Office  
6 Baldwin Street, 4th Floor  
Montpelier, Vermont 05633  
Law Clerk

Fall 1994  
Vermont Supreme Court  
111 State Street  
Montpelier, Vermont 05602  
Legal Intern, Chief Justice Frederic W. Allen

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.

President's Award, Vermont Association of Criminal Defense Lawyers (2023)

Fellow, American College of Trial Lawyers (2018 – present)

Presenter of Inductee Response, American College of Trial Lawyers (2018)

“R” Committee Community Service Award, Amherst College (1993)

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.

American College of Trial Lawyers (2018 – present)  
Vermont State Committee, Member (2018 – present)  
Public Defender Committee, Member (2020 – 2023)  
Vermont State Committee Chair (2021 – 2023)

National Association of Criminal Defense Lawyers (2010 – present)

National Association of Drug Court Professionals (2020 – 2022)

National Association for Public Defense (2015 – present)

Vermont Association of Criminal Defense Lawyers (2002 – present)  
President (2015)  
Treasurer (2017 – present)

Vermont Bar Association, Chair, Criminal Law Section (2021 – present)

Vermont Professional Responsibility Program, Chair, Hearing Panel 9 (2022 – present)

Vermont Supreme Court

Advisory Committee on the Rules of Criminal Procedure (2021 – present)

Committee on Model Jury Instructions – Criminal Panel (2013 – present)

Jury Restart Committee (2020)

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.

Vermont, 1996

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.

None.

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.

None.

- 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.

Not applicable.

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.

Vermont Association of Criminal Defense Lawyers, Newsletter, Spring 2019.  
Copy supplied.

Vermont Association of Criminal Defense Lawyers, Newsletter, Spring 2018.  
Copy supplied.

Vermont Association of Criminal Defense Lawyers, Newsletter, Fall 2017. Copy supplied.

Vermont Association of Criminal Defense Lawyers, Newsletter, Spring 2017.  
Copy supplied.

Vermont Association of Criminal Defense Lawyers, Newsletter, Spring 2016.  
Copy supplied.

Vermont Association of Criminal Defense Lawyers, Newsletter, Fall 2015. Copy supplied.

Vermont Association of Criminal Defense Lawyers, Newsletter, Spring 2015.  
Copy supplied.

Vermont Association of Criminal Defense Lawyers, Newsletter, Fall 2014. Copy supplied.

*Children's Right to Be Heard*, 2 NU Forum 1 (1997). 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.

I was a member of the Vermont Supreme Court's Jury Restart Committee. The Committee issued a "Report on Resumption of Criminal Jury Trials" on July 20, 2020. I did not play a role in the drafting of the report, but its recommendations reflect the work of the Committee. Copy supplied.

I was a member of the Public Defender Committee of the American College of Trial Lawyers. While I served on that committee, the College issued a White Paper entitled, "The Effective Use of Pretrial Diversion in Criminal Cases." Although my name, along with those of other committee members, appears on the white paper, I did not draft, edit, review, or approve the paper. Copy supplied.

- 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.

2022-2023 Annual Report, Advisory Committee on Rules of Criminal Procedure (January 19, 2024). Copy supplied.

Meeting Minutes, Advisory Committee on Rules of Criminal Procedure (September 29, 2023). Copy supplied.

Meeting Minutes, Advisory Committee on Rules of Criminal Procedure (September 9, 2022). Copy supplied.

Meeting Minutes, Advisory Committee on Rules of Criminal Procedure (May 6, 2022). Copy supplied.

Meeting Minutes, Advisory Committee on Rules of Criminal Procedure (November 19, 2021). Copy supplied.

Meeting Minutes, Advisory Committee on Rules of Criminal Procedure (June 4, 2021). Copy supplied.

On December 2, 2020, I sent an email to State Representative Charles "Butch" Shaw, a member of the Vermont State House of Representatives' Corrections and Institutions Committee, regarding communication with clients at correctional facilities. Copy supplied.

- 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.

The following list reflects my best effort to identify the public speaking events in which I have participated, based on a review of my records and publicly-available

information. There may, however, be events I have been unable to recall.

April 26, 2024: Co-Presenter, Arraignments 101, Vermont Bar Association, virtual presentation. PowerPoint supplied.

April 9, 2024: Speaker, The Court Process and the Role of the Public Defender, Fair Haven Union High School. I presented to a high school class about the court process and the role of the public defender. I have no notes, transcript, or recording. The address of Fair Haven Union High School is 33 Mechanic Street, Fair Haven, Vermont 05743.

February 9 – 10, 2024: Volunteer Judge, National Trial Competition, Texas Youngs Lawyers Association and American College of Trial Lawyers, Hartford, Connecticut. I served as a judge for the regional round and provided feedback to participants during the competition. I have no notes, transcript, or recording. The address of the Texas Young Lawyers Association is 1414 Colorado Street, #502, Austin, Texas 78711.

November 3, 2023: Co-Presenter, Rutland County Treatment Court, Rutland County Bar Association Annual Meeting/CLE Program, Rutland, Vermont. PowerPoint supplied.

September 29, 2023: Speaker, The Court Process and the Role of the Public Defender, Fair Haven Union High School. I presented to a high school class about the court process and the role of the public defender. I have no notes, transcript, or recording. The address of Fair Haven Union High School is 33 Mechanic Street, Fair Haven, Vermont 05743.

February 3, 2023: Volunteer Judge, National Trial Competition, Texas Young Lawyers Association and American College of Trial Lawyers, Hartford, Connecticut. I served as a judge for the regional round and provided feedback to participants during the competition. I have no notes, transcript, or recording. The address of the Texas Young Lawyers Association is 1414 Colorado Street, #502, Austin, Texas 78711.

April 30, 2022: Co-Presenter, Mini Trial Academy, Vermont Bar Association Young Lawyers Section Mid-Winter Thaw, Montreal, Quebec. I was one of four lawyers presenting a mock trial to participants, followed by a question and answer period regarding trial strategy. I have no notes, transcript, or recording. The address of the Vermont Bar Association is P.O. Box 100, Montpelier, Vermont 05601.

February 2022 (specific date unknown): Volunteer Judge, National Trial Competition, Texas Young Lawyers Association and American College of Trial Lawyers, virtual competition. I served as a judge for the regional round and provided feedback to participants during the competition. I have no notes,

transcript, or recording. The address of the Texas Young Lawyers Association is 1414 Colorado Street, #502, Austin, Texas 78711.

July 30, 2021: Co-Presenter, Criminal Trial Practice, Vermont Bar Association Trial Academy, virtual presentation. PowerPoint supplied.

February 2021 (specific date unknown): Volunteer Judge, National Trial Competition, Texas Young Lawyers Association and American College of Trial Lawyers, virtual competition. I served as a judge for the regional round and provided feedback to participants during the competition. I have no notes, transcript, or recording. The address of the Texas Young Lawyers Association is 1414 Colorado Street, #502, Austin, Texas 78711.

July 24, 2020: Co-Presenter, Trial Skills: Cross-Examination, Vermont Bar Association Trial Academy, virtual presentation. PowerPoint supplied.

February 6 – 7, 2020: Volunteer Judge, National Trial Competition, Texas Young Lawyers Association and American College of Trial Lawyers, Boston, Massachusetts. I served as a judge for the regional round and provided feedback to participants during the competition. I have no notes, transcript, or recording. The address of the Texas Young Lawyers Association is 1414 Colorado Street, #502, Austin, Texas 78711.

November 2018 (specific date unknown): Panelist, Trial Skills, Vermont Association of Criminal Defense Lawyers. I was a member of a panel discussing the components of a jury trial, such as opening statement, direct and cross examination, and closing arguments. I have no notes, transcript, or recording. The address for the Vermont Association of Criminal Defense Lawyers is 90 Beech Street, Essex Junction, Vermont 05452.

March 3, 2018: Inductee Response, American Trial of College Lawyers, Arizona. Remarks supplied.

- 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.

Mitch Wertlieb, *How Rutland's drug treatment court tries to support people experiencing addiction*, Vermont Public (December 4, 2023). Audio available at <https://www.vermontpublic.org/show/vermont-edition/2023-12-04/how-rutlands-drug-treatment-court-tries-to-support-people-experiencing-addiction>.

Gordon Dritschilo, *Law Day aims to Hook Youth*, Rutland Herald (May 2, 2023). Copy supplied.



Patrick Mcardle, *Jury trial set to begin next week*, Rutland Herald (May 27, 2021). Copy supplied.

Patrick Mcardle, *Vt. courts plan to resume criminal jury trials*, Rutland Herald (July 29, 2020). Copy supplied.

Patrick Mcardle, *Rutland County has a new public defender*, Rutland Herald (January 29, 2019). Copy supplied.

Patrick Mcardle, *New public defender came from environmental law*, Rutland Herald (July 4, 2018). Copy supplied.

Gordon Dritschilo, *Too many trials? Opinions differ*, Rutland Herald (September 27, 2017). Copy supplied.

Gordon Dritschilo, *Guilty: Assault in property dispute*, Rutland Herald (September 16, 2017). Copy supplied.

Alan Keays, *Man admits beating his mother to death with wine bottles*, The Mountain Times (August 2–8, 2017). Copy supplied.

Molly Walsh, *Representing: A Busy Public Defender Stands Up for Her Clients*, Seven Days (September 28, 2016). Copy supplied.

Kathleen Phalen Tomaselli, *Domestic assault Easy to Charge, hard to convict*, Rutland Herald (May 3, 2015). Copy supplied.

Brent Curtis, *Chief, officials back Tarbell's promotion*, Rutland Herald (October 15, 2013). Copy supplied.

Terry J. Allen, *Part II: Dying in Cell 40: State hired for-profit firm with rap sheet of death and lawsuits*, VTDigger (December 14, 2009). Copy supplied.

Terry J. Allen, *Death by Privatization For-profit prison healthcare system implicated in death of inmate*, In These Times (December 8, 2009). 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: \_\_\_\_\_% [total 100%]

ii. Of these cases, approximately what percent were:

civil proceedings: \_\_\_\_\_%  
criminal proceedings: \_\_\_\_\_% [total 100%]

- 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. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.
- e. Provide a list of all cases in which certiorari was requested or granted.
- f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.
- g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.
- h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.
- i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system

by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

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.

None.

- 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;

From 1996 to 1998, I served as a trial court law clerk for the Chittenden County District Court, working with the judges assigned to that court, including but not limited to the Honorable Brian Burgess, Honorable Alan W. Cook, Honorable James Crucitti, Honorable David Jenkins, Honorable Ronald Kilburn, Honorable Dean Pineles, and Honorable Patricia Zimmerman. During the second year of the clerkship, my assignment extended to the Addison County Courts, which included the civil, criminal, and family courts, serving Honorable Michael Kupersmith. I was also available to support judges in other counties for assistance as needed, including Honorable Alden Bryan, presiding in the Rutland Civil Court.

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

I have never practiced 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;

1998 – 2000  
Keiner & Dumont, P.C.  
72 Court Street  
Middlebury, Vermont 05753  
Associate

2000 – 2003  
Addison County Public Defender's Office  
102 Court Street, Suite C  
Middlebury, Vermont 05753  
Staff Attorney

2003 – 2007  
Marsh & Wagner, P.C.  
62 Court Street  
Middlebury, Vermont 05753  
Associate (2003 – 2004)  
Partner (2005 – 2007)

2007 – present  
Rutland County Public Defender's Office  
117 Strongs Avenue  
Rutland, Vermont 05701  
Staff Attorney (2007)  
Supervising Attorney (2007 – 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 not served as a mediator or arbitrator in alternative dispute resolution proceedings.

b. Describe:

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

Upon graduation from law school, I served as a trial court law clerk for two years. During the first year, I was assigned to a criminal trial court in Chittenden County. This position allowed me to observe judges working in the busiest criminal court in the state. I drafted decisions for motions involving Fourth Amendment, Fifth Amendment and Sixth Amendment issues. I observed dozens of evidentiary hearings and many jury trials, assisting the judges with drafting jury instructions and ruling on motions in limine. The following year, my assignment expanded to include the civil, family, and criminal dockets in Addison County. During that assignment, I worked primarily assisting the judge in the civil court. I drafted decisions in cases involving breach of contract, the exclusive remedy provision of workers' compensation, foreclosures, subject matter jurisdiction and personal jurisdiction. I assisted the judge during civil jury trials. I was also asked to assist judges in other counties, as needed.

I joined Keiner & Dumont, P.C. in Middlebury, Vermont in 1998. As an associate at a small law firm, I worked primarily on family law, workers' compensation, and criminal cases. My work consisted of legal research and writing, drafting pleadings, and litigation. I participated in depositions, court hearings, and mediation. I also provided litigation support in civil cases, including document review, and reviewing pleadings and appellate filings.

In 2000, I joined the Addison County Public Defender's Office. I represented individuals charged with crimes, who were determined by the court to be financially needy and unable to afford counsel. I represented individuals charged with felonies and misdemeanors. I participated in arraignments, discovery, depositions, motion hearings, criminal jury trials, and sentencing hearings.

In 2003, I returned to private practice at another small law firm in Middlebury, Vermont. While at Marsh & Wagner, I practiced family law, real estate law, and criminal defense. I drafted discovery, conducted depositions, and participated in contested court hearings, including

criminal jury trials.

In 2007, I again left private practice and joined the Rutland County Public Defender's Office. Several months after joining the office, I became the supervising attorney. I remain in this position. I represent individuals charged with crimes who have been determined by the court to be financially needy and unable to afford counsel. I represent individuals charged with all levels of crimes. I represent each individual at all stages of the trial court process. Additionally, I supervise the attorneys, investigator, and support staff in the office. I am responsible for the daily operations of the office, overseeing the work of the attorneys, and managing the individual caseloads. I am also responsible for communicating and working with the court and other agencies involved in the judicial process to develop efficient and effective policies and procedures.

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

At both Keiner & Dumont, P.C. and Marsh & Wagner, P.C., my typical clients were individual litigants involved in civil, family, probate, or criminal cases in state court.

During my employment with Vermont's public defender system, which is known as the Office of the Defender General, my clients are individuals charged with crimes and eligible for appointment of counsel. I specialize in criminal law and criminal practice and procedure.

- 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.

Except for my work as a law clerk, 95 percent of my practice has been in litigation. After leaving my trial court clerkship and entering private practice, I appeared in court often. Initially, I would have the support of a partner during hearings, but quickly started appearing in court on my own. During the periods of time when I have worked for Vermont's public defense system, including for the past 17 years, I appear in court multiple days each week. These appearances are for all types of criminal court hearings, including arraignments, bail hearings, motion hearings, jury trials, and sentencing hearings.

- i. Indicate the percentage of your practice in:
  - 1. federal courts: 0%
  - 2. state courts of record: 100%
  - 3. other courts: 0%
  - 4. administrative agencies: 0%

ii. Indicate the percentage of your practice in:

1. civil proceedings: 15%
2. criminal proceedings: 85%

- 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 between 45 and 50 criminal cases to a jury verdict. I do not have a complete list of the jury trials in which I have participated. I have estimated this number based on a review of my records and calendars. I served as sole counsel for the majority of the cases. Based on my best recollection of these cases, I served as co-counsel on one or two cases, lead counsel on two cases, and second chair or supervisor for three trials.

In addition to jury trials, I have conducted one court trial in criminal court and a substantial number of violation of probation merits hearings before a judge. When I was in private practice, I litigated a number of family court matters including contested divorce proceedings involving property distribution, parental rights and responsibilities, and child support. I also litigated relief from abuse petitions and probate court matters.

i. What percentage of these trials were:

1. jury: 90%
2. non-jury: 10%

- 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. Sanborn*, No. 1347-10-17 Rdcr (Vermont Superior Court, Rutland Criminal Division) (Zonay, J.)

Mr. Sanborn was charged with two counts of first degree aggravated domestic assault and interference with access to emergency services in October 2017. Mr. Sanborn was facing a possible sentence of life imprisonment as he was charged as a habitual offender. The charges stemmed from an argument between Mr. Sanborn and his wife, which resulted in his wife suffering a broken bone in her knee. I took over the representation of Mr. Sanborn in January 2018. Co-counsel and I conducted pre-trial discovery, including the deposition of the complaining witness. There was pre-trial litigation regarding the defense's ability to introduce evidence of the complaining witness' prior conviction for shooting a spouse decades earlier. The case proceeded to a two-day trial in February 2018. Mr. Sanborn was acquitted by the jury.

Co-Counsel

Daniel Stevens  
Windham County Public Defender's Office  
50 Park Place  
Brattleboro, VT 05301  
(802) 254-2375

Opposing Counsel

Travis Weaver  
Windsor County State's Attorney's Office  
5 South Main Street  
White River Junction, VT 05001  
(802) 295-8870

2. *State v. Harwood*, No. 1002-2-17 Rdcr (Vermont Superior Court, Rutland Criminal Division (Zonay, J.), *aff'd*, 2020 VT 65, 212 Vt. 592 (2020))

Mr. Harwood was charged with violation of probation on July 23, 2018. In May 2018, Mr. Harwood had pleaded guilty to first-degree aggravated domestic assault with a weapon and was sentenced to 18 months to six years, all suspended except for one year to serve. While serving the incarcerative portion of his sentence, Mr. Harwood was alleged to have engaged in violent and threatening behavior in violation of his conditions of probation. Specifically, he was alleged to have made threatening statements to a correctional officer while in his locked cell. At the violation of probation merits hearing, I argued that his verbal statements could not constitute threatening behavior, citing *State v. Schenk*, 2018 VT 45, 207 Vt. 423. In *Schenk*, the Vermont Supreme Court held that in the prosecution of disorderly conduct, threatening statements required accompanying



conduct in order to be considered threatening behavior. I further argued that Mr. Harwood did not have notice that his verbal statements could be considered threatening behavior. The court held that Mr. Harwood had notice of the condition and that his verbal statements constituted threatening behavior. The court revoked Mr. Harwood's probation. I filed a notice of appeal. The appellate division of the Office of the Defender General handled the appeal. The Vermont Supreme Court affirmed the decision, holding that in the context of violation of probation proceedings, verbal statements can constitute threatening behavior without accompanying conduct.

Opposing Counsel

Ian Sullivan  
Rutland County State's Attorney  
400 Asa Bloomer Building  
Rutland, VT 05701  
(802) 786-2531

3. *State v. Rosa*, No. 1626-11-14 RdcR (Vermont Superior Court, Rutland Criminal Division) (Corsones, J.)

Mr. Rosa was charged in November 2014 with heroin trafficking and transportation of a drug into a detention facility. The charges arose following the stop of the motor vehicle being driven by Mr. Rosa. During the stop, the law enforcement officer noticed that Mr. Rosa had a sandwich bag and believed Mr. Rosa had marijuana. He told Mr. Rosa that possession would result in a traffic ticket and Mr. Rosa turned over a significant amount of heroin. After his arrest, he was brought to a correctional facility where additional drugs were located on his person. Mr. Rosa was represented by another attorney in my office from his arraignment until June 2016 when I entered my appearance after the other attorney left the office. During the time that I was not representing Mr. Rosa, he entered into a plea agreement whereby he pleaded guilty to an amended charge of sale of heroin and transportation of a drug into a correctional facility. The state was capped at arguing for 15 years to serve. When I began representing Mr. Rosa, I filed a motion to withdraw his pleas, arguing that there was not a factual basis for the plea and Mr. Rosa did not enter the plea with a full understanding of its terms. The court granted the motion, concluding there was not a factual basis for the plea to the amended charge of sale of heroin. I filed a motion to suppress and dismiss, arguing that the court should suppress evidence of the drugs found on Mr. Rosa, asserting that Mr. Rosa's decision to turn over the heroin was not voluntary and Mr. Rosa was subject to an unlawful search and seizure. The court granted the motion and dismissed the charges.

Opposing Counsel

Peter Bevere  
Rutland County State's Attorney's Office  
400 Asa Bloomer Building  
Rutland, VT 05701

(802) 786-2531

4. *State v. Guzman*, No. 2095-12-13 Rdc (Vermont Superior Court, Rutland Criminal Division) (Zonay, J.)

Mr. Guzman was charged on December 20, 2013, with first degree aggravated domestic assault. The charge stemmed from an allegation that he assaulted the mother of his child during a fight, causing a bruise to her neck. The defense alleged the complaining witness caused the injury to herself while intoxicated. The complaining witness denied being overly intoxicated during the incident. The defense had a recording of the evening when this allegedly occurred, documenting the complaining witness's intoxication. I sought to introduce evidence of a prior incident when the complaining witness was observed harming herself while intoxicated. Although this request was originally denied, the court reversed its decision after listening to additional evidence. At the end of a two-day trial in April 2015, Mr. Guzman was acquitted by the jury.

Opposing Counsel

Rosemary Kennedy  
Assistant Attorney General  
Vermont Attorney General's Office  
109 State Street  
Montpelier, VT 05609

5. *State v. Goodwin*, No. 517-3-13 Rdc (Vermont Superior Court, Rutland Criminal Division) (Dimauro, J.)

Mr. Goodwin was charged on March 25, 2013, with burglary and grand larceny. He was alleged to have entered a home without permission and stolen cash from a safe. Mr. Goodwin denied involvement in the burglary and theft during two interviews with police. During the third interview, Mr. Goodwin continued to deny involvement until the police officer presented him with a fabricated laboratory report purporting to show Mr. Goodwin's fingerprints on the safe. The fabricated report contained the actual logo of the Vermont Forensic Laboratory. Upon seeing this report, Mr. Goodwin stated that he committed the offense. I filed a motion to suppress Mr. Goodwin's statements, alleging that the police officer's use of a fabricated laboratory report rendered his confession involuntary and obtained in violation of his rights under the United States and Vermont Constitutions. The court found that under the circumstances presented in this case, the confession was involuntary and suppressed Mr. Goodwin's statement. The state dismissed the charges on February 10, 2014.

Opposing Counsel

Peter Bever  
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6. *State v. Betts*, No. 845-6-10 Rdcr (Vermont Superior Court, Rutland Criminal Division) (DiMauro, J.), *rev'd*, 2013 VT 53, 194 Vt. 212 (2013)

Mr. Betts was charged with felony possession of cocaine. I represented Mr. Betts from 2010 through 2011. Mr. Betts was charged when the vehicle in which he was a passenger was stopped by police. Law enforcement received information that a vehicle being operated by an identified white male with an African-American passenger had a large amount of cocaine in it. The police stopped a vehicle being driven by the identified white male and in which Mr. Betts, who is African-American, was a passenger. During the motor vehicle stop, the police told Mr. Betts that if he did not consent to a search, he would be handcuffed, the vehicle would be seized, and he would be transported to the police barracks until a judge reviewed a search warrant application. In response to these alternatives, Mr. Betts consented to a search. Mr. Betts was then handcuffed and taken to the police barracks where the police were prepared to conduct a strip search. At the police barracks, the officer found crack cocaine on the ground beside the passenger door of the cruiser. Mr. Betts moved to suppress, arguing that he had been arrested in violation of the Fourth Amendment to the United States Constitution and a provision of the Vermont Constitution. He further argued his consent to the search was involuntary. An evidentiary hearing was held on the motion to suppress, and I conducted witness examinations. I also filed a post-hearing memorandum of law. The trial court denied the motion to suppress and Mr. Betts appealed. The appellate division of the Office of the Defender General handled the appeal, which resulted in a reversal of the trial court decision. The Vermont Supreme Court held that the consent to search was not voluntary as it was merely a submission to a claim of authority to carry out an unlawful arrest. Following remand, the state dismissed the charge.

Opposing Counsel

Peter Neary, Esq. (deceased)

7. *State v. Cameron*, No. 1700-11-07 Rdcr (Vermont Superior Court, Rutland Criminal Division) (Zonay, J.)

Ms. Cameron was serving as a *guardian ad litem* for a child in a contentious divorce proceeding. On November 16, 2007, Ms. Cameron was charged with being an accessory after the fact for helping to hide the mother and child after the child alleged abusive behavior by the father. The mother was charged with custodial interference. I conducted pre-trial discovery, including the deposition of the child and the allegedly abusive father. The state attempted to limit Ms. Cameron's ability to argue a lawful defense to the charge, which was that she was acting in good faith to protect the child from real and imminent physical danger. The state dismissed the charge on October 1, 2008, moments before jury selection

was to begin.

Opposing Counsel

Stuart Schurr

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8. *State v. Ellis*, No. 1232-8-07 Rdcr (Vermont Superior Court, Rutland Criminal Division) (Zonay, J.)

On August 20, 2007, Ms. Ellis was charged with felony grossly negligent operation with serious bodily injury. While she was operating her motor vehicle, she diverted her attention momentarily from driving and struck a motorcycle, causing serious and permanent, life-altering injuries to the operator. I took depositions of witnesses and worked with expert witnesses on accident reconstruction. I tried the case to a jury over three days in March 2009. I gave the opening statement and closing argument, conducted all witness examinations, and presented arguments regarding the jury instructions. The jury returned a verdict of guilty on the lesser-included offense of misdemeanor negligent operation. Ms. Ellis was sentenced in August 2009 to a probationary sentence, with the exception of 30 days to serve. Ms. Ellis died at the correctional facility, two days after reporting to the facility.

Opposing Counsel

James Mongeon (retired)

Kathryn Donovan Smith (current contact information unknown)

9. *State v. Cunningham*, Nos. 222-5-05 Ancr, 223-5-05 Ancr (Vermont Superior Court, Addison Criminal Division) (Katz, J.), *rev'd*, 2008 VT 43, 183 Vt. 401 (2008)

Mr. Cunningham was arraigned on May 19, 2005, on possession of cocaine charges. The charges stemmed from two separate motor vehicle stops that occurred within days of each other. The police stopped the vehicle Mr. Cunningham was driving because a registration check revealed the registered owner of the vehicle had a suspended license. Based on uncorroborated information that Mr. Cunningham had drug involvements, the police officer

extended the motor vehicle stop to conduct a canine sniff. The dog alerted and the police obtained a search warrant for the vehicle. Cocaine was found during the search. Several days later, the vehicle Mr. Cunningham was driving was again stopped by law enforcement because of a faulty brake light. The police officer was also aware of the results of the motor vehicle stop a few days earlier. The vehicle was again subject to a canine sniff and the dog alerted. A search warrant was obtained and cocaine was located. Mr. Cunningham moved to suppress in both cases, arguing that the police officers' actions violated his rights under both the United States and Vermont Constitutions. He argued that the law enforcement officers impermissibly extended the motor vehicle stop absent reasonable and articulable suspicion. The trial court denied the motion. Mr. Cunningham entered conditional guilty pleas, preserving his right to appeal. I filed a notice of appeal. The appellate division of the Office of the Defender General handled the appeal. The Vermont Supreme Court reversed, concluding that the police officers' actions violated the Vermont Constitution by impermissibly expanding the motor vehicle stop, either in time or in scope.

Opposing Counsel

John T. Quinn (retired)

10. *State v. Jestice*, No. 697-10-02 Ancr (Vermont Superior Court, Addison Criminal Division) (Toor, J.), *rev'd*, 2004 VT 65, 177 Vt. 513 (2004)

Mr. Jestice was charged with possession of cocaine. I represented Mr. Jestice from 2002 through 2004. Mr. Jestice was parked at a trailhead parking area in the early morning hours. A law enforcement officer saw Mr. Jestice and a young woman sitting in the car and positioned his police cruiser in front of the vehicle in which Mr. Jestice was a passenger, effectively preventing it from leaving. The police officer approached the vehicle and spoke to Mr. Jestice. This interaction resulted in Mr. Jestice turning over cocaine. Mr. Jestice filed a motion to suppress arguing that he was subject to an unlawful seizure when the officer effectively blocked his vehicle from leaving. The trial court denied the motion, finding that the officer's interaction with Mr. Jestice was not a stop, and even if it was, it was justified as a community caretaking duty. Mr. Jestice entered a conditional plea and filed a notice of appeal. The appellate division of the Office of the Defender General handled the appeal. The Vermont Supreme Court reversed, concluding that the position of the law enforcement officer's cruiser constituted a stop, the stop was not justified, and the facts did not support the stop based on community caretaking. The charge against Mr. Jestice was subsequently dismissed.

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.)

In addition to the above litigated matters, I have been actively involved in hundreds of cases that have resolved prior to trial. The cases have covered a wide range of criminal charges, including homicide, aggravated assault, felony domestic assault, and habitual offender charges. Preparation of these cases has exposed me to many issues arising in criminal court, including competency to stand trial, the insanity defense, and Fourth Amendment, Fifth Amendment, and Sixth Amendment issues.

As the supervising attorney in my office, I am responsible for its daily operations, including supervision of the attorneys, investigator, and administrative staff. I am required to monitor the caseload of the attorneys in the office. I provide oversight and guidance to the younger attorneys in the office, encouraging them both to exercise their independent judgment on cases and to consult with others in the office to discuss and strategize on cases. I am also the liaison between our office and other stakeholders in the criminal justice system. I communicate with other agencies, including court staff, the State's Attorney's Office, law enforcement agencies, and the Department of Corrections to address any issues that may arise. For example, I participated in a virtual meeting with members of the Vermont State House of Representatives' Corrections and Institutions Committee to express concerns about the difficulties attorneys were experiencing when trying to communicate with clients at correctional facilities. I believe that the meeting may have also included a representative from the Department of Corrections. Within the larger statewide office, I have presented at trainings on topics such as discovery, evidence, bail, and trial techniques.

Outside of my office, I have been a member of the Criminal Panel of the Committee on Model Jury Instructions. My work on the committee involves working with other members from the judiciary and the prosecutor's office to review and update model jury instructions for use across the state. As a member, I conduct legal research, review draft instructions, and suggest modifications for the Committee's review. I also participate in meetings throughout the year.

I am also a member of the Advisory Committee on the Rules of Criminal Procedure. This committee reviews and suggests modifications to Vermont's Rules of Criminal Procedure. This involves working with other members to review court rules, suggest revisions, or respond to requests for feedback from the Vermont Supreme Court. I also participate in meetings throughout the year.

I have been a member of the Vermont State Committee of the American College of Trial Lawyers since I was inducted in 2018. I chaired the Committee from 2021 to 2023. As a member of this Committee, we look to identify the outstanding trial lawyers in Vermont who have demonstrated the highest standards of ethical conduct and civility to join the College and fulfill its mission of maintaining and improving the standards of trial practice, professionalism, ethics, and the administration of justice.

I have been appointed by the Chair of the Vermont Professional Responsibility Board to be chair of one of several hearing panels. The panels are tasked with listening to allegations of misconduct brought against attorneys, determining whether misconduct has been established, and, if so, the appropriate sanction. As of this time, my hearing panel has not been tasked with hearing a complaint.

I have also presented at trainings sponsored by the Vermont Bar Association for young lawyers. The full-day trial academies provide lessons on trial techniques to civil and criminal litigators. I have also participated in mock trials for cadets in the Vermont Police Academy, demonstrating and explaining the court and trial process to them. I have volunteered to serve as a judge in the regional round of the National Trial Competition sponsored by the Texas Young Lawyers Association. I also visit classrooms to talk to students about the court process.

I have not performed lobbying activities or 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.

During each spring semester from 2017 through 2023, I taught one or two evidence labs at Vermont Law and Graduate School. The lab portion of the evidence course allowed students to apply the Federal Rules of Evidence to scenarios from an array of civil and criminal cases. The exercises allowed students to use the Federal Rules of Evidence in a courtroom setting. I did not create the syllabus or decide on the topics contained therein. Copy of most recent syllabus supplied.

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

None.

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

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.

If confirmed, I would strictly follow the Code of Conduct for United States Judges and all other applicable rules and ethical canons regarding recusal.

I would recuse myself from cases involving or affecting Vermont Gas Systems, Inc., as my stepson holds a managerial position at the company. I would recuse myself from cases involving or affecting the law firm of Chadwick & Spensley, PLLC, where my stepdaughter-in-law recently became an associate. I would also recuse myself from cases involving any defendant whom I personally represented or who was represented by the Rutland County Public Defender's Office during my tenure. If it was brought to my attention that a litigant appearing before me had been represented by the Rutland County Public Defender's Office, of whom I had no memory, I would ensure that each party to the proceeding was aware of that fact and obtain their position on my continued participation in the proceeding before deciding whether recusal was appropriate. At least initially, I would also conflict out of any case where the Vermont Office of the Defender General was a party.

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

I would evaluate and resolve any potential conflicts of interest by applying the rules and standards in 28 U.S.C. § 455, the Code of Conduct for United States Judges, the Published Advisory Opinions issued by the Committee on Codes of Conduct, and any relevant judicial decisions and opinions that address what constitutes a conflict or the appearance of a conflict. As appropriate, I would also consult with other judges and the Clerk of Court.

25. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar



Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

I have spent much of my professional career serving disadvantaged individuals. As a public defender, I represent individuals charged with criminal offenses who are not able to afford counsel. My work for them has at times extended beyond representation in a criminal case. I have assisted clients in civil hearings which are not part of my appointment in the criminal case, such as relief from abuse order hearings and driver's license suspension hearings. When I was in private practice, and at the request of the court, I represented children in litigious divorces on a pro bono or low bono basis.

**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 December 1, 2023, I submitted an application to the judicial screening committee established by Senator Sanders and Senator Welch. I interviewed with the committee on January 26, 2024. On March 25, 2024, I met with Senator Sanders' chief of staff and learned my name had been forwarded from the committee. I met with Senator Welch on April 5, 2024. I interviewed with Senator Sanders on April 9, 2024. On April 10, 2024, staff from Senator Welch and Senator Sanders' office advised that my name was being recommended as a potential candidate. I met with attorneys from the White House Counsel's Office on April 10, 2024. Since April 10, 2024, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On May 23, 2024, 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.