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JENNIFER CIULLA VAN ORT

August 18, 2026

New York State Commission on Prosecutorial Conduct
39 Broadway, Suite 720
New York, NY 10006

Dear Administrator Friedman, Chair Simons and Commissioners,

The New York State Association of Criminal Defense Lawyers (NYSACDL) is a statewide organization of nearly 2,000 criminal defense attorneys dedicated to the cause of seeking justice for the criminally accused. Our organization has been supportive of yours since before its inception. However, today we write to express our concerns regarding the Commission's lack of progress to address the complaints filed against prosecutors for professional misconduct.

According to the Commission's 2026 Annual Report, by the end of 2025, the Commission received a combined total of 479 complaints in 2024 and 2025. Only one of these resulted in a formal complaint; 18 were authorized for investigation; 146 were dismissed; and one was referred to a different agency. Accordingly, it appears that, as of January 1, 2026, no action had been taken at all by the Commission regarding approximately 315 complaints of prosecutorial misconduct.¹

According to the report, the one formal opinion issued addressed the off-duty conduct of Sandra J. Doorley, then District Attorney of Monroe County. Thus, none of the complaints involved on-the-job prosecutorial misconduct, such as constitutional violations by prosecutors (a total of 121 complaints); tampering with evidence (27), abuse of power or discretion (160), misrepresentations to the court or tampering with evidence (77). None of these far more serious complaints have been addressed by the Commission.

The Commission was created by the legislature in 2021 to address these very kinds of misconduct; yet its only action in nearly five (5) years of existence has been against former DA Doorley, based on a complaint filed by Governor Kathy Hochul.

To date NYSACDL has filed 41 complaints with the Commission. We have received only one response to any of the complaints; a dismissal. We note that all these complaints involved prosecutorial misconduct which NYSACDL believed was egregious enough to warrant filing a complaint with the Commission. Nearly all were based on a published court decision finding that the prosecutor engaged in professional misconduct. Many involved an innocent person spending years, if not decades, in prison as a direct result of the prosecutor's misconduct.² Moreover, many of the prosecutors engaged in the misconduct continue to serve as District Attorneys and Assistant District Attorneys. Others have become

¹ We do not have the numbers for 2026, and thus our concerns are based solely on the 2025 annual report.

² Those include complaints involving Charles Testatgrossa and Brad Leventhal, both out of the Queens District Attorney's Office, for their withholding of *Brady* material in a case where, as a result, innocent men spent decades in prison until the misconduct was discovered.

judges or otherwise hold positions of trust with the government.

In early March 2026, an article was published by *Gothamist*, a non-profit newsroom associated with WNYC, criticizing the Commission for its lack of progress. That article complained of many of the same issues we raise here concerning the Commission's lack of progress. Despite the public concern expressed in that article two months ago, we still have seen no progress with respect to the hundreds of complaints filed with the Commission.

We further understand that the Commission intends to seek clarification regarding its jurisdiction over former prosecutors. NYSACDL recently filed a letter supportive of that position. We and other stakeholders have always viewed the Commission as having statutory jurisdiction to investigate and refer conduct by former prosecutors. We understand you hold the same view. We nevertheless expressed our support for the Commission's efforts to obtain such clarification. Our Board and Legislative Committee stand ready to support you in seeking that clarification prior to the expiration of the current Legislative Session in June 2026. We are hopeful you will act to seek this clarification.

The Commission's plans to seek clarification regarding former prosecutors notwithstanding, the Commission is in no way prevented from investigating the hundreds of complaints that have been filed against both current or former prosecutors. Based on the number of complaints we have filed, as well as those filed by other stakeholders, there are far more than 17 meritorious complaints pending with the Commission for which no action at all has been taken.

The annual report provided no justification for the Commission's failure to address the hundreds of pending complaints. As noted therein, an administrator was appointed in 2024, and the Commission appears to now be fully staffed. Work should have begun in earnest to investigate these complaints and recommend discipline for those which possessed merit.

We urge the Commission to more expeditiously bring these prosecutors to justice, and to ensure that further wrongs are not committed. Many of those prosecutors who were the subject of our complaints were repeat offenders, showing utter disregard for the constitutional rights of defendants. Most continue to have significant power in their positions to commit further misconduct.

The Commission has the power and authority to hold prosecutors accountable for their misconduct. Prior to its creation, such accountability was absent, allowing such egregious misconduct as described in the *Leventhal* and *Testagrossa* complaints we filed. As the New York Times Editorial Board wrote in 2018, "there's no reliable system for holding prosecutors accountable for their misconduct." Public outcry led to the Commission's creation. Based on the WNYC editorial, the public continues to demand action.

We strongly encourage the Commission to take the action for which it was formed. NYSACDL stands at the ready to be supportive of its aims and goals, as we have been since its inception. However, we will not stand by idly while the Commission disregards its mandate to investigate and hold accountable those public officials who engage in unjustifiable and unconstitutional misconduct against our clients. Accordingly, we urge you to act.

Thank you for your consideration. We look forward to your response.

Sincerely,



Kevin M. Stadelmaier
President