A LEGAL FRAME OF MIND

*Raymond J. Lohier, Jr.**

It is a great privilege to deliver the Howard and Iris Kaplan Memorial Lecture and to be here at the Maurice A. Deane School of Law at Hofstra University, especially on the 250th Anniversary of the Declaration of Independence. I want to convey my special thanks to my friend Dean Roberts for inviting me to deliver this lecture. Deans are very important beings in the life and culture of a law school, and Hofstra Law is very lucky indeed to have Dean Roberts as its Dean in these challenging times. And I would also like to say how pleased and proud I am to be here with my former law clerk, Professor Jack Zarin-Rosenfeld. As I am sure you already know, he is brilliant, truly thoughtful, and very kind. I have been lucky to have had an amazing roster of law clerks. My law clerks are so good, in fact, that not even Judge Lohier could be Judge Lohier's law clerk right now. I have been told that I have more than my expected share of law clerks entering the legal academy since my appointment about fifteen years ago. Each year I look for potential law clerks who have an academic frame of mind. As Professor Zarin-Rosenfeld is aware, I sometimes know that my law clerk will join the legal academy well before they know it. But the most important consideration for me in selecting law clerks, beyond a very high level of demonstrated competence, is that they have a legal mind and that they be kind.

In thinking about what I should say for this lecture, I considered addressing some work I have done on reentry courts for ex-offenders who are trying to get their lives back together after long stints in prison. I also thought I might speak about an important study and report on

* Judge of the United States Court of Appeals for the Second Circuit. These remarks were delivered on March 10, 2026, for the Howard and Iris Kaplan Memorial Lecture at the Maurice A. Deane School of Law at Hofstra University. I would like to thank my law clerk, Fred Q. Halbhuber for his help on this article. I would also like to thank Dean Jenny Roberts for extending the invitation to me to present the lecture, as well as the *Hofstra Law Review* for deciding to publish it.

preventable deaths in police custody, jails, and prisons that I co-chaired on behalf of the National Academy of Sciences.[1] Yet another possible topic was the federal judiciary's supervision and funding of the national federal defender services program, with which I became very familiar as Chair of the Judicial Conference Committee on Defender Services.

But instead I settled on an impossibly broad topic: What does it mean to have a "legal mind," and what do we mean by "law" or "doing law," or "the rule of law"? Regardless of your point of view on specific law-related issues, I am willing to bet that the rule of law, as we now roughly understand it,[2] is very much on your minds these days. It is on the minds of many of us. Questions and anxieties about the rule of law and what "law" is and is not may explain the sixteen percent surge in law school applications nationwide this year, from 420,969 applications at the end of February of last year to 488,279 applications as of the end of February of this year.[3] What is it that people expect from their legal education?

Over sixty years ago, one of my predecessors on the Second Circuit and a giant of the federal bench, Henry Friendly, spoke to new law students at another prominent law school in the Midwest and tried to answer this question at least in part.[4] Now, it turns out that Judge Friendly may not have always been so friendly. But he did have some friendly advice and words of wisdom for the students in his audience. These are words that I am happy to share with you all today. He told the students that their "efforts" in law school "[would] be primarily directed not at learning 'law' but at acquiring a 'legal mind'—more accurately, . . . at making [their] minds legal."[5] What does it mean to

1. *See Strengthening the U.S. Medicolegal Death Investigation System: Lessons from Deaths in Custody*, NAT'L ACADS. (Oct. 2025), https://www.nationalacademies.org/read/29232 [https://perma.cc/T8U8-76W6].

2. The term "rule of law" was first popularized in the late nineteenth century to describe the values of regularity, equality, and liberty embodied in the English common law and to provide an important check on the growing power of English administrative government at the turn of the twentieth century. *See* Jeremy Kessler, *The Origins of "the Rule of Law*," 87 LAW & CONTEMP. PROBS., no. 3, 2025, at 1, 30-31; Martin Loughlin, *The Rule of Law: A Slogan in Search of a Concept*, 16 HAGUE J. ON RULE LAW 509, 511-13 (2024). Before then, the term "rule of law" was generally used to refer to the specific rule of law that was at issue in a particular case, rather than more generally to a legitimate form of governance. Kessler, *supra*, at 2.

3. *Five Year US Volume Comparison*, LSAC (Mar. 18, 2026), https://report.lsac.org/View.aspx?Report=FiveYearComparison [https://perma.cc/4VSR-LB3P].

4. Henry J. Friendly, *On Entering the Path of the Law*, *in* BENCHMARKS 22, 22-33 (1967).

5. *Id.* at 25-26.

have or acquire a legal mind? Judge Friendly's answer to that question was, I think, very good.

> "The legal mind," he said, "is an inquiring mind. It does not accept; it asks. Its favorite word is 'why.' . . . It is analytical; it picks a problem apart so that the components can be seen and judged. It is selective; it rejects characteristics that are not significant and focuses on those that are."[6]

Judge Friendly ended by describing the legal mind as "a classifying mind; it finds significant differences between cases that superficially seem similar and significant similarities between cases that at first seem different. It is," in other words, "a discriminating mind."[7]

Judge Friendly's description of the legal mind is very helpful. But I think it ultimately also leaves a little something to be desired. First, I would add that the true legal mind, as a frame of mind, is not only inquiring but also roving and defined by wide-ranging interests. It will probe with equal delight and interest the implementation of the Sixth Amendment right to counsel, the tragedy of preventable deaths in custody, and the deficiencies of the medical examiner system, as well as the rehabilitation of the formerly incarcerated. Second, Judge Friendly's description of the legal mind leaves out a reference to justice, both procedural and substantive. Yet a central feature of the legal mind is its ability to identify injustices, however carefully hidden, and to distinguish just laws from unjust laws both in specific circumstances and generally speaking.[8] The well-trained legal mind, in other words, is or ought to be defined by its ability to separate legality grounded in justice and the rule of law on the one hand from rules founded on little more than social, political, and economic power, efficiency, and utilitarian calculus, on the other hand. It encompasses more than just "thinking like a lawyer" for purposes of legal analysis. It should be more or less *preoccupied* with justice, equality, and human dignity.

Many of you will, I expect, soon be taking the New York Bar Exam. To be admitted to the Bar of New York, you will be required to take an oath of office that in effect promises to "support and improve our laws and government."[9] What do we mean by "our laws," and what does

---

6. *Id.* at 26.
7. *Id.*
8. H.L.A. HART, THE CONCEPT OF LAW 154-57 (1961).
9. OFF. OF SPECIAL COUNS. FOR GRIEVANCE MATTERS, SUP. CT. OF THE STATE OF N.Y. APP. DIV.: SECOND JUD. DEP'T, ORIENTATION TO THE PROFESSION: PROGRAM MATERIALS (2006).

it mean to "improve" them? And how does a legal education help answer these questions, assuming these are even remotely close to the questions that attract people to the legal profession?

I took a number of legal philosophy classes in law school, so I hope you will forgive me if I harken back to a great legal philosopher, H.L.A. Hart. Professor Hart once noted that the very fact that lawyers as a profession regularly grapple with these kinds of questions makes us truly unique. As he put it, "[f]ew questions concerning human society have been asked with such persistence and answered by serious thinkers in so many diverse, strange, and even paradoxical ways as the question 'What is law?'"[10] Chemists do not spend much time asking "What is chemistry?" and doctors do not typically ask "What is medicine?"[11] Chemists and doctors simply go about their business, studying and doing chemistry and medicine, without asking these sorts of self-reflective meta questions.

But our profession rightly obsesses over the answers to basic questions such as "What is law?" and "What is the rule of law?" because the answers carry profound implications for society as a whole. To even begin to answer these questions, allow me to go back in time a bit.

Ancient texts largely conceived of "law" as a body of rules or principles that were divinely inspired and transmitted from an other-worldly source.[12] A close reading of these texts shows that many of the laws that they list or mention were, in fact, entirely practical and specific, and intended to apply to day-to-day activities and to mediate human relationships.[13] To the extent they survive today in some modern form, they do so, in my view, because they are rooted in notions of justice.

Take the Code of King Hammurabi of Babylon, which, at 3,500 years old, is one of the oldest known legal codes in the world. The Code, which is inscribed on a large stone pillar, is a collection of 282 laws, perhaps the most famous of which is law number 196: an eye for an

---

10. HART, *supra* note 8, at 1.

11. *Id.*

12. *See, e.g.*, THE CODE OF HAMMURABI (L.W. King trans., 1915); Joshua J. Mark, *Code of Ur-Nammu*, WORLD HIST. ENCYCLOPEDIA (Apr. 11, 2026), https://www.worldhistory.org/Code_of_Ur-Nammu [https://perma.cc/H4ED-GWHR] (explaining that the ancient Sumerian Code of Ur-Nammu was believed to be "received from the gods" and that a violation of the law was viewed as "rebelling against the divine will").

13. *See, e.g.*, THE CODE OF HAMMURABI, *supra* note 12, § 169 ("If he be guilty of a grave fault, which should rightfully deprive him of the filial relationship, the father shall forgive him the first time; but if he be guilty of a grave fault a second time the father may deprive his son of all filial relation."); Mark, *supra* note 12 ("If a man knocked out a tooth of another man, he shall pay two shekels of silver.").

eye.[14] It covers every field and even provides for a minimum wage.[15] For my purposes, though, the most eye-catching part of the stone is that it depicts Hammurabi as receiving the laws from Shamash, the Babylonian god of justice and equity.[16] It also contains a preamble to the laws, a sort of announcement of executive intent, which explains that the Code's purpose is to "cause justice to appear in the world, to destroy the evil and the wicked so that the strong should not oppress the weak."[17]

Like Hammurabi's Code, later thinkers were animated by a conception of law as fundamentally about dispensing justice. Take, for example, the Oresteia by the Greek playwright Aeschylus, a play about revenge, justice, and the centrality of law in society.[18] The play, first performed in 458 BC or so, is credited with establishing the idea of a jury system roughly as we know it today. You may have heard the story. Orestes kills his mother, Clytemnestra, because she helped her boyfriend murder her husband, Orestes's father, King Agamemnon, after he has returned from victory in the Trojan War.[19] But by taking justice into his own hands and killing his mother in revenge and prolonging a family blood feud, Orestes, and others like him, threaten the social order. The only way to end the endless cycle of lawless revenge is to set up a reliable dispute resolution system in the form of a jury that includes eleven mortals and one Goddess, Athena.[20] Orestes is tried for murder before the jury and Athena, juror number 12, ultimately votes in Orestes's favor—breaking the tie among the jurors and resulting in Orestes's acquittal.[21] In the end, the Oresteia describes law as aspiring to both justice and social order: A fair and orderly system of justice replaces the endless and chaotic cycle of feuds and civil war that threatened to consume and destroy Greek society.

Other more overtly religious texts like the Hindu Rig Veda, the Bible, and the Quran and works that purport to interpret each similarly

---

14. THE CODE OF HAMMURABI, *supra* note 12, § 196 ("If a man put out the eye of another man, his eye shall be put out.").

15. *Id.* §§ 256-61.

16. Stan Rummel, *The Hammurabi Stele*, K.C. HANSON'S COLLECTION OF MESOPOTAMIAN DOCUMENTS, https://kchanson.com/ANCDOCS/meso/hammurabi.html [https://perma.cc/X44Z-C8T5] (Apr. 2, 2007) (containing an image "of the top of the Hammurabi Stele, picturing King Hammurabi coming before the god Shamash").

17. *Id.*

18. AESCHYLUS, THE ORESTEIA OF AESCHYLUS (Lewis Campbell trans., London, Methuen & Co. 1893) (c. 458 BCE).

19. *Id.* at 47-49, 93-95.

20. *Id.* at 121.

21. *Id.* at 128-31.

center justice as a core and indispensable component of law.[22] We see this in, for example, the meditations on law by St. Augustine, a converted Christian from Northern Africa in the fourth century.[23] St. Augustine went so far as to define law in the negative: "An unjust law," he said, "is no law at all."[24] You would not be faulted for thinking that St. Augustine's definition is a completely unhelpful tautology that tells you neither what a "law" is, nor what an "unjust law" is.

Yet over fifteen centuries later, St. Augustine's simple definition of valid laws as simply excluding unjust laws found a powerful ally in Dr. Martin Luther King, Jr.'s *Letter from a Birmingham Jail*.[25] That letter is, in my view, the most powerful letter ever written by an American, and one of the most powerful letters ever written from jail by anyone anywhere. I urge you all to read it or reread it. Dr. King wrote the letter in April 1963, just a few months before delivering the great *I Have a Dream* speech during the March on Washington.[26] He scribbled it in longhand on several small scraps of sandwich paper that were then smuggled out of his jail cell in Birmingham, Alabama, where he was imprisoned because of his participation in nonviolent demonstrations against racial segregation.[27] The bits of writing were then typed up and later refined. In its final version, the letter was Dr. King's response to a public statement of concern and caution issued by eight white religious leaders of the South, arguably well-meaning clergymen who implored him to slow the civil rights movement and the march for racial equality,

---

22. *Proverbs* 21:15 ("When justice is done, it is a joy to the righteous but terror to the evildoers."); *Qur'an* 4:135 ("O you who have believed, be persistently standing firm in justice . . . ."); *see* Jack Utermoehl, *What is the Rig Veda?*, ASIVANA YOGA, https://asivanayoga.com/blogs/yoga-blog/what-is-the-rig-veda? [https://perma.cc/NW8D-592Y] (last visited July 18, 2026).

23. *Life of Saint Augustine*, ST. AUGUSTINE'S COLL., https://www.staugustinescollege.org/Home/Life [https://perma.cc/4XNQ-Q65F] (last visited July 18, 2026); *see* David McIlroy, *Augustine and the Law: What's the Difference Between a Kingdom and a Band of Robbers?*, THEOLOGY LAW, https://theologyoflaw.org/augustine-and-the-law-whats-the-difference-between-a-kingdom-and-a-band-of-robbers [https://perma.cc/GY52-NT2N] (last visited July 18, 2026) (explaining St. Augustine's view that laws lose their moral authority when they permit injustice, forming a "regime of organised violence for those who are enslaved" by them).

24. AUGUSTINE, ON FREE CHOICE OF THE WILL bk. I, § 5, at 8 (Thomas Williams trans., Hackett Publ'g Co. 1993) (c. 400 CE).

25. Martin Luther King, Jr., *Letter from Birmingham Jail*, *in* WHY WE CAN'T WAIT, 77, 84 (1963).

26. *Id.* at 77; *Read Martin Luther King Jr.'s 'I Have a Dream' Speech in Its Entirety*, NPR, https://www.npr.org/2010/01/18/122701268/i-have-a-dream-speech-in-its-entirety [https://perma.cc/WUM9-567Z] (Jan. 16, 2023, 10:32 AM).

27. JONATHAN EIG, KING: A LIFE 293-94 (2023).

even though they acknowledged it as a just movement that had justice on its side.[28]

From jail, Dr. King described his conception of a just law: "One may well ask," he wrote,

> 'How can you advocate breaking some laws and obeying others?' The answer lies in the fact that there are two types of laws: just and unjust. I would be the first to advocate obeying just laws. One has not only a legal but a moral responsibility to obey just laws. Conversely, one has a moral responsibility to disobey unjust laws.[29]

"I would agree with St. Augustine," he said, "that 'an unjust law is no law at all.'"[30] Then Dr. King, a theologian and activist with no known legal training, displayed a decidedly legal frame of mind to distinguish between just and unjust laws. "Any law," he said, "that uplifts human personality is just. Any law that degrades human personality is unjust."[31] And under that very simple definition, he concluded, "[a]ll segregation statutes are unjust because segregation distorts the soul and damages the personality. It gives the segregator a false sense of superiority and the segregated a false sense of inferiority. . . . and ends up relegating persons to the status of things."[32] Whether an unjust law is no law at all, even if it is validly enacted, is a difficult subject that I will mention in a moment, but I will say for now that this country has long valued the notion of open civil disobedience to unjust laws marked by the willingness and expectation that one will face criminal or other penalties.

There are other conceptions of what law is that differ radically from what St. Augustine and Dr. King had in mind in merging law and justice. In the sixteenth century, Niccolò Machiavelli believed that the equal dispensation of civil justice was nothing more than a practical way, if and when necessary, to protect and maintain the state's power.[33] In the seventeenth century, the philosopher and political theorist Thomas Hobbes, who is today probably best known for describing life as "solitary, poor, nasty, brutish, and short," predictably described law in nasty and brutish terms: "Law," he said, "is the word of him, that by right hath command over others."[34] In other words, law is the order of

28. *Id.* at 293-96.
29. King, *supra* note 25, at 84.
30. *Id.*
31. *Id.* at 85.
32. *Id.*
33. *See* NICCOLÒ MACHIAVELLI, THE PRINCE 8-9, 19 (Tim Parks trans., 2014) (1532).
34. THOMAS HOBBES, LEVIATHAN 123 (Oxford Univ. Press 1909) (1651).

the sovereign. If I am rightfully your sovereign, if I command you, if I am the state, then I supply the law. It does not matter if the law is just or unjust, justified or not, and it certainly does not matter what you and others like you think of the law. Your only duty is to accept it.

This depressing concept of law as devoid of any conception of justice and premised entirely on power went out of vogue after the Enlightenment and American revolutionary period, which ushered in an ideological ideal, if not actual return, of the merger of law and justice. For example, the very first line of our American Constitution is "We the People of the United States, in Order to form a more perfect Union, establish Justice . . . ."[35] Tragically, the line of thinking that law has nothing to do with justice has resurfaced at various times since then in the nineteenth and twentieth centuries, and appears to have regained a bit of currency today, so that whether legality is inseparable "from a striving [for] justice and decency,"[36] or whether law is instead simply a manifestation of force or power at all costs by one group over another, is back in some genuine dispute.

A middle road obviously exists between Hobbes on the one hand and St. Augustine and Dr. Martin Luther King, Jr. on the other. That middle way was forged in part by Professor Hart, who wrote in the wake of World War II and the horrors of the Nazi regime.[37] Hart disagreed with the Hobbesian conception of law as devoid of justice or morality and as nothing other than orders backed by threats.[38] But he also rejected the view that unjust laws necessarily could not be valid laws.[39] While Professor Hart distinguished law from morality, he also acknowledged the many connections between law and morality.[40] He recognized, as I do, that laws that are validly enacted as a result of recognized, constitutional, legitimate processes are still "laws" in some sense of that word even when they are unjust or immoral.[41] Unjust or immoral laws,

---

35. U.S. CONST. pmbl.

36. Lon L. Fuller, *Positivism and Fidelity to Law—A Reply to Professor Hart*, 71 HARV. L. REV. 630, 661 (1958).

37. Jeremy Waldron, *Positivism and Legality: Hart's Equivocal Response to Fuller*, 83 N.Y.U. L. REV. 1135, 1135-36 (2008) (highlighting Hart's condemnation of the "odiousness of the ends that the Nazis pursued").

38. HART, *supra* note 8, at 7.

39. *Id.* at 181 (emphasizing that, while it may be true that a legal system must exhibit some conformity with morality or justice, it does not directly follow that the "criteria of legal validity of particular laws used in a legal system must include . . . a reference to morality or justice").

40. *See id.* at 181-207 (exploring the relations between law and morals in the context of the natural law and positivism theories).

41. *Id.* at 181.

in other words, can at the same time be legally *valid*, so that a defendant prosecuted for adhering to and acting based on an unjust, validly enacted law may have a valid legal defense or be entitled to immunity for so acting.

More recently, legal philosophers like Jeremy Waldron have provided an even more nuanced view of the relationship between law and justice, explaining that "law . . . *aspires* to justice; but it represents the aspiration to justice *of a community*," which "is made up not of those who think similarly, but of those who think differently, about matters of common concern."[42] An individual may from time to time regard certain laws as out of step with their personal notions of justice and, in that sense, law's aspiration to justice may fall short. But this, in Waldron's view, is not inherently problematic. The very "point of law is to enable us to act *in the face of disagreement*."[43] Because conceptions of justice and morality are bound to vary widely in a pluralistic society, "[i]t is *normal* for law . . . to make claims that are at odds with the sense of justice of some or many of those who are under its authority."[44]

This age-old debate over the meaning of law and its relationship to justice is not just a theoretical debate confined to the ivory tower. Where we land in that debate—each of us individually, and all of us collectively as a profession—tells us a lot about the scope and nature of our work as lawyers and judges. Some of you may think that the role of judges is simply to determine what the law is by resorting to agreed-upon methods of either interpreting constitutional provisions or positive law in order to identify constitutional or legislative intent, or by reviewing precedent to decide or approximate the answer to common law problems. If that is what you think, you are not in bad company. When Judge Learned Hand exhorted him to "[d]o justice," Justice Oliver Wendell Holmes exploded: "That is not my job. My job is to play the game according to the rules."[45] If you agree with Justice Holmes, then you are likely also to believe that lawyers merely either argue or counsel clients about what the law is and what it is not, what it permits and what it forbids, the risks it raises, and the possibilities and openings it presents.

It probably will not surprise you, given what you have already heard from me, to learn that this is not my understanding of "doing law,"

---

42. JEREMY WALDRON, LAW AND DISAGREEMENT 6 (2001) (first emphasis added).

43. *Id.* at 7.

44. *Id.*

45. Michael Herz, *"Do Justice!": Variations of a Thrice-Told Tale*, 82 VA. L. REV. 111, 111 (1996).

and of what "law" is. That conception, in my view, offers only the cheapest valuation of the legal mind and accepts only the most crabbed and anemic role for judges and lawyers in our democratic society. If you subscribe to that view, if you really believe that that is what judges and lawyers do or ought to confine themselves to doing, then artificial intelligence is going to eat your lunch one day very soon.

But if you believe, as I do, that, in addition to the other characteristics that Judge Friendly identified, a legal mind is marked by the trained ability to understand what justice requires and to pursue justice, then you will agree that such a mind exists to do a lot more than spit out legal conclusions and advice. If you also believe, as I do, that a principal purpose of our federal Constitution is to create an enduring democracy of equal citizens that can and must always be improved to make a more perfect union, then you will also agree with me that the legal mind, compelled by our oath to support the Constitution and laws of the United States, will not be satisfied with simply determining what the law is in particular cases, but will be keen to invest time and effort into improving the state of our laws, our government, and our democracy. At its best, the legal mind sets itself to the highest ideals of our profession. It strives to further the project of democracy, widen access to justice, promote equality, protect human dignity and personality, and improve lives. That, to me, is an essential element of the legal mind.

In preparing for this lecture, I peeked at Hofstra Law School's website. It starts with the following: "The Maurice A. Deane School of Law at Hofstra University prepares passionate students to have an impact in the legal community and beyond."[46] I could not agree more with this goal. Passion and impact are the double helixes of any great law school's DNA. And, in my view, the best way to learn about law and the rule of law is by rigorous, passionate training in the law. I mean by that the type of training that equips students at Hofstra and elsewhere with the invaluable asset of a legal mind as well as a law degree.

Let me give you three very brief examples of how I think a legal mind can help to promote the values of justice, equality, and dignity outside the ordinary parameters of legal work. I mentioned each of these examples elliptically at the start of this lecture.

First, I recently co-chaired a committee commissioned by the National Academy of Sciences to address and write a report about deaths in

46. *Hofstra University—Maurice A. Deane School of Law*, LSAC, https://www.lsac.org/choosing-law-school/find-law-school/jd-programs/hofstra [https://perma.cc/Z52T-4ERG] (last visited July 18, 2026).

custody in the United States—whether in police custody, jails, prisons, or detention centers. This past year the committee that I co-chaired issued its final report, which reviewed the state of the medico-legal death investigation system for coroners and medical examiners nationwide and tried to answer questions like: why are individuals dying in the United States at higher than expected rates, why do we not have sufficiently reliable scientific data regarding medical examiner determinations of the cause or manner of deaths in this country, and what should judges consider to ensure that expert testimony by medical examiners in criminal and civil proceedings is reliable and ultimately admissible?[47]

Second, a few years ago I was lucky enough to chair the Judicial Conference Committee on Defender Services, which oversees the entirety of the federal criminal defender program in this country.[48] The program was created in the wake of *Gideon v. Wainwright*,[49] which established a Sixth Amendment right to counsel in criminal proceedings in the United States.[50] Today, ninety percent of all federal criminal defendants in this country are unable to afford an attorney to represent them.[51] The budget associated with the Defender Services program is roughly seventeen percent of the entire budget of the federal judiciary.[52] The program ensures that defendants get counsel free of charge under the Criminal Justice Act.[53] Very few people realize that most federal defender offices and all Criminal Justice Act attorneys in this country are overseen and paid by the federal judiciary—the same judiciary that then also plays a critical role in deciding the fates of their clients.[54] In addition, a large number of other lawyers devote countless hours not to direct representation of criminal defendants, but to ensuring that the defender program and public defender offices around the country are adequately funded and have the resources to match those of federal prosecutors, that the Criminal Justice Act attorneys are fairly compensated, timely paid, and adequately trained, and that judges do not use their judicial oversight

47. *See Strengthening the U.S. Medicolegal Death Investigation System*, *supra* note 1.

48. *Defender Services*, U.S. CTS., https://www.uscourts.gov/about-federal-courts/defender-services [https://perma.cc/85ZC-TFGZ] (last visited July 18, 2026).

49. 372 U.S. 335 (1963).

50. *Id.* at 344-45.

51. *Funding Crisis Leaves Defense Lawyers Working Without Pay*, U.S. CTS. (July 15, 2025), https://www.uscourts.gov/data-news/judiciary-news/2025/07/15/funding-crisis-leaves-defense-lawyers-working-without-pay [https://perma.cc/37K8-KQKE].

52. ADMIN. OFF. U.S. CTS., THE JUDICIARY FISCAL YEAR 2025 CONGRESSIONAL BUDGET SUMMARY 13 (2024).

53. 18 U.S.C § 3006A; *Defender Services*, *supra* note 48.

54. *Defender Services*, *supra* note 48.

to unduly interfere with defense counsel's ability to represent their clients.[55]

The third and final example that I want to leave you with is the emergence of federal reentry courts around the country, and especially the reentry program with which I am most familiar: the RISE reentry court in the Southern District of New York. The RISE reentry court helps the highest-risk former offenders maintain crime-free lives.[56] By the highest-risk former offenders I mean people who have sometimes served more than a decade or two in prison for very serious crimes. Participants in the RISE program, after they have left prison, can reduce their term of supervised release by attending regularly scheduled group meetings led by a judge and designed to, among other things, identify barriers to and encourage employment.[57] In return, they are offered any number of services to help them succeed, ranging from cognitive behavioral therapy, mentorships, and a financial literacy program, to *pro bono* legal assistance from some of the top firms in New York to help them address child support orders, traffic tickets, license suspensions, or getting proper identification like a driver's license.[58] In a few cases, RISE courts have helped ex-offenders learn how to read. In a few others, *pro bono* counsel was able to draft corporate documents to help a participant start a new business.[59] And when a participant successfully completes the program—roughly about a third to a half do—probation

---

55. *See, e.g.*, *Groundbreaking Report Finds Many Public Defenders Are Dangerously Overworked and Outlines New Standards for Reducing their Caseloads*, ARNOLD VENTURES (Sept. 12, 2023), https://www.arnoldventures.org/newsroom/groundbreaking-report-finds-many-public-defenders-are-dangerously-overworked-and-outlines-new-standards-for-reducing-their-caseloads [https://perma.cc/HZK5-WPHG] (describing a comprehensive attorney-led study that exposes overwhelming public defender caseloads and their effect on providing adequate representation, and recommending new guidelines that would allow these lawyers to devote more time to their clients); John Roemer, *3 Months Without Pay, Federal Indigency Lawyers Pushed to the Brink*, DAILY J.: CAL. L. (Oct. 2, 2025), https://www.dailyjournal.com/articles/387854-3-months-without-pay-federal-indigency-lawyers-pushed-to-the-brink [https://perma.cc/ELH3-W3FD] (noting that in the wake of a funding crisis of Criminal Justice Act panel attorneys, even former prosecutors have offered assistance); *Defender Services*, *supra* note 48.

56. *See The RISE Court: A Re-Entry Court for Individuals on Supervised Release*, U.S. DIST. CT. S.D.N.Y., https://www.nysd.uscourts.gov/programs/rise_court [https://perma.cc/G45N-FULY] (last visited July 18, 2026).

57. *See id.*

58. *New York Court Eases Return into Community After Prison*, U.S. CTS. (July 27, 2021), https://www.uscourts.gov/data-news/judiciary-news/2021/07/27/new-york-court-eases-return-community-after-prison [https://perma.cc/3LBQ-6B99].

59. *See, e.g.*, Sherry N. Glover, *Assisting Individuals with Reentering Society*, FED. BAR COUNCIL Q., Sept.–Nov. 2023, at 12, 13.

officers recommend that their sentencing judge reduce or eliminate the term of supervised release.[60]

These are, my friends, just a few examples of what a trained legal mind can do to improve justice in this enterprise we call "law."

Thank you very much.

60. *The RISE Court: A Re-Entry Court for Individuals on Supervised Release*, *supra* note 56.