



# MACDL

Massachusetts Association of  
Criminal Defense Lawyers

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June 9, 2021

District Attorney Andrea Harrington  
7 North Street  
Pittsfield, MA 01201

Dear District Attorney Harrington:

We are the Board of Directors of the Massachusetts Association of Criminal Defense Lawyers, the largest organization of criminal defense lawyers in the Commonwealth. We write concerning your ex parte letter about the Honorable Jennifer Tyne, and copy this letter to all impacted defense counsel and the judges to whom your letter was addressed.

We are deeply concerned by your effort as the lead prosecutor in Berkshire County to undermine the independent decision-making of a sitting judge by engaging in an ex parte communication with the Court about pending cases brought by your office. Your office has available various vehicles for voicing objections to Judge Tyne's actions, such a motion to recuse, an appeal or, for that matter, a complaint to the Judicial Conduct Committee. Your letter to the Court was instead an indefensible and unethical effort to circumvent fair process, barred by the Rule 3.5 of the Rules of Professional Conduct, which prohibits any lawyer from engaging in ex parte communications during the pendency of a case. The egregious nature of your conduct is underscored by Judge Mason's Order, issued just three weeks prior, prohibiting your ex parte communication in a case before him. Your letter's further failure to advise the Court that your office was unable to produce a necessary witness in a Dangerousness Hearing, which led to the denial of the Commonwealth's motion, is a violation of Rule 3.3(d) insofar as it amounted to a lack of candor with the Court during an ex parte communication.

We ask that you voluntarily report your conduct to the Board of Bar Overseers, and that your office recuse itself from all matters which were the subject of your ex parte communication. We further demand that you make public all communications related to this matter or any other effort on your part or that of your office to initiate ex parte communications about a judge's conduct in a pending matter.

Sincerely,

*Victoria Kelleher*

Victoria Kelleher

President, MACDL, on behalf of the entire Board of Directors

cc: Hon. Paul C. Dawley, Hon. Paul Hart Smyth, Hon. Maureen Walsh, Hon. Jennifer Tyne, Attorneys Jill Sheldon, Adam Narris, Jerald Trehey, Marc Vincelle, Shannon Plumb, Ryan Smith, and Ismail Ahmed