

People's Alliance PAC 2021 Questionnaire for North Carolina Superior Court Judicial Candidates

Please return this completed form along with a resume or biographical statement describing your education, work history, community service, and prior political experience as soon as possible, but by April 15, 2021 at the latest. Please note that following this deadline, the Durham People's Alliance PAC may publish your responses to this questionnaire and your resume.

You may e-mail your responses to Tom Miller at tom-miller1@nc.rr.com or mail them to Tom at 1110 Virginia Avenue, Durham, NC 27705

Thank you for completing this questionnaire and your willingness to serve the people of North Carolina.

Candidate's name: _____ **Shannon Tucker** _____

Judicial office sought: _____ **Superior Court Judge** _____

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When answering this questionnaire, please repeat the questions in your response document with each question numbered and organized as it appears here. Type your responses in italics, bold, or a different font to distinguish your responses from the questions. Please do not use colors. Please respond to questions using your own words and cite outside sources when applicable. You may explain your answer to every question, but please be concise. Please limit your answer to each question to 400 words. Please do not feel obligated to use the full word allowance if it is not necessary.

Judges and judicial candidates in North Carolina are allowed substantial freedom of political speech. PA PAC believes that every question in this questionnaire may be answered fully within the scope of the applicable rules. For more information on the scope of permitted political speech for judicial candidates, we refer you to the January 2, 2020 memorandum of the Judicial Standards Commission on Permitted Political Conduct. You may find it at:

About you:

1. How do you characterize yourself politically? What values, policies, or platforms have influenced your decision to vote for one candidate over another?

I am a registered Democrat, falling somewhere between liberal and moderate. In a political personality quiz I was classified as “Utopian Virtuoso – you are the embodiment of idealism and virtue - highly empathetic, and good-hearted, often seeing it as a life-calling to make a positive difference. You are a promoter of social and environmental justice, heroic in your pursuit of a brighter future. You’re unafraid to express your views, especially when you champion causes you truly believe in, like sustainability, affordable healthcare, and equal treatment under the law” (politicalpersonality.com).

In the 2020 election I voted for President Biden. He promised to beat COVID-19 by relying on science, to improve racial economic equity, to empower and protect women, to provide economic recovery by creating new jobs, to restore American leadership abroad, to secure our values as a nation of immigrants, to support educators and students, to tackle climate emergencies, and to provide every American with affordable healthcare, among other policies that aligned with my own beliefs (joebiden.com).

President Biden is a former assistant public defender, and as President, he has stated that he believes we need to appoint public defenders to the bench. As a presidential candidate, he “vowed to usher in an era of action to reverse systemic racism with long overdue and concrete changes... to achieve his aggressive and essential goal, Biden must abandon the practice of entrusting criminal justice reform to prosecutors and enlist the help of front-line workers for criminal justice: public defenders”, (“Opinion: If Biden wants to reform criminal justice, he needs public defenders on his team”, The Washington Post). On March 30, he nominated Candace Jackson-Akiwumi, Judge Deborah Boardman, and Margaret Strickland, all of whom are former Public Defenders, to the federal bench, (whitehouse.gov).

I voted for Governor Roy Cooper in both the 2016 and the 2020 elections, for similar reasons. I felt that the bathroom bill was wrong morally and ethically and would have far reaching disastrous economic results. Concerts were canceled, filming locations were relocated, and billions of dollars of potential income were lost (“Bathroom bill to cost North Carolina \$3.76 billion”, cnbc.com). Governor Cooper has fought for raises for teachers and state employees, increasing access to quality healthcare, cleaner energy and air, fairness in the criminal justice system, access to education for all children, and has carefully led our state during the COVID-19 pandemic (governor.nc.gov).

2. Have you ever been convicted of a criminal offense (other than a minor traffic or minor drug offense)? If the answer is yes, please describe the circumstances and the outcome.

I have never been convicted of a criminal offense other than a minor traffic offense.

3. Have you personally ever been a party in a civil legal proceeding? If the answer is yes, please explain the circumstances and the outcome of the case.

I have never personally been a party in a civil legal proceeding.

About your practice of law:

4. Please describe your practice as a lawyer. Describe the areas of your practice and your specialties. Describe the diversity of your client base as a part of your answer.

I have served as an Assistant Public Defender in Durham County since 1994. For 26 years my practice has consisted of representing indigent people charged with a criminal offense. I began representing clients at first appearances, involuntary commitment hearings, traffic court, and District Court, but for over two decades my practice has been concentrated in Superior Court. I am assigned Murder cases and high-level felonies in our office – rape, robbery, felonious assaults – as well as low level felonies – breaking and entering, fraud and drug cases. I have a great deal of experience trying cases before a jury and arguing motions before a Superior Court Judge. I have successfully argued cases in the N.C Court of Appeals and the N.C. Supreme Court. I began my legal career in private practice, and handled family law, real estate, civil litigation, and criminal cases. Although my current practice in Durham County specializes in criminal defense, I have served as the foreperson on a jury in Durham County Superior Court and have participated in civil CLEs and training sessions.

Public Defenders have regular experience with dealing with the most serious issues in our justice system that only we see from the point of view of the people it effects the most – the poor, the young, the addicted, and the mentally ill defendants that we serve. We see firsthand the effects of inequities in bail, trial penalty, access to interpreters, excessive fees, fines, and costs and access to justice. Public Defenders are uniquely qualified to speak on the injustices in the criminal justice arena, for “without an assurance of assistance of counsel for the indigent, the law draws a line between the rich and the poor, ensuring a fair trial to those on one side of the line, and denying a fair trial to those on the other”, (“An Essay On The New Public Defender for The 21st Century”, Charles Ogletree, Jr., core.ac.uk).

The clients that I serve are not very diverse – they are overwhelmingly people of color, with the highest percentage being black males. I have however, represented people from various walks of life - college students, middle school students, single mothers, veterans, refugees from impoverished and war-torn countries, clients who are transitioning, state employees, and even former police officers. Anyone can become a criminal defendant, but if you are a poor, black male, the odds are in your favor.

5. Have you ever been publicly or privately disciplined by the North Carolina State Bar or any other professional or occupational licensing authority in North Carolina or any other state? “Disciplined” should be read to include reprimands, censures, and warnings in addition to license suspension, surrender, revocation, and disbarment. Is the State Bar or any governmental authority considering a complaint against you at the present time? Have you ever been found in contempt of court? For each “yes” answer, please tell us what happened and describe the outcome of the matter.

No, I have never been disciplined by the NC State Bar.

I did have a former client whose case was dismissed and did not get to have his probable cause hearing bring a complaint against me, the DA, the District Court Judge, and The Chief Resident Superior Court Judge, but that complaint was deemed frivolous and was dismissed.

On another occasion, a Superior Court Judge ordered all attorneys to remain in his court room until their cases were handled. A deputy came up to Superior Court and told me that the District Court Judge had told him to handcuff me and bring me to him for not being in his courtroom. The deputy refused to do that, but asked me to please follow him. The Superior Court Judge was shocked, allowed me to go, and assured me that he would be getting the Chief Resident Superior

Court Judge to intervene on my behalf. The District Court Judge yelled about how his courtroom took priority over Superior Court, and that I was in contempt. The ADA, spoke up and said that I was the most reliable attorney in the courthouse. A private defense attorney got in between me and the Judge and told him that she would be representing me and that he would no longer be addressing me. These two women, who are now both on the bench, bravely standing up for me caused him to back down and to begrudgingly admit that he might have made a mistake.

Another close call was in the middle of a jury trial. A visiting Superior Court Judge kept referring to me in front of the jury as "Ally McBeal", and commenting on my body and the type of car I drove. During closing arguments, the ADA placed his keys on top of the jury box to explain the concept of constructive possession. I placed an item of evidence in the same spot to make a counter argument, and the judge yelled that I was in contempt of court and ordered the deputy to make me remain, while she decided what to do with me. When she returned, the trial resumed and she decided not to hold me in contempt. After the trial she admitted that my closing argument was an excellent one. She was eventually removed from the bench.

6. Please describe the nature and extent of any pro bono work you have done. Is there a pro bono matter to which you have contributed that best illustrates your values?

I have served Durham County as a member of The Junior League of Durham and Orange Counties since 2002 – a non-profit organization of women committed to promoting voluntarism, developing the potential of women, and improving communities through the effective action and leadership of trained volunteers. As Community VP, I discovered the Durham Performance Learning Center, and their efforts to keep at risk kids in school and on track to graduation. This non-profit resonated deeply with me, due to what I saw every day in the court room, and with my clients who could not see any other future for themselves than a life of crime. We stocked their library with books, donated clothing, and supplied pizza dinners and college scholarships. As league president, I presented the DPLC with a check for \$5,000, donated a box of Kindles to their English department, held a graduation dinner for the students and their families, and awarded a college scholarship to one of the graduates. Their umbrella organization, Communities In Schools of Durham, asked me to serve as their Event Co-Chair in Band Together's Main Event. Through our partnership with CIS Wake and Band Together, we earned over \$60,000 to help us serve the youth of Durham who were at risk of dropping out of school. I was invited to join their Board of Directors, where I served for many years.

Another organization dear to my heart is the Durham Animal Protection Society. All our family pets have been rescue animals. When my daughter was old enough, we began volunteering at the shelter. For the past four years we have walked dogs, fed dogs, and visited with the puppies and dogs in medical, who are not yet allowed to be walked. We contribute financially as well and will return to the shelter once my daughter's fractured hand has fully healed.

In a legal capacity, I have served on the education committee of the NC Association of Public Defenders, a judge in the NCCU Mock Trial Competition, the Durham County Criminal Rules Committee, the Durham Criminal Justice Partnership Advisory Board, an instructor in the Hillside High School Wade Edwards Mock Trial Competition, a Durham Teen Court Judge, the Public Defender Standards Committee, an instructor for the Mount Zion Christian Academy Trial Skills Class, a Judge for the Duke Law School Moot Court Competition, and as a guest speaker at Duke Law School.

Concerning law and policy:

7. North Carolina incarcerates an extraordinary number of people, including persons convicted of non-violent crimes. Those who are incarcerated are disproportionately people of color. What if anything should the legislature and our courts do to address the issues of mass incarceration and racial bias in the administration of justice?

Michelle Alexander wrote in *The New Jim Crow*, "if we become serious about dismantling the system of mass incarceration, we must end The War On Drugs" (p.220). An extraordinary percentage of my clients suffer from drug addiction, mental illness, or both. The number of indigent people of color who are imprisoned for drug related crimes is astounding - possessing drugs for their own personal use, selling drugs to support their habit, or to support their family. I have represented a war veteran who was imprisoned for selling his own prescription medications to be able to feed himself, a teenager who sold drugs to support his disabled mother, and a schizophrenic who took drugs to quiet the voices inside his head. With a felony conviction on their records, they find future educational opportunities and employment options to be even more limited, and are compelled to return to the only job they see as an option to them.

Drug addiction needs to be seen and treated as the disease that it is. "The War On Drugs is largely responsible for the prison boom and the creation of the new undercaste, and there is no path to liberation for communities of color that includes this ongoing war" (ibid, p.220). The Virginia legislature decriminalized marijuana, and will use marijuana tax revenues to fund pre-K education (politico.com). Until our legislature follows suit, Durham County needs to continue to address this crisis in the court system. We should expand the policy of dismissing and expunging charges, encourage law enforcement to focus on crimes of violence, not drug possession, and expand our current drug court and mental health treatment courts, allowing more people access to these courts - these programs will fall short of their goals if prosecutors continue to be so selective regarding which defendants are worthy of participation. Incentivize education and treatment, avoid arrest and conviction, and offer more tools to a pathway outside of the criminal justice system.

To help end racial bias in the justice system, require completion of racial equity training – all actors in the system would all benefit from this type of training. "Law enforcement must adopt a compassionate, humane approach to the problems of the urban poor...a method of engagement that promotes trust, healing and genuine partnership...Racial impact statements that address the racial and ethnic impact of criminal justice legislation must be adopted. Public Defender offices should be funded at the same level as prosecutor's offices to eliminate the unfair advantage afforded the incarceration machine", (ibid, p.221).

8. Should the North Carolina General Assembly abolish the death penalty?

North Carolina should abolish the death penalty, as Virginia has already done. It does not serve as a deterrent. "There is no credible evidence that the death penalty deters crime more effectively than long terms of imprisonment. States that have death penalty laws do not have lower crime rates or murder rates than states without such laws. And states that have abolished capital punishment show no significant changes in either crime or murder rates" (aclu.org). In over 26 years, I have never had a client who considered the death penalty before they committed a crime – murders are usually not well thought out – in my experience, they are committed in the heat of passion, under duress, or while intoxicated or mentally incapacitated. "Death penalty laws falsely convince the public that government has taken effective measures to combat crime and homicide. In reality, such laws do nothing to protect us or our communities" (ibid).

The death penalty is ethically and morally repugnant. Years ago I bought a t-shirt while attending the National Criminal Defense College which reads, "Why do we kill people who kill people to show that killing people is wrong?". "When the government metes out vengeance disguised as justice, it becomes complicit with killers in devaluing human life" (ibid).

The death penalty unfairly targets poor people and people of color. "Poor people are far more likely to be death sentenced than those who can afford the high costs of private investigators, psychiatrists, and expert criminal lawyers....Furthermore, study after study has found serious racial disparities in the charging, sentencing, and imposition of the death penalty", (ibid).

The death penalty is not error proof – prosecutors, jurors, lawyers and judges all make mistakes. It is a final act of punishment that can never be taken back. “Since 1973, 123 people in 25 states have been released from death row because they were not guilty. In addition, seven people have been executed even though they were probably innocent. A study published in the Stanford Law Review documents 350 capital convictions in this century, in which it was later proven that the convict had not committed the crime”, (ibid).

9. What, if anything, should be done to improve access to justice for people with limited financial means or who mistrust the system? How should courts handle requests to waive court costs, fines, failure to appear fees, probation supervision fees and attorney’s fees in criminal court?

The only way to convince people to trust the judicial system, is for them to see others being treated with respect. If you watch your brother being shoved down to the ground with force and beaten during his arrest, you will not trust police officers. If you hear an ADA yelling to a jury that your father is a bad person and deserves to be sent to prison, you will not trust prosecutors. If you see a judge speak condescendingly to your neighbor in the courtroom, you will not trust that you would be treated fairly. Everyone deserves to be, and should be, treated with dignity and respect throughout the justice system, for trust to be restored.

For indigent people to believe they have a fair chance in court, they need to see that they, and those who represent them, have equal access to justice and authority. Until the Simeon v. Hardin lawsuit in 1992, filed by Paul Green on behalf of clients represented by the Durham County Office of the Public Defender, the DA’s office had full calendaring authority. There was an unfair advantage in that all cases for trial were published in a multi-page calendar, with only the DA’s office knowing which cases would actually be called for trial. As a result of this lawsuit, Durham created the Case Management System, and its rules state that the DA’s Office can no longer unilaterally calendar cases, without consent of the defense attorney. This system worked for many years, but lately it seems that many of its rules are not being followed. Both sides in the justice system need to be adequately funded, and have equal access to power in the system, for the system to be viewed as being fair. Putting a Public Defender on the bench in Superior Court in Durham is long overdue.

Another factor that breeds mistrust in the criminal justice system, is when citizens see that those with funds receive better treatment than those without. A prosecutor should not offer better deals to private attorneys, than they do to public defenders. A judge should not treat those with funds more leniently than those without. If the public sees that when you have money, you get a better deal, they lose trust in the system, and I see this all too often.

Any citizen who cannot afford to pay fines, community service fees, lab fees, courts costs, jail fees, or probation supervision fees, should be allowed to have those fees waived. To refuse to do so, sets them up for failure, punishes them for being poor, and criminalizes poverty.

10. What is your position on bail? What, if any, changes need to be made to the current bond schedule?

The Durham County Bond guidelines are established by our Chief Resident Superior Court Judge and our Chief District Court Judge. These guidelines should not create bonds that serve as a punishment, for bond is to assure that the person charged comes to court, not that he is punished pretrial. Constitution of the United States (Amendment VIII) and North Carolina (Article I, Section 27) both state that bail cannot be excessive, but what is pocket change to a wealthy individual, can be excessive to the indigent. Therefore, the amount that a person can afford to pay should be taken into account, as well as the seriousness of the offense charged, the strength of the evidence against them, their criminal record, and their physical and mental condition.

Our current bond policy, written in 2019, suggests a bond of up to \$500 for a Class 1 Misdemeanor. What happens to a homeless person who steals a loaf of bread to eat? He sits in jail and serves an active sentence before his case can be tried. A single mother working at Target who takes a bottle of aspirin for her feverish child can be held for lack of \$5,000 to pay her bond. While in jail she loses her job, and her sick child is sent into foster care.

North Carolina Task Force For Racial Equity In Criminal Justice Report 2020 recommends eliminating cash bail for Class I, II, and III misdemeanors, and that in felony cases we “strictly adhere to the statutory preference for non-financial conditions of bail,” and “implement a structured decision-making tool to assist with adherence to statutory and constitutional requirements. Such tools should include assessments of the risks and needs of the defendant. Bond tables should not be used to set pretrial conditions,” (p.90).

I agree with this recommendation, for any amount of bond can be fair only if the defendant receives a speedy trial, which does not often happen. And trials have become even more backlogged due to the pandemic. This mainly hurts people who cannot afford their bond. Far too often I see this scenario: my client’s co-defendant who has the funds to hire a private attorney is released on a \$250,000 bond, but my indigent client represented by a public defender is given a bond of \$2 million, which the ADA refuses to reduce. So the defendant stays in jail. As the evidence against them is equal, the bail system is patently unfair.

11. What can be done to improve language access for parties, victims, and witnesses during court proceedings?

Everyone has a basic right to be able to understand their charges and to understand what is said and done in the courtroom during any proceedings in which they play a part – defendant, victim, or witness. Everyone that needs one should have access to an interpreter. Durham, and the triangle area, are home to many universities. Each has a foreign language department and many international students. We could easily access someone who can communicate in any language that we need. There is no excuse why we cannot provide this basic service.

Durham’s courthouse has a dedicated courtroom Spanish interpreter who also supervises court interpreter access. But she often has trouble finding what is needed. Some adjustment to the system is clearly necessary. The 2019 census shows that Durham has a 13.7% Hispanic population (census.gov). We need more than one interpreter.

We often have simultaneous need for an interpreter at the jail for first appearances, as well as in traffic court, domestic violence court, District Court, and Superior Court. When a trial requires an interpreter for a defendant as well as a witness we have to have more than one at the same time. When interpreters are not available we encounter backlogs and delays, and the foreign-language speakers in the courtroom feel frighteningly alone. and scared, and worried that they won’t get justice here – or even be able to ask for justice.

The Durham County Court system needs to have more interpreters on staff and on call. A practical source is the treasure trove among our local universities, such as their foreign students.

12. Do courts have the authority to shorten prison sentences and release prisoners in the interests of justice and in response to emergencies like the current pandemic?

Since October 1, 1994, North Carolina has been under Structured Sentencing, which replaced the prior Fair Sentencing Act, which gave far greater sentencing discretion to Superior Court Judges. Judges must abide by the sentencing chart, in a defendant’s particular sentencing grid,

based on their prior criminal record level and the crime charged, but do have some discretion, such as finding factors in mitigation, and reducing the sentence, or finding factors in aggravation, and increasing the sentence. In drug trafficking cases, they can find “substantial assistance” and remove a sentence from the trafficking mandatory minimums. A Judge can also find “extraordinary mitigation” if they find that an active sentence would be a miscarriage of justice, and deviate from the sentencing grid. They can order that multiple sentences run concurrently, at the same time, to minimize a sentence, or consecutively – back to back – to maximize a sentence. Judges can issue a PJC – a prayer for judgment continued.

Judges can also reduce sentences in response to emergencies such as COVID-19. “As a matter of both state and constitutional law, the exposure of inmates to a serious, communicable disease is a violation of rights that requires an adequate remedy”, Helling v. McKinney, 509 U.S. 25, 33 (1993). In North Carolina, our habeas statute allows for application of a writ to “any one of the Superior Court Judges”, regardless of the county of conviction or incarceration, (“Securing the Release of People in Custody in North Carolina During the COVID-19 Pandemic”, Ian A. Moore, UNC School of Government, p.5). Judges can also grant an MAR, a Motion for Appropriate Relief, to shorten a sentence, if both the state and the defense consent, (ibid, p.8). “As of June 1, at least sixteen people in North Carolina are known to have had orders issued for their release in response to MARs...based on concerns about their personal safety in the face of the pandemic”, (ibid). The MARs filed in Durham were granted by Durham County Chief Resident Superior Court Judge Orlando Hudson, and were brought by Prisoner Legal Services attorneys.

13. What does racial equity mean to you and how will racial equity inform your work as a superior court judge? Have you any special training in issues related to racial disparities and equities?

Racial equity is when an individual has an equal chance of obtaining a desired result, without regard to their race. It could be applied to applying for a job, purchasing a home, or appearing in court. To achieve racial equity, I believe we have to first address systemic racism and implicit bias.

I first participated in diversity and inclusion trainings around 2010-2011. The following year I began a program to educate and train others and saw firsthand how difficult it is for many to be honest with their own implicit biases. Defense mechanisms and denial kick in, which makes it difficult to hear, to learn, and to grow. Most recently, I participated in North Carolina Racial Equity Network’s Annual Convening in December.

I believe that every actor in the court system – police officers, probation officers, district attorneys, public defenders, private attorneys, and judges – should invest in racial equity training. My mind has been opened to many things I had not imagined. When you hear with your own ears Governor Reagan’s racist remarks, in his phone call with President Nixon, or hear a longtime Republican campaign manager brag about how he created the use of the term “tax cuts” to code racist remarks, such as he used “busing” in prior years, or you learn about the Wilmington massacre of 1898, you begin to see how long an entire section of our society has been held down and held back. Once you see that our institutions have historically been seeped in racism, it compels you to view things differently. Just as you cannot unring a bell, you cannot unsee what has been exposed to you.

As a Superior Court Judge in Durham County, I would continue my personal racial equity training and implicit bias training, encourage others to do so as well, and would seek to become a judicial ally supporting and helping to create systemic equity. Travelling throughout the 1st Superior Court Division, which would mainly take me to counties to the east of Durham, would allow me to bring justice and racial equity to other counties as well.

14. What are your thoughts on Durham's current diversion programs? If you believe these programs should be changed in any way please describe how and why.

I fully support Durham's diversion programs and would like to see them expanded. The ramifications of a criminal record are far reaching, especially for the poor: they lead to the loss of housing, public assistance, financial aid for college, and employment – as anyone who has ever had to check the box "have you ever had a criminal conviction?" can tell you. These personal losses also create a huge burden on society, as someone who cannot find employment and cannot support themselves and their family must either live on public assistance, or resort to crime.

We currently have a misdemeanor diversion program that helps first misdemeanor or traffic offenders avoid a criminal record. We also have a post-arrest diversion program, that helps those with low-level felony charges, a Drug Treatment Court that aids drug addicts and helps to keep them out of prison, and a Mental Health Court Diversion Program. Yet, while we have an abundance of diversion programs, it is actually rare that clients with serious felony charges are accepted, because the DA has to agree and rarely does. So there are often no options for someone with a higher-level felony charge to avoid ruining the rest of their lives because of their one stupid mistake. And, unfortunately, many of them are quite young.

A large percentage of our clients suffer from drug addiction or mental illnesses or both, which leads them to commit crimes they would otherwise not commit. They end up in jail, cannot afford bond, and would benefit greatly from Drug Court or Mental Health Court. I currently have a young client; every officer involved with his case agrees he has serious mental illnesses, and had a terribly traumatic childhood, but the charge is armed robbery, so the prosecutor refuses Mental Health Treatment Court. This happens far too often. It is preventable and judges should try to prevent it.

The highest-level felony I have had success with was a first-degree burglary case - my client fully appreciated being given a second chance, and successfully completed his diversion program. I currently have a murder case that has been accepted into Restorative Justice Durham, and hope that it will pave the way for more serious felony cases to follow. For an inaccessible diversion program cannot be called a success. The North Carolina Task Force for Racial Equity in Criminal Justice report recommends that we establish and fund Restorative Justice programs throughout the state and make them available at critical points in the criminal justice system. This is a hopeful sign; it gives me hope and judges can support it.

15. How should we treat youthful offenders transferred to Superior Court?

We should treat youthful offenders very carefully. A young brain is not fully developed, especially the prefrontal cortex, which hinders the ability to make good decisions. Hormonal changes also encourage impulsive actions, without weighing the consequences. The teenage years are a time of experimentation, bonding with peers, and rebelling from parental authority figures. We should not hold them to the same set of legal standards as adults. The young are susceptible to suggestion and easily manipulated to commit acts they would never have imagined on their own. I have seen teenage clients frequently take the blame, the charge, and the prison time, to protect someone they wrongfully believe is a friend. I have spent hours with a client's mother who is working two jobs to support her children and blames herself for not being there to keep her child from going astray. If we believe that the children are our future, why are we tossing our future into prison cells and throwing away the key?

To stop the school-to-prison pipeline, we should try to avoid prosecuting youthful offenders in Superior Court and take special precautions with the ones who do get bound over. When the young are held in the jail with older detainees, they're victimized or recruited into committing much more serious offenses. Instead, they should be released to their homes whenever feasible. They should also be considered as candidates for any and all diversion programs they might qualify for. I agree with TREC's recommendation that we raise the minimum age of Juvenile Court jurisdiction from 6 to 12, and that prosecutors be allowed to keep 16 and 17-year-olds charged with Class A through Class G felonies in Juvenile Court.

16. When both the defense and prosecution agree upon a bond request or agree on a lawful plea, what should the court do? What weight should the agreement be given?

The Court should go along with any bond reductions or lawful plea arrangements that both the defense and the prosecution have agreed on. The Court is a neutral party and should assume that the prosecutor and the defense attorney know their cases and their clients better than she ever will. If these two parties on opposite ends of the legal spectrum can agree on a solution that is mutually agreeable, it should be enforced.

However, in instances where the two sides cannot agree, and a trial results, there should not be a penalty for going to trial for the defendant. "The trial penalty refers to the substantial difference between the sentence offered in a plea prior to trial versus the sentence a defendant receives after trial. This penalty is now so severe and pervasive that it has virtually eliminated the constitutional right to a trial. To avoid the penalty, accused persons must surrender many other fundamental rights which are essential to a fair justice system", ("The Trial Penalty: The Sixth Amendment Right to Trial on the Verge of Extinction and How to Save It", nacdl.org).

The National Association of Criminal Defense Lawyers analyzed data over a two-year period and found that in the Federal system fewer than 3% of cases went to trial (ibid). The trial penalty exists far too often in Durham as well, as I have seen firsthand. One client who rejected a life sentence in a murder case was informed by the DA that he would now be tried capitally. Another client rejected a plea offer of five years and elected to go to trial; in trial, the DA who had offered him five years asked the judge to give him 92. This penalty is intended to be a lesson to others to accept plea bargains – a lesson at the expense of defendants who exercise their right to trial.

This tactic is a form of extortion that takes advantage of poor defendants who cannot afford to hire trial consultants and a stable of experts, and causes many defendants, especially the youngest, poorest, and most vulnerable ones, to take a plea instead of exercising their constitutional right to be tried by a jury, for fear of being penalized for making the DA do her job. This type of injustice is something that only a public defender would regularly experience dealing with, from the point of view of the people it effects, which is one of the many reasons President Biden believes that we public defenders belong on the bench.

Again, Thank you. **Please do not forget to provide us with your resume or biographical statement.**