

Statement by the Federal Defenders of New York on the Killing of George Floyd and in Support of the Black Lives Matter Movement

The killing of George Floyd by a Minneapolis police officer is the most recent tragedy in the long history of people of color who have died at the hands of police. These killings all have something in common: they result from an ingrained and enduring history of white supremacy in America. Federal Defenders of New York condemns that history and its present ugly repercussions: racist practices and systems that we regularly see in our work in the federal courts. We stand in solidarity with the Black Lives Matter Movement and pledge to do all we can to continue fighting for our clients and for justice.

At Federal Defenders of New York, we are often struck by the view of some outsiders that federal courts are somehow fairer and less racist and classist than state courts: above it all, a place for bankers, friends of presidents, and the rich and famous. The truth is far from it. At any given time in the Southern and Eastern Districts of New York, 80 to 90% of people charged with federal crimes are too poor to hire a lawyer. They are also overwhelmingly people of color—roughly three-quarters—the vast majority Black and Latinx. These numbers have held steady for decades, whether Democrats or Republicans are in the White House or leading the U.S. Attorneys' Offices. Federal prosecutors have enormous discretion in deciding whom to charge, and they consistently use that discretion to charge poor people of color in highly disparate numbers. Those actions over many years show that the legacy of white supremacy does not bend to political affiliation or rational thought about keeping communities safe. It is long overdue for prosecutors to recognize this continued injustice and join in the fight for meaningful change.

We see the same legacy of white supremacy inside the courtroom. In ways subtle and overt, we see our black and brown clients treated poorly. From the very beginning of their cases at bail proceedings, prosecutors ignore the challenges our client's face, and judges all too cavalierly deny them release on bail. Instead, prosecutors and judges send our clients to the horrifying confines of our local federal jails. These federal detention centers, both in Manhattan and Brooklyn, are brutal, overcrowded, and filthy institutions without adequate medical or mental health care. They are also among the least safe places from COVID-19, which has spread in the Bureau of Prisons facilities at six times the rate of the general population and has claimed the lives of 78 people in federal custody nationwide since the outbreak began. And yet, new clients are still being sent to these places each day, over our strong protests.

Our country's racist legacy resurfaces again and again as our clients' cases progress through the federal system. When they challenge obvious police misconduct, far too many prosecutors and judges simply do not believe them. Even on those rare occasions when judges find that police have lied, the officers themselves face no consequences. Perhaps most disturbing, far too many prosecutors seek, and far too many judges routinely impose, horrifyingly long sentences. These disproportionate sentences cheapen the value of our clients' lives. As a result, at every step in our client's cases, all too often there is a lack of empathy for people who have suffered lives continuously traumatized by over-policing, bad health care, insufficient public housing, and underfunded education—all a part of this country's continued legacy of racial oppression and discriminatory policies.

We also acknowledge our own failings. The legal profession and our office at Federal Defenders of New York have long failed to reflect the diversity of the communities we are meant to serve. We are working to grow and learn as we fight for our clients each day and for policy changes that are long overdue. That said, in order for there to be any meaningful change, we must all unite around an unalienable truth:

Black and Brown Lives Matter.