

# DEFENSE MODE

TRAINING PUBLIC DEFENDERS TO DO AN OPTIMUM JOB OF REPRESENTING THE POOR AND UNDERSERVED IS THE MISSION BEHIND A GROUNDBREAKING CRIMINAL JUSTICE REFORM PROGRAM **BY KATTI GRAY | PHOTOGRAPHY BY JAMIE HOPPER**

**W**hen two Atlanta police officers accused Quavius Glover, 22, of trying to mow them down in a vehicle in June 2013, public defender Zanele Ngubeni knew she had her work cut out for her. “Unfortunately, the face of the criminal justice system has become the face of the young Black male,” says Ngubeni, 32. “But we have to be careful not to look at young Black males and stereotype all of them. My client wears locs; he’s got several colors of dye in his hair. He likes jewelry. But when you listen to him, you realize he’s a young man worth listening to.”

Ngubeni and Glover were able to find Instagram and other social media photos of another person fitting police descriptions of the car’s driver—someone who was in the vicinity during the crime and who looked a lot like Glover. Additionally, Glover used a transit card to ride the subway near the time of the alleged attack; computerized records helped his defense.

Ngubeni is one of thousands of public defenders—government-funded lawyers assigned to a case when a defendant can’t afford to hire a private attorney. Following the U.S. Supreme Court’s landmark 1963 ruling in favor of Clarence Gideon—a poor White man from Florida who, while on trial for burglary, claimed that he had a constitutional right to legal counsel that was financed by the government—public defense offices sprang up throughout the country. The offices have long tended to be short-staffed, underfunded and overloaded with criminal cases. And in some instances, say critics, public defenders themselves have been blatantly disdainful of the impoverished clients they’re paid to represent.

But Ngubeni isn’t just any public defender—she’s a Gideonite, trained by criminal justice reform organization

Gideon’s Promise, which counsels public defenders on how to represent their clients adequately and fairly in courtrooms, where prosecutors tend to dominate. “Gideon’s Promise affirms me,” Ngubeni says. “It means the world to me.”

## THE MISSION

Gideon’s Promise, launched in 2007, is the brainchild of Jonathan Rapping, a winner of the coveted MacArthur Foundation Fellow Program’s “Genius Grant,” who honed his own public defender skills while working on behalf of poor defendants in Washington, D.C. The program seeks to cultivate a nationwide network of public defenders who are as compassionate as they are justice-minded; who have the legal tools necessary for granting clients a top-notch defense; and who can increase the likelihood that poor people get the same courtroom and jailhouse treatment as the criminally accused who are more well off.

“It’s not that no one should ever be punished,” says Rapping, 48. “But we should see some humanity in this process.... As soon as we make exceptions about who should be humanized and who shouldn’t, the poor and communities of color end up bearing the brunt.... Let’s be fair.”

The organization is also working to dispel notions that public defenders are inferior. The fact that these attorneys tend to earn considerably less than private lawyers has fueled some views that a public defender is the least desirable option. “There’s a perception that only a paid [private] lawyer is a real lawyer. So public defenders get a bad rap because they are not [thought of as actually being] paid,” says Ilham Askia, the organization’s executive director and Rapping’s wife.

In 2012, Askia, 38, left her schoolteacher gig to join Gideon’s Promise, where she oversees fund-raising, staff development, conferences and training sessions for >

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Ilham Askia and Jonathan Rapping of Gideon’s Promise





Sheila Joshua with her public defender, Ben Githieya

Gideon's lawyers, and more. She was driven to join by two things: the Black students she'd taught, who hailed from neighborhoods disproportionately beset by crime and the kind of policing that put people in those communities at risk for incarceration; and her personal experience.

When Askia was 5—years after her father had given up a life of crime to become a devout Muslim and business owner—police in her hometown of Buffalo arrested her dad on an old armed robbery warrant, which, in turn, led to his conviction and ten-year prison sentence. Her father's public defender, as best as Askia's family could determine, did little to show that her dad was a changed man. That her father did an about-face is the type of biographical detail that might result in a person doing court-ordered community service instead of prison time. This is why, Askia says, the work of Gideon's Promise is so crucial.

### BREAKING THE CHAIN

At a January 2015 semiannual conference, Askia and Rapping worked with 60 young lawyers—the latest and the largest single crop of attorneys in the group's history—as well as 160 other public defenders from the Gideon community. The class of 60 will attend conferences and training

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—JONATHAN RAPPING

sessions over a three-year period, culminating in their certification as full-fledged Gideonites.

During training, seasoned lawyers, social workers and crime investigators from public defender offices, and, sometimes, former defendants, instruct trainees on a variety of topics: how to challenge forensics of drug cases and defendant confessions; how to use technology to build a defense

strategy; how not to be undone by the stresses of the job. They brainstorm over cases the young attorneys are currently handling in far-flung locales: Phoenix; Jackson, Mississippi; Pittsburgh; El Paso, Texas; and elsewhere. Training sessions become bonding rituals where the attorneys vent and also herald particularly salient victories.

“I have tried five felony cases since March [2014]. And I have won four of the five,” Alisha Marie Scott, 30, an assistant public defender in Fayette County, Georgia,

says during a discussion. The conference room erupts in whoops and hollers.

And there was this retelling by Elliott Brown, a 31-year-old Lafayette, Louisiana-based public defender: One of his clients was a woman whose boyfriend held a gun to her head and forced her to help him commit a robbery. She was facing five criminal charges, which, collectively, carried a 396-year prison sentence. Brown was

able to work out a plea agreement, however, and his client will be on probation for five years. “Mr. Elliott, I want to thank you,” Brown says, echoing what she told him. “My 5-year-old son's about to get off the bus and I'm about to hug him for the first time in 20 months.” The room erupted again.

Another case that shows just what public defenders are

up against is that of a Decatur, Georgia, woman named Sheila Joshua. One evening in October 2013, a male companion of Joshua's entered her home in a drunken fit. “He wanted to fight me. I wanted to leave the house,” Joshua tells ESSENCE. An altercation ensued, and the man called the police. Once officers arrived, they concluded that Joshua had cut him with a pair of scissors they retrieved from the bathroom where the scuffle had occurred. “It was not a weapon,” Joshua says. “And I still stand on that fact.” The officers arrested Joshua nevertheless.

A prosecutor from the local district attorney's office gave Joshua two choices: Be tried for aggravated assault and, if convicted, face one to 20 years in prison. Or she could plead guilty, accept a plea bargain and be sentenced to five years probation. Probation would have required Joshua, an unemployed food service worker, to pay almost \$60 per week to attend violence prevention classes for six months, among other things. If she violated any of the terms, she'd end up in prison.

Joshua, afraid that she wouldn't meet those conditions, was leaning toward going to trial. “She was torn about what to do, and just afraid,” says Ben Githieya, 37, Joshua's public defender and a Gideonite. “It was my job to try to help her think clearly, to think beyond that moment, at a time when the prosecutor was not letting up.”

Githieya knew that there was no firm proof that Joshua had cut the man

with the pair of scissors. Armed with nothing more than flimsy evidence against Joshua—who heeded Githieya's advice not to plea bargain—the prosecutor relented and dropped the charges more than a year after Joshua's arrest.

**“If our model is successful here, then we can fix broken systems.”**

—ILHAM ASKIA

Standing your ground against a bullying prosecutor is key for public defenders who aim to ensure their clients' fair treatment in court. It's a skill hundreds of public defenders have honed, in part, through Gideon's Promise.

### FULFILLING THE PROMISE

Next on the agenda for Gideon's Promise: adding to the current roster of 32 county-level public defender offices and 19 law schools that follow the organization's model. Rapping, Askia, their staffers and affiliated professionals will be training the public defender agency in Maryland, the first state system to partner with the organization by adopting its mission and model.

Meanwhile, the Deep South remains a focal point for the group. “We could easily have opened a Gideon's Promise on the West Coast. But the South? This is the mecca,” Askia says. “There is still such a concentration of violated civil rights and problems with the

criminal justice system. If our model is successful here, then we can fix broken systems

in Washington State, in Maryland, in South Dakota...everywhere.” □

**Katti Gray** is a journalist specializing in education, health and criminal justice news.



Quavius Glover (seated) with attorney Zanele Ngubeni