

Final Report, August 2019

Jenny Jiao

New York Attorney General Internship

My internship at the New York Office of the Attorney General in the Civil Rights Bureau has been one of the most insightful and instructive experiences of my young career, and I cannot thank the Jessica Jennifer Cohen Foundation enough for supporting me through this summer. In my interim report, I detailed the broad aspects of this internship that have deepened my understanding of civil rights law and sharpened my skills in the pursuit of a more just system. In this final report, I wanted to go into further detail about four of the projects I have worked on to give you a better understanding of just how impactful my summer has been and how much I have learned.



Criminal Justice Cases

Coming into the summer, I had a particular interest in criminal justice issues. I developed my passion for criminal justice reform through my econometric research where I analyzed the alarming ways in which racism infiltrates our criminal justice system, and my volunteer work as a guardian ad litem where I too often saw the school-to-prison pipeline play out in real life. I was hopeful I would be able to work on such issues at the Attorney General's Office, but because of the wide range of civil rights issues they work on, I was not certain I would be able to. The experience I was able to have truly exceeded my expectations.

I worked on two criminal justice cases, one concerning a police department and one concerning a local jail. In both cases, the case investigations began in response to media reports of civil rights abuses—and at times, deaths—and widespread community outrage. It was enraging to see repeated media reports of the same types of abuses happening over and over again, but it was reassuring to see how quickly the attorneys at the office responded. When a news outlet reported that there was yet another death in a New York jail, the attorneys told me that they were hoping to expedite the investigation. In moments like that, I truly felt inspired knowing that these attorneys were so responsive to community needs and so passionate about their work.

I wrote fact research memos for both cases, which outlined the patterns of civil rights violations that had been publicly reported, as well as complaints our office had received. At first, it was quite intimidating to write these memos because they require a lot of discretion and analysis on my part, to find all the information that I could and distill it into the patterns I thought were most important to highlight. In the case concerning the

local jail, I spent much of my time reading medical review board reports, which explain every moment of an inmate's time in jail with painstaking detail, taking you through every wrong choice or mistake that the jail staff made in the care of that inmate. At times, it was extremely emotionally difficult to try and summarize such traumatic and horrific experiences of the victims, and I constantly tried to do justice to each inmate in my writing and accurately portray what they had gone through. However, even in difficult times, I was extremely grateful that I had the opportunity to contribute to the case investigation in such a substantive way.

Following the fact research memo for the case investigation regarding the police department, I also had the opportunity to collaborate on a legal memo on the possible claims our office could bring against the department. I conducted legal research on municipal liability for violations of the 4th Amendment under § 1983. Essentially, in just a few weeks, I learned the basics of how to bring a suit under § 1983 of the U.S. Code, which is a commonly-used mechanism for civil rights cases. Further, it was particularly instructive to learn the legal standards behind municipal liability, because whether or not one can prove municipal liability can be the difference between saying the civil rights violation is due to a systemic problem in this department or saying the violation is due to a few bad actors. Being able to prove municipal liability oftentimes also means that the plaintiff (in this case, the Attorney General) can ask for injunctive relief, actual substantive policy or procedure changes that will make an impact on not only the victims themselves, but on all individuals who will have to interact with that police department or that local jail in the future as well.

Alongside a law student, we jointly recommended areas for further research, potential groups to collaborate with in those local jurisdictions, and how to proceed with the legal claims. Currently, the office is continuing the investigations and it is my hope that within a few weeks of this report, the case investigations will become public.

Sexual Harassment Case

I also had the opportunity to work on a case investigation concerning a company that created a hostile work environment where women were harassed and retaliated against. This case was very different from the criminal justice cases in that we were in later stages of the case. For the most part, my job was to summarize witness interviews and documentation about their policies to understand whether there was a strong pattern of a hostile work environment and whether they had made substantive changes in order to ameliorate that.

I learned a few things in the process of this case. First, I learned how important listening is. In one witness interview I sat in and took notes on, I saw that the attorneys gave the victim the space to just talk and explain what had happened to her. Toward the end of the interview, the victim said she was grateful to be heard and to know that people are investigating the situation. In that moment, I realized that though it is absolutely important to act and correct injustice, even doing the first step, listening and validating victims, is incredibly important and impactful.

Secondly, I saw firsthand how important it is to have diversity in the legal field. Both of the attorneys I worked with were women, and there was an ease with which we were able to talk about the details of the investigation mostly because all three of us

understood the environment that victims were describing. At times, the attorneys would ask me what insights I gathered from either interviews or my research, and I felt very comfortable speaking with them about the different types of sexual harassment that I saw and how I personally felt about the situation. In large part, my comfort came from knowing that they would listen to me and they would respect my opinions, especially when we talked about situations that many women have been in, such as a boss making an inappropriate joke. It is hard to imagine I would have felt the same level of comfort with two male attorneys, even if those male attorneys similarly were strongly supportive of the #MeToo movement. It goes to show how important it is that lawyers have a diversity of background and experiences, so that they understand these legal issues deeply and can bring comfort to their clients, and even their interns. I hope that I can bring that comfort to my clients and my interns in the future.

Housing Discrimination

Another project I worked on concerned housing discrimination based on someone's criminal history. As many know, the criminal justice system is heavily biased against people of color and thus a disproportionate number of people of color have some type of criminal record. However, that shouldn't be the barrier to someone having access to a basic necessity, housing. There is already a severe shortage of housing in New York, and particularly in New York City. Gentrification is an ongoing threat to African-American communities in the city. In this project, I was able to help investigate which companies were unfairly discriminating against New Yorkers who had arrest or criminal records. In the following weeks, the office is hopeful that they can launch formal

cases against those companies and demonstrate that New York will not tolerate such discrimination. Again, as with the other cases I was able to work on, I was grateful to contribute what I could and inspired to know that the office was pursuing this form of housing discrimination. I am looking forward to seeing how all of these cases develop.

Algorithmic Discrimination

One of my specific research interests in the past few years has been the civil rights implications of the rise of algorithms in the public sphere. As I mentioned briefly in my interim report, I have been conducting econometric research on the impact of algorithms such as predictive policing on criminal justice outcomes, and I plan to continue that research moving forward. For example, a paper I wrote in the spring was focused on a person-based predictive policing program in Chicago; the algorithm gives residents a score for how likely they are to be involved in violence, and if you have a high score, police officers are notified to “watch” you. The algorithm is based on examining variables such as your criminal history, zip code, age, etc. However, some of the variables are biased against people of color because of this country’s history of discrimination; for example, because of housing segregation zip code is a very good “proxy” for race, meaning that it is very easy to identify someone’s race by where they live, especially in Chicago. Feeding that biased data into the algorithm then produces biased results, such as labeling more black people as “violent” than white people. My research focuses on quantifying those implications. I also mentioned in my interim report how my work at the AG’s office has helped inform my research. Now, I want to also share how my research has influenced my work at the AG’s office.

Part of the internship program is that all interns pair up and give a short presentation at staff meetings about an important issue, giving the interns a chance to hone their presentation skills and attorneys a chance to preview the implications of a Supreme Court case or legislation. As the only undergraduate, I was first told that I would not be giving a presentation, since the content is often very technical in terms of legal issues. However, after I expressed interest in algorithmic discrimination, my supervisor allowed me the opportunity to partner with one of the law students to present about how algorithmic discrimination implicates civil rights and how we must be creative with our legal tools in order to combat the rise of algorithms, especially in sectors such as criminal justice, education, and housing.

I was both excited and nervous to prepare a presentation for a room of lawyers. However, it did allow me the opportunity to learn how to explain the technical aspects of algorithms to a room of attorneys, many of whom have little background in statistics or computer science. This is a skill I hope to continue utilizing, as I believe it is vitally important that civil rights lawyers have a fuller understanding of how algorithms work and how they change the ways in which discrimination occurs. After the presentation, many of the attorneys asked questions about different civil rights and legal implications, and I was proud to know that I had helped spark discussion on this important issue, and even more proud to know that I was able to teach them more about this field. Through the summer, I was not able to work on a specific case concerning algorithmic discrimination, but I continued to have conversations with attorneys about the subject and continue developing my own understanding of what solutions there are to move forward.

Everything I learned this summer has helped inform my research and give me direction for my senior thesis (which will be on this exact topic) and it is my hope that my presentation could help inform the office as they see and combat the discrimination emanating from the algorithms that are in use in New York State.

Mentorship and Moving Forward

As I mentioned in my interim report, the internship program was extremely robust in its professional development opportunities. In addition to formal opportunities such as brown bag lunches, I also developed close relationships with the attorneys I worked for, and consider them my mentors. I was able to not only discuss my work with them and gain insightful and constructive feedback, but also get advice about law school and my career. As the summer program came to a close, I truly did not want to leave—in part due to the urgency of the case investigations I was working on, and in part due to the incredible mentors that I didn't want to leave.

I came into the summer fairly certain about my desire to go to law school and work in civil rights. I leave the summer not only with more certainty about that desire, but an urgency as well. More than ever, I want to go to law school so I can gain even more skills to contribute to civil rights cases. I am even hoping, if I were able and accepted, to work in a clinic or externship in this office so that I can continue fighting for systemic change. I cannot say enough thanks to the Jessica Jennifer Cohen Foundation for enabling me to pursue such a special experience. Without JJCF, I can honestly say I would not have been able to work on these cases and contribute all I could to pursue

justice for victims in New York and I would not be emerging from the summer with a clear vision of my next steps in my career.