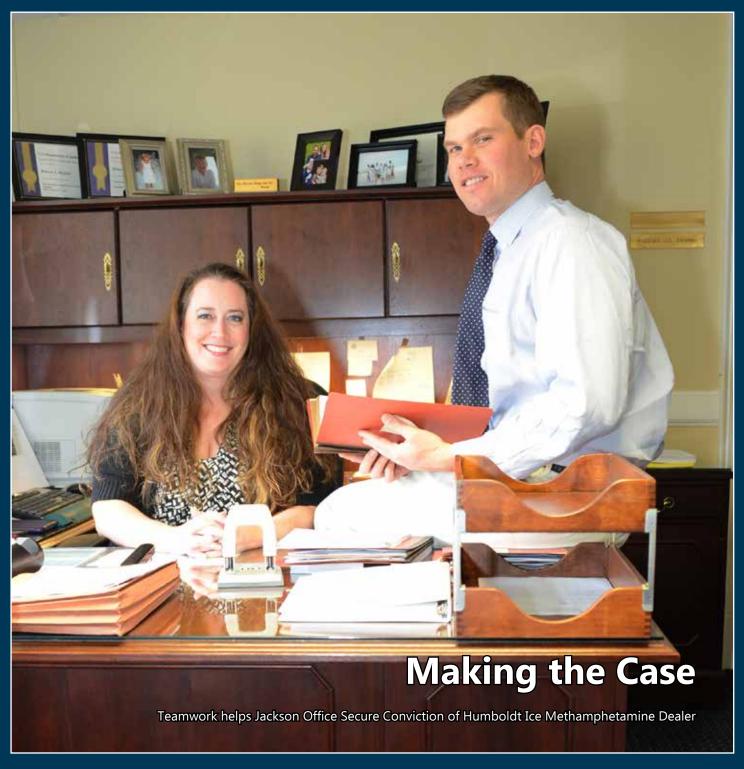


# ON THE RECORD The Newsletter of the U.S. Attorney's Office, Western District of Tennessee

Winter 2014 Vol. I, Issue 4



# A Message from the U.S. Attorney

#### **Serving the Public**

Every year in mid-January, I participate in events commemorating the life and legacy of Dr. Martin Luther King, Jr. This year was no different, as I had the opportunity to speak at the "Be the Dream" MLK Youth Empowerment Symposium in honor of Dr. King's birthday.

At that event I shared one of my favorite quotations by Dr. King: "Life's most persistent and urgent question is: 'What are you doing for others'?" This emphasis on service to others is central to what the U.S. Attorney's Office does on a daily basis. We have one client – the United States of America – and we work hard to represent her interests every day, in both criminal and civil matters. It's a tremendous privilege to serve.

This newsletter provides several examples of the work we are doing

#### On the Cover

Legal Assistant Rebecca Mayfield and Assistant U.S. Attorney Matt Wilson were key players in the team that took a meth dealer off the streets of Humboldt, TN. Read how it unfolded on Page 5.



in Edward L. Stanton III in

on the public's behalf. In particular, this issue highlights our office's work in prosecuting white-collar crime. Many of the defendants in these cases are in positions

of trust, such as the contractor for Shelby County Juvenile Court who used her position to fraudulently bill over \$600,000 to the TennCare program. Our office also brought cases against 24 employees of the Internal Revenue Service for fraudulently obtaining more than \$250,000 in unemployment, food stamps, and other benefits, and the former president of the Bank of Oakland, who misappropriated \$2.4 million in bank funds.

On the civil side, we will continue to collect damages and penalties for false claims made to the government through our affirmative civil enforcement program. Last year we collected over \$2 million in matters of health care fraud alone.

Of course, in addition to whitecollar cases, we continue to seek to bring to justice those who have committed more violent acts. For example, in late October, our office secured a 44-year sentence for a man named Terrence Yarbrough, a/k/a, "T-Rex." The sentencing followed Yarbrough's conviction by a federal jury on 10 counts of sex trafficking. Also in October, Amos Patton was charged in a nine-count indictment related to a shooting at the Millington Army National Guard Recruiting Center. The case is still pending.

Again, these cases are just a small sample of what the U.S. Attorney's Office is doing to serve the public. Our staff is constantly asked to do more with less, especially in the challenging budget climate of the past few years. But the U.S. Attorney's Office has a dedicated and talented team of public servants, and we have not let anything compromise our mission of protecting the vulnerable and seeking justice. With our acts and the cases we bring, we will continue to seek to answer life's most persistent and urgent question: What are you doing for others?

#### Mission Statement

The mission of the United States Attorney's Office for the Western District of Tennessee is to enforce compliance with federal law, act as legal representation of all federal agencies within the District, and provide public safety within the District through equal and fair administration of justice.

On The Record is published at:

United States Attorney's Office 167 N. Main St., Suite 800 Memphis, TN 38103

Phone: 901-544-4231 FAX: 901-544-4230 TTY: 901-544-3054 Email: rodney.king@usdoj.gov

> United States Attorney Western District of Tennessee Edward L. Stanton III

> > Editor Rodney E. King

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# **Jackson Man Pleads Guilty to Defacing Torah**

Hotel security guard damaged prayer books, musical instruments also

Justin Shawn Baker, 25, of Jackson, TN, pleaded guilty on December 9, 2013, to violating the civil rights of students and faculty of the Margolin Hebrew Academy by defacing a Torah and religious prayer books, announced U.S. Attorney Edward L. Stanton III.

According information to contained in the indictment and facts revealed during the plea hearing, on or about January 12, 2013, students and faculty of the Margolin Hebrew Academy were staying overnight at the Doubletree Hotel in Jackson en route to Gatlinburg, TN. While there, they used a meeting room at the hotel to conduct a Sabbath worship service. A Torah, religious books, and musical instruments were left in the meeting room overnight with the intention of continuing worship services the following morning.

The facts presented during the plea hearing further revealed Baker admitted that while employed as a security guard at the hotel, he discovered the items in the room and defaced the Torah, the prayer books, and the musical instruments with profanity, anti-Semitic phrases, and Satanic writing. He also admitted to spitting on the Torah. Photographic evidence presented during the hearing confirmed that the Torah was defaced with profanity and phrases including "Hail Satan."

For Rabbi Gil Perl, Dean of Margolin Hebrew Academy, and his students, the guilty plea marks the end of a terrible chapter, and the hope for a new beginning.

"Our general feeling is one of relief that this episode is behind us," said Rabbi Perl. "We have a deep appreciation and sense of gratitude to the law enforcement professionals involved in this investigation, and to the faith-based community, both in Memphis and Jackson, for their outpouring of encouragement and support."

"Freedom of religion and the freedom to practice it without harassment are bedrock principles upon which our nation was founded," said U.S. Attorney Stanton. "Baker's offensive acts represent an attack upon the rights and freedoms enjoyed by every citizen, which generations of Americans fought and died to ensure and protect."

This case was investigated by the FBI, and prosecuted by Executive Assistant U.S. Attorney Larry Laurenzi and Trial Attorney Douglas Kern of the Civil Rights Division's Criminal Section.

## Saluting Scholars' Success



U.S. Attorney Edward L. Stanton III (right) spoke to the students at Fairview Middle School during a recent honors program. He was on hand to personally congratulate Elizabeth Blount for taking top honors in citizenship and for her academic achievements. Supporting Elizabeth were her grandparents David and Neely James.



Representatives of the U.S. Attorney's Office attended a recent honors program at Hollis F. Price Middle College on the campus of LeMoyne-Owen College. From left: Lashell Vaughn, (River City Links HFP Adopter, member); El'Kennan Liggins, President, Hollis F. Price Student Government; U.S. Attorney Edward L. Stanton III; Ms. Sandra Barnes, Principal, Hollis F. Price; and Assistant U.S. Attorney Harriett Halmon (River City Links HFP Adopter, member).

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# **Biggers Named Project Safe Neighborhood Chief**

"Uniquely qualifed" to lead firearms unit

For David Biggers, Jr., the decision to become an attorney made the next choice easy.

"I knew when I decided to attend law school that I was going to be a prosecutor," said Biggers. "The work that is done by prosecutors to serve their communities is important and requires not only intelligence, but also honesty and integrity."

United States Attorney Edward L. Stanton III named Biggers as the new chief of the Project Safe Neighborhood (PSN) Unit on December 11, 2013. The PSN unit serves a critical role in enforcing specifically laws, those relating to felons. It is against federal law for a felon to possess a firearm, ammunition, or even a spent shell casing.



AUSA David Biggers, Jr. has been named the new chief of the Project Safe Neighborhood unit by U.S. Attorney Edward L. Stanton III.

Working with law enforcement partners from the Shelby County District Attorney's Office, Memphis Police Department, the Shelby County Sheriff's Office and the Bureau of Alcohol Tobacco and Firearms and Explosives, Biggers and other members of the PSN task force meet weekly to examine every gun crime committed in Shelby County as well as gun crimes from other counties submitted by the ATF . The group then decides the appropriate venue for prosecution.

"Using this collaborative approach allows us to target the 'worst of the worst' criminals for prosecution in federal court," said Biggers. "Often we can get these bad actors off the streets for longer periods of time with no chance of parole. This makes our communities safer."

Biggers has served as a career prosecutor, first as an Assistant District Attorney in Jefferson County, Alabama, from 2006-2008, where he began his work in juvenile court. After serving as lead methamphetamine prosecutor, **Biggers** appointed as a was Special Assistant U.S. Attorney (SAUSA) for the Northern District of Alabama where he served in the Violent Crimes Division.

While serving SAUSA in Birmingham, Biggers was named as the U.S. Attorney's Office representative to Drug Court Program. His responsibilities included planning, organizing and developing the program being actively and involved in the decisionmaking process on drug court participants' action

plans, sanctions and rewards.

Since joining the U.S. Attorney's office in Memphis, Biggers has been a key member of the PSN prosecution team and has served as the district's first Prevention and Reentry Coordinator.

A native of Tuskegee, Alabama, Biggers received his undergraduate degree from Rhodes College in Memphis and his law degree from the University of Alabama School of Law in Tuscaloosa, Alabama.

"David Biggers is a dedicated public servant who is uniquely qualified to lead our PSN Unit," said U.S. Attorney Stanton. "He has the sound judgment and experience needed to continue to build upon our past successes."

## **Making the Case**

#### Teamwork helps navigate sometimes surprising twists in cases

If you watch virtually any courtroom drama, the crime is discovered, solved, tried and convicted in 42 minutes or less (not including commercials).

In real life, the pursuit of justice doesn't run quite as smoothly. For example, in December, Angel Hernandez was convicted by a federal jury in Jackson, TN for possession with intent to distribute more than 350 grams of ice methamphetamine. Ice methamphetamine is more pure and therefore more dangerous than traditional methamphetamine. Often, it is at least 90 percent pure.

To track this case, you first have to start in late 2012. Hernandez was under investigation by the West Tennessee Violent Crime and Drug Task Force when he suddenly moved to California. Agents learned he was back in the area in March 2013, so they executed a search warrant on Hernandez

at the Deerfield Inn in Humboldt, TN, where he was staying.

Hernandez was found in possession of more than 350 grams of ice methamphetamine. Agents also found a large amount of U.S. currency and other evidence that he intended to distribute the drugs. Agents with the task force testified that due to the purity of the methamphetamine, it had a potential street value of up to \$50,000 and could have been distributed to more than a thousand individuals.

"When agents make a seizure like that, they're not just taking drugs off the streets," said Assistant U.S. Attorney Matt Wilson. "They are improving the quality of life for every citizen in the community."

Legal Assistant Rebecca Mayfield worked behind the scenes preparing the appropriate court papers, beginning with the indictment and continuing throughout the process.

"Every document that's prepared is important," said Mayfield. "In some instances, you can put the entire case at risk by missing just one filing. That would mean all of the investigators' efforts and all the work we've put into making our case is down the drain."

Since the accused went to trial, Wilson had to meticulously lay out a case that could convince the jury. To help him tell that story, Wilson turned to Litigation Support Specialist David Gordon to help prepare a video presentation that would illustrate key points in the case.

"My role is to take evidence, be it printed, audio, video, or really anything, and make it flow so that the attorney can do his job," said Gordon. "When I see jurors nodding along as the evidence is being presented, I know I've done my job well."

Then on the eve of the trial, one of Hernandez's co-conspirators decided to stop cooperating, resulting in one count being dropped and meaning the video presentation had to be redacted.

"No attorney likes surprises, especially just as you are going to trial, but we have a team of dedicated professionals," said U.S. Attorney Edward L. Stanton III. "They put in the extra hours to get the job done."

In the end, the jury deliberated approximately 30 minutes before returning a guilty verdict. Hernandez could receive up to 40 years in prison and be fined up to \$5 million.

# **Congratulations to Canale**



Assistant U.S. Attorney Stuart Canale was recently presented with a Certifucate of Commendation for outstanding performance and invaluable assistance in support of the activities of the U.S. Department of Justice's Environment and Natural Resources Division.

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#### **The Truth About White Collar Crime**

Fraud is the common element regardless of the offense

When you think of white-collar crime, your first thoughts may be of insider traders or business barons. The truth is that white-collar crime comes in many forms.

Stephen Hall is an Assistant United States Attorney in Memphis who specializes in the prosecution of white-collar crimes. He says that regardless of the offense, virtually every white collar crime has one common factor.

"At the heart of these crimes is fraud or some type of deception," said Hall. "The phrase you will find in the law is 'scheme to defraud' indicating that there is intent present. In other words, someone planned to do this."

In some cases the level of planning can appear to be nothing more than a spur of the moment decision. Embezzlers can often fall into this category.

"We've seen many situations where someone is in a position of trust, and there aren't enough checks and balances in place to act as safeguards," said Hall. "The crime may be triggered by some type of life change, personal stress, or financial situation, and the person chooses to take advantage of their position in the company."

People who do this usually tell themselves "I'm only going to do this once and I will pay it back before anyone notices," but usually they're still saying it after they're caught red-handed. Hall also says there has been a marked increase in fraudulent tax return filings, something he terms a "blue-collar, white-collar crime."

"We've seen individuals steal school students' social security numbers, we've even had arrest warrant books stolen from law enforcement," said Hall. "They're looking for anything that has personal identifier information that can be used to generate fraudulent tax filings."

These criminals prize information from children and prisoners, two groups who rarely file income tax returns. The payments from these false returns are often direct deposited into bank accounts either owned by the perpetrators or by their associates.

"White-collar criminals don't



**AUSA STEPHEN HALL** 

have to be sophisticated," said Hall. "They just have to possess the following traits to some extent: greed, ingenuity, opportunity, and brashness."

# Examples of White-Collar Crimes Prosecuted in the Past Year

Issac Brooks, Jackson, TN • sentenced to 55 months for failure to pay \$3.6 million in federal income taxes.

Jeremy Lasane, Cordova, TN • sentenced to 12 years for filing \$791,616 in false tax returns and identity theft.

24 Memphis IRS employees • indicted for fraudulently obtaining more than \$250,00 in unemployment, food stamps, welfare and housing benefits.

Terry Roberts, Memphis, TN • sentenced to 27 months for conspiring to file false tax returns.

Former Bank of Oakland President Stephen Henry • sentenced to 24 months in prison and ordered to pay \$2.4 million in restitution for misapplication of bank funds.

Douglas Earl McCasland, Savannah, TN • indicted on 10 counts of mail fraud and three counts of making false statements regarding proper remediation of houses where meth was produced.

Michael Pinkney and Alan Price • sentenced to 33 months in prison and ordered to pay \$1.28 million in restitution for their roles in a foreclosed real estate "flipping" scheme.

Rebecca Christain, Mountain Home, AR • pleaded guilty to one count of health care fraud and one count of money laundering in relation to a Medicare fraud scheme.

#### **Affirmative Civil Enforcement**

#### One tool used to recover government funds from fraudsters

by Stuart Canale

Effective law enforcement against white collar fraud and the protection of public funds require efficient, flexible, and timely use of the full range of civil and criminal remedies. The United States Attorney's Office Affirmative Civil Enforcement (ACE) Program fights waste, fraud and abuse in federal programs. The ACE Program is a part of the Civil Division of the United States Attorney's Office.

ACE allows the federal government to collect damages and penalties for false claims submitted to the government or false statements made to the government with a monetary loss to the government due to the fraud. ACE further enhances the ability of the federal government to redress fraud by ensuring

those who submit false claims to the government, or who otherwise improperly obtain federal funds, do not keep the ill-gotten gains. The types of cases addressed by the ACE program include among others, health care fraud, HUD fraud, defense fraud, financial institution fraud, grant fraud, environmental fraud, and procurement fraud.

The primary weapon of the United States Attorney's Office in cases of fraud against the government is the False Claims Act, 31 U.S.C. §§ 3729-3733. The False Claims Act was originally enacted during the Civil War in 1863 to address false claims by contractors for items such as sawdust being sold as gunpowder, lame mules etc.. The False Claims Act provides the United States with a cause of action against any person who knowingly: (1)

presents or causes to be presented a false or fraudulent claim for payment or approval; (2) knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim; (3) conspires to defraud the government by making a false claim; or (4) knowingly makes, uses, or causes to be made or used. a false record or statement material to an obligation to pay or transmit money or property to the government, or knowingly conceals or improperly avoids or decreases an obligation to pay or transmit money or property to the government. Liability under the False Claims Act is triple the amount of actual damages suffered by the United States, plus a mandatory civil penalty of \$5,500 to \$11,000 for each claim.

The False Claims Act allows for in some instances initiation of a lawsuit known as a qui tam action, also known as a whistleblower action. This type of proceeding is initiated by a private party known as a relator who brings the action in the name of the United States. The lawsuit is filed under seal during which time the government investigates the allegations and determines whether to intervene and take over the action. The statute allows for the relator to share in any recovery between 15 to 25 percent if the United States intervenes and between 25 to 35 percent if the United States does not intervene.

This past year the United States Attorney's office in the Western District of Tennessee collected over \$2 million in False Claims Act settlements in matters involving health care fraud alone. If you are aware of fraud against the federal government, contact our office at 901-544-4231.





Betty McWherter (left) led the USAO's Combined Federal Campaign efforts this year. To kick things off, she invited Rebekah Sudduth of the Make a Wish Foundation to talk to the office employees. Together, the employees at the offices in Memphis and Jackson raised almost \$13,000 dollars this year.

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# Western District has Case Heard by High Court

Justices to rule on definition of domestic abuse in relation to gun laws

On January 15, 2014, the United States Supreme Court heard oral argument in United States v. Castleman, a federal criminal case originating in the Western District of Tennessee.

In 2001, James Castleman was convicted of misdemeanor domestic assault in state court in Carroll County, Tennessee. The state indictment alleged that Castleman intentionally or knowingly caused bodily injury to the mother of his child.

In 2008, law enforcement agents discovered that Castleman and his wife were allegedly buying firearms from dealers and selling them on the black market. In August 2009, a federal grand jury in Memphis charged Castleman with two counts of possessing a firearm after having been convicted of a misdemeanor crime of domestic violence, in violation of 18 U.S.C. § 922(g)(9).

The district court granted the defendant's motion to dismiss these federal charges in April 2010, on the basis that defendant's prior Tennessee domestic assault conviction was not "a misdemeanor crime of domestic violence," as that term is defined in federal law.

The United States appealed, and in September 2012 the U.S. Court of Appeals for the Sixth Circuit affirmed the district court's ruling, with each Judge of the divided three-member panel writing separately. The government sought rehearing by the en banc Court of Appeals, but the court declined to reconsider its decision.

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From Left: Criminal Appellate Chief Kevin Ritz, Assistant U.S. Attorney Daniel French, and U.S. Attorney Edward Stanton III attended oral argument in United States v. Castleman at the Supreme Court. This case originated in the Western District of Tennessee.

In May 2013, the United States filed a petition for a writ of certiorari from the Supreme Court. The Court granted that petition on October 1, 2013. The question presented before the Supreme Court is whether Castleman's Tennessee conviction for misdemeanor domestic assault by intentionally or know-

> ingly causing bodily injury to the mother of his child qualifies as a "misdemeanor crime of domestic violence" under federal law. The case has important implications for federal prosecutions of domestic abusers who arm themselves with firearms.

> Assistant U.S. Attorney Daniel French and Criminal Appellate Chief Kevin G. Ritz represented the United States during the proceedings in the lower courts. The Office of the Solicitor General is representing the government in the Supreme Court. A decision in the case is expected before the end of June.



### Department of Justice

United States Attorney Edward L. Stanton III Western District of Tennessee

# As Seen in the News...

# **December 10, 2013** The Jackson Sun



# **December 1, 2013** The Commerical Appeal

# Prosecutor. protector of children is retiring

■ 'Renaissance man' Newsom is well respected

By Beth Warren

901-529-2383

On a foggy, rain-drenched night, then-Asst. U.S. Atty. Dan Newsom had been zipping down Summer Avenue in a brown-colored European sports car when he spotted a stranger in need.

He pulled over and offered the

Once inside the vintage Tri-umph TR6, the man studied the federal prosecutor's face before blurting out, "I know you! You sent me to prison."



PROSECUTOR from 1A

66 He came flying out with his files, smashed into the door frame, basically knocking himself out. He was bleeding but went to court anyway. He's that passionate on every case.

That included the case of a corrupt sheriif who had been sexually molesting male prisoners. Ewing 37 years, said the prosecu-

he kept walking, cutting his head on the side of the

oor.
"He came flying out
the his files, smashed
to the door frame, bacally knocking himself
ut," Arvin said. "He was

#### **Contract Juvenile Court Counselor Gets Three Years**

Toles health care fraud scheme cost TennCare at least \$602,769.42

Mechell D. Toles, 44, of Collierville, TN, was sentenced in August of last year by United States District Court Chief Judge Jon Phipps McCalla to three years in prison following her guilty plea to health care fraud, announced U.S. Attorney Edward L. Stanton III.

"While serving in a position of trust and being paid to help at-risk children, Dr. Toles instead brazenly helped herself to more than \$600,000 of taxpayer monies by manipulating our nation's health-care benefits system," said U.S. Attorney Stanton. "This sentence should serve as a clear reminder that there are stiff and severe consequences for violating the public's trust."

According to the Information and to statements made at the guilty plea and at sentencing, Toles received referrals from the Shelby County Juvenile Court, which was the primary source of her counseling clientele. Hundreds of Toles' patients were enrolled in Tenn-Care, Tennessee's Medicaid program. In western Tennessee, TennCare operates through two managed care organizations: Blue Care, which is associated with Blue Cross Blue Shield; and AmeriChoice, which is associated with United Health Care.

The investigation began after AmeriChoice audited Toles based on her high volume of counseling services and, upon finding incomplete documentation in her files, provided her with training on proper documentation and billing. The TennCare Office of Integrity referred the audit and inquiry into Toles' billing practices to the Tennessee Bureau of Investigation on suspicion that she had engaged in health care fraud.

Investigators obtained billing information from the managed care organizations, reviewed correspondence and documentation from Juvenile Court, interviewed patients, surveilled Toles, and obtained a search warrant. The investigation revealed numerous occasions for which Toles billed for more than 24 hours of services in a single day. It also revealed instances in which Toles billed for counseling sessions on dates before patients had been referred to her and on dozens of dates after she had discharged patients. Toles' files were largely devoid of any documentation of services provided, and patient records showed blank sheet after blank sheet for the purported dates of service. Based on billings for which there was no documentation of any services, investigators estimate

at least \$602,769.42 was billed by Toles and paid by TennCare for which no valid services were actually rendered.

In addition to the three-year prison sentence, Judge McCalla ordered Toles to pay \$602,769.42 in restitution and to serve three years of supervised release. There is no parole in the federal prison system. This investigation was conducted by the Tennessee Bureau of Investigation.

## **Celebrating Service**



There were smiles, tears and many fond memories shared as the USAO said goodbye to a pair of legendary employees. (Above, left) Carolyn Hearvey was honored at a breakfast reception celebrating her 30-plus years of government service. Hearvey was the office's first Grand Jury Coordinator. (Below, left) Former U.S. Attorney Hickman Ewing congratulates AUSA Dan Newsom at a dinner commemorating his 30 years with the U.S. Attorney's Office. Newsom was a tenacious litigator who led the office's child sex crime prosecution unit and served as Senior Litigation Counsel.



# **In the Community**

Connecting with students and citizens throughout west Tennessee





Above: U.S. Attorney Edward L. Stanton III speaks to the students at Martin Middle School as part of his efforts to talk to citizens across the district.

Left: U.S. Attorney Stanton addressing the Dresden and Martin Rotary Clubs concerning the office's work of protecting citizens from violent crime. This meeting was facilitated by Dresden Rotary President Beau Pemberton.

Below: USAO Public Information Officer Rodney King (back row, center) participated in a Career Professionals "Speed Dating" event designed to let students talk to professionals from a variety of careers. The event was sponsored by Dr. Jada Meeks and her group ESU Scholars.



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UNITED STATES ATTORNEY'S OFFICE WESTERN DISTRICT OF TENNESSEE 167 N MAIN STREET, SUITE 800 MEMPHIS TN 38103

# **The Parting Shot**



U.S. Attorney Edward L. Stanton III was among the speakers at the Victims to Victory Candlelight Service and Dinner at Second Presbyterian Church in December. The service and dinner is a way of demonstrating Victims to Victory's purpose of offering spiritual, emotional and practical support that encourages hope and helps families of homicide victims work through their grief and move toward healing. Nearly 300 family members who have lost someone to homicide were there for the dinner. From Left: Pastor Ralph White, Bloomfield Baptist Church; Pastor Joshua McCrory Hatcher, Trinity Lutheran Church; Dr. Katherine Lawson, Executive Director of Victims to Victory; LaRita Bearden, Victim-Witness Coordinator for the U.S. Attorney's Office; U.S. Attorney Stanton; and Stevie Moore, Founder and President of Freedom From Unnecessary Negatives (FFUN).