

Legal Education and Access to Justice Conference

Nottingham Trent University,
Nottingham Law School, Nottingham UK

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**Access to Justice for Crime
Victims, the Accused, and
the Community:**

**Teaching Law Students
About the Role of the
Prosecutor in Advancing
Social Justice**



- Former assistant district attorney-
Office of the Bronx District Attorney
Bronx County, New York City
- Former civil law firm associate
- Law school courses:
 - Legal Practice
 - Criminal Prosecution Clinic Seminar –
New York County
 - American Business Law: Sources and
Methods (course for foreign-trained
lawyers)

“. . . A sensitiveness to fair play and sportsmanship is perhaps the best protection against the abuse of power, and the citizen’s safety lies in the prosecutor who tempers zeal with human kindness, who seeks truth and not victims, who serves the law and not factional purposes, and who approaches his task with humility.”

Justice Robert H. Jackson, “*The Federal Prosecutor*,” 24 J.Am. Judicare Soc’y 18 (1940) (Address, April 1, 1940)

Prosecution Clinic



- NYLS students are trained and work in the Quality of Life court part under the supervision of ADAS
- Student-ADAs investigate and prosecute quality of life misdemeanors and violations (*e.g.*, shoplifting, unlicensed general vending, fare-beating, trespass)

Prosecution Clinic Seminar



- Focuses on important aspects of case preparation, courtroom advocacy, substantive criminal law, ethics, and professionalism.
- Simulations, drills, interactive exercises, and case rounds
- Student-ADAs collaborate, prepare for and evaluate the work they are doing in the DANY clinic, and reflect on their developing legal skills.

Victims
Accused
Community

Doing Justice: Prosecutor's Obligations



- Substantive safeguards
- Procedural safeguards
- Speedy trial requirements
- Disclosure of exculpatory material

- (See American Bar Association, Model Rules of Professional Conduct: Rule 3.8 “Special Responsibilities of a Prosecutor”)

Prosecutorial Discretion



- Decision to prosecute
 - Charges
 - Pleas
 - Dismissal
- Sentencing recommendations
- (See Vera Institute of Justice, “*Anatomy of Discretion: An Analysis of Prosecutorial Decisionmaking*,” December 2012)

Collateral Consequences of a Criminal Conviction



- Employment
- Professional licensing
 - Housing
- Government benefits
- Immigration status
- Civic participation
 - Child custody
 - Reputation
- (American Bar Association Criminal Justice Section- National Inventory of the Collateral Consequences of Conviction. www.abacollateral.consequences.org)

Exercise

Plea

Bargaining

The Accused



- Shannon Carter-Rosario
 - 20 years old
 - From the Dominican Republic
 - Aspires to be a teacher
 - Accused of larceny
 - Potential immigration consequences if convicted

The Complainants



- LoveURHome; Grace & Harry Garcia
 - “Mom and Pop storeowners”; former garment industry workers who established their own business in 1980
 - Struggling to stay in business
 - Victims of several burglaries and numerous larcenies

**Competing
Interests
Accused
Complainant
Community**

Exercise: Dismissal in the Interest of Justice



N.Y. Crim. Proc. Law § 210.40(1)

- Motion to dismiss an indictment in the furtherance of justice
- Statutory factors
- “(a) the seriousness and circumstances of the offense;
- (b) the extent of harm caused by the offense;
- (c) the evidence of guilt, whether admissible or inadmissible at trial;
- (d) the history, character and condition of the defendant;
- (e) any exceptionally serious misconduct of law enforcement personnel in the investigation, arrest and prosecution of the defendant;
- (f) the purpose and effect of imposing upon the defendant a sentence authorized for the offense;
- (g) the impact of a dismissal upon the confidence of the public in the criminal justice system;
- (h) the impact of dismissal on the safety or welfare of the community;
- (i) where the court deems it appropriate, the attitude of the complainant or victim with respect to the motion.
- (j) any other relevant fact indicating that a judgment of dismissal would serve no useful purpose.”

American Bar Association Criminal Justice Section- National Inventory of Collateral Consequences of Conviction

www.abacollateral.consequences.org

Vera Institute of Justice, “A Prosecutor’s Guide for Advancing Racial Equality” (November 2014)

District Attorneys Association of the State of New York, Ethics and Best Practices Sub-Committees of the Committee on the Fair and Ethical Administration of Justice, “*The Right Thing: Ethical Guidelines for Prosecutors*” (2012) (Ethics Handbook)

Police officer training programs, wrongful conviction review

Students' Reaction



- Understanding of the professional and ethical obligations of a prosecutor
- Heightened awareness of the prosecutor's responsibility to promote social justice
- Passion about the prosecutor's role in empowering crime victims, protecting the community, and helping to ensure the fair treatment of the accused.

Thank you!



Questions???

Comments...