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## THE IMPORTANCE OF PROSECUTION TRAINING IN LAW SCHOOL

*Attorney General Janet Reno\**

reputation than any other person in America. His discretion is tremendous. He can have citizens investigated and, if he is that kind of person, he can have this done to the tune of public statements and veiled or unveiled intimations. Or the prosecutor may choose a more subtle course and simply have a citizen's friends interviewed. The prosecutor can order arrests, present cases to the grand jury in secret session, and on the basis of his one-sided presentation of the facts, can cause the citizen to be indicted and held for trial. He may dismiss the case before trial, in which case the defense never has a chance to be heard. Or he may go on with a public trial. If he obtains a conviction, the prosecutor can still make recommendations as to sentence, as to whether the prisoner should get probation or a suspended sentence, and after he is put away, as to whether he is a fit subject for parole. While the prosecutor at his best is one of the most beneficent forces in our society, when he acts from malice or other base motives, he is one of the worst.

The above excerpt from Justice Jackson's famous speech to federal prosecutors demonstrates the enormous power, and accompanying responsibility, of the American prosecutor. Although Justice Jackson delivered this speech more than sixty years ago, his words ring as true today as they did in 1940. If anything, the

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<sup>1</sup> Justice Robert H. Jackson, speech at the Second Annual Conference of United States Attorneys, Washington D.C. (April 1, 1940).

enormous power of a prosecutor, and the responsibility which comes with that power, have increased in the ensuing years. The yearly increase of state and federal criminal statutes, sentencing guidelines structures, whether mandatory or advisory, and the continued use and judicial affirmation of prosecutorial discretion, have all led to a strengthening of the role of the prosecutor in our criminal justice system. It is for this reason that academic training of law students interested in the field of public prosecution is so crucial.

When Justice Jackson spoke, few law schools provided clinical opportunities to their students. Today, many, if not all, law schools provide some sort of clinical training and many of those offer clinical programs directed specifically at providing students with both a theoretical and a practical exposure to the field of prosecution. All such program emphasize the importance of providing law students an understanding of the unique ethical and professional requirements of the prosecutor. Being imbued with the rules and standards that govern prosecutors, as well as the reasons for such rules, while still a law student, invariably will lead not only to effective prosecutors, but also to ethical and professional prosecutors.

Clinical programs at law schools, and especially prosecution programs, hold a special opportunity of bettering our criminal justice system. Clinical programs provide a wonderful opportunity to expose potential prosecutors to the many different disciplines that come into play in the criminal justice system. The ideal program should mine-and maintain-the idealism and desire to change and improve that is present in all young people, and instill in them the notion that crime does not happen in a vacuum. Let them, for example, consider and discuss whether society is better off incarcerating a drug offender without providing drug treatment. Give them the means with which to explore innovative and alternative ways of preventing, rather than merely prosecuting, crime. Expose them to the real and traditional workings of prosecutor offices, and to interdisciplinary approaches to crime fighting. The unique ability of combining the vast resources of a university setting, together with the hands-on experience of a prosecutorial externship, is a perfect way to foster the force which Justice Jackson termed the most beneficent in our society.

Above all, utilize clinical programs to ensure that law students not only become strong, forceful, and effective prosecutors, but also just and fair prosecutors. In an era where one of the most important issues facing the criminal justice system involves wrongful convictions, it is especially important that clinical prosecution programs emphasize that the role of the prosecutor is not merely to

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win but to do justice. The law must truly be a shield for all the people, including victims and the wrongfully accused. The marvelous law we have in this country truly is, and must be, by and for the people.

Justice Jackson ended his speech by noting that:

The qualities of a good prosecutor are as elusive and as impossible to define as those which mark a gentleman. And those who need to be told would not understand it anyway. A sensitiveness to fair play and sportsmanship is perhaps the best protection against 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.<sup>2</sup>

Clinical prosecution programs at law schools, as well as scholarly articles about such programs, further the goal of developing the type of prosecutors of whom Justice Jackson could, and indeed all of us can, be proud.

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Jackson, *supra* note 1.

