

Office of the District Attorney  
Stone Mountain Judicial District

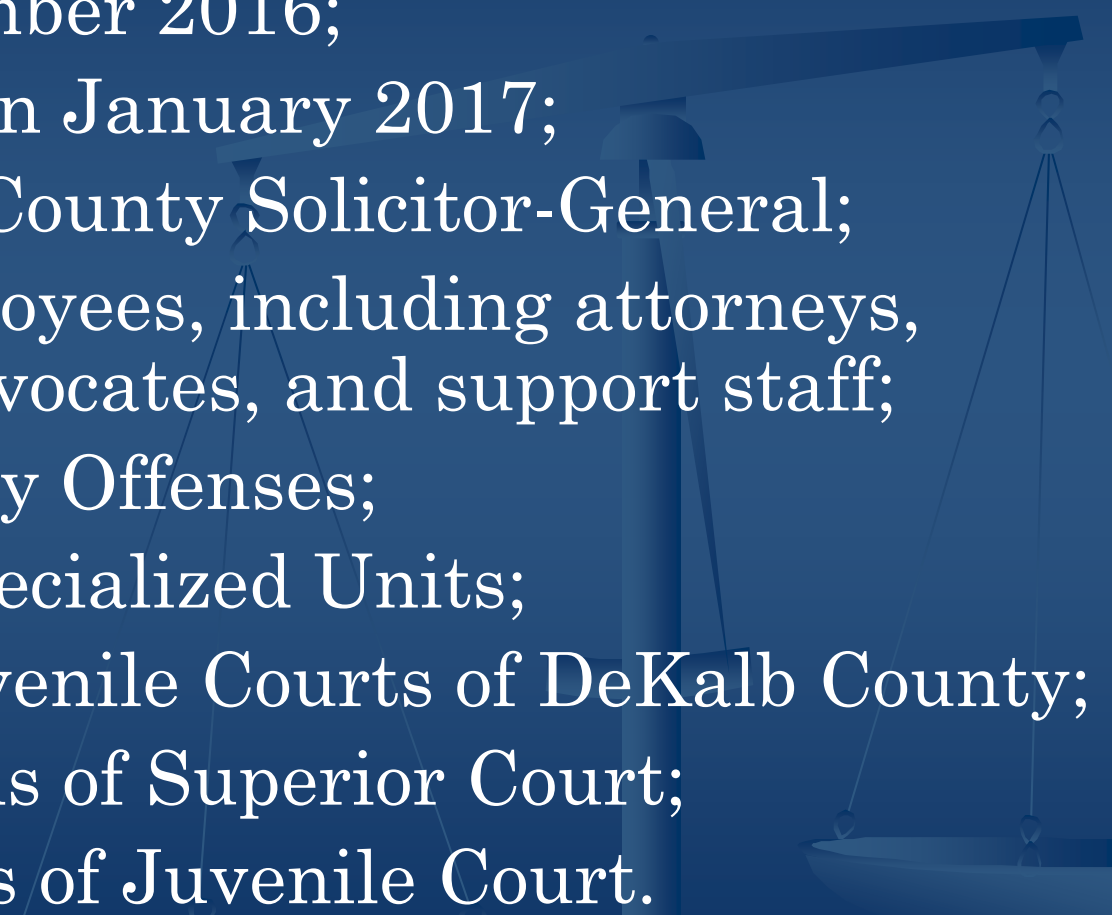


# Role, Functions, and Duties of the Prosecutor & How to Succeed

2021 Fundamentals of Prosecution  
Georgia Public Safety Training Center  
Forsyth, Georgia

Presented by:  
The Honorable Sherry Boston  
District Attorney

# OFFICE OF THE DISTRICT ATTORNEY

- Elected in November 2016;
  - Assumed Office in January 2017;
  - Former DeKalb County Solicitor-General;
  - Staff of 215 employees, including attorneys, investigators, advocates, and support staff;
  - Prosecutes Felony Offenses;
  - Fourteen (14) Specialized Units;
  - Superior and Juvenile Courts of DeKalb County;
  - Ten (10) Divisions of Superior Court;
  - Five (5) Divisions of Juvenile Court.
- 
- A faint, stylized image of a pair of scales of justice is visible in the background, positioned on the right side of the slide. The scales are rendered in a light blue color, matching the overall theme of the presentation.

# SPECIALIZED UNITS

- Appellate/Complex Litigation
  - Anti-Corruption (ACU)
  - Child Support Recovery/UIFSA
  - Crime Strategies & Community Partnerships (CS/CPU)
  - Diversion & Community Alternatives Programs (DCAP)
  - Domestic Violence/Sexual Assault (DV/SA)
  - Elder Abuse & Exploitation
  - Grand Jury
  - High Intensity Drug Trafficking Area (HIDTA)
  - Juvenile Division
  - Magistrate Court
  - Major Case (Murders/Gangs)
  - Pre-Charging
  - Sexual Exploitation/Crimes Against Children (SECAC)
  - Trial Division
- 

# Mission and Vision



SHERRY BOSTON, DISTRICT ATTORNEY

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## MISSION

The mission of the Office of the DeKalb County District Attorney is to safeguard our community through vigorous and fair prosecution of felony offenses occurring within the Stone Mountain Judicial Circuit.

We seek to accomplish this goal by preserving the dignity and best interests of our victims while using smart prosecution strategies that balance offender accountability with prevention, intervention, and restorative justice.

We believe in the power of engagement and in building relationships with community partners for the betterment of DeKalb County.

## VISION

We endeavor to restore faith in the criminal justice system and disrupt cycles of violence, trauma, and recidivism in our pursuit of public safety and justice.



**ENGAGE**  
**PROTECT**  
**RESTORE**

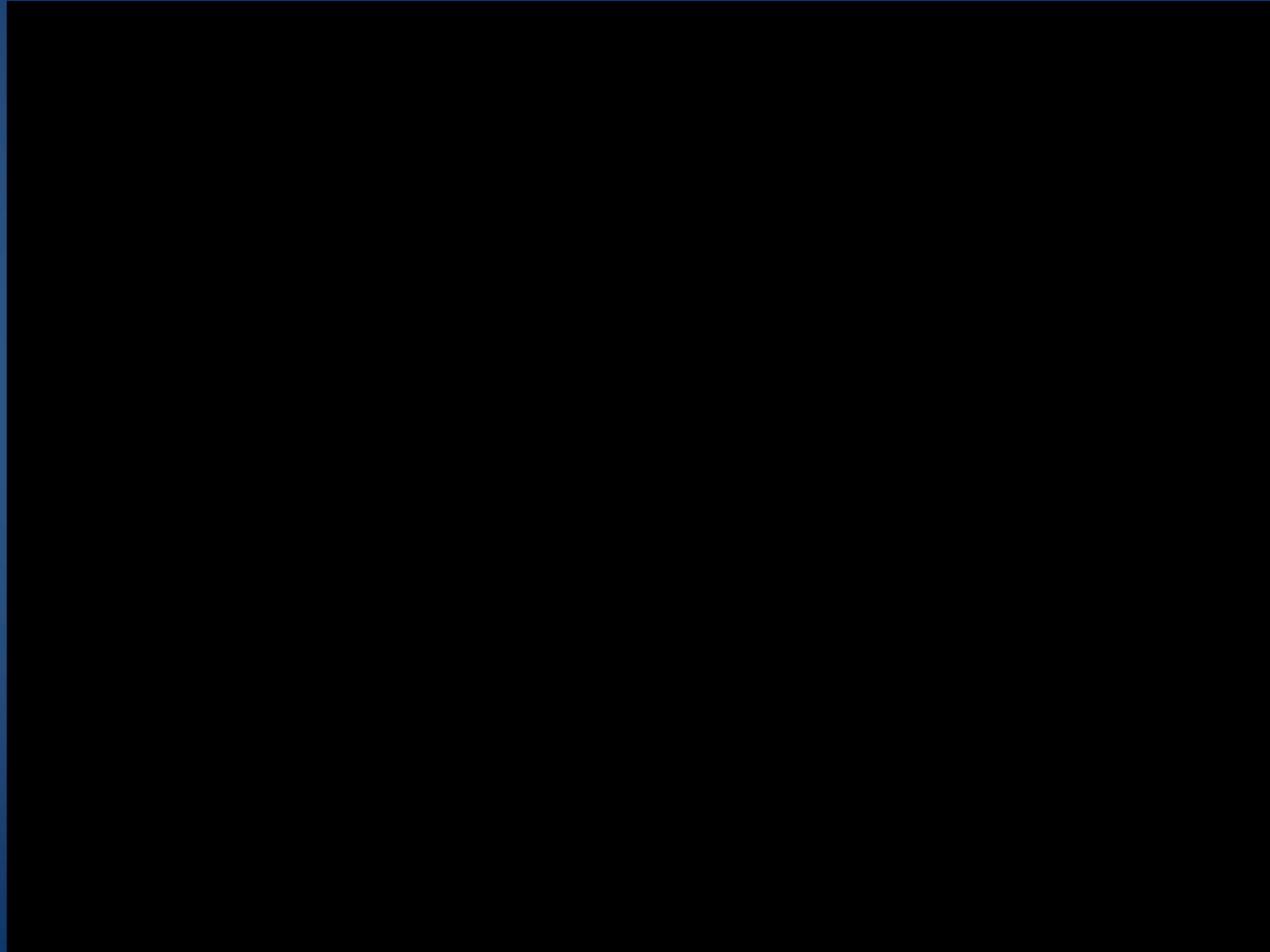
# THE PROSECUTOR



In this class, we will discuss...

- What is your role as the prosecutor?
- What special responsibilities, if any, come with being a prosecutor?
- Why is the role of the prosecutor more than just a job?
- Top 10 Rules for Success

# THE PROSECUTOR



# THE PROSECUTOR

*“It behoves him - Neither to indict, nor on trial to speak for conviction except upon credible evidence of guilt; nor to do even a little wrong for the sake of expediency, or to pique any person or please any power; not to be either gullible or suspicious, intolerant or over-pliant: in the firm and abiding mind to do right to all manner of people, to seek justice with care, understanding and good countenance.”<sup>2</sup>*

<sup>2</sup>(per R R Kidston QC, former Senior Crown Prosecutor of New South Wales, in *"The Office of Crown Prosecutor (More Particularly in New South Wales)"* (1958) 32 ALJ 148.)

# The Function of the Prosecutor

In August 2017, the ABA adopted the Criminal Justice Standards for the Prosecution Function.





# ABA Standard 3-1.2

## The Function of the Prosecutor

- (a) The prosecutor is **an administrator of justice**, a zealous advocate, and an officer of the court. The prosecutor's office should exercise **sound discretion and independent judgment** in the performance of the prosecution function.
- (b) **The primary duty of the prosecutor is to seek justice** within the bounds of the law, not merely to convict. **The prosecutor serves the public interest and should act with integrity and balanced judgment** to increase public safety both by pursuing appropriate criminal charges of appropriate severity, and **by exercising discretion to not pursue criminal charges in appropriate circumstances**. The prosecutor should seek to **protect the innocent** and convict the guilty, consider the interests of victims and witnesses, and **respect the constitutional and legal rights of all persons, including suspects and defendants**.

# ABA Standard 3-1.2

## The Function of the Prosecutor

- (e) **The prosecutor should be knowledgeable about, consider, and where appropriate develop or assist in developing alternatives to prosecution or conviction that may be applicable in individual cases or classes of cases. The prosecutor's office should be available to assist community efforts addressing problems that lead to, or result from, criminal activity or perceived flaws in the criminal justice system.**
- (f) **The prosecutor is not merely a case-processor but also a problem-solver** responsible for **considering broad goals of the criminal justice system.** The prosecutor should seek to reform and improve the administration of criminal justice, and **when inadequacies or injustices in the substantive or procedural law come to the prosecutor's attention, the prosecutor should stimulate and support efforts for remedial action.** The **prosecutor should provide service to the community**, including involvement in public service and Bar activities, public education, community service activities, and Bar leadership positions. A prosecutorial office should support such activities, and the office's budget should include funding and paid release time for such activities.

# ABA Standard 3-1.6

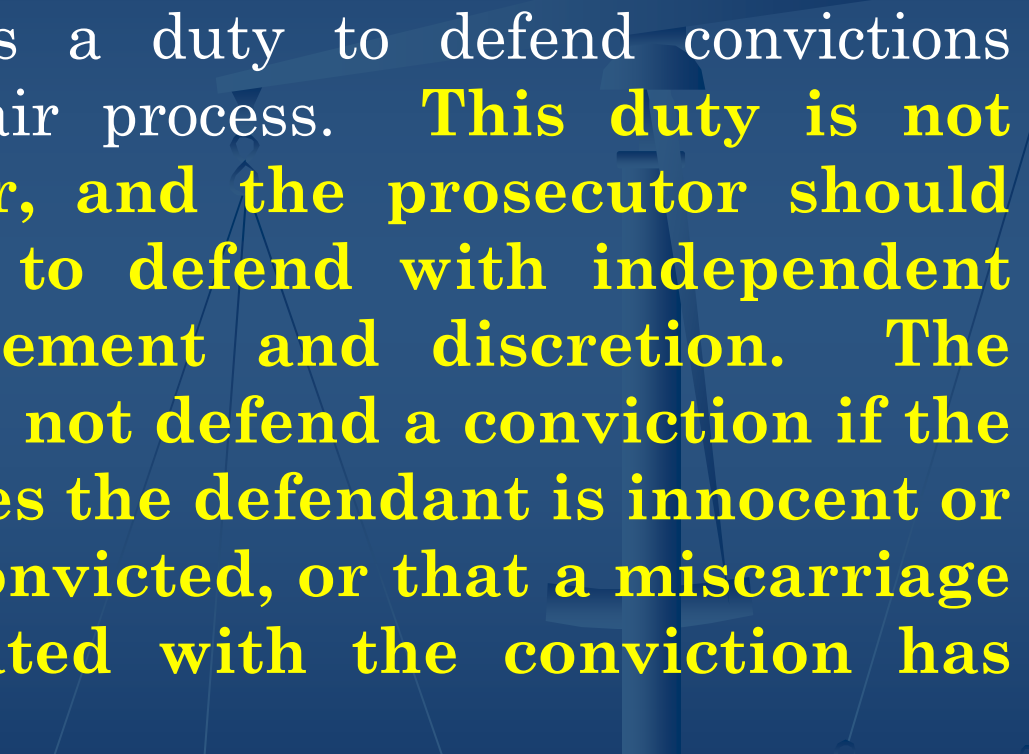
## Improper Bias Prohibited

### The Function of the Prosecutor

- (a) The prosecutor should not manifest or exercise, by words or conduct, bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation, gender identity, or socioeconomic status. A prosecutor should not use other improper considerations, such as partisan or political or personal considerations, in exercising prosecutorial discretion. A prosecutor should strive to eliminate implicit biases, and act to mitigate any improper bias or prejudice when credibly informed that it exists within the scope of the prosecutor's authority.
- (b) **A prosecutor's office should be proactive in efforts to detect, investigate, and eliminate improper biases, with particular attention to historically persistent biases like race, in all of its work. A prosecutor's office should regularly assess the potential for biased or unfairly disparate impacts of its policies on communities within the prosecutor's jurisdiction, and eliminate those impacts that cannot be properly justified.**

## ABA Standard 3-8.1

### Duty to Defend Conviction Not Absolute The Function of the Prosecutor

- The prosecutor has a duty to defend convictions obtained after a fair process. **This duty is not absolute, however, and the prosecutor should temper the duty to defend with independent professional judgement and discretion. The prosecutor should not defend a conviction if the prosecutor believes the defendant is innocent or was wrongfully convicted, or that a miscarriage of justice associated with the conviction has occurred.**
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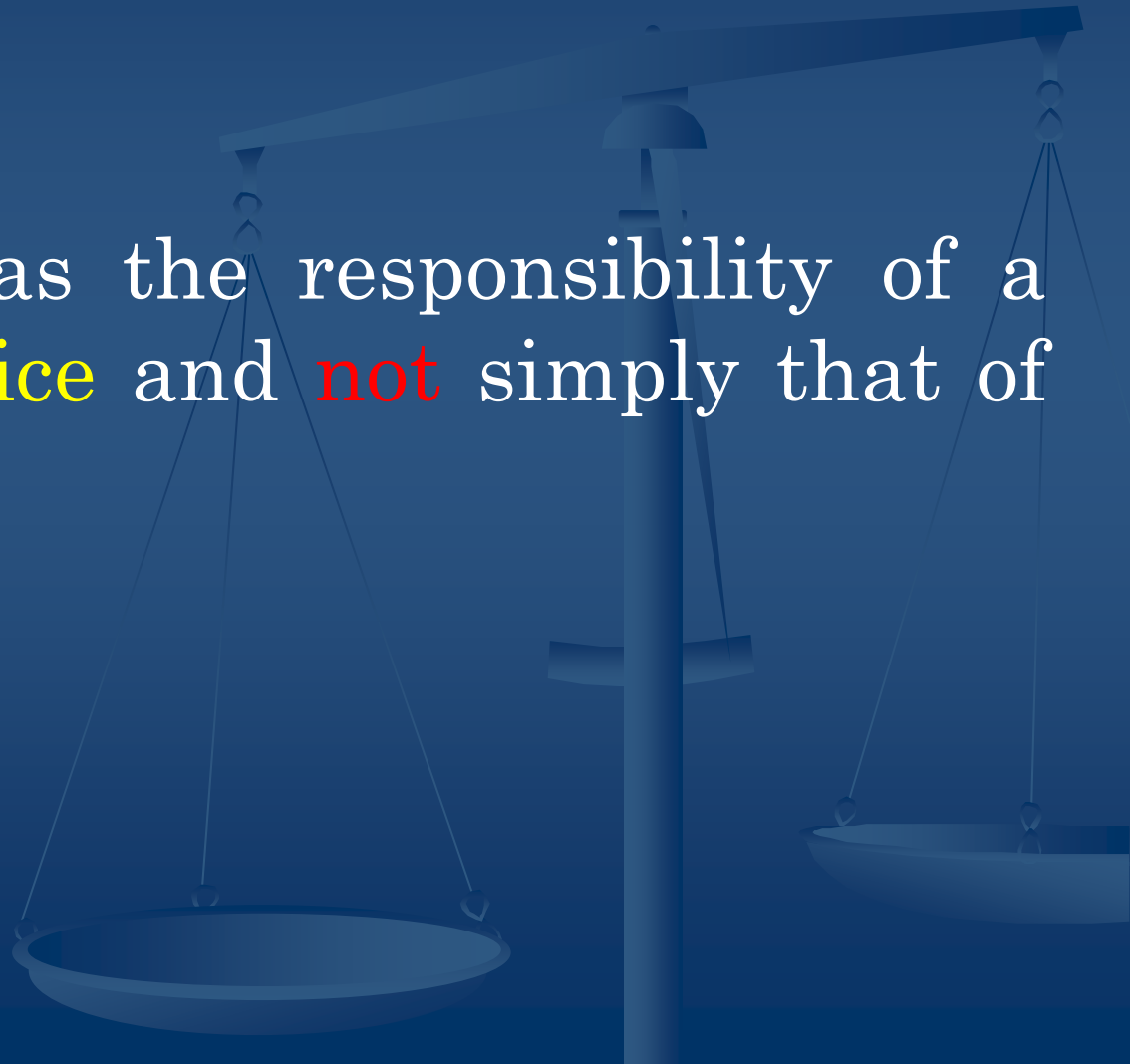
# THE PROSECUTOR

In the 1967 United States Supreme Court case *United States v. Wade*, 388 U.S. 218, Justice White defined the role of the prosecutor:

“Law enforcement officers have the obligation to convict the guilty and to make sure they do not convict the innocent. They must be dedicated to making the criminal trials a procedure for the ascertainment of the true facts surrounding the commission of the crime. To this extent, our so-called adversary system is not adversary at all; nor should it be. The State has the obligation to present the evidence.”

# THE PROSECUTOR

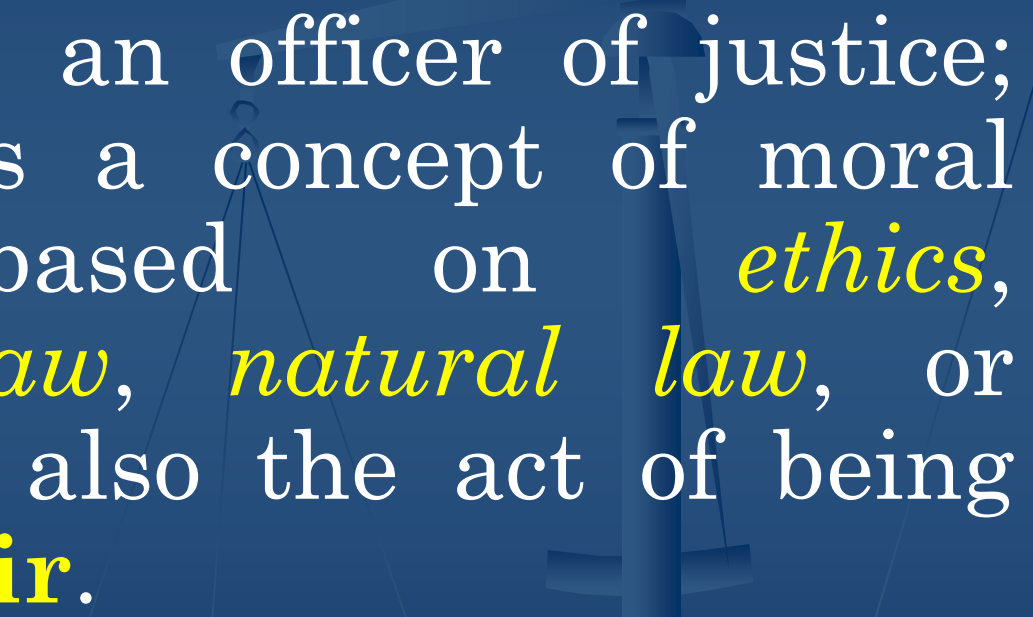
A prosecutor has the responsibility of a **minister of justice** and **not** simply that of an **advocate**.



# THE PROSECUTOR

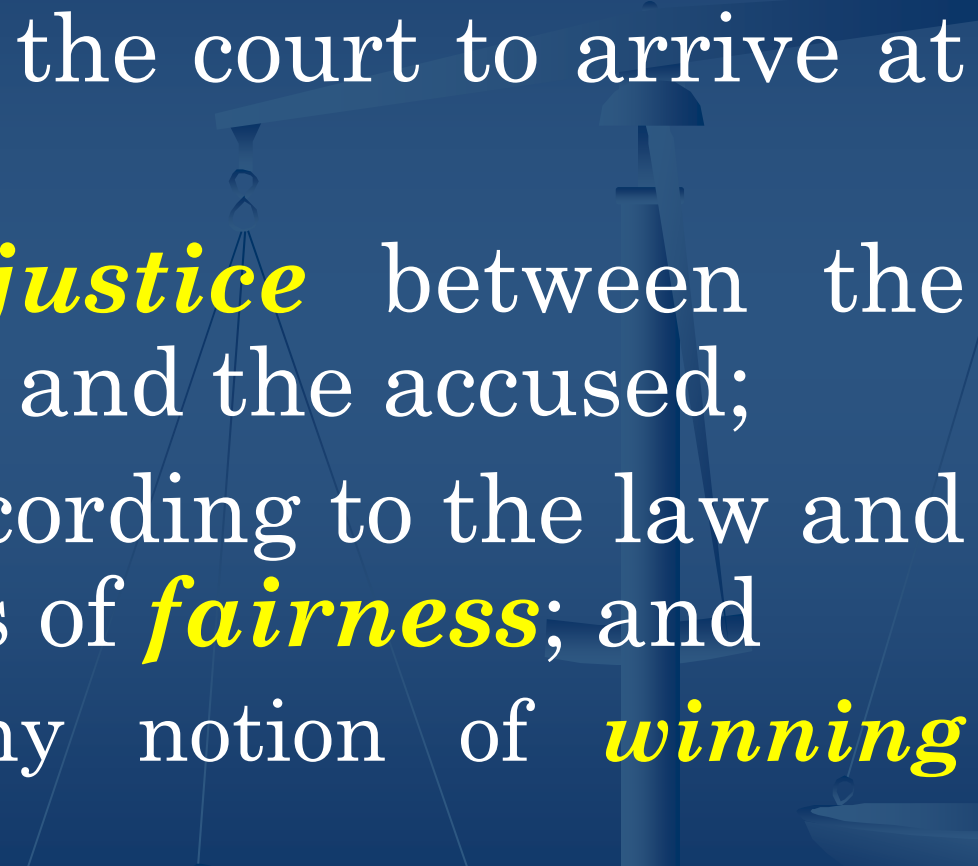
## MINISTER OF JUSTICE

A minister is an officer of justice; and justice is a concept of moral rightness based on *ethics*, *rationality*, *law*, *natural law*, or *equity*. It is also the act of being **just** and/or **fair**.



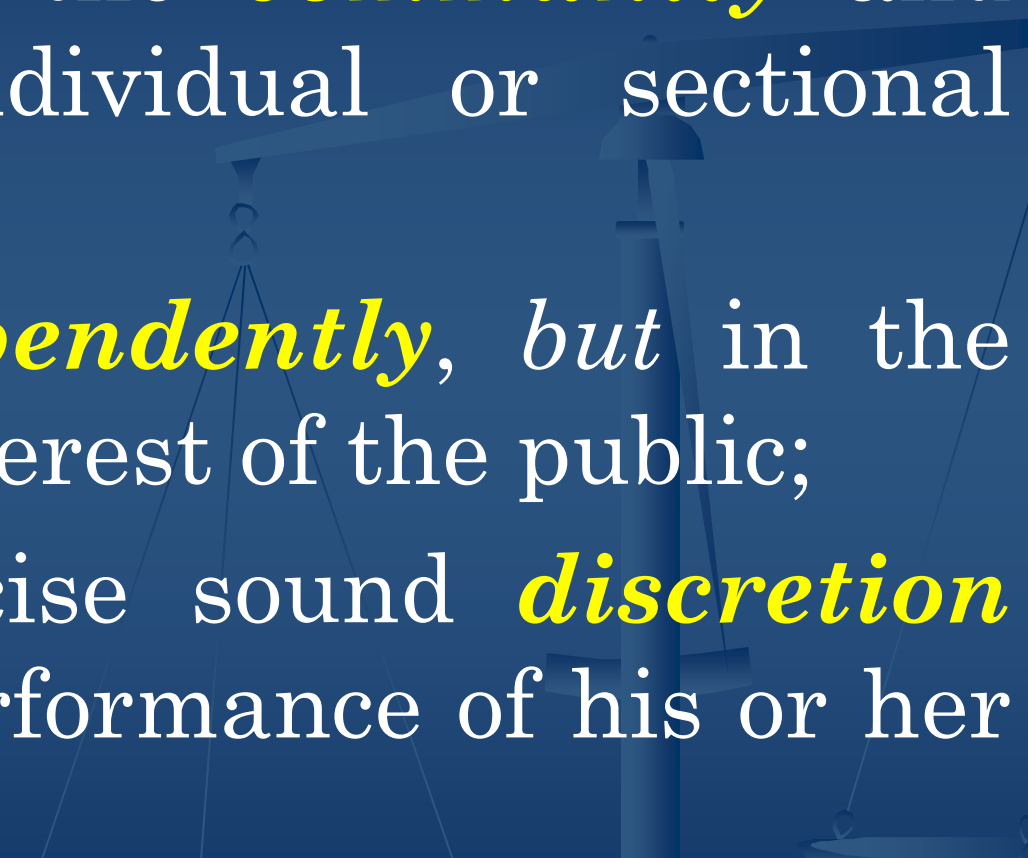
# THE PROSECUTOR

The prosecutor's role:

- Is to assist the court to arrive at the *truth*;
  - Is to do *justice* between the community and the accused;
  - Is to act according to the law and the dictates of *fairness*; and
  - Excludes any notion of *winning* or *losing*.
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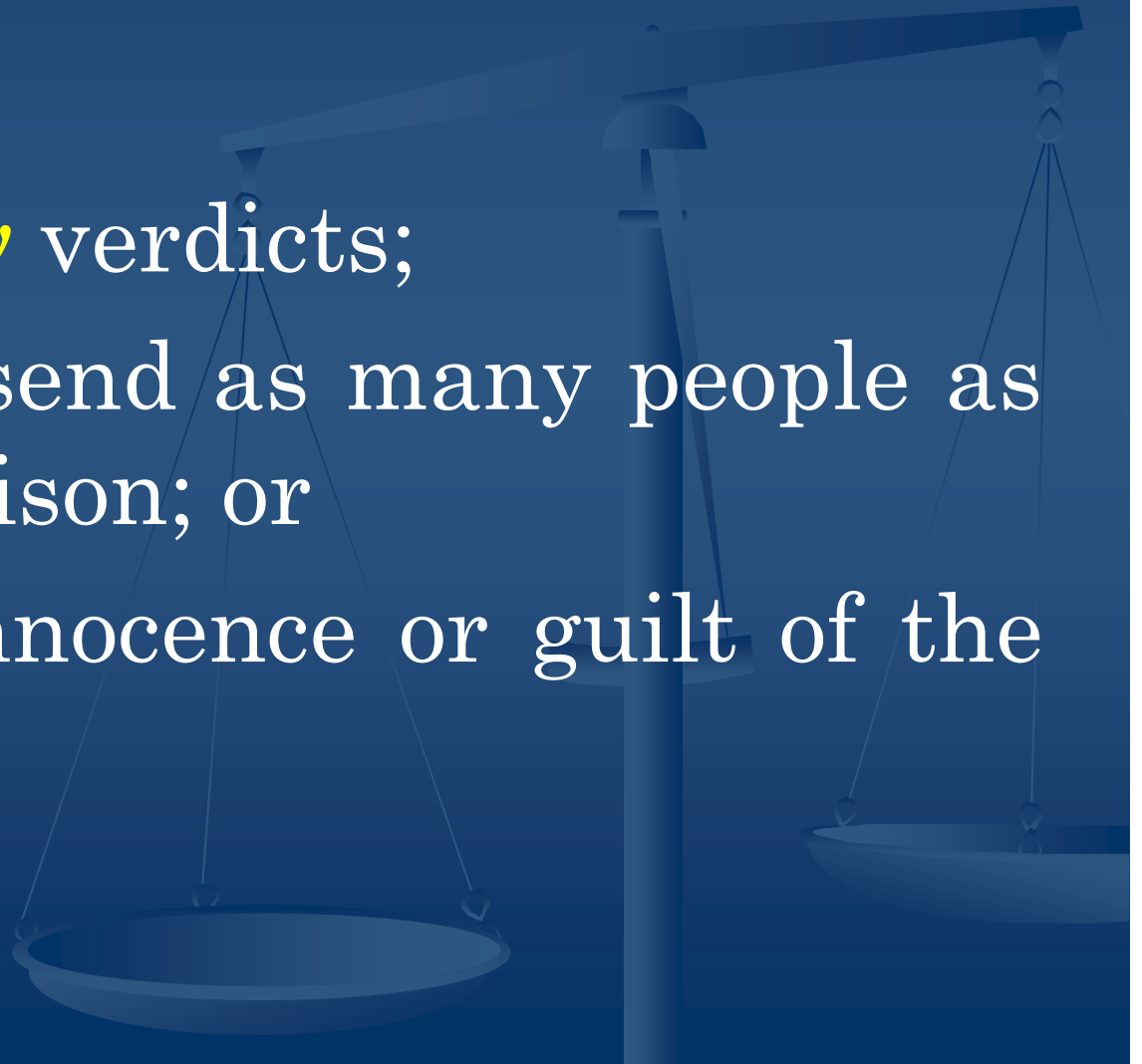
# THE PROSEUTOR

- Represents the **community** and not any individual or sectional interest;
  - Acts **independently**, *but* in the general interest of the public;
  - Must exercise sound **discretion** in the performance of his or her functions.
- 

# THE PROSECUTOR

Is **NOT** to:

- Secure **guilty** verdicts;
- Convict and send as many people as possible to prison; or
- Decide the innocence or guilt of the accused.



# THE PROSECUTOR

- Must present *credible* evidence to the jury. Evidence that the State considers to be relevant as it relates the crime alleged;
- Has a duty to present *all* available evidence;
- Must be *fair*; and
- Must ensure that the accused receives a *fair* and *impartial* trial.

ACLU



# THE PROSECUTOR

## 'Let Justice Be Done': Georgia Justices Question AG's Fight Over New Murder Trial

"The Attorney General should decide whether it is really in the interest of justice for the State of Georgia to continue fighting to block discovery," Nahmias wrote.

By **Jonathan Ringel** | September 19, 2019 at 01:58 PM



Presiding Justice David Nahmias (left) and Chief Justice Harold Melton, Supreme Court of Georgia. (Photos: John Disney/ALM)

### Law Firms Mentioned

Troutman Sanders

### Trending Stories

1 **Cleary Rainmaker Takes Over to Freshfields in New M&A Shakeup**

THE AMERICAN LAWYER

2 **House Faces First Court Challenge Over Witness Testimony in Impeachment Inquiry**

NATIONAL LAW JOURNAL

3 **Warning Signs: How Bankruptcy's Greatest Failures Unfolded**

THE AMERICAN LAWYER

4 **Two Judges Suspended from the Bench, With Pay, by Unanimous NY Court**

# THE PROSECUTOR

The chief justice and presiding justice of the Supreme Court of Georgia Thursday called on the state attorney general to consider dropping a fight against a murder convict seeking a new trial based on new DNA evidence.

The case of Devonia Tyrone Inman “is the one that causes me the most concern that an innocent person remains convicted and sentenced to serve the rest of his life in prison,” wrote Presiding Justice David Nahmias, referring to more than 1,500 murder cases he has reviewed in 10 years on the court.

# THE PROSECUTOR

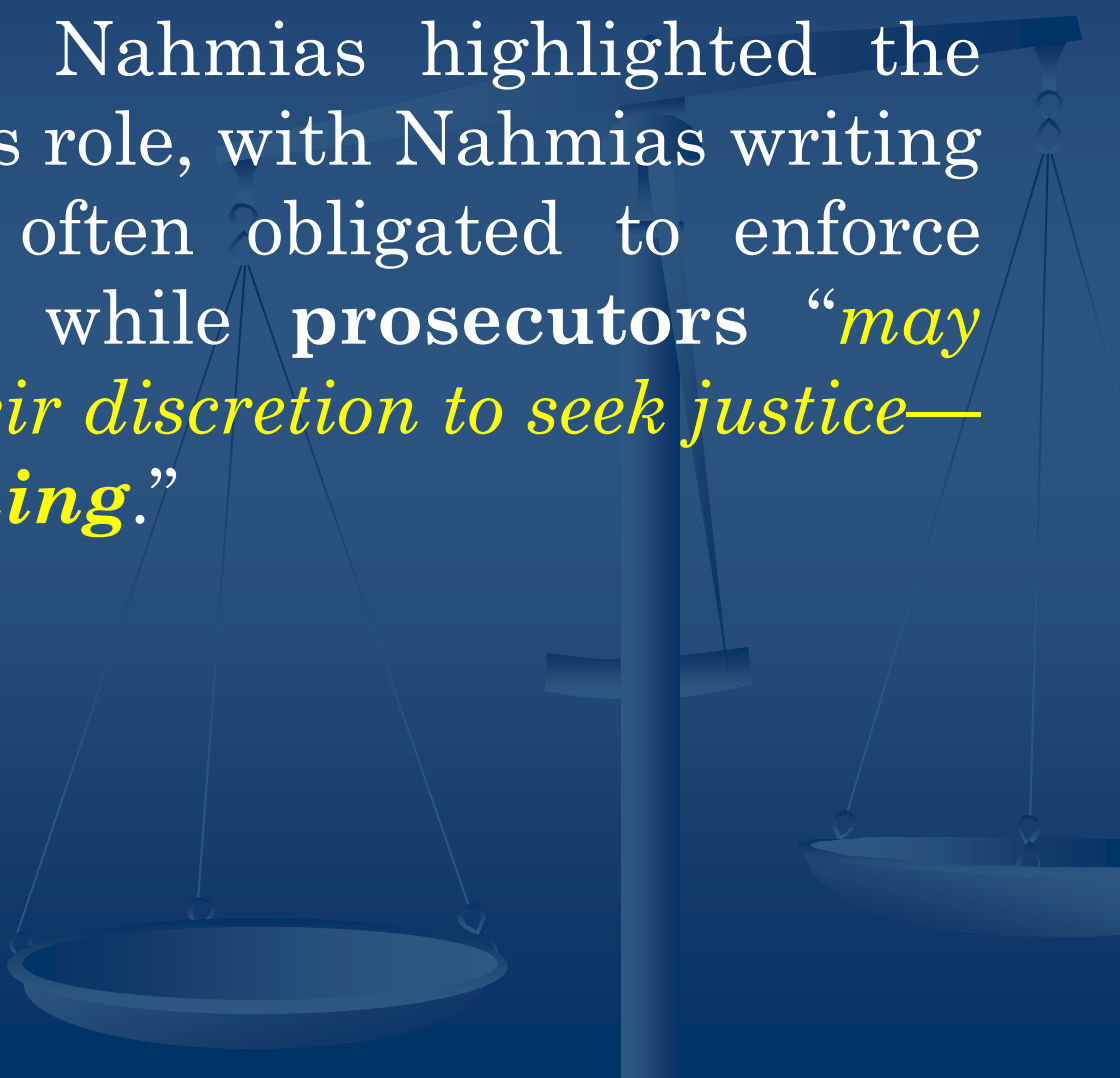
He was concurring with the court's decision to allow Inman's habeas corpus challenge to move forward.

“The Attorney General should decide whether it is really in the interest of justice for the State of Georgia to continue fighting to block discovery regarding Inman's claims and asserting procedural defenses to prevent a hearing on the merits of those claims,” Nahmias added.

“Let justice be done,” Nahmias concluded.

# THE PROSECUTOR

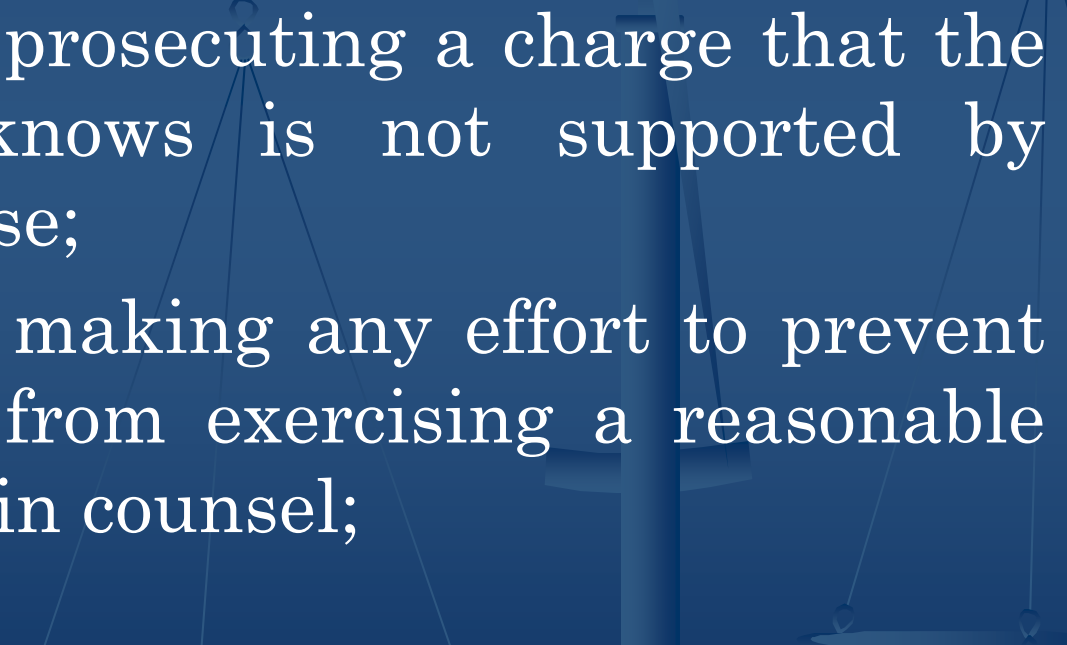
Both Melton and Nahmias highlighted the limits of the court's role, with Nahmias writing that judges "are often obligated to enforce procedural rules" while prosecutors "*may always exercise their discretion to seek justice—to do the right thing.*"





# SPECIAL RESPONSIBILITIES OF THE PROSECUTOR

## State Bar Rule 3.8

- a) refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause;
  - b) refrain from making any effort to prevent the accused from exercising a reasonable effort to obtain counsel;
  - c) Reserved.
- 

# SPECIAL RESPONSIBILITIES OF THE PROSECUTOR

- d) make *timely* disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or that mitigates the offense.
- e) exercise reasonable care to prevent persons who are under the direct supervision of the prosecutor from making an extrajudicial statement that the prosecutor would be prohibited from making under subsection (g) of this rule;

# SPECIAL RESPONSIBILITIES OF THE PROSECUTOR

- f) not subpoena a lawyer in a grand jury or other criminal proceeding to present evidence about a past or present client unless the prosecutor reasonably believes:
  1. the information sought is not protected from disclosure by any applicable privilege;
  2. the evidence sought is essential to the successful completion of an ongoing investigation or prosecution; and
  3. there is no other feasible alternative to obtain the information; and
- g) except for statements that are necessary to inform the public of the nature and extent of the prosecutor's action and that serve a legitimate law enforcement purpose, refrain from making extrajudicial comments that have a substantial likelihood of heightening public condemnation of the accused.

# THE PROSECUTOR

THE PROSECUTOR IS ***MORE***  
THAN A LAWYER!



# THE PROSECUTOR

## PROSECUTOR'S ROLE

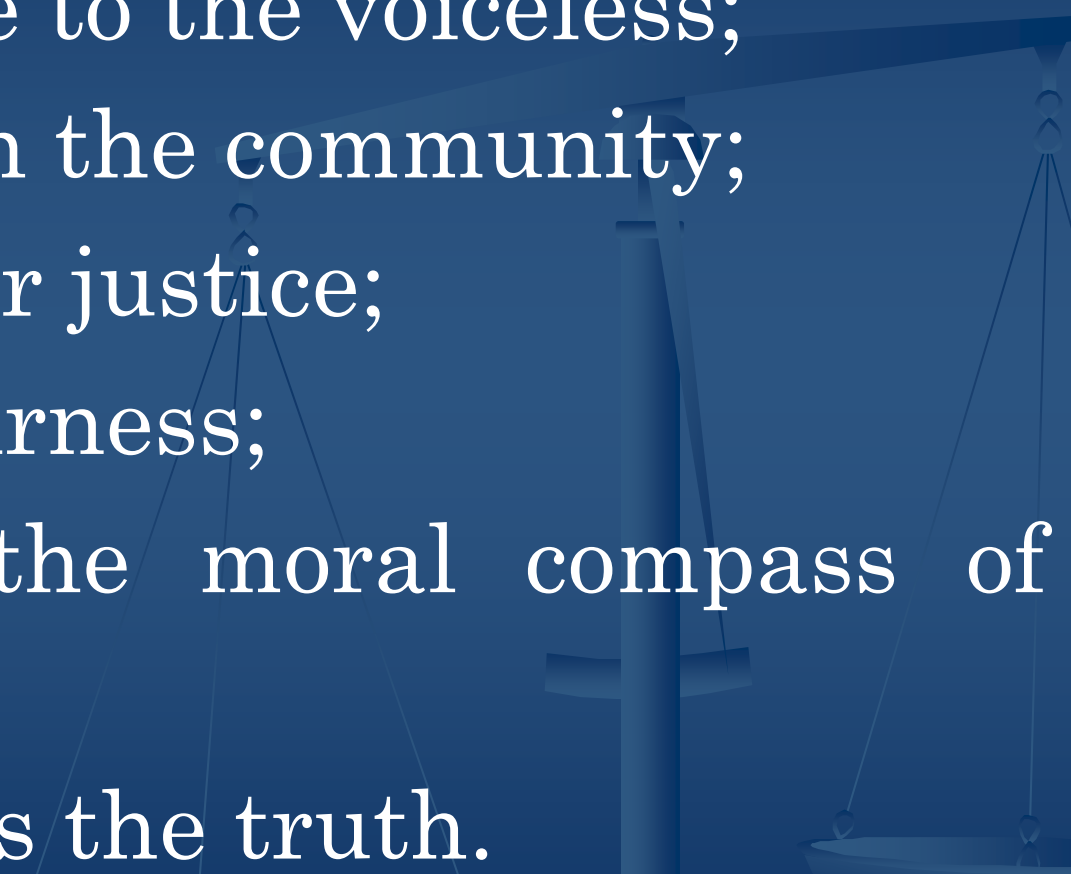
### Traditional Role

- Reactive to Crime
- Isolated from Community
- Very Little Communication
- Mistrust of Criminal Justice System

### Smart and Just Prosecution

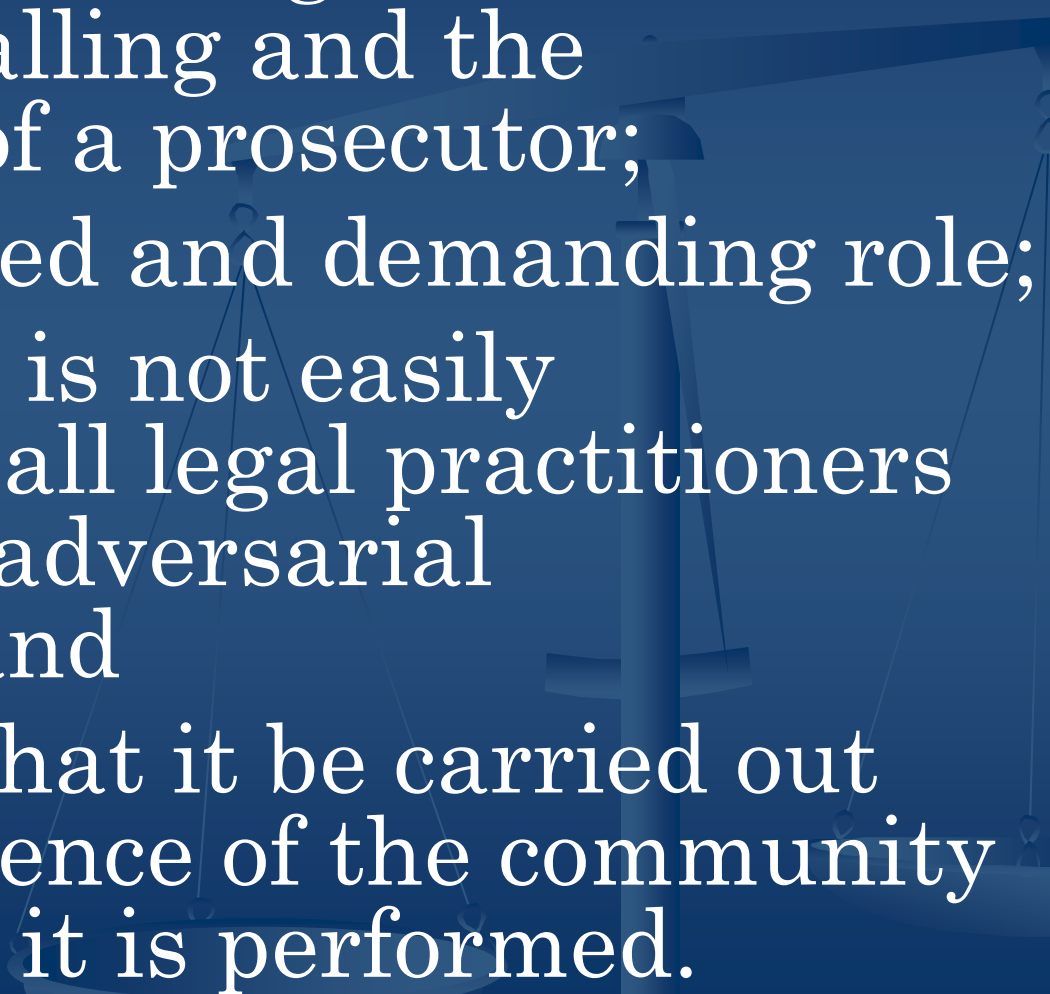
- Proactively Address Crime
- Community Partner
- Open Communication
- Instill Trust in the Criminal Justice System

# THE PROSECUTOR

- Gives a voice to the voiceless;
  - Is a leader in the community;
  - Advocates for justice;
  - Promotes fairness;
  - Stands as the moral compass of society; and
  - Always seeks the truth.
- 



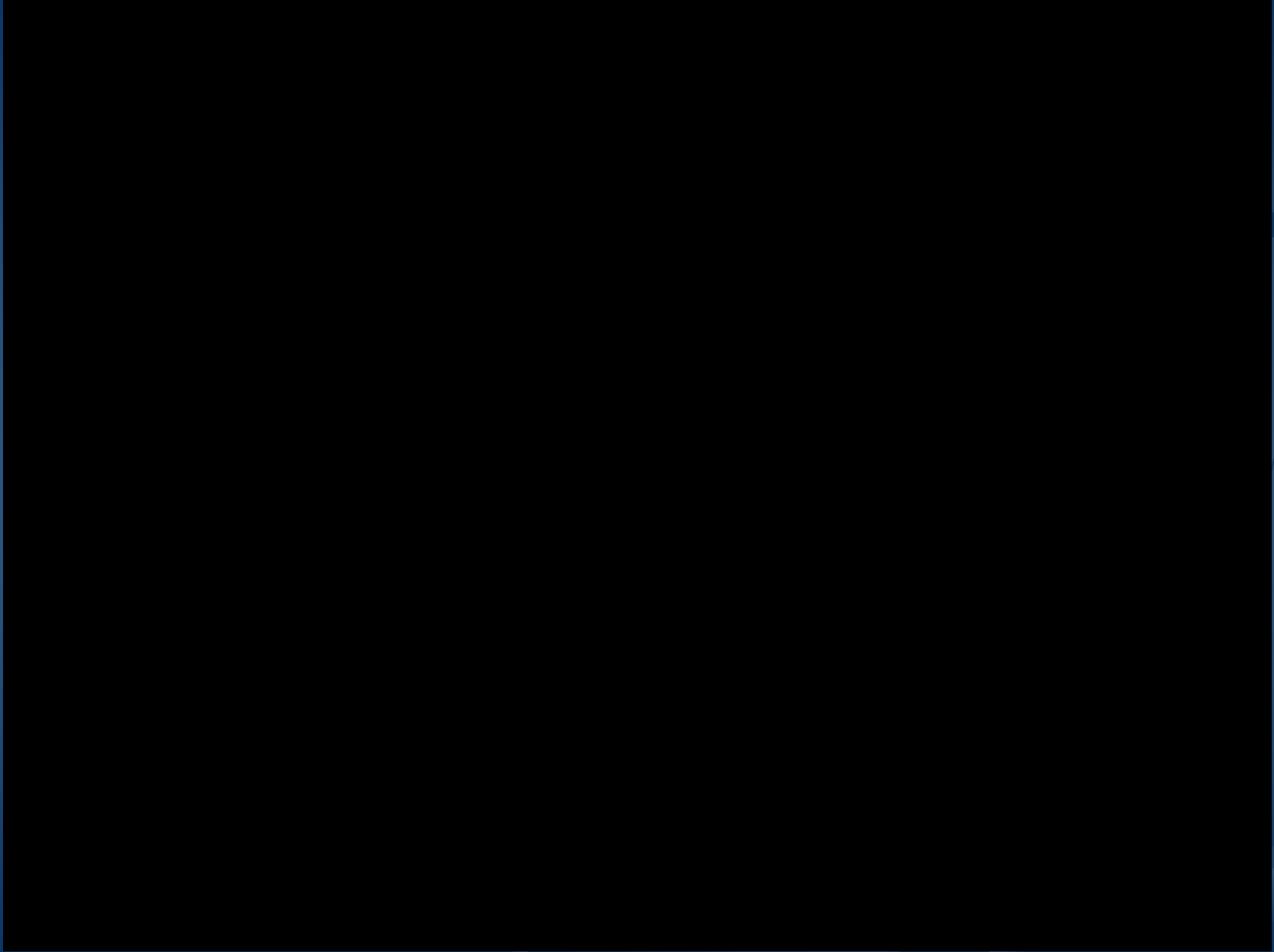
# THE PROSECUTOR

- There are special obligations that attach to the calling and the responsibility of a prosecutor;
  - It is a specialized and demanding role;
  - It is a role that is not easily assimilated by all legal practitioners schooled in an adversarial environment; and
  - It is essential that it be carried out with the confidence of the community in whose name it is performed.
- 



# TOP Ten Rules for Success

1. Be ethical
  2. Be prepared
  3. Know your case
  4. Dress professionally
  5. Build relationships
  6. Find balance
  7. Become a resource
  8. Practice what you preach
  9. Do the right thing
  10. Enjoy the ride!
- 



# THE PROSECUTOR

## *BIBLIOGRAPHY*

- R. R. Kidston QC, former Senior Crown Prosecutor of New South Wales, in *"The Office of Crown Prosecutor (More Particularly in New South Wales)"* (1958) 32 ALJ 148).
- Copyright © 1981-2005 by Gerald N. Hill and Kathleen T. Hill.
- *"Definitions.net."* STANDS4 LLC, 2012. Web.
- *The Criminal Justice Standards for the Prosecution Function*, 4th ed., ©2018 American Bar Association.

# CONTACT INFORMATION

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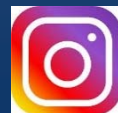
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