

# Criminal defense attorney: ethical obligations



**ASSIGN  
BUSTER**

**Thoroughly explain the difference between the ethical obligations of a defense attorney and the ethical obligations of a prosecutor. Explain how these different roles may affect their responsibilities in a criminal trial**

### **Obligations of the Defense Attorney**

The role of an attorney, as defined by society, can be seen threefold; a member of a legal profession, a representative of clients, and an officer of the judicial system with the responsibility of obtaining quality justice. These responsibilities do not differentiate based on the type of law that is practiced. These responsibilities go farther than merely representing a client in a criminal proceeding. An attorney must respect the need to seek the truth within a system that places justice as a core value. There are multiple roles that a criminal defense attorney must face and each role has distinct responsibilities in every action and every decision that is made.

### **Role as Advocate**

The American Bar Association Criminal Justice Standards suggest that the defense attorney satisfies his duty to “ the administration of justice and as an officer of the court” merely by serving “ as the accused’s counselor and advocate with courage and devotion and to render effective, quality representation.” (Marcus, 2009) A few advocates take the position that the criminal lawyer has one assignment, enthusiastically speaking for the client, within the law, and state that the part of the criminal lawyers responsibility to secure the accused against the power of the government, directs the lawyer’s ethical commitments.

**Officer of the Court**

The criminal lawyer has obligations to the court and others to include the defendant. The officer of the court is required to decide on choices that reflect regard for the truth and the function of the trial procedure. The officer of the court is required to cease from including himself in distortion, misrepresentation, and deceptive nature. The officer of the court can't take an interest in perjurious declaration, and in the event that he gets to be distinctly mindful of his association then he should find a way to cure it.

**Minister of Justice**

The criminal defense lawyer is called to be a member of society with an extraordinary obligation to justice. Justice considers whether the issues of the substantive and procedural privileges of the accused have been ensured all through the legal procedure. Justice obliges adherence to the correct techniques and procedures, through which justice is proficient. Also, at last, it requires that false declaration or testimony would not be the premise of a "fair" conviction.

Paying little mind to whether a criminal attorneys client is liable of the wrongdoing he or she is being accused or wrongly blamed, the lawyer's occupation doesn't change: make the prosecution prove its case with sound contentions, genuine proof, and dependable declaration. Criminal lawyers have an impossibly troublesome task, as upsetting and candidly difficult as that of a Doctor who must save life, and have the capacity to watch a patient die under his surgical knife and come back to work again the following day. It doesn't deliver fulfillment or euphoria when lawyers see their blameworthy

criminal client go free, ensured by the Constitutional denial against “ double jeopardy” never to need to suffer discipline over shocking crimes. Be that as it may, they are not the villains and liars of the American justice system; they are its moral legends.

### **Obligations of the Prosecutor**

The prosecutor must have the capacity to demonstrate the defendant is blameworthy past all doubt even though, prosecutors tend to be somewhat embellished and violate the laws of justice at any cost. Tragically, innocent individuals are put in a place of confessing to violations they didn't commit due to the attorney misconduct. Unfortunate behavior by prosecutors is typical inside the courts, a viable strategy that works to support them. It comprises of wrecking, changing or withholding proof, threatening defense witnesses in return for lesser sentences, training witnesses for the prosecution to give statements that help their evidence against the defendant. Eventually the defendant does not get a reasonable trial and is wrongly sentenced. Criminal convictions as of late have been toppled on account of violations by prosecutors regarding scientific evidence. A prosecutor has the ethical commitment to keep up a level of competent fitness in the courtroom.

### **The Function of the Prosecutor**

- The office of prosecutor is responsible with arraignments in its district.
- The prosecutor, along with the defense attorney, is a manager of justice, an advocate, and an officer of the court; the prosecutor must practice sound suspicion in the execution of his or her capacities.

- The obligation of the prosecutor is to look for justice, not simply to convict.
- It is an imperative of the prosecutor to look to change and enhance the organization of criminal justice. Whenever insufficiencies or treacheries in the substantive or procedural law become obvious, he or she must enhance endeavors for healing the negative activity.
- It is the obligation of the prosecutor to know and be guided by the guidelines of professional conduct as characterized by traditions, moral codes, and law in the prosecutor's locale.

In 1935, the case of *Williams v. State* cited a reasonable definition by stating; The prosecutor is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done. As such, he is in a peculiar and very definite sense the servant of the law, the twofold aim of which is that guilt shall not escape or innocence suffers. He may prosecute with earnestness and vigor - indeed, he should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one.

## **References**

Marcus, M. (2009). The making of the ABA criminal justice standards. *Criminal Justice*, 23 (4), 10.

295 U. S. 78, 88 (1935), cited in *Williams v. State*, 103 Nev. 106, 110, 734 P. 2d 700, 703 (1987); see also RPC 3. 8 (Special Responsibilities of Prosecutor); ABA Prosecution Function Standard § 3-1. 2 (3d Ed. 1993); NDAA National Prosecution Standard § 1. 1 (2d Ed. 1991).