

Ethics in criminal justice

Law



Section/# Ethics in Criminal Justice: A Brief Exploration of the Role of Key Figures within the Criminal Justice System

Although the roles of the defense and prosecuting attorney are often idealized and misunderstood in terms of how our media represents these actors, they retain distinct ethical and moral obligations that are engendered in the jobs they perform. As such, this brief analysis will work to define the moral and ethical responsibilities that these positions necessarily engender. Likewise, the analysis will attempt to provide distinct examples of what moral and ethical responsibilities that each of these attorneys has. Lastly, these responsibilities will be analyzed and discussed from the perspective of the victim, the accused, and the community.

When one thinks of ethics and the attorney, it is nearly always theorized that the defense attorney bends/breaks the most ethical/moral rules. However, this could not be further from the truth. In effect, the defense attorney has a very clear function; to represent the accused and seek to have the accused acquitted or at the very least to have his/her sentence diminished. What is more, the moral and ethical responsibility in performing this job lies in the fact that regardless of the guilt or the nature of the crime, it is the attorney's role to defend the client in all matters. Therefore, in order to perform such a function in an ethical and moral way, the attorney must actively engage to work for the benefit of those he/she represents. A complicating ethical/moral factor for the defense attorney lies in the fact that he/she may be working to set free a criminal that should be forced to serve a sentence for the crime they have perpetrated.

Furthermore, the defense attorney faces a moral/ethical dilemma with regards to the victim and their friends/family/representatives. In attempting

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to lessen the sentence or acquit the accused, the defense attorney is understood to disrespect whatever loss that the victim's family/friends may have experienced. Therefore, actively working to undermine the sense of closure that effective justice might bring these parties further complicates the roles and responsibilities of the defense attorney.

Similarly, the prosecuting attorney has the much more ethically/morally complicated job. This is due to the fact that the prosecuting attorney is tasked with seeking to indemnify all those cases that come before him/her. Secondly, the ethical/moral responsibility and conviction of the prosecutor is further blurred by the fact that the state/entity that they represent may likely be willing to lessen or reduce a given sentence regardless of whether the offender may deserve an even stronger sentence (Gershman, 2011).

Similarly, in a perfect world, the prosecutor is working for the community by seeking to protect them from offenders that might do them harm.

Lastly, rather than discussing what involves moral/ethical responsibility for defense and prosecuting attorney separately, this analysis will simply assert that performing this job to the best of their respective abilities is the single largest determinant towards seeking to transfer the greater good to all parties involved. Due to the nature of the current criminal justice system, it necessary to have both attorneys performing to the best of their abilities in order to ensure the continued survival of the justice system.

References

Gershman, B. L. (2011). The Zealous Prosecutor as Minister of Justice. *San Diego Law Review*, 48(1), 151-155.