



MARILYN HITE ROSS

WINNEBAGO COUNTY STATE'S ATTORNEY

Welcoming remarks by State's Attorney Marilyn Hite Ross (June 26, 2020)

Welcome to the Winnebago County State's Attorney's Office Eleventh Annual Ethics 101 for prosecutors. I want to welcome all of the elected officials in attendance and all of the other attendees who have joined us electronically. It is a privilege and honor to serve as State's Attorney for Winnebago County.

During the historical civil unrest throughout the country and the call for social justice reform, this training is part of my ongoing commitment to ensure that prosecutors are cognizant of their ethical obligations to the victims, to the defendants, and to the community in which they serve. Although we have adjusted the method of delivery for our training this year, the significance and quality of the MCLE training remains an integral part of the State's Attorney's Office."

Even though we are currently faced with the challenges of prosecuting cases in the midst of a pandemic and ensuring the integrity of criminal investigations, this is our sworn duty and obligation. Indeed Prosecutors are held to a higher standard because we have the duty and obligation to seek justice, not merely convict. This is what we signed up for. Therefore, we must continue to act with courage to seek the truth and justice for all. "Fear is a reaction and courage is a decision." (Winston Churchill) Thank you for having the courage to serve. We are the gatekeepers of justice and we do the right thing, for the right reasons, all of the time, even when no one is watching.

We, the prosecutor represent the victim, the defendant, and the community and our duties extend to all. The words of Justice Sutherland continue to resonate, resound, and remind all of us of our mission. As he wrote in *Berger v. United States* (1935) about the role of the prosecutor and I quote:

"... (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 suffer. He may prosecute with earnestness and vigor-indeed he should do so. But while he may strike hard blows, he is not



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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.”

In 1872 Chief Justice Christiancy of the Michigan Supreme wrote the following regarding the prosecutor's duty:

“The prosecuting officer represents the public interest, which can never be promoted by the conviction of the innocent. His object like that of the court, would be simply justice; and he has no right to sacrifice this to any pride of professional success. And however strong may be his belief of the prisoner's guilt, he must remember that, though unfair means may happen to result in doing justice to the prisoner in the particular case, yet, justice so attained, is unjust and dangerous to the whole community.” Hurd v. People, 25 Mich. 405, 416 (1872)

The Illinois Supreme Court described the prosecutor's role in the context of a not guilty verdict as follows:

“While a not guilty finding is sometimes equated with a finding of innocence, that conclusion is erroneous. Courts do not find people guilty or innocent. They find them guilty or not guilty. A not guilty verdict expresses no view as to a defendant's innocence. Rather, it indicates simply that the prosecution has failed to meet its burden of proof. While there are those who may criticize courts for turning criminals loose, courts have a duty to ensure that all citizens receive those rights which are applicable equally to every citizen who may find himself charged with a crime, whatever the crime and whatever the circumstances. When the State cannot meet its burden of proof, the defendant must go free.”
People v Smith, 185 Ill.2d 532, 545 (1999)

We all strive to exemplify the qualities of a good prosecutors. United States Supreme Court Justice Robert H. Jackson, described the qualities of a good prosecutor as follows:

“The qualities of a good prosecutor are as elusive and as impossible to define as those which make 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 the abuse of power, and the citizens' 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.”



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(United States Supreme Court Justice Robert H. Jackson, April 1, 1940)

In closing I want to share a quote from Booker T Washington: "A lie doesn't become truth, wrong doesn't become right and evil doesn't become good just because it is accepted by a majority"

For the afternoon, I want to encourage all of you to persevere and to be the instruments of change and not the obstacles to progress. Let's prepare to be engaged, enlightened, and encouraged by our Ethics speakers for the afternoon.

Thank you and welcome.