

## **The Prosecution Project**

**Spring 2016**

**Professor John Douglass**

**Tuesdays, 4:00 – 5:40pm**

**Room L-31**

### **Course Description:**

The Prosecution Project is a “policy clinic,” a unique collaboration between law students and professional prosecutors through a partnership with the Committee on Justice and Professionalism of the Virginia Association of Commonwealth’s Attorneys (VACA). The Project has two aims. First, through readings and discussions with experienced prosecutors, judges, police, defense attorneys and others, students will be introduced to the professional roles of prosecutors, to their ethical responsibilities, and to the challenges faced by modern prosecutors in seeking to do justice in a rapidly changing environment. Second, through their research and analysis, students will assist the VACA Committee in its efforts to study and address issues of importance to prosecutors and the public.

### **Materials:**

I will post assignments on Blackboard, often including links to reading materials. You should purchase two small paperback books, both available at the UR Bookstore:

John Bobo, *The Best Story Wins: And Other Advice for New Prosecutors* (Tower Publishing 2010)

M. Michael Cassidy, *Prosecutorial Ethics* (2d ed.)(West 2012)

## Course Plan

### **Week 1: (Jan. 12) – The Prosecutor’s Duty to Do Justice; National and State Best Practices Movement; Course Planning and Timetable**

Guests:

- Theophani K. Stamos, CA for Arlington County and the City of Falls Church (Co-Chair of the VACA Committee);
- Denise Lunsford, CA for Albemarle County (Co-Chair of the VACA Committee)
- Hon. Stephanie Merritt, Judge, General District Court

### **Week 2: (Jan. 19) – The Prosecutor as Elected Official: Politics, the Media and the Public**

Guests:

- Michael N. Herring, CA for City of Richmond
- Nancy G. Parr, CA for City of Chesapeake

### **Week 3: (Jan 26) – The Prosecutor’s Role in Investigations: Relations with Police**

Guests:

- Raymond F. Morrogh, CA for Fairfax County
- Timothy Longo, Chief of Police, City of Charlottesville

### **Week 4: (Feb 2) – Prosecutors as Adversaries (or not): Relations with the Defense: Discovery Obligations**

Guests:

- Michael N. Herring, CA for City of Richmond
- Robert J. Wagner, Assistant Federal Public Defender

**Week 5: (Feb 9) – Dealing with Victims and Witnesses**

Guests:

- Denise Lunsford, CA for Albemarle County
- Susan Painter, Director of Victim/Witness Office, Albemarle County

**Week 6: (Feb 16) – Prosecutors’ Power and Discretion: Charging and Plea Bargaining**

Guests:

- Michael R. Doucette, CA for City of Lynchburg
- Anthony P. Giorno, United States Attorney for the Western District of Virginia

**Week 7: (Feb 23) – Team 1 presents preliminary “issue list,” sources and findings on investigating and prosecuting use of deadly force by police. Questions and critique by guest CA.**

Guests:

- Denise Lunsford, CA for Albemarle County
- Nate Green, CA for City of Williamsburg and James City County

**Week 8 (March 1) -- Team 2 presents preliminary “issue list,” sources and findings on discovery, conviction integrity and witness security. Questions and critique by guest CA.**

Guests:

- Theo Stamos, CA for Arlington County and City of Falls Church
- Matthew R. Kite, CA for King William County

**\*\*\*Spring Break: Week of March 7-10\*\*\***

**Week 9: (March 15) – Team 1 meets with instructor to review draft report.**

**Week 10: (March 22) – Team 2 meets with instructor to review draft report.**

**Week 11: (March 29) – Preparation (Dry Run) for VACA presentation**

Guests: Members of VACA Committee (Mike Doucette, Nate Green, Mike Herring, Matthew Kite, Denise Lunsford, Theo Stamos)

**Week 12: (April 5) \*\* VACA Annual “Spring Institute” Meeting in Norfolk**

Teams 1 and 2 will present their research at the annual “spring institute” for Virginia prosecutors at Marriott Waterside, Norfolk, Va.

**Week 13: (April 12) – Debrief VACA Spring Institute experience. What did we learn? How does it change our reports?**

**Week 14: (April 19) – Final Reports Due**

### **Research Projects, Reports, Publications and Coordination with VACA Committee on Justice and Professionalism**

We will divide the class into two teams of four students. Each team will be assigned to research and report on one of the following topics:

1. Emerging Practices in Investigating and Prosecuting Use of Deadly Force by Police;
2. Emerging Practices in Criminal Discovery and Related Concerns for Conviction Integrity and Protection of Victims and Witnesses.

As part of its research, each team will:

- a. Survey published reports, news articles, academic publications and other public sources to identify emerging practices across the U.S.;
- b. With the assistance of the VACA Committee, each team will assemble information about practices across Virginia. In addition to research from public sources, this process may involve in-person or phone interviews with members of the VACA Committee and other CAs or Assistant CAs. It may include an email or online survey of CAs;
- c. Review one or more closed case files in CA's offices.

Each team will produce a report. The aims of the reports will be:

- a. to assemble an annotated bibliography that will enable a reader quickly to identify and access useful publications on the subject (with online links where possible). Resources might include case law and law journal articles on legal issues, studies undertaken by policy makers or legislative committees, books and articles highlighting past cases, training manuals, published model policies or actual policies developed by local, state or federal prosecutors' offices across the U.S.;
- b. (Team 1) to highlight key issues encountered by prosecutors who face cases involving use of deadly force by police; or (Team 2) to identify differing discovery practices nationally and across Virginia and to explore related concerns regarding the integrity of convictions and the interests of victims and witnesses; and
- c. to offer analysis that might aid prosecutors in developing best practices suited to their jurisdictions.

The aim of the reports will not be to offer judgments that a particular practice is "best" for all circumstances, but rather to assemble information and offer commentary that will assist prosecutors in choosing practices that are best suited to their own jurisdictions in light of population, resources and other factors.

Each team will present an interim draft of its report for critique and discussion at a class meeting (Weeks 7 and 8). The class meeting will include several CA's (members of the VACA committee) who will participate in the discussion and critique.

**At the VACA Annual "Spring Institute" in Norfolk on April 5, both student teams will present their reports.**

## **Publication of Reports**

We will seek to publish the reports of the Project in media that will be useful to prosecutors generally and Virginia prosecutors particularly. We also hope that the Project's publications will be of interest to policymakers and others in the criminal justice system, as well as to academics and other law students. Hence, we expect that (aside from any portions that may reference confidential material) publications will be accessible to any interested persons. Publication may include:

- distribution of reports via hard copy or email to members of VACA
- posting for online access through the VACA website
- contributing to the Prosecutor's Encyclopedia
- posting to a UR website created for the Prosecution Project
- other print and online publication.

## **Updating of Reports**

Our hope is that the Project will, over time, produce a body of work that will serve as an ongoing resource for prosecutors and policymakers. Hence, the Project may supplement and update online published reports as necessary. These efforts may be undertaken by student research assistants during the summer and fall when the Project does not have classes in session. Future Project classes may update and supplement the work from previous years.

### **\*\*\*\*\*CONFIDENTIALITY\*\*\*\*\***

Some of the Project's research may include nonpublic sources, such as CA's closed case files which may include witness names, grand jury testimony and other confidential material. Some interviews with CA's or responses to surveys may be confidential as well. Before access to any such information, students should be sure to discuss confidentiality with the CA. Before publication of any report, the report will be reviewed by Professor Douglass and by the Chair of the VACA Committee (or her designee) to insure protection of confidential information.

Students enrolled in the Prosecution Project may share information among themselves and with the instructor. **Otherwise, students should not disclose (through informal conversations, emails, social media or other means) any**

**information obtained from nonpublic sources without the permission of the instructor.**

## **Independence**

The Prosecution Project is a class offered for academic credit by a private university. While the Project works in collaboration with the VACA Committee on Justice and Professionalism, the students and faculty in the Project do not speak for VACA or for any individual Commonwealth's Attorney.

## **Grades**

Students are expected to attend every class meeting and to participate, actively, in discussion with our guests. Students are expected to take individual responsibility for drafting portions of their Team Report, as well as responsibility for coordinating that work with other team members. Students **MUST** attend the **April 5** VACA Spring Institute in Norfolk and participate in their team's presentation.

Grades will be based on participation in all of these roles and in the quality of written reports and oral presentations.