

PROMISES TO THE PEOPLE 2012 - D.A. Gerald Mollen

As the District Attorney of Broome County, I thank and commend you for your commitment to serve our community as an Assistant District Attorney. We prosecutors belong to a centuries-long tradition of public servants dedicated to protecting the welfare and legal rights of all who come before the criminal justice system. In 1940 then U.S. Attorney General Robert Jackson gave a speech to a gathering of federal prosecutors in Washington, D.C., describing the role of a prosecutor:

The prosecutor has more control over life, liberty, and reputation than any other person in America. His discretion is tremendous...The qualities of a good prosecutor are as elusive and as impossible to define as those which mark a gentleman (or gentlewoman). 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 citizen's 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.

As an Assistant District Attorney, you are not expected to win every case, but you are expected to conduct yourself in every situation in accordance with Jackson's standard - honestly, fairly and ethically. Always remember that we serve "the People", and that "the People" includes not only those victimized by crimes, but also those accused of crimes, their families and friends, and the community at large. Always remember that a criminal charge may be life-changing to a victim **or** to an accused; it must never be taken for granted. Our unique duty to seek the truth while protecting the rights of persons on both sides of a controversy gives prosecutors greater freedom than other actors in the criminal justice system to do "the right thing", and at the same time presents us with unique ethical challenges.

As the District Attorney, my own ethical duties include training and supervising all members of my staff to recognize and comply with our ethical obligations as prosecutors. As part of this process, I'm providing you with

a copy of "*The Right Thing*": *Ethical Guidelines for Prosecutors*, a handbook written by New York State prosecutors for prosecutors, together with an Appendix containing the official *Rules of Professional Conduct* adopted by our State's judiciary to govern the conduct of all attorneys. You are required to read both documents and to certify below that you have done so and that you understand and agree to abide by the ethical obligations described therein. You are expected to keep these documents, consult them and other resources when ethical issues arise, be vigilant in spotting ethical challenges, help your fellow-prosecutors to recognize and comply with their obligations, and consult with your supervisors anytime you are uncertain about your ethical duties.

You will note that much of the case law dealing with prosecution ethics arises from disputes about whether the prosecution fulfilled its constitutional and statutory disclosure obligations. In our office there is a strong presumption in favor of **full and voluntary disclosure**. Broome County prosecutors should be voluntarily disclosing to the defense all documents and information related to a prosecution, **unless** disclosure would endanger the safety of a citizen, would violate commitments of confidentiality made to an informant or would unnecessarily invade the personal privacy of a citizen. The timing of such disclosure does vary between felonies and lesser offenses. Familiarize yourself with office policies as to those differences. Again, if you have a question about whether to disclose any information or document, consult a supervisor. Our policy of voluntary disclosure serves several purposes:

- It demonstrates a spirit of fair play and transparency.
- It encourages early case evaluation and disposition without requiring litigation. It is better for all concerned to know about a weakness or problem in a case within a few days after the arrest rather than a few days before the scheduled trial date.
- It limits mistakes and allegations of prosecution misconduct.

You should be proud to serve the community as a prosecutor. As Jackson also said in the speech cited above: "While the prosecutor at his best is one of the most beneficent forces in our society, when he acts from malice or other

base motives, he is one of the worst". Each prosecutor in our office should strive to be one of the most beneficent forces in Broome County.

Dated: _____

Sincerely,

GERALD F. MOLLEN
District Attorney for Broome County

I HEREBY CERTIFY that I have received the two documents described above - "*The Right Thing*": *Ethical Guidelines For Prosecutors* and the *Rules of Professional Conduct* - that I have read both documents, that I understand them and the ethical duties of prosecutors described therein, and that I promise to comply with all such ethical duties.

Dated: _____

Signed: _____