

Procedural Justice for Prosecutors

Breakout Group Scenarios

Courtroom Scenario 1: You are working a busy arraignment shift. A person is being charged with aggravated assault of an intimate partner. When addressing the court:

1. Do you call the accused “Mr./Ms. _____” or “Defendant”?
2. Does your answer change if you know the person’s family is in the courtroom?
3. Does your answer change if the accused has multiple prior convictions for similar acts against the same person?

Courtroom Scenario 2: You are picking a jury and want to make sure the jury knows how ‘dangerous’ the accused is, in your opinion.

1. Do you call the accused “Mr./Ms. _____” or “the Defendant”?
2. Does your answer change if you know the person’s family is in the courtroom?
3. What is the affect of calling the accused “the defendant”?
4. What is lost by calling the accused by their name?

Courthouse Scenario 1: You are working arraignments and step out of the courtroom for a moment. As soon as you enter the hallway, a woman who is visibly distraught approaches you and tells you her son was just arraigned (you were the prosecutor of record) and bail was set. She says this is her first time ever being in a courtroom and has no idea where her son is going or when his next court date is and asks if you can give her any information.

1. What information, if any, would you share with her?
2. How would you handle this situation if the woman was angry and aggressive when speaking with you?

Courthouse Scenario 2: You are about to enter a courtroom where only misdemeanor cases are heard, and a young man stops you. He has a warrant, is afraid to go into the courtroom, and doesn’t know what to do.

1. What do you tell the young man?
2. Would your response differ if the courtroom you were about to enter only handled felony cases?

Office Scenario 1: You are walking back to your office after spending the morning waiting for a trial to start. Your colleague makes a racially disparaging comment about one of accused men in your case.

1. What do you say to your colleague?
2. Does your response depend on your colleague’s racial background? Why or why not?

Office Scenario 2: A junior prosecutor in your bureau won their first trial and the conviction carries a mandatory prison sentence. They stop by your office and excitedly tell you they are going to celebrate the big win at the local bar and would like you to join.

1. How do you respond?

2. Should a mandatory prison sentence be celebrated? Why or why not?

Law Enforcement Scenario 1: A junior prosecutor is prepping their first felony trial, the result of a longstanding feud between the accused and victim. A supervisor has assigned to second seat the trial is present during prep with the arresting officer. During prep the officer says he is looking forward to “putting this animal away.”

1. What should you do as the junior prosecutor in this situation?
2. Does the possibility of offending a key witness impact your decision on how to respond to the officer?
3. Does the action or inaction of the senior prosecutor influence your decision? If so, how?
4. As the senior prosecutor, what should you do?
5. How do you use this as a moment to model the office’s mission to both the junior prosecutor and the officer?

Law Enforcement Scenario 2: You are the senior attorney in night arraignments on Saturday night and are about to arraign your twentieth case. As paperwork is being passed to the judge the bridge officer says “just a heads up, the next character has a lot of family in the court so be careful about what you say. You know how those people are and we don’t want to have to deal with them acting crazy in the hallways.” The bridge officer’s comments were loud enough to be heard by the rookie prosecutor shadowing you, the defense attorney, court reporter, and the judge.

1. How do you respond to the bridge officer?
2. Assume you chose not to respond, and the rookie prosecutor asks why you didn’t say anything. What do you tell him/her?
3. How does the bridge officer’s comment affect how you proceed with the arraignment?

Complaint Room Scenario 1: During one of your first shifts in the complaint room, you write up a misdemeanor assault resulting from a fight between two 19-year-old men. There is an 18-yo co-accused charged with acting in concert, who was not a direct participant in the fight. You are not clear what the reason was for this arrest and begin to question the arresting officer to determine whether there was probable cause for the 18-year old’s arrest. The officer gets annoyed by your questions and blurts out, “What’s the big deal here? Just write it up as I told you and let the courts sort it all out.”

1. Should you respond to the officer?
2. If so, what would you say?
3. Would you consult with a supervisor before responding to the officer?

Complaint Room Scenario 2: During your first night shift in the complaint room, you are writing up a petit larceny where a woman was stealing baby formula from a local drug store. When you take the complaint to your supervisor for approval, he tells you to add a robbery charge since the accused used force when pushing past the security officer. You were hoping to convince your

supervisor to decline to prosecute because you do not believe that the facts of this case warrant a felony charge.

1. How do you respond to your supervisor?
2. What do you do if your supervisor tells you to continue drafting the complaint as instructed?