



A GUIDE TO LANDING A JOB IN A LOCAL PROSECUTOR'S OFFICE



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TABLE OF CONTENTS

| | |
|--|----|
| Why Become a Prosecutor? | 3 |
| What do Prosecutors Do? | 3 |
| Characteristics of a Prosecutor | 4 |
| What Can I do in Law School to Best Position Myself to Land a Job as a Prosecutor? | 4 |
| 1L | 4 |
| 2L | 5 |
| 3L | 6 |
| Suggested Courses | 7 |
| The Application Process and Assignment Expectations | 7 |
| 1L & 2L Summer Jobs | 7 |
| Post-Graduate Positions | 8 |
| Deciding Between Offices | 8 |
| Interviewing Tips | 9 |
| The Interests, Skills, and Characteristics that Interviewers Seek | 9 |
| The Structure of the Interview Process | 9 |
| Common Interview Questions | 11 |
| Answering Hypothetical Questions | 13 |
| Common Hypothetical Questions | 13 |
| Prosecutor Salaries | 17 |
| How to Finance Your Career as a Prosecutor | 18 |
| BUSL Alumni Narratives | 19 |
| Helpful Websites | 23 |

WHY BECOME A PROSECUTOR?

The role of a prosecutor is to seek justice for the community and to help victims of crimes. The practice is one of extremely fast-paced and intense litigation. If you care deeply about maintaining and enforcing the rule of law, find criminal law and litigation stimulating, and have a desire to help victims and the community, a career in prosecution could be the right choice for you.

WHAT DO PROSECUTORS DO?

THEY GO TO COURT! Constantly. The duty of a prosecutor is to represent the government in criminal matters. This includes deciding who should be charged with which crimes, whether to move to dismiss a case for lack of evidence, and whether to negotiate a plea with the defendant. Prosecutors include district attorneys, state attorneys general, United States Attorneys, and attorneys in litigating divisions of the United States Department of Justice. Harvard Law School produces a useful guide that discusses differences between the types of prosecutors on pages 3 and 4 of its guide to local prosecution: www.law.harvard.edu/current/careers/opia/toolkit/guides/documents/prosecution2010.pdf

The type of cases handled in a prosecutor's office varies greatly, depending upon whether you work as a local, state, or federal prosecutor. Because most recent graduates work for local offices (*e.g.*, the Suffolk District Attorney), we focus here on the work typically performed in local prosecutor's offices. Prosecutors may transition to another state or federal office after several years of practice. We refer to attorneys working for local prosecutor's offices generically as assistant district attorneys. Students hired as assistant district attorneys immediately after law school should expect to prosecute defendants in a district or municipal court. In Massachusetts, the defendants in these courts are charged with misdemeanors – such as Operating Under the Influence (“OUI”), simple assault, and minor drug possession – or felonies punishable with a sentence in the house of corrections or state prison for less than five years – such as Assault & Battery with a Dangerous Weapon, Stalking, or Larceny of more than \$250. Eventually, new attorneys may be promoted from the municipal or district court to become superior court trial attorneys, where they may prosecute such offenses as aggravated assault, trafficking of illegal drugs and/or firearms, rape, and homicide.

Prosecutors spend most of their time in court handling bail hearings, pre-trial conferences, plea negotiations, and litigating motions and trials. In a typical day in the district or municipal courts, prosecutors assess new cases as they come in, speak with officers and victims, make bail recommendations to the court, and argue non-evidentiary motions. In the average week, a prosecutor may take testimony in evidentiary motions, complete a jury-waived trial (a “bench” trial), or empanel and begin a jury trial. In addition to their time in court, prosecutors are responsible for building their cases and collecting evidence from available sources. This includes working with the police and civilian investigators (in some offices) to find witnesses, as well as preparing victims and witnesses for trial. This also includes collaborating with officers and detectives to chase down any “hard” evidence that may exist, such as video recordings, cell phone data, or bank information. Prosecutors must work quickly and efficiently as the extent of

support and resources, such as training programs, research capability, computer systems, and office staff, varies greatly by office.

There are also a number of specialty prosecuting units addressing certain categories of crimes. For example, many offices have a specialized appellate, human trafficking, and juvenile divisions and/or special drug or mental health court units.

CHARACTERISTICS OF A PROSECUTOR

Career prosecutors typically list the following character traits as important in evaluating candidates for an office:

- High moral character
- Sincere interest in public service, community service, justice and law enforcement
- Sound judgment
- Open and affable nature
- Ability to handle pressure well
- Quick thinking
- Strong public speaking ability
- Ability to interact effectively with a diverse array of people
- Demonstrated interest in litigation
- Potential for zealous advocacy
- Knowledge of social issues which have an impact on crime and criminal prosecution
- Understanding of the community in which the prosecutor office operates
- Confidence

WHAT CAN I DO IN LAW SCHOOL TO POSITION MYSELF TO LAND A JOB WITH A PROSECUTOR'S OFFICE?

1L

SCHOOL YEAR: Study hard. Develop your research and writing skills. Attend CDO public interest programs featuring district attorneys' offices and attorneys general as well as events with a criminal justice element. Get involved with the Public Interest Project ("PIP"). Join organizations with students who share your interest in prosecution and/or speak with upper-class students about their experiences interning at prosecutors' offices or working in the criminal law clinic. Meet with faculty to obtain advice about course selection and experiential learning opportunities. Participate in interview programs (such as the MLSC Government and Public Interest program) in which prosecutors' offices are potential employers. Formulate a strategy with your CDO advisor regarding to course selection, clinical/internship experience and summer employment to position yourself for post-graduate employment in this sector.

SUMMER FOLLOWING: Work for a prosecutor’s office in a community in which you hope to reside, seek a state or federal court internship, intern for a public defense agency or work for a public interest advocacy organization where you gain exposure to criminal justice issues. While you will not likely obtain courtroom experience the summer after your 1L year, you can build your skill set conducting investigations, reviewing evidence, and meeting with the public. You can also broaden your knowledge of the court system by taking time to observe experienced prosecutors in the courtroom. Go and observe arraignments, motions, and trials so you have a point of reference for what it means to be a prosecutor. Remember that your 1L summer is likely the only summer during your law school career when you will be able to gain exposure to more serious cases, like murder or racketeering. If you think that you have an interest in prosecuting more serious cases, this is the summer to get your feet wet.

If you are reading this guide after your 1L summer and wish you had thought of a career in prosecution before, it’s not too late to position yourself for post-graduate employment. Most criminal proceedings are open to the public. Consider going to the Boston Municipal Court to observe one of the criminal sessions. Don’t be afraid to introduce yourself to attorneys there. Inquire of a supervisor about the possibility of shadowing a prosecutor for a day. Observing what prosecutors do in court can clarify whether it is work you truly wish to pursue.

2L

SCHOOL YEAR: Take courses relevant to public interest advocacy and criminal prosecution. In particular, you should consider Evidence and Criminal Procedure. **Obtain “Student Practitioner” status under Supreme Judicial Court Rule 3:03 as explained below.** Enroll in the Criminal Clinic (this includes hands-on experience as well as several courses that are restricted to students in the clinic). Continue to develop your research and writing skills and focus on developing your trial advocacy skills. Network with students and alumni working at prosecutor offices and identify offices in which you wish to work.

SUMMER FOLLOWING: Try to obtain summer employment in the office in which you hope to work after graduation. While most prosecutor offices do not solely hire from their intern class, the connections you make with attorneys in a specific office during your 2L summer can be of immeasurable value in your post-graduate job search. Consider your summer internship as a ten-week job interview. You will be evaluated by senior attorneys who will ultimately report back to the hiring committee about your performance. Use your internship to demonstrate that you are committed to the work and are willing to work harder than anyone in the office to ensure that it is done well.

Massachusetts Supreme Judicial Court Rule 3:03 allows 2L students to appear in civil proceedings on behalf of indigent clients and allows 3L students to appear in civil and criminal proceedings on behalf of the Commonwealth or indigent clients under an attorney's supervision. This is called "Student Practitioner" status. Most states have a similar student practice rule which can be found online at [Georgetown Law Library's website](#).

To qualify for "Student Practitioner" status under Rule 3:03 in Massachusetts, law students must be enrolled in or have successfully completed either evidence or trial practice. Interested students then request that the law school submit an application to the SJC. To see Rule 3:03, go to the [Massachusetts Court System website](#). You can also find additional information regarding frequently asked questions [here](#).

Rule 3:03 status gives law students and recent graduates the option to apply for jobs for which they otherwise would not be eligible. Many civil and criminal public interest organizations (including public defender and prosecutor offices) prefer that you get your certification before they hire you for the summer. **During this past year, a number of 3L students applied for permanent positions with various district attorney offices. The students were informed that they would *only* be seriously considered if they had Rule 3:03 Student Practitioner status.** Rule 3:03 applies only to students whose right to appear as student practitioners commenced *at least three months prior to graduation from law school*. Contact the Experiential Education office for more information.

3L

SCHOOL YEAR: Be sure to have acquired 3:03 Student Practitioner status (see above).

Continue to take courses relevant to criminal prosecution and network with BU students and alumni that are currently working as prosecutors. If you have not already done so, obtain "Student Practitioner" Status as described above. Enroll in the Criminal Clinic if possible. You may also consider doing a Semester-in-Practice, externship or unpaid part-time internship during the academic year at a prosecutor's office. A Semester-in-Practice can be particularly helpful if you are targeting an employer outside of the northeast in an office where you have not yet interned.

Even if you were unable to structure your course schedule so that it was geared toward obtaining a prosecutor position, there is still a potential to obtain post-graduate opportunities in this sector. Prosecutor offices value commitment to public service as a defining characteristic in their hiring process. Your CDO advisor can help you craft your narrative highlighting prior professional experience and ways your experience is transferrable. If you are specifically interested in the appellate practice of a prosecutor office, then it may be wise to network within that division and find out if an appellate clerkship would substantially strengthen your application.

SUGGESTED COURSES

Students pursuing a position with a prosecutor's office should consider taking the following courses:

| | |
|---------------------------------------|--|
| The Clinical Program (criminal/civil) | Government Lawyering Externship |
| Advanced Trial Practice (S) | Homicide Investigations (S) |
| Alternative Dispute Resolution | Immigration Law |
| Crime and Punishment (S) | Judicial Externship |
| Criminal Law at the Supreme Court (S) | Juvenile Delinquency (S) |
| Criminal Motions and Advocacy | Mental Health Law- School of Public Health |
| Criminal Procedure: Comprehensive | Prosecutorial Ethics (S) |
| Criminal Procedure: Adjudication | Sex Crimes (S) |
| Criminal Procedure | Trial Advocacy |
| Evidence | Trial Advocacy (Advanced) |
| Federal Habeas Corpus (S) | White Collar Crime |
| | Wrongful Conviction Clinic |

*The (S) designates the course as a seminar rather than a doctrinal course.

THE APPLICATION PROCESS AND ASSIGNMENT EXPECTATIONS

1L & 2L SUMMER JOBS

Every summer, students obtain internships with local prosecutorial offices throughout the country, as well as with state attorneys general and United States Attorneys' offices. Students obtain interviews through targeted mailings, applying to posted positions, and networking with individual offices. Students also seek employment through specific public interest recruiting events, like the Massachusetts Law School Consortium (MLSC) Government and Public Interest Interview Program or the Equal Justice Works Conference and Career Fair in Washington, D.C. Visit the CDO's website regularly to get up-to-date information about upcoming recruitment programs. In addition to posted positions and formal programs, be proactive and to reach out to prosecutors' offices in geographic areas of interest to explore summer and long-term employment opportunities. Most prosecutors' offices have limited budgets for recruiting so reaching out directly to an office is prudent - even if the office in which you are interested does not recruit through job fairs or BU Law's On Campus or Off Campus Interview Recruitment Program. [Most 1L and 2L summer internships are unpaid, but students may apply for grants.]

Summer Intern Programs typically begin in early June and run for approximately ten weeks. Depending on the office, interns may be assigned to a specific court or unit, or may take assignments from a variety of areas. 1L interns may wish to focus on working with more senior attorneys who are preparing complex or serious cases for grand jury presentations, hearings, and trial (or appeal). 1L duties may include researching and writing appellate briefs and trial memoranda, preparing motions, reviewing evidence, or listening to jail calls. Interns may also be assigned to assist in trials, participate in interviewing victims and witnesses, and help with jury selection or *voir dire*.

2L interns may wish to focus their time on a the lower trial courts where they may be assigned to perform arraignments, argue and defend motions, and advocate in bail and dangerousness hearings under the supervision of another attorney. (See the Student Practitioner section above for further information on Rule 3:03 status). During this summer a 2L intern may carry her own caseload or be paired with other prosecutors to assist in the investigation, preparation, and presentation of their cases to the court. This is an intern's chance to see what the daily life of a new prosecutor is like, and whether it appeals in the long term.

If you do not secure an ideal summer position, or would like to add to your experience, consider pursuing a semester in practice or Fall/Spring externship within a prosecutor's office.

POST-GRADUATE POSITIONS

Although this will vary depending on the office, applications for post-graduate positions occur in the late summer/early fall after your 2L year. Some prosecutor offices participate in Boston University Law School's On-Campus and Off-Campus Recruitment Programs and various job fairs, but most do not. Identify ANY geographic region where you would be willing to work and/or have geographic ties and apply broadly. It does not require much additional effort to apply directly to a wide variety of offices and you may be glad you took the time to do so as the hiring cycle progresses.

Regarding the timeline, some offices hire new attorneys with an anticipated start date in January contingent upon bar passage, while others begin in the fall after graduation. Note that some offices will not accept applications until after you have passed the bar. If you receive an offer from a prosecutor's office, be prepared for your start date to be anywhere between the September after your graduation and early February.

DECIDING BETWEEN OFFICES

This is obviously a highly personal decision, but below are factors you may wish to consider in deciding between competing prosecutor offices:

- What geographic location is most preferable?
- What kind of training does the office provide?
- How much does that particular office pay?
- How is that office perceived by other prosecutor offices across the country?
- How is that office perceived in the local legal community?
- What types of cases will you initially handle?
- Would you be assigned to a specific unit/division of the office or rotate?
- How long before you are able to try a case?
- How long before you are able to handle more serious cases?
- What are the prospects for promotion?
- Are you interested in trial or appellate work?
- What type of support services are available?
- What is the typical attorney turnover?

INTERVIEWING TIPS

This section is intended to help you to prepare for an interview with any prosecutor's office. Once you understand what to expect and have prepared accordingly, you will increase your confidence and increase the likelihood of a successful interview.

On a cautionary note, the interview process varies both by office and depending on whether you are interviewing for a permanent position or an internship. Typically 1L and 2L students will only have one interview before they are extended an offer for an internship. In contrast, permanent candidates may have two to three rounds of interviews. The following interviewing tips are intended for 3L students interviewing for permanent placement, but they are valuable for 1L and 2L interview preparation as well. Please remember to schedule a mock interview at the CDO for additional preparation.

INTERESTS, SKILLS, AND CHARACTERISTICS SOUGHT IN PROSECUTORS INTERVIEWS

- Interests

- Passion for upholding the rights of victims and community members;
- Passion for the rule of law and its just enforcement;
- Passion for being a trial lawyer; and
- Passion for public service.

- Skills

- Advocacy experience in criminal proceedings;
- Trial advocacy experience;
- Experience working with indigent/mentally ill/drug addicted populations; and
- Writing and research competency.

- Characteristics

- Handles pressure well;
- Strong oral presentation;
- Potential as an advocate;
- Critical thinking skills;
- Ability to think on your feet;
- Sound judgment;
- Jury appeal; and
- Ability to relate to diverse audiences (victims, witnesses, police officers, judges).

STRUCTURE OF THE INTERVIEW PROCESS

The typical prosecutor interview process consists of three rounds, but some offices, like the Manhattan DA, go as high as four rounds. For some offices you can expect at least one of

these rounds to be hostile. That is normal. If you go into an interview and the interviewers seem curt or even aggressive, it does not necessarily mean that they do not like you. It means they are testing you to see how you would handle yourself in front of a short-tempered judge.

- **First Round** - During the first round, you can likely expect a conversational tone with specific questions about your courtroom experience and interest in being a prosecutor. You can anticipate questions and discussion related to the following topics:
 - Why you want to be a prosecutor;
 - Why this particular office;
 - Who you are as a professional and your past experience;
 - Your connection to the geographical area in which you are interviewing;
 - Where you see yourself in five years;
 - General hypothetical questions, including role-playing scenarios; and
 - Your commitment to public service.

- **Second Round** – This interview is typically longer than your initial interview and will likely involve attorneys (as many as 15) who will question you in a panel interview format. Questions often address hypotheticals about substantive criminal law and ethical issues and are designed to show your understanding of the law, your judgment, and your sense of prosecutorial ethics. You may be asked about your prior courtroom experiences, about your most challenging work, or about what you have learned from your prior internships. In addition, some offices require you to present an opening/closing statement or other simulated exercise during this round of interviews. The goal of this interview is to assess your knowledge and suitability for the demands of the office.

Panel interviews are rarely comfortable; quite often, the interviewers make them intentionally uncomfortable to see how you handle pressure and discomfort. Below are some practice tips to help you prepare for a panel interviewing format.

- Smile;
- Try to make eye contact with each person on the panel regardless of whether the interviewer is looking at you;
- Stay positive and confident regardless of what negative energy you may perceive by one or more of interviewers;
- While answering questions from the panel, keep in mind that they are assessing how you handle pressure;
- As you answer questions from the panel, this is your opportunity to demonstrate that you can handle yourself in challenging circumstances which you will inevitably face in court; and
- Avoid appearing annoyed, flustered, or angry.

When answering hypothetical questions, think about **WHY** the question is being asked. Interviewers frequently present applicants with hypothetical situations to test the applicant's instincts, ethics, discretion, judgment and ability to think quickly. **When answering a hypothetical, it is important to think "aloud" to enable the interviewer**

to understand your reasoning in reaching an answer. In addition, you should be able to defend any strategic or style decisions you have made without being defensive. Make it clear that you are open to critique, but you can articulate a thoughtful and reasoned response. It is better to talk aloud and risk giving the “wrong” answer, than to freeze and not articulate any response. Be confident in your substantive knowledge and walk your interviewers through your analysis.

A second tip is to double-down on your answer. During a panel interview, your first hypothetical will be fairly simple and your answer will be straightforward. However, the interviewers will change the facts of the hypothetical to see how you handle changed circumstances. When the interviewers do this, continue to give your original answer and articulate how case law and criminal procedures rules still support that answer. Only change your answer when you can no longer think of a legal basis for your original answer in the face of the changed hypothetical, or your original answer is no longer the ethical course of action given the changed hypothetical.

Understand that the office is also evaluating you on your capacity to issue spot, clearly articulate your theory of the case, and organize your argument. They will also seek to assess your public speaking skills and professional composure. Be prepared also for questions that require you to engage in ‘role-playing.’ Candidates who enthusiastically participate in the exercise gain points for flexibility and quick thinking.

- **Third Round** - This is when you will typically meet the final decision makers and/or DA. If you have made it to the third round, you have likely demonstrated capacity for the role. However, you should still be prepared to field tough questions about your suitability for the demanding job. In rare cases it may even be a bit adversarial. However, this final interview usually addresses fit for the office and your ability to represent it well. If your interview is with the District Attorney, you should be prepared for the likelihood that an offer will be made in person during the interview. Strongly consider whether you will accept it prior to the interview as some offices look with disfavor on candidates who ask for additional time to consider after an offer is made. For the sake of your continued growth in the office, weigh your decision regarding whether you would accept an offer before accepting a final round interview.

COMMON INTERVIEW QUESTIONS

Why do you want to practice criminal law?

- While this question allows you to articulate your interest in the field, it also offers an opportunity to highlight your criminal law experience, whether it is through the *Pro Bono* program, coursework, internships, externships and/or clinics. You can also highlight your research and writing experience on criminal law topics.

Why do you want to be a prosecutor?

- **You should give this question a lot of thought before going to an interview as your answer must be genuine.**
- Concrete answers referring to specific experience often offer the most compelling narrative. Generic phrases such as “I want to make a difference” or “I want to seek justice for those who have been harmed” are less effective than “I worked on cases where... “or “During my time in Detroit on a pro bono service trip, I ...” Be specific and thoughtful in articulating what experience you have had that has formed your desire to pursue this path.
- The best answer you can give might include a story about a specific case that you worked on in the clinic or during a summer internship that inspired you to want to become a prosecutor.

Why do you want to work for this particular office? / Why do you want to work for this particular district attorney?

- Even if you are not asked this question you should ensure that you highlight this point during your interview.
- Be prepared with a very detailed response.
- You should know: the name of the District Attorney and their background, the geography of the jurisdiction, major cities or neighborhoods in the jurisdiction, and the structure of the court system (e.g. types and specific names of the courts, which can vary greatly from state to state), and any unique or favored programs within the office.
- You should try your best to find out how the office is organized. This allows you to tailor your questions to the specific office. For example, training and caseload may vary greatly. Some offices use an open application process to fill slots in desirable units like sex crimes, homicide, and organized crime, while others rest solely on recommendations of supervisors. Some offices disperse the new hires among different divisions while others offer their new hires a choice as to which division they want to join. Researching the office and speaking with prior interns or alumni will allow you to differentiate offices and craft responses.
- It is helpful to research major cases which were recently prosecuted by the specific office so you can discuss them intelligently if asked. Look for press releases and recent articles. Consider setting up a Google alert for when the office or District Attorney is mentioned in the news.

Why did you work for the Public Defender’s Office? Why are you now applying to be a prosecutor?

- While working for a public defender’s office won’t necessarily preclude you from obtaining a job with a prosecutor’s office, you will most likely be asked about it. Be prepared to give a candid answer.
- In answering this question, stay positive. This is not a time to denigrate public defense work. Rather, focus on the reasons why you seek to work on the prosecutorial side of the aisle and how the goals of a prosecutor’s office better align with your interests.

I see a lot of your experience is defending and helping people from the same socio-economic background as the people we prosecute. What conflicts do you see this causing for you?

- Stress that an understanding of poverty, social conditions and the community served are assets for prosecutors in dealing with the range of witnesses, victims, defendants, social service agencies, probation officers and police officers.
- An understanding of the community, and members of the community, may well be an asset when exercising prosecutorial discretion.

Other Possible Questions

- What are your aspirations/goals in working in a prosecutor's office?
- What skills from law school do you think will be most applicable in working with our office?
- Where do you see yourself in five years? Do you intend to become a career prosecutor?

ANSWERING HYPOTHETICAL QUESTIONS

Interviewers often ask applicants hypothetical questions in order to assess (a) how they react to being put on the spot, and (b) to gain insight into the applicant's thought process and substantive knowledge. Some questions have clear black-letter law answers, while others may be designed to see how you approach ethical or legal issues. Interviewers may also change the hypothetical to see how you react to new information. Overall, the best course is to remain calm and consider "thinking out loud" so that the interviewer can see that you are spotting potential issues and then assessing how to address them. Ultimately, it is important to take and defend your position.

COMMON HYPOTHETICAL QUESTIONS

These materials are meant to assist you with interview preparation. The CDO does not suggest that these are the correct answers that you should use during your interview; however, they are meant to provide guidance regarding how you might approach a similar problem.

- *You have been asked to handle another ADA's hearing concerning the search and seizure of a pound of cocaine. The notes you have for the case indicate that the arresting police officer saw the defendant driving erratically and pulled over the defendant's car. When the officer asked for the defendant's license and registration, the defendant said he didn't have them. The officer arrested the defendant and searched the car. He found a pound of cocaine in the gym bag of the trunk. Do you think the search was constitutional? Develop your argument.*
 - Central issues are whether there was probable cause to stop and then probable cause to arrest. What is the basis for the warrantless search of the car?
 - Concern is whether there was a pretext to the stop or if the stop was warranted. Further investigation is needed regarding "erratic" driving, i.e., as it an arrestable offense—a marked lane violation, driving without license/registration, was it a criminal penalty or civil penalty?

- If the arrest was lawful, did the police have probable cause to search the car? Is a warrant necessary, or does the automobile exception to the warrant requirement apply?
 - Suggest getting more information about the department’s tow and inventory policy to see if seizure could have been the result of obtaining inventory pursuant to arrest.
- Fruit of poisonous tree doctrine: If a piece of evidence is obtained in violation of the Fourth Amendment as the product of unreasonable search, then the evidence is generally inadmissible at the trial level.
- *What would you do if you were assigned a case to which you were morally opposed? How would you reconcile the conflict between your personal beliefs and the case?*
 - Central issue: Will personal beliefs compromise your ability to handle the case?
 - Stress open dialogue with supervisor; you don’t want to appear as a candidate without core moral values, but you do want to emphasize that you would do the case. In this scenario, it is important to stress the value of open communication with senior attorneys about moral complexities to ensure your performance prosecuting a case is not compromised.
- *What would you do if your supervisor told you to seek charges but you did not believe beyond a reasonable doubt that the defendant was guilty?*
 - Keep an open mind and an open dialogue with the supervisor. As a new ADA, you are brand new to the system. Experienced ADAs who have five, ten, or twenty years’ experience may have a different view of the situation. Raise and discuss your concerns.
 - Related note - there are different standards in prosecution. A prosecutor’s good faith basis that a crime was committed is sufficient basis to go forward in most jurisdictions.
- *Can you imagine a case in which you believed beyond a reasonable doubt that a crime was committed but you chose not to prosecute?*
 - This harkens back to a “steal a loaf of bread to feed a family” kind of case or a case where the main perpetrator of crime is charged, but a younger lookout, without a criminal record who was highly susceptible to suggestion, is not. It may also include cases where the defendant is also a crime victim, or where the defendant is very clearly suffering from mental illness.
 - The concern here is selective prosecution - why charge one and not the other? It is important to consider the issue of prosecutorial discretion.
 - A prosecutor should also keep in mind that one day he/she may be called to justify his/her decision not to prosecute an alleged perpetrator. For example, if a subsequent crime is committed by that alleged perpetrator.
 - An ADA will also want to consider that he/she is required under the ABA standards to consider alternative disposition.¹

¹ ABA, Criminal Justice Standards for the Prosecution Function, Standard 3-1.2 Functions and Duties of the Prosecutor, subsection (e), “The prosecutor should be knowledgeable about, consider, and where appropriate

- *You are an ADA on a case and offered the defendant a plea of five years. The defendant rejected it and wants to go to trial. You receive a call the night before the trial informing you that your only witness just died of a heart attack. You come to court to tell the judge that you have to dismiss the case when defendant's lawyer approaches you and says that they'll take the deal. What would you do?*
 - This is arguably not exculpatory so you don't have to notify. Question then becomes—if you don't have to disclose it, should you?
 - Things to consider: The fact the witness is now dead doesn't negate the fact that if the person did the crime, and if he is willing to plead, then the crime is properly prosecuted. If under the rules, however, you can't prosecute without probable cause, query whether there is probable cause now that the main witness is dead? Another question to consider is how the defendant could plead to the underlying facts when some of those facts are presumably now not evident and/or are inadmissible?

- *A police officer and victim seek to charge an individual with armed robbery. The victim is an 80-year-old white man who was robbed at gunpoint at 3:00 AM with no witnesses. After the robbery, he sees a police officer and flags him down. The officer and the victim proceed to drive around for a minute when the victim points out the robber in front of a store with three other men. The robber has nothing on him at arrest – no gun, no wallet, not even his own identification. His three friends took off, so you don't have any information on them. Would you charge armed robbery?*
 - All one has here is a potentially unreliable victim identification serving as a basis of prosecution. While there have been studies and long held discussions about the reliability of victim identification, an ADA can charge the case as the identification can be the sole basis of prosecution.
 - Further investigation, however, is warranted regarding the reliability of the identification in this particular case, *i.e.*, lighting, color of clothing, and identifying information about the perpetrator.
 - There is also no corroborating evidence at this point, so the ADA would likely work with police to see if there is any physical evidence (CCTV footage, etc.). That said, the identification can be a sufficient basis to charge even if it may not be sufficient to prevail ultimately at trial.
 - Related issue - the fact that three alleged accomplices were faster runners is a non-issue regarding whether to charge the one who got caught.

- *You are about to start a gun possession trial. The defendant was arrested after he was pulled over for running a red light. The arresting officer testified in the grand jury that he saw the gun lying on the passenger's seat as soon as he approached the defendant's vehicle. At 9 AM on the morning of the trial, the arresting officer says he needs to talk to you. He explains that the arrest happened as he explained in the grand jury, except that he came on the scene after the actual seizure of the gun. The officer who saw the running*

develop or assist in developing alternatives to prosecution or conviction that may be applicable in individual cases or classes of cases...”

of the red light and found the gun was at the end of her shift and asked this officer to cover the case. What do you do?

- It's exculpatory evidence, and so it must unequivocally be turned over to the defense.
 - Therefore, the case cannot go forward that day.
 - Options about the case ultimately--
 - Ask for continuance to do further investigation; or
 - Choose not to prosecute it because both officers' credibility is now compromised and failing to prosecute can send message to police that that type of police work won't be tolerated.
 - An interesting related question is whether the officers should be charged—this is complex in this scenario because the police didn't fabricate the fact that the crime existed, but they offered shoddy police work. Further investigation is likely warranted regarding whether the police should also be charged.
- *A police officer comes to your office with an arrest. She tells you that she heard about a robbery on her police radio. During the robbery, three guys knocked down an elderly woman and grabbed her purse. The officer started driving to the scene of the crime and she saw two men running down the sidewalk. One man was holding something bulky under his coat. She ordered them to stop. She searched them and the one with the bulky coat had a purse under his jacket, so she arrested them both for robbery. Would you write up the case?*
 - In NY, ADAs write up the case and file the complaint; in MA, police file charges in district court and (if seeking to indict in the superior court) the ADAs modify/amend before presenting to grand jury.
 - The ultimate question here is whether the ADA has a good faith basis to believe that a crime occurred. If the ADA feels in good faith that a crime occurred and the police didn't violate constitutional rights, he/she can proceed with the case. In anticipation of a motion to suppress, further investigation is warranted to defend the motion.
 - *You are prosecuting a robbery case. You have spoken with the victim several times about the events that occurred the night of the robbery. She presents consistent facts to you every time you speak with her, providing you with specific details about robbery, including the location, time, and description of the perpetrator. There are no inconsistencies. However, you have a strong, nagging gut feeling that you don't believe her, but you cannot point to a specific reason why. What do you do?*
 - This again harkens to a "gut feeling" which may indicate a need for dialogue with superiors. With experience, judgement regarding sufficiency of the evidence gets fine-tuned so communication and open dialogue with supervisors is important. With any of these types of questions, supervising attorneys want to ensure that a new prosecutor with minimum experience and training doesn't act without oversight.
 - On the other hand, a supervisor wants to trust that the ADA can come up with answers on his/her own before seeking supervisor's consistent guidance on matters the ADA could otherwise discover independently. Are there any reasons

to doubt her beyond your gut feeling? Have you checked her criminal history? Are there past perjury or fraud offenses that might call her trustworthiness into question? (This is good trial preparation even when you trust your witness, as it avoids being blindsided at trial.)

- A note on situations where the prosecutor obtains evidence and you are asked whether you should disclose it.
 - These types of questions address Brady and related prosecutorial judgment issues.
 - In Brady, the Supreme Court of the United States held that suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution. **Brady v. Maryland, 373 U.S. 83, 87 (1963)**.
 - You should look up the seminal state case equivalent to Brady in the jurisdiction in which you are interviewing.
 - In Massachusetts, **Criminal Rule of Procedure 14** governs automatic discovery and requires the prosecution to disclose to the defense “any facts of an exculpatory nature” along with 10 other specific types of evidence. Exculpatory evidence is generally viewed very broadly.
 - It’s likely worth commenting on the role of a prosecutor in these types of cases, because the responsibility of a prosecutor differs from that of the usual advocate; it is to seek justice, not merely to convict. **See Code of Prof. Resp., EC 7-13 McK. Consol. Laws, Book 29 App.** or a similar authority in the jurisdiction to which you are applying.
 - Note also, **Rule 3.8 of the Model Rules of Professional Conduct** states that “[t]he prosecutor in a criminal case shall: . . . (d) make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense, and, in connection with sentencing, disclose to the defense and to the tribunal all unprivileged mitigating information known to the prosecutor, except when the prosecutor is relieved of this responsibility by a protective order of the tribunal.”

Other Possible Hypothetical Scenarios

For additional samples of hypothetical questions, please see the online Career Guides from other law schools by following the links at the end of this guide.

With all hypothetical questions, your answers should be balanced, thoughtful, and pro-prosecution, but evidence good judgment.

PROSECUTOR SALARIES

Salaries vary depending on the geographic location and agency. Initial salaries range from approximately 50K to 65K.

HOW TO FINANCE YOUR CAREER AS A PROSECUTOR

1L & 2L SUMMER:

There are funding options for students who wish to take a public interest internship for which the employer does not pay. A main funding source for internships with District Attorney offices is the Public Interest Project (PIP) Grant, which funds BU law students working in the public interest during their 1L or 2L summer. To qualify for PIP summer grants, applicants must complete PIP application requirements. Positions with the Department of Justice (DOJ) are paid through the DOJ SLIP program. More information is available on the [DOJ website](#).

You should also review the PSJD summer funding website. You will find a current listing of funding possibilities and specific summer fellowships, as well as funding you can take wherever you find an internship: https://www.psjd.org/Funding_Sources

The number of options available to assist students with loan repayment has grown over the years. The Financial Aid Office offers experienced professionals who are well versed in various debt management options. Making an appointment to determine your financial options can be very illustrative in determining the viability of a public interest path. In addition to meeting with you one-on-one to develop a personalized plan that's based on your needs, the Financial Aid Office can help you make informed choices about financing your legal education. The [Financial Planning Calculator](#) is a resource intended to help you with this planning process. The office also offers financial literacy workshops throughout the academic year to help you manage your financial obligations.

For more information, please also visit BU Law Financial Aid [website](#).

BUSL ALUMNI NARRATIVES

Hallie White Speight – Class of 2006

**Appeals and Training Bureau, Middlesex District Attorney’s Office (MA)
Assistant District Attorney, Supervisor, Ethics Officer**

I came to law school after spending several years teaching Russian literature as an assistant professor at Boston University. In my first year at BU Law, I found my Criminal Law course intellectually stimulating, as it touched on many of the moral and philosophical issues that I had dealt with in literature; however, I had no particular interest in criminal law as a career path at that point. During my 1L summer, I worked as an intern in the Appeals unit at the Suffolk County District Attorney’s Office. To my surprise, by the end of the first day of my internship, I was in love with the work. In Appeals, the interns were doing essentially the same work as the ADAs: writing appellate briefs, responding to motions for new trials and handling other post-conviction matters.

During my 2L summer, I interned at the U.S. Attorney’s office in Boston. After graduation, I spent a year at home with my son, who was born ten days after the bar exam. I then worked as a law clerk to Associate Justice Judith Cowin at the Supreme Judicial Court before joining the Appeals and Training Bureau at the Middlesex District Attorney’s Office.

Appellate work has been very rewarding for me because it combines many of the things I loved in my former career with a practical application and service of the highest goals. I am often presented with complex and challenging legal issues and usually have time to do the necessary research and think through the problem, both with regard to the case in which it arises and in terms of its implications for future cases.

I regularly argue before the Appeals Court and the Supreme Judicial Court, which is perhaps my favorite part of the job. I also supervise brief-writing by Appeals ADAs, trial court ADAs, and interns, and I assist members of our trial teams when novel or unexpected issues arise in their cases. As a member of the Search Warrant Team in the office, I help police officers write affidavits to support their applications for search warrants; and as the Ethics Officer, I consult on questions of conflict of interest and professional responsibility that arise in the office.

As a prosecutor, I represent the people of the Commonwealth. This is a public trust which I and the rest of my office take very seriously. Our ultimate goal is not to get the “win” but to see justice done.

Tammy Smiley – Class of 1986

**Nassau County District Attorney’s Office (NY)
Chief of the Appeals Bureau**

I chose to attend law school because I wanted to help children in some capacity. I took the Juvenile Justice and Family Law courses at BU Law, and was a member of the Criminal Clinic, where I worked as a student prosecutor in Quincy. It was thrilling to be in court as a student, and I found out first-hand what happens in criminal cases and how difficult it can be to meet with witnesses and prepare for trial. My experiences in the BU Law Criminal Clinic inspired me to enjoy prosecution and to pursue it for my career.

I received a grant from the BU Law Public Interest Project (PIP) during my 2L summer to work at the American Civil Liberties Union (ACLU) Children’s Rights Project. At the ACLU,

I became aware of the prevalence of child abuse cases. At this time, DAs were just beginning to prosecute child abuse cases by using dolls to help children articulate the crimes that had happened to them, so it was an exciting time to enter the profession.

I have been a prosecutor for over 25 years since graduating law school and I have worked in three different District Attorneys' offices, for five different District Attorneys. I worked at the Brooklyn DA's office for six and a half years, focusing on appeals from child abuse convictions and the special challenges those cases presented. Next, I moved to the Queens County DA, where I worked for three years in the appeals bureau. Finally, I moved to the Nassau County DA, where I have stayed for about 15 years. I became Chief of the Appeals Bureau in that office four years ago.

For students seeking to become prosecutors, I think individuals who are well-rounded and have experience with both appellate work and trial work will become the most successful prosecutors. If a prosecutor can add investigative and legislative work to the mix, it prepares her to prosecute any crime that might come across her desk. A prosecutor is most effective when she can display exceptional writing and oral skills in court, and where she can also understand what is happening in the background.

The job of a prosecutor is always changing, which keeps the profession interesting. For example, I once wrote an amicus brief for the U.S. Supreme Court to argue for the validity of allowing children to testify on closed circuit video. This technology prevents children from having to speak in the physical presence of the defendant who allegedly caused the abuse. I also recently published an article advocating for the use of courtroom dogs to assist special victims who could not otherwise provide testimony in important criminal prosecutions. Both of these projects address innovations that assist victims, and it is exciting to help contribute to positive changes in the law.

It is also incredibly rewarding to help remove abusers from society and make other children safer. I enjoy helping victims understand that advocates exist, and showing them that we are understanding and supportive. Victims recognize that we do our very best to assist them and punish the guilty offenders appropriately.

Prosecutors keep society safe and ensure that convictions are fair. No prosecutor wants to be part of a case that results in the conviction of an innocent person. Even long after a case has concluded, if the defendant brings forth reliable new evidence establishing his innocence, I will independently examine the evidence and take whatever appropriate corrective action is warranted. Similarly, any petitioner who can establish that his or her conviction resulted from the violation of that individual's Constitutional rights can access habeas corpus relief. Prosecutors' work is of the utmost importance, and we are fortunate to have tools available to us to help us get the conviction right. We seek to prevent dangerous people from harming others and we provide some degree of comfort to those who have been harmed by acts of violence.

I keep in touch with some of the victims I have met and I enjoy seeing positive changes happening in their lives once the abuser is out of the picture. For example, one child who was abused for many years is now a remarkable mother of two children of her own and leading a successful life. I hope my relationship with this woman had something to do with her positive attitude, and it is truly rewarding to see her living happily again.

I constantly see well-qualified people coming out of law school with very relevant experience from internships and clinics during their time in school. I am happy to speak with

students interested in a career in prosecution.

****Note: Please contact the CDO if you would like Ms. Smiley's contact information.****

Christopher Puck – Class of 2012
Kern County District Attorney's Office (CA)
Deputy District Attorney

When I began law school, I knew I wanted to litigate. However, it wasn't until my 2L year that I began to consider criminal law. I took Professor Tracy Maclin's Constitutional Law course and loved the intensity of his aggressive Socratic method, which forced me to constantly think on my feet. I took Professor Maclin's Criminal Procedure course the following year, developed a fascination with criminal law issues, and decided to pursue a career in criminal work.

For my career as a prosecutor, Professor Maclin's Criminal Procedure class and his Supreme Court seminar were the most important classes I took in law school. I believe if you can survive in Maclin's classroom, you can succeed in any superior court. The material I learned there (and the way I learned it) gave me the tools to succeed as a criminal litigator. Because of Maclin's classes, no matter where I interned, I was always the "Fourth/Fifth Amendment specialist" among my peers. This was crucial because as an intern, 60 to 80 percent of my courtroom appearances were for motions to suppress evidence under the Fourth Amendment. To this day, I still use my outline from Professor Maclin's Criminal Procedure course as a starting point before I delve into the heavy research for my motions.

I traversed a long road of unpaid internships before finding a paid job as a prosecutor. My 2L year, I participated in the Asylum and Human Rights Civil Litigation Clinic. I spent my 2L summer interning at the San Diego Public Defender's Office. During the fall of my 3L year, I worked 15 to 20 hours per week through BU's Government Lawyering Externship program at the Juvenile Unit of the Suffolk County District Attorney's Office. My first job after law school was an unpaid clerkship with the Santa Clara County District Attorney's Office in Silicon Valley. There, I worked seven days a week on motions and investigations for a variety of units. After passing the bar, I served as a volunteer Deputy District Attorney before I had to leave to make room for new unpaid interns. I next volunteered for the San Francisco District Attorney's Office as a staff attorney in the Homicide and Gangs units until the Kern County District Attorney's Office offered me a job two months later. Despite unanimously positive performance reviews, I worked six or seven days a week, unpaid, for nine months until a DA's office finally offered me a paid position.

Prosecution work is very competitive these days. Of the 26 law clerks I knew at Santa Clara who wanted to be prosecutors, only about a third of them have so far obtained paid positions. With that in mind, if you want to do criminal law work after law school, you need to complete as many criminal law internships as possible. Beyond Criminal Procedure and Evidence, prospective employers do not care about your course work. I interviewed with seven different District Attorney's offices, and not a single one asked about my coursework or journal involvement. Rather, interviewers focused on what motions I wrote, what offices I worked for, how many times I had spoken in court, challenges I overcame in court, and how I would respond

to a Fourth Amendment or ethical issue. The most valuable thing you can do to stand out is to get as much courtroom and motion experience as possible.

Make sure to research each specific office before your interview. Google the District Attorney and see what his or her stance is on current issues. Some offices will ask for your opinion on issues such as the legalization of marijuana, the death penalty, or three-strikes laws. You should know whether the office is a defense-friendly office where rehabilitation and forgiveness are most important, or whether it is a victim-centered office that focuses on punishment and promoting the safety of the community through harsher sentences.

When I first looked into criminal law, I wasn't sure which side was right for me. Initially, I enjoyed "fighting the good fight" for individuals being prosecuted for minor crimes with harsh penalties, especially those who had educational or mental impairments. However, I gravitated toward the prosecution side as my internships progressed. While many of a public defender's clients tend to be sympathetic individuals who are down on their luck, public defenders also have to employ zealous advocacy to defend people who have knowingly committed horrible crimes, like abusers, racists, and white-collar criminals stealing from already impoverished people. I did not want to use my talents to help minimize what I consider well-deserved punishments. Additionally, sometimes I knew my clients were guilty or had a losing position on a motion, but I had to fight it anyways because the client insisted. I felt I was being forced to put forth meritless arguments or skewed perspectives of the law, and disliked that feeling. I wanted to be more straightforward in my dealings with the court. As such, while I firmly believe that all criminal defendants have a right to zealous advocacy, defense work was not for me.

For me, the single greatest thing about being a prosecutor is this: if you believe that you do not have enough evidence to prove your case, you have the ethical duty to drop it. Your job is only to seek justice. As a prosecutor, I have never had to say something in court that I did not believe wholeheartedly or did not think was just. That, above all else, is the beauty of being a prosecutor. While you must keep larger societal interests in mind, in the end, your conscience is your client.

Additionally, I enjoy the work itself. I have been at Kern County for less than a year and I've already completed 11 jury trials and countless motions. I go to court three to five days a week, and I am constantly encountering new aspects of the law. As a first-year misdemeanor deputy or a 20-year homicide attorney, you will always be learning because you will receive new cases with new legal issues. Over the course of your career, you may work on many different types of cases, such as white collar crimes, murders, gangs, drugs, political corruption, prison crimes, thefts, domestic violence, sexual assault, and child abuse. As such, you will have to keep up with ever-evolving issues, including evidence law, crime scene investigation techniques, and 4th, 5th and 6th Amendment issues.

With regards to work-life balance, when I am working on a trial, the weeks are long and intense and I am always "on." Outside of trials, prosecutors have a consistent 40 to 50 hour week which enables us to have balance in our lives. This job is all about oral advocacy and thinking on your feet. If you don't like public speaking, this is not the job for you. You need to be adaptable because sometimes you are handed a file you've never seen before with instructions to argue a motion (or go to trial) that same day, maybe with only minutes to prepare.

Finally, one of the greatest benefits of being a prosecutor is serving your community. As a prosecutor, you work with many different types of people, including judges, court staff, law enforcement, and victims and witnesses from all walks of life. It is an incredible feeling when

you get to inform a victim that you won a case and got them the justice they have been waiting for. You will feel an incredible connection to your community knowing that you are helping protect it and are making a difference.

I am happy to speak with students who would like to discuss working in this field or who would like help preparing for applications or interviews.

****Note: Please contact the CDO if you would like Mr. Puck's contact information.****

HELPFUL WEBSITES

<http://www.eatoncounty.org/departments/prosecuting-attorney/144-departments/prosecuting-attorney/prosecutorinfocom/466-prosecuting-attorney-web-sites>

A great page for anyone interested in being a DA. This page links to more than 450 prosecutor, U.S. attorney, and attorney general offices nationwide.

<http://www.ndaa.org>

The National District Attorneys Association.

<http://www.justice.gov/legal-careers>

The United States Department of Justice's Office of Attorney Recruitment and Management.

<http://www.law.harvard.edu/current/careers/opia/toolkit/guides/documents/prosecution2010.pdf>

A quick guide to local prosecution.

<http://hls.harvard.edu/content/uploads/2008/06/fast-track-final.pdf>

A guide on working at the U.S. Attorney's Office.

https://www.law.yale.edu/system/files/documents/pdf/CDO_Public/cdo_criminal_prosecution_public.pdf

A guide on local and federal prosecutors' offices.