

Boundary Work and a Thin Blue Line of Bigotry

Many of my days in the prosecutor's office started with my supervisors corraling police officers. The cops, in plain clothes, would walk into the office with a rolled-up newspaper under their arm like they were walking into a men's bathroom rather than an office. They would ready themselves for a long wait to testify in a motion or trial. By 9:00 a.m., the office looked like a circus of cops, laughing, talking, drinking coffee, while the prosecutor served as a frantic ring-leader trying to manage the chaos.

In my role as the law clerk, I was often tasked with matching officers to cases as my supervisor prepped another officer or two by her desk. This task gave officers the opportunity to transform the prosecutor's small office into a speed-dating exchange. As I asked about cases, charges, and defendants, they asked me: my name, where I went to school, whether I was a North Sider or a South Sider, and how I liked clerking for the judge. Then more questions followed. *Are you Greek? Mexican? Italian? No, Puerto Rican? Did you know a Ralphie Martorano from Portage Park? How about his brother, Paul?* This interrogation would end with the inevitable question: *Are you single, a pretty girl like you?*

While the Cook County Courts were already a boys' network, the boys in blue instantly shifted the gender dynamics in the room so that *I* was a type of suspect to be questioned. I was no longer the law clerk from Northwestern (as I was in the court), but instead, a potential new conquest to be pursued. One officer even left his number for me. After the end of court call, I returned his call only to realize that he was calling to ask me on a date rather than to inquire about the status of an upcoming trial. I responded with the type of tough-nosed, North Side, take-no-bullshit snark that was necessary for thriving with the police officers who passed through the office: "Officer, when I was born, you were already twenty years old. I think we are done here, no?" He laughed and I knew that I had earned favor with both the officers and the prosecutors. To the officers, I wasn't a snobby rich girl from Northwestern but a girl from the North Side, one who happened to get into that rich-girl school. To the prosecutors, I had followed through with what they had trained me to do, keeping the officers at arm's length, exactly as they had instructed. And even better, I did it while maintaining the tough exterior required for my street cred.

Of course, during my clerkship I learned many of the basics of practicing criminal law, plea bargaining, and the processing of case files. But there is also the kind of training that wafts in hallway whispers; prosecutors warned me to

stay away from the police officers. In fact, this message was delivered to me almost like a threat. As if to say, *Listen to us and if you don't, we won't save you.*

Two prosecutors told me of a female prosecutor who became an “urban legend” among the women (and some of the more sympathetic men in the office). After working with a certain police officer on several cases, the prosecutor went on a few dates with him. When she didn't want a relationship, he stalked her and marginalized her in the office by tarnishing her reputation among other police officers and some of the good ol' boys in the prosecutor's office. My supervisors asked a rhetorical question: *How can you call the police when your stalker is the police? No one is coming for you.* I was terrified and found a new reason to keep my head down.

Intermingling with the police was to be handled carefully. In the lore of the office, police were constructed as being a brutish culture unto themselves—distinct and separate from prosecutor's work as attorneys. It took months of field notes for me to understand all the reasons why many prosecutors constructed the police as so unsavory, but a particular exchange made the dynamics more clear.

My supervisor and I were sitting in the office with two Chicago police officers regarding an upcoming case of theirs. As we have seen in previous chapters, storytelling in the trenches of justice assumes an important role for attorneys as they make sense of their work. In the Public Defender's Office, they used a packet of sugar as a prop to tell and retell the injustice of drug laws. That packet of sugar was the amount of powder cocaine that could get a poor defendant three years of their life taken away. On this day, I heard the police officers' tales of life in the trenches as they shared their worldview with a prosecutor—a story that started in the office, finished in the court, and ended just short of the word “nigger.”

As the story went, the police officer was working at the station when a thirty-year-old black man came up to the desk and said: “I've done something very wrong.” The man confessed to a burglary. He was high on drugs and was trying to get money to feed his addiction. When he came down off his high, he realized what he had done and walked immediately to the police station to confess.

Though I had worked months in the courts by that time, I had not heard a case with the drama of a confession and a defendant painted as making the moral choice. This story was an outlier. I walked with the prosecutors and officers to the courtroom for the start of the court call, and I asked the officer if the judge had been more lenient on the defendant because he confessed. He told

me that the judge had berated the defendant in court and set a huge bond to keep him in the lockup. At my question, the officer went from friendly to terse, as though he wanted to set me straight. This quick exchange seemed to indicate that even a “moral” mope was unredeemable and deserved punishment.

Once the officers were out of earshot, the prosecutor pulled me aside. Whispering as though we were being surveilled, she told me that the judge in that case allowed a two-time white offender to get away with a reduced sentence on the same day; for the black defendant who confessed, the punishment was not just a berating and an exorbitant bond but a harsher sentence than a white defendant with a dirtier record received. This prosecutor candidly described a white-black bias in substantive justice. Two defendants, same charges, a white-black difference in outcome. The prosecutor looked around again to see if she was still out of earshot of the police officers and shook her head, as a way to punctuate her disapproval of such bias.

Her effort to distinguish herself from the police and the racial bias was made more poignant because she was the same prosecutor who had angrily instructed me to stop sympathizing with defendants; as she said at the time, “As long as there is a McDonald’s ‘Help Wanted’ sign in the window, there’s a job for them.” However, in the face of blatant racism, even a mope deserved better. More importantly, such bias undermined the system that the prosecutor was tasked to uphold.

Once we were in court waiting for the judge, I organized the set book (case calendar) and made small talk with the officers to find out their view of the “confession.” Now, the officers were out of earshot of the prosecutors, and I had an opportunity to understand how they viewed what the prosecutor saw as clear racial bias. I feigned ignorance and asked a question that played up my inexperience in the system.

NVC: Wasn’t that amazing how that man confessed? That’s a great story. I have a lot of respect for him.

The cop leaned toward me a little and in hushed tones said:

It’s not often they confess—a black guy—most of them are dogs. He even had a good job.

Like professionals, the police applied the rubric of work ethic and the assumption that a black man would not work to the defendant, but they did so in a more blatantly racist manner. According to the officer, most black men are

“dogs.”¹⁵ This one “even had a good job”—as though the expectation was that he was unemployed or working in unskilled labor. While police officers spoke in traditionally racist ways, attorneys kept their “hands clean,” dancing around race with coded language that leveraged the immoral standing of the defendant and the criminal label that affirmed their conclusions. There was little concern on the part of prosecutors that the police officers who held these beliefs were the same ones handing them the cases like an assembly line of racism.

As Bonilla-Silva describes, the language of colorblindness is a “rhetorical maze” of racism without epithets.¹⁶ The moral logics that underpin that maze are shared by both police and prosecutors. For both, black men lack a work ethic and are immoral to the point of criminal. However, the expression and practice of those beliefs differentiate prosecutors from police in ways that allow prosecutors to perceive themselves as “colorblind” and race-neutral. Identifying bias in the system (as in the prosecutor’s condemning the sentencing disparity between a black defendant and a white one, or prosecutors’ avoiding the police’s crass war stories about a black “dog”) plays an important role in affirming the moral integrity and race neutrality of prosecutors’ work. It creates a boundary between the prosecutors and the police.

Prosecutors’ complex array of cultural tools—that evolved perspective—allows them to collaborate with police and share a belief system about morality while distinguishing their identity as separate, colorblind, and race-neutral in comparison to the police. It is through distinguishing themselves and their beliefs as separate from police that prosecutors are able to ignore the racial bias that links them in practice, and compartmentalize when law-bending versus law-breaking is allowable or when they are better off just looking the other way.

As prosecutors reconcile their role in the Cook County Courts, their adjacency to police officers is a crucial reference point as they locate racial bias and abuse as *adjacent to them* but *not emanating from them*. Prosecutors are quite prolific at identifying police misconduct, but they admit to having a “duty” to comply with the cultural rules of the courts. In the same way that prosecutors corralled the police in the mornings, creating order out of the chaos, police represent a cultural dissonance or disruption in what *should be* race-neutral courts. The proximity of prosecutor and police creates strained dynamics between them. This tension is heightened when the prosecutors ignore their own practice of racialized justice and instead seek comfort in their evolved perspective—a perspective that is particularly attuned to deliberately identifying injustices in the system.