



Working with Juvenile Court Counselors and Prosecutors



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A man with dark hair and a red mark on his cheek is shown in a close-up. He is wearing a dark suit jacket over a light-colored shirt and a dark tie. He is holding a crumpled white object, possibly a piece of paper or a napkin, to his mouth. The background features large, ornate windows with a grid pattern, suggesting an indoor setting like a restaurant or a formal hall. The lighting is warm and focused on the man.

How would you describe your
role?

Juvenile Court Counselors

- What do you, as counsel for the juvenile, have access to?
 - Juvenile Court Records – N.C. Gen. Stat. 7B-3000(b)(1)
 - DJJ Records – N.C. Gen. Stat. 7B-3001(c)(1)
 - Law Enforcement Records – N.C. Gen. Stat. 7B-3001(b)(1)
- What does the prosecutor have access to?
 - Juvenile Court Records – N.C. Gen. Stat. 7B-3000(b)(3)
 - Law Enforcement Records – N.C. Gen. Stat. 7B-3001(b)(3)
- A word on the intake process:
 - When requested by the juvenile court counselor, the prosecutor shall assist in determining the sufficiency of evidence as it affects the quantum of proof and the elements of offenses – 7B-1701(a)
 - No statement made by a juvenile to the juvenile court counselor during the preliminary inquiry and evaluation process shall be admissible prior to the dispositional hearing – 7B-2508

Statutory Requirements – 7B-1500

- Protect the public
- Deter delinquency and crime
- Swift and effective dispositions
- Provide appropriate rehabilitative service
- Provide uniform procedures to assure fairness and equity
- Protect the constitutional rights of juveniles, parents, and victims
- Encourage the court and others involved with juvenile offenders to proceed with all possible speed in making and implementing determinations

Defense Attorney Role

- Expressed Interest Advocates
- An attorney in a juvenile delinquency proceeding shall be the juvenile's voice to the court, representing the expressed interests of the juvenile at every stage of the proceedings. [NC Juvenile Defender Manual Appendix 3-1](#)
- The attorney for a juvenile is bound to advocate the expressed interests of the juvenile. In addition, the attorney has a responsibility to counsel the juvenile, recommend to the juvenile actions consistent with the juvenile's interest, and advise the juvenile as to potential outcomes of various courses of action. [Id.](#)

Prosecutor Role

- **Comment:** A prosecutor has the responsibility of a minister of justice and not simply that of an advocate; the prosecutor's duty is to seek justice, not merely to convict or to uphold a conviction. This responsibility carries with it specific obligations to see that the defendant is accorded procedural justice and that guilt is decided upon the basis of sufficient evidence. Precisely how far the prosecutor is required to go in this direction is a matter of debate and varies in different jurisdictions. See the ABA Standards of Criminal Justice Relating to the Prosecution Function. A systematic abuse of prosecutorial discretion could constitute a violation of Rule 8.4. - [Rule 3.8](#)
[N.C. Rules of Professional Conduct](#)

Prosecutor Role - Generally

- The primary duty of the prosecutor is to seek justice while fully and faithfully representing the interests of the state. While the safety and welfare of the community, including the victim, is their primary concern, prosecutors should consider the special circumstances and rehabilitative potential of the juvenile to the extent they can do so without unduly compromising their primary concern. 4th edition of the National Prosecution Standards by the National District Attorneys Association with Revised Commentary, Part V. 1. Juvenile Justice (January 2023).

National Juvenile Justice Prosecution Center – Policy Positions & Guidelines

GOALS OF PROSECUTION

- **Policy:** The primary duty of a prosecutor is to seek justice.⁹
- **Policy:** Prosecutors have a duty to give effect to the purpose clause of the juvenile code in their jurisdictions.¹⁰
- **Policy:** Prosecutors are encouraged to adopt balanced consideration of community safety, offenders' accountability to victims and communities, and competency development in offenders, or similar articulable guidelines, as a philosophical approach to juvenile prosecution.¹¹
- **Policy:** Prosecutors should seek to resolve juvenile prosecutions as quickly as possible, without compromising due process, fairness, and thoroughness.



District Attorney

- NC Constitutionally-Elected Position – Article IV, § 18
 - Advise Officers of Justice within the District
 - Criminal Prosecution on behalf of the State within the District
 - Perform Duties Related to Appeals as the AG may require
 - Perform other such duties as the General Assembly may prescribe
- District Attorneys ran on a platform upon which citizens of their District elected them.
- District Attorney may set office policies
 - Ex. – Residential B&E's, DWI's, Speeding Tickets, DV cases, School Threats
- Assistant District Attorneys work at the pleasure of the District Attorney



Who else is your ADA hearing from?

- **ADA Supervisors**
- **Colleagues within the DA's Office**
- **Law Enforcement Officer**
- **Juvenile Court Counselors**
- **Judges**
- **Courtroom Clerks**
- **Victims**



Victim's Rights

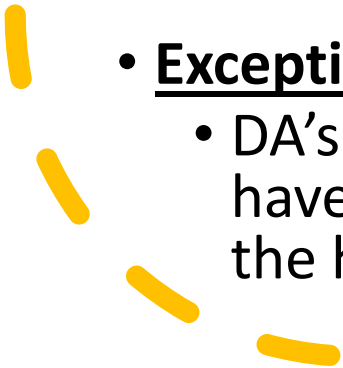
N.C. Gen. Stat. 7B-2052

- Upon request, to reasonable, accurate, and timely notice of **court proceedings**
- Upon request, to be present at **court proceedings**
- To be reasonably heard at **court proceedings** involving adjudication, disposition, or release
- To receive restitution in a reasonably timely manner, when ordered by the court
- To be given information about the offense, how the juvenile justice system works, the rights of victims, and the availability of services for victims
- Upon request, to receive information about the adjudication or the disposition
- Upon request, to receive notification of the escape or release of the juvenile
- To reasonably confer with the District Attorney's Office



What is a Court Proceeding?

- Any open hearing, closed hearing, or portion of a closed hearing in which the victim is permitted to be present, as provided by G.S. 7B-2402.
- Does not include the first appearance
- **Exception**
 - DA's Office must attempt notification, if juvenile and victim have a personal relationship as defined in G.S. 50B-1(b) and the hearing may result in the juvenile's release from custody.



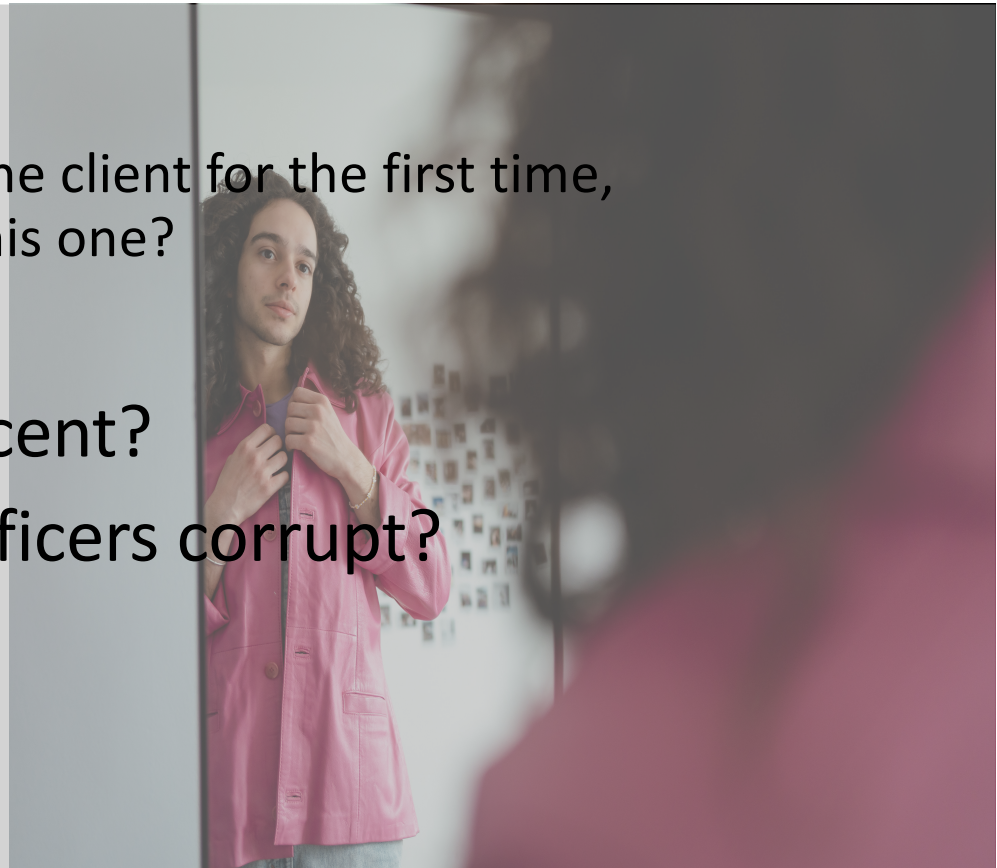
Know Your ADA



- Typically, one ADA (or a group of ADAs) handles juvenile court
- Does your ADA handle other courts as well?
- How much prosecutorial experience does your ADA have?
 - Baby ADA or ADA in their twilight years?
 - Case Evaluation
 - Are they going to be there for a few years or a career prosecutor?
Can you ever really know?
- How much life experience does your ADA have?
- What is your ADA's personality type?
- Firm on Plea Offers or Dispositional Options?

What is your ADA's Perception of You?

- Are you prepared?
 - Show up on court date, meet the client for the first time, and say, What can you do on this one?
- Do you know the law?
- Are all of your clients innocent?
- Are all law enforcement officers corrupt?
- Does your ADA trust you?





Communication with your ADA

- Do your best to communicate with your client before negotiating with your ADA
 - Maybe that's not your strategy?
- Timing of Communication can be Critical
 - Ex. – Did your ADA speak with a line of folks before you?
- Consistency
 - Ex. – I usually conference upcoming cases with JJ on Wednesdays. It would be better to catch me on Thursdays, as I will have more clarity about my goals for the case.
- We don't have to agree – stay true to ethical mandates
- What stage of the juvenile proceeding are you communicating about?



We all NEED *grace*.
and we could all
stand to GIVE
some *grace* too.



And do as adversaries do in law,
strive mightily, but eat and drink
as friends.

~ William Shakespeare