
Amy Weirich

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The changing role of the district attorney

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I recently heard a retired judge tell a gathering that he started his legal career as a prosecutor.

My nodding approval quickly stopped, though, when he added, “My job was to put people in jail.”

I have been a prosecutor for more than 25 years – including the last seven as district attorney – and I have never considered putting people in jail as the central part of my job description.



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As I tell our new assistant district attorneys at orientation, our job is to do the right thing every day for the right reason. That might mean dismissing a difficult case because the proof is simply not there. Or, it might mean asking a jury to sentence a convicted killer to life in prison, or even death, for the safety of the community.

It is always a balancing act, as the scales of justice demand. Every day, someone is probably upset with me for prosecuting a case they don't think I should prosecute, or for not prosecuting a case they believe I should. I would say to both groups, my job is to see that justice is done.

More than 200 years ago, the Tennessee Supreme Court described the duties of the district attorney in an opinion that read in part: “He is to judge between the people and the government. He is to be the safeguard of one and the advocate for the rights of the other. ... He is to pursue guilt. He is to protect innocence. ...”

Yes, the job is to pursue the guilty and protect the innocent. It is not to see how many people we can put in jail or how many trials we can win. The job is to make Memphis and Shelby County a safer place for everyone.

One way we try to accomplish that is by keeping people out of prison.

This office has a program to combat truancy to keep students in class and out of trouble. Another program gives special attention to students with behavioral problems, to keep them out of Juvenile Court, which is often the first step to a lifetime in the criminal justice system.

Earlier this year we handpicked about a dozen repeat felony offenders, a group that collectively had been arrested 260 times, victimized 111 of their fellow citizens, and been convicted of 141 crimes. Those crimes included aggravated assault, felony thefts, aggravated burglary and domestic assault.

In a program we call Operation Comeback, we brought them into a room (it was not voluntary, since all were on parole or probation) and vowed to punish them to the fullest extent of the law if they continued to offend. We also, however, offered help with employment, education, housing, substance abuse counseling and other social services.

We – the law enforcement community as well as social workers – told them the community was tired of their criminal behavior, but we also told them we want them to succeed and that this was their best chance.

Six months later, guess what? All but two or three said their lives were better and that they had not picked up any new arrests. One said he would like to address the next group to share his experience. It's a small number of offenders, but as their records indicate, they have a big impact on the community. We addressed a second group last week and are planning for a third in February.

Now, there are certain offenders that all the programs in the world are not going to help at this stage in their lives. Those are the repeat violent offenders who prey on neighbors, strangers and the vulnerable of the community. The experienced prosecutors who handle these cases ask judges and juries to put these offenders in prison for as long as the law allows.

We pay great attention to gun crimes. There are far too many guns in the wrong hands for the wrong reasons. You hear the term “mass incarceration” used by those who argue that the U.S. sends far too many people to prison for minor offenses. Prison populations are driven by violent crime, not by pot smokers or people driving on revoked licenses.

When I'm out in the communities I serve, regardless of the demographics, the overwhelming majority of citizens want me to be tougher on crime, not softer. When we pick a jury for a trial, we always ask, “Who here has been the victim of a crime?” It's the rare juror who does not raise a hand.

We speak for victims of crime. The victims who have no other voice. The victims who have lost loved ones to violence. The victims who have had their sense of safety torn from them by a violent offender. The victims who have to come to 201 Poplar to relive their nightmare, sometimes over and over again.

We share their pain and try to shepherd them through the legal process and try to help them find some sense of justice. We can never make them whole, but we can let them know that they are not alone. We care about their loss and we stand up for them in court. Last week we held our eighth Season of Remembrance to commemorate victims of homicide. It is a solemn event that, sadly, gets bigger each year.

I often say that the greatest nine words a prosecutor can hear are, “We the jury, find the defendant guilty as charged.” That means that a jury has weighed the evidence, heard from both sides and agreed that the defendant has violated the peace and dignity of the state of Tennessee.

Prison may or may not follow. Probation or diversion may be more appropriate in some cases. My job as a prosecutor is not sending people to jail.

My job as a prosecutor is to speak for victims when no one else will.

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