

## **The Role of the County Attorney: Ministers of Justice**

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I was in the Marine Corps in World War II, so to see the (Law Enforcement Memorial Association Color Guard) flags, why it kind of sends chills up and down your spine because sometimes we tend to forget. It's important to remember.

Some of the old-timers, like Roger (Van Heel, Stearns County Attorney) out here, is somebody you don't have to tell, but the County Attorneys office is without a doubt the most powerful office in the county. That is, I will reflect and talk about that a little bit, but when you think about it, it is without a doubt, the most powerful office in the county. We're there to seek justice, we're there to represent the county, but we have that dual role because we are responsible to the criminal justice system. You not only are their corporate counsel but you also are in a position where you have to discipline them if they don't measure up the way they should. My reflection on the County Attorney is that there are really three principals, or three characteristics, that you have to keep in mind to be successful. The first is trust, the second is communication, and the third is power. Trust is something that you earn. Trust isn't something that comes by virtue of the office, it's something that you earn. Going way back, my wife Charlotte chaired a committee for the school and she wanted it to get a little controversial so she wanted me to make the presentation. It was a big public meeting and I went before the school board and I said, "Well I'm appearing before you tonight as an individual, not as County Attorney." And one of the board members said, "Mr. Johnson you're always the County Attorney." That lesson always stuck with me, that you are always the County Attorney, and so you are always under scrutiny as to how and whether you can be trusted.

Probably the biggest trust that you have to demonstrate is whether your word is good. The trust of whether, what you present to the courts is a true and honest reflection, is a critical, critical part of the process. I think now they talk about it as defining moments, but I had a defining moment along the way. A prosecutor that I had, and some of you old-timers would remember, was considered the best prosecutor in the state. He used to get calls from judges to ask about the law and things; he had his office right next to mine, and one day I heard him telling a deputy (that) he had to lie. I called him into my office and I said, "You're through." He said, "Well, how much time do I have?" I said, "Pick up your coat and leave, right now." Well I didn't broadcast that, but I'll tell you the word got around in a hurry, that you hadn't better lie to the old man because you would be in real trouble. About a year later, one of the investigators in one of the police departments lied to me and so I thought, "Oh, here we go again." I called

and said I wanted to go and talk to the Chief, and I went down to the Chief and he said, "We already fired him because we knew you wouldn't tolerate somebody like that around." Those defining moments are something that you can compromise yourself with, and make justification for, but the ability to reflect to the courts, and to the police, that your word is good, and what you're saying is what you mean, and there's no compromising with it, is critical, critical. We'll get into this a little bit as I talk about communication.

Communication...we tend to think of communicating as that we talk to people when they're in crisis. We talk to them when we have problems. Well, that is obviously part of the process, but if you're going to learn to communicate you have to communicate with people so they get to know you and you get to know them. We had four police departments at the time and the sheriff's office, and I went to the county board and I said, "Say, you know these people aren't talking to each other. I'd like to take them out for lunch on the county." And they said, "Sure, go ahead." So I pulled them together, and at the first lunch one of the chiefs said, "What do you want?" I said, "I just want you guys to get to know each other." Well we met every month for about a year and they decided they should set up their own association, so we ended up with the **Anoka** Chiefs of Police Association. But in the process of meeting we learned, or I learned, that the police and the sheriff had a very difficult time communicating their needs with the City Council members and with the County Board. They are in totally different environments and so they flat out just didn't understand the police. So I thought, "Well, why don't we set up a joint powers agreement between the cities and the county." And we set up what we ended up calling the Joint Law Enforcement Council. The Council included the police and the mayor or members of the city council of each of the cities; the county members included the sheriff, and chairman of the county board or one of the members. We formed this joint powers agreement, this association, and the County Attorney would end up being the chairman of that group. Well that was **thirty** years ago, and it's still going, and amazing, amazing things have happened. Some things that you don't even think about, but I remember one of the first things that we came up with was that they were all reporting to the County Attorney with different forms. That didn't make any sense so we changed it.

I also remember a time when they had their separate training efforts. Well that didn't make much sense so we ended up with a county training officer. And as we talked I realized that the entire area of criminal investigations is very complicated, so I got the idea that I'd bring all the investigators into my office every Friday morning. I would take a case that they had submitted and have them make that presentation to the other investigators. Well they really had a lively time because the other investigators would really take them apart and, that went on for several years, the training process, and over and over again, even to this day I'll see one of them and they'll say, "Boy we sure learned a lot in that process." Well then it reached the point where we all realized the need to have training sessions. And it occurred to me as we got *Finance and Commerce*, I

assume you still get *Finance and Commerce*, which lists the new laws and rules, so we sent out a monthly newsletter to police departments outlining changes in the law. That's all part of communicating. I made it clear to them that I would not issue a complaint unless I was satisfied beyond a reasonable doubt. Rare, rare occasions in all the time I was County Attorney did I ever issue on probable cause. There had to be some other circumstance. I found that cases never got better as we got closer to court. The witnesses forgot, witnesses left, and one thing or another happened. So you better have your case pretty solid by the time you issue the complaint. The other part was that when the officer would come make a presentation and I was going to turn him down, I would take time to explain, because you all know that if you're into the business at all, you know that when you're investigating you tend to target somebody. When you target that somebody your evaluation of the evidence isn't credible because you kind of, you bend it and think it's going to do more than it really does. So it's terribly important that you remain totally independent as you review the evidence. But then you take time, you take time with the officer to sit down and explain to him the frailties of the case that he happens to have brought to you. And I found, without exception, they would be appreciative of the fact that you had taken the time to meet with them. We move on to power.

You've all heard the old truth that power corrupts, absolute power absolutely corrupts; and that's true. You really, really, with the power you have, you really have to work at being humble. And it's something that is very, very hard. It's very easy to become arrogant and to reach the point where you think that, you know, that you sit right next to God in this whole process. I'd get taken down to earth pretty quickly when I'd go home and sit down at the table, the kids are around, and your wife is there, and I remember, the kids would come home with some of their cock and bull stories and their dad would start cross-examining them and she'd look across the table and say, "Bob, you're not in the courtroom today." Because you tend to get caught up in that, and she finally said to me, she said, "You know, you're going to have to get some work outside of that office because you're getting pretty cynical." You see that seamy side of life day after day after day and you begin to think that's the world. I used to come home and say to her, "Charlotte, you know there is a world out there that I don't understand. There are people who absolutely operate on a different, different dimension, something that I don't understand." She said, "Well, you're going to have to get busy doing something other than that." So I did, I got involved with the Governor's Council on Children and Youth, I was chairman of that for six years, and got involved in church activities, and got involved in scouts, because there is a side of society that is much more positive. It's terribly, terribly important to keep yourself balanced. Otherwise you get very cynical in the job that you have.

At one time I was on a municipal commission that had hearings on annexations. We had two county commissioners on our panel from each of the counties. Over and over again I would hear, and then I would hear it from the County Attorneys, their conflict with the county board. Well, let me share with

you, at least my approach to that. I concluded that I would have to know each of those County Board members individually; what their life was like, what their pluses were, what their minuses were, what made them tick. Because if I was going to deal with them then I had to know where they were coming from. I'm sure we went to an extreme, we can't do it today but, Charlotte and I used to have the county board and their spouses over to our house for dinner every Christmas. I took them up to the lake fishing one weekend, just to get them out of the kind of confrontational approach that you run into when all you do is meet with them at meetings. I made it a point to visit each of them at their homes and get to know them individually so that I knew what made them tick. I'll never forget, I always used to be working to get the Assistant County Attorneys salaries where they should be. I one time came to the county board on an issue, one of the board members said, "Bob, you can hire County Attorneys for half of what you're asking for." I said, "Roy, down at that restaurant you have...do you have a chef, or do you have a fry-cook?" Well, he got the message pretty fast and he was no problem from there on. You have to know enough about them to know how to play it out with them. It is so important that you realize that they become very frustrated with their role. They have to deal with the state bureaucracy, they have to deal with the federal bureaucracy, and one of the things that I discovered very quickly, was the help I could give them in penetrating the bureaucracy - getting to know who do you call at the state, who do you call at the federal government, in order to open the door to consideration of whatever the issue was before the county. So I became very active in committees at the state level, and later at the national level, because it is when you know whom to call, who are the decision makers, and how to open that door that becomes so critical and so important.

If you look at the county board members, there's a very philosophic statement that I'll make that deals with every relationship you have with everyone, including the County Board. If you try to build a relationship on negatives it's going to fail. You build a relationship on their positives. That doesn't mean that you're naïve, but if you know what their positives are it allows you to build a relationship on those positives. And I don't care if you're talking about the County Board, or if you're talking about the sheriff, or the police department, or your staff, or whoever it is, you never, ever build a relationship on negatives; you always build it on positives. That doesn't mean you're naïve, that doesn't mean that you don't know what the score is with the other parts of their life, but you use that and you use it very positively as you build on the relationship. The types of things that early on I - when you get to be my age you're always telling stories because everything always reminds you of something - the first meeting I had with the county board they always went out to lunch together so I went out with them. I went to pay the bill, it was \$1.37, I'll never forget it, and the cashier said, "It's already taken care of." I said, "Oh, is that right? Who?" "Well, that guy over in the booth." Well it turned out the guy in the booth was the fellow who won the bid that morning for a road patrol. Well I was bright-eyed, bushy-tailed and red hair by the way, I went over and gave him

\$1.37 and I lectured him and said, "Don't you ever, ever do that again. If you do I'll get on your back." Went back to the county board, at that time I thought they were old – about ten years younger than I am now, I said to them, "You know, if you ever do that again I'm going to call the Grand Jury and I'm going to rip you up." Well, that's not a very good way to start a relationship – that was my first meeting. But they got the word very loud and clear: that right was right and wrong was wrong. And it was a lot of things from there on – I had to start mending fences obviously, which I did.

A lot of little things define moments that happen – the word gets around so quick. One Christmas, I remember getting word that our highway engineer (a good friend of mine) had given his keys to a fellow who does business with him. This guy went down and opened the trunk and put a case of liquor in the trunk and brought the keys back. Well, I said, "That isn't right, that isn't going to fly." So I got a hold of him and I said, "You better get a hold of that guy and get rid of that." So he got a hold of the fellow, and he took the liquor out of the trunk and took care of it. Now, those little things that happen, the word gets around so fast, that there's one way to play the game and that's the way it's supposed to be done. And I think those kinds of situations, I think they now call them defining moments, are times you have to be alert to, and be aware of, and not compromise yourself.

The police, the relationship with the police...one of the other things I used to do, and I'm not advocating that you do this, but I used to have lunch every day with somebody. Every day. I mean it was a given. And it wasn't for the purpose of doing anything other than to get them to know me and for me to know them. And that was what I used to do with the police over and over and over again. I'd call the Chief and have lunch and we would talk about hunting or fishing or his kids and what they were doing, but it created a relationship between myself and the police department. Where, (A), they knew there was only one way to play the game, but, (B), they knew I was going to be reasonable and they could approach me with any kind of problem that they had.

That gives you some thrust of the idea of the office and how inclusive it is. I remember so well this whole business of commitments of the mentally ill. That really, really used to bother me. I would come home and my wife would come in and we'd talk about all the things that happened. I really didn't have a clue as to whether those individuals were mentally ill or whether they were just angry or what the score was. Well that went on for a few years and finally I got smart enough to realize that those kinds of cases had to be reviewed by somebody else, not me. So we brought in, at that time it was called the Welfare Department, to review those cases. I remember so well, there was a fellow who was on the town board who was quite a politician, good friend, a fellow I knew very well, his wife came in with just a crazy story. I said, "Wow, that doesn't make much sense to me." As I gave the warrant to the sheriff, he went out and said, "Bob, you gotta be nuts, that guy, there's nothing wrong with him." Well the

sheriff went out to apprehend him and talk to him. The first thing this guy did was pick up a frying pan and throw it at him – it went through a wall and he disclosed he was a schizoid obviously, the other side of him. The whole side of the equation that deals with mental illness is so darn complicated.

When I first started, to give you an idea, this is apropos to nothing but how you learn. I didn't, that first term I made more mistakes than Heinz has varieties. I was saying this morning that you should set up a mentor program because if my experience is any indication there is a need for one. For example, I used to take all the confessions. Why I didn't have a clue, you know, how was I going to lay a foundation, how was I going to get that into evidence? Well, the sheriff who was six foot five and weighed 250 and was just a physical specimen, brought a kid, in one day and said, "He wants to confess." Okay. So he didn't want to confess so Mike punched his shoulder and said, "Why I think he wants to go for a ride." Okay. So he took him out and an hour and a half later he was back and he confessed. I said, "Mike, what in the world did you do?" "Well" he said, "we went out to Bunker Prairie and we had a little understanding that it was either him or it was me." And he said, "I was bigger than he was so he confessed." Well that shows how ridiculous, how naïve and ridiculous, I was in those early day.

The other classic terrible, terrible first murder case I tried involved a deputy sheriff. I was on my way to the cities, I was driving down and I saw the squad car and two feet out, and I stopped, I was the second car there. And it was the deputy sheriff. Well we apprehended the fellow and the BCA said, "Will the guy re-enact the crime?" I said, "I don't know. I'll ask him." So I asked him and the fellow said, "Sure." So we went down and when we got down there, there was a camera with KSTP on it. I said to the agent, "Well, what's this KSTP business?" Oh he said, "Don't worry about it." Well you know that went coast to coast. That confession, that re-enactment went coast to coast. Well, Judge Keyes, if any of you know Judge Keyes, he was in Buffalo and he called me into his chambers and, I was in the Marine Corps for four years so I've heard people read out but I've never heard anyone, in my life, read out like he read me out. I thought, you know, he dressed me down and up and every which way. But that's (one of) the dumb, dumb things I did because I didn't know any better.

A good friend of mine was a good trial attorney; I remember he ran for County Attorney up in Buffalo. On January 2<sup>nd</sup> he called me and said, "Bob, I got a problem. The police have submitted a report to me, what do I do." That's why your training program that you have here is so important. That's why, also, that you should establish a mentor program. I would really urge that very, very much because it's terribly, terribly important.

If you come back to the basics – trust – you earn it, you can lose it so easily. And you're always, always, always in the eye of the public or of the people in the way in which you conduct yourself. Communication is so critical and you really have to work at that, to communicate, to see that you keep things

open, that communication. Did we have disputes? Of course we had disputes. Did we have disagreements? Of course. But you can disagree without being disagreeable. And that was the critical part of the process. And the power aspect of it – do not, do not, do not overlook that it's pretty heady stuff. Because you begin to realize how much power you have, and you can destroy your effectiveness simply by the arbitrariness, the arrogance with which you carry out your duties. So be careful of that. Recognize that you have it, recognize that if you do use it that you use it very judiciously.

There is another part that I haven't covered at all, and that is our mission of course, or your mission is justice. Now justice, you can play around with that word a lot. What's justice to one person is not justice to another person. So you want to be very, very circumspect, very philosophic. The typical case – the unemployed guy who steals a loaf of bread for his family – is not in the same boat as a professional burglar. That's a simplistic explanation, but over and over again you're going to be called upon to make those judgments.

The last thing I would comment on is my own personal style. Every Sunday night I went down to the office for an hour and a half simply to get my day lined up. Every day I went to the office a half hour early, at 7:30, so that I could reflect and get my head screwed on right for the day. Because if I were walking in and started trying to deal with problems off the cuff, I don't know where I would end up. But if I took time to sit and reflect and meditate and say, "Johnson, today is another day, let's see where you're going." I was able to handle those issues much more effectively and much more, I hope, much more - with good sense and calm judgment.

So with that, I will leave. You've had a sermon for the day.