



Servant, Leader, Prosecutor: A Servant Leadership Training Program for Prosecutors

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Roundtable: Servant Leadership

The criminal justice system is currently under direct scrutiny to implement change. Specifically, prosecutors are the focus of responsibility for mass incarceration and disparate justice. While all attorneys are subject to a code of ethics and professional responsibility, prosecutors bear additional duties and discretion. Prosecutors must seek justice, represent the interests of victims, defendants, and the community, satisfy competing interests of stakeholders, and comply with ethical mandates, moral responsibilities, professionalism, discretion, and personal aspirations. Both new and seasoned prosecutors must balance these competing duties, burdens, and responsibilities. While they receive extensive legal training, they receive no leadership training. Prosecutors are leaders within the criminal justice system and their communities. Servant leadership is a successful model for prosecutors because it mirrors the multiple duties of a prosecutor to put the needs, development, and well-being of others first to produce servant leaders. A pilot study addressed public opinion, emotional intelligence, balancing duties of a prosecutor, and personal servant leadership plan. The results showed that 66.67% of participants were unfamiliar with servant leadership, 83.34% found it important for prosecutors, and 100% thought it beneficial for both new and seasoned prosecutors. A servant leadership training program teaches prosecutors to manage their competing duties, discretion, and professional fatigue through the ideals and behaviors of servant leadership.

Keywords: servant leadership, prosecutors, criminal justice

There are 120 offices of the Commonwealth's Attorney and over 700 prosecutors in Virginia. Commonwealth's Attorneys are constitutional officers of Virginia (Va. Const. art. VII, §4) and are elected locally every four years (Va. Code §24.2-217). Despite local elections, Commonwealth's Attorneys "are neither agents of nor subordinate to local government." (*Roop v. Whitt*, 2015, p. 280). Once elected, the Commonwealth's Attorney may appoint assistants to facilitate the duties of each office (Va. Code §15.2-1626).

Commonwealth's Attorneys have a duty to prosecute all felony crimes and may, at their discretion, prosecute misdemeanor crimes (Va. Code §15.2-1627). Prosecutors have the discretion to initiate or decline criminal charges, enter into plea agreements, and recommend incarceration or alternative sentences.

Except for the elected Commonwealth's Attorney, who additionally maintains a direct executive role in their office, the over 700 prosecutors in Virginia have the same duties and discretion. Prosecutors who have just graduated from law school and those who have been practicing for decades are held to the same ethical standards, given the same discretion, manage the same competing duties, and are expected to produce the same results. The Virginia State Bar (VSB) Rules of Professional Conduct encompass scores of mandated and prohibited behaviors. Prosecutors also have additional ethical duties and are distinct in that they must seek justice. Despite the duties and mandates prescribed for prosecutors and their leadership role in criminal justice, they receive little to no designed leadership training.

Servant leadership uses behaviors and competencies to influence and develop others to lead a life of service (Sendjaya et al., 2008). Those behaviors and competencies are conceptual skills, creating value, behaving ethically (Liden et al., 2008), empowering others (Mittal & Dorfman, 2012), putting others first (Hale & Fields, 2007), helping others grow and succeed (Schwarz et al., 2016), and healing (Spears, 2004). These behaviors and competencies correspond directly to the duties and discretion of a prosecutor. Despite the correlation, prosecutors are not taught how to be servant leaders. Attorneys must complete 12 credit hours of continuing legal education (CLE) courses, with two hours in legal ethics or professionalism (Rules of the Supreme Court of Virginia, Part Six, §IV, 17C). Leadership training for prosecutors is not required. Both new and seasoned prosecutors struggle balancing their competing interests, duties, and discretion.

A 2020 survey found that 95% of Americans want change in the criminal justice system (Porterfield, 2020). A servant leadership training program for prosecutors was developed and presented. The pilot study sought to answer the following questions: 1) What is Servant Leadership? 2) How does it apply to prosecutors? 3) Why is now the right time? The study results showed that 66.67% of respondents were unfamiliar with servant leadership, 83.34% thought servant leadership was important for prosecutors, and 100% thought it was beneficial for both new and seasoned prosecutors. The limitation of the pilot study was that it was presented to a group of six industry professionals, most of whom were from the same geographic area of Virginia. Its approach to prosecution as leadership is significant when the criminal justice system is under direct pressure to implement change and achieve recognized justice for all stakeholders. The purpose of the pilot study was to assess the receptivity, applicability, and effectiveness of a servant leadership training program for prosecutors. The results will be implemented into the launch of a more extensive study with more participants from diverse geographic locations.

Legal Training for Prosecutors

The Supreme Court of Virginia creates all rules and regulations governing the practice of law (Va. Code, §54.1-3909). This oversight includes the VSB, which responds to allegations of misconduct violating the rules (Va. Code, §54.1-3909). The VSB is also responsible for approving, monitoring, and recording CLE courses (Rules of the Supreme Court of Virginia, Part Six, §IV). Every attorney in Virginia must complete a minimum of 12 credit hours of CLE courses, with two of those hours covering legal ethics or professionalism (Rules of the Supreme Court of Virginia, Part Six, §IV, 17C). The Rule of Professional Conduct guides legal ethics and professionalism.

The VSB approves all CLE credit courses. Any course approved for presentation “must have significant intellectual or practical content” (VSB, Regulation 103(b)). Additionally, any course approved for legal ethics must be “devoted to one or more topics embraced in recognized formulations of rules of professional conduct or codes of professional responsibility applicable to attorneys” (VSB, Regulation 101(s)). A course approved for legal professionalism must be “devoted to one or more topics designed to educate and encourage attorneys to aspire to and achieve higher and more noble standards of professional conduct than the minimum standards” required (VSB, Regulation 101(t)). Legal ethics are specifically defined for attorneys, with additional ethics defined for prosecutors. While prosecutors must act ethically in their duties, they must also comply with specified legal ethics mandated by the VSB.

Additional Duties of a Prosecutor

In addition to the rules and ethical responsibilities that guide all attorneys, prosecutors are subject to additional responsibilities. National standards for prosecutors teach that “a prosecutor is the only one in a criminal action who is responsible for the presentation of the truth” (National District Attorneys Association, 2009, p. 2). The prosecutor must “zealously protect the rights of individuals, but without representing any individual as a client” (National District Attorneys Association, 2009, p. 2). There is a balance between the interests of a victim of a crime and the societal interests that are to be in a dominant role in every case and every exercise of prosecutorial discretion (National District Attorneys Association, 2009). There are also additional legal duties under the Rules of Discovery and exculpatory evidence that require specific behaviors in prosecutors. These additional ethical, professional, and legal duties are scrutinized by legal professionals, courts, legal pundits, media personnel, and the public.

Additional Ethical Responsibilities of a Prosecutor

The Virginia Rules of Professional Conduct prescribe five additional responsibilities of a prosecutor. First, a prosecutor shall “not file or maintain a charge that the prosecutor knows is not supported by probable cause” (VSB, Rule 3.8 (a)). Second, a prosecutor shall “not knowingly take advantage of an unrepresented defendant” (VSB, Rule 3.8

(b)). Third, a prosecutor shall “not instruct or encourage a person to withhold information from the defense after a party has been charged with an offense” (VSB, Rule 3.8 (c)). Fourth, a prosecutor shall “make timely disclosure to counsel for the defendant, or to the defendant if he has no counsel, of the existence of evidence which the prosecutor knows tends to negate the guilt of the accused, mitigate the degree of the offense, or reduce the punishment” (VSB, Rule 3.8 (d)). Fifth, a prosecutor shall “not direct or encourage investigators, law enforcement personnel, employees or other persons assisting or associated with the prosecutor in a criminal case to make an extrajudicial statement that the prosecutor would be prohibited from making” (VSB, Rule 3.8 (e)).

These additional responsibilities draw a distinct line between defense attorneys and prosecutors. Both are lawyers, and as such, both are subject to a lawyer’s professional responsibility. The Rules of Professional Conduct describe a lawyer as an advocate who zealously represents a client within an adversary system (VSB, Rules of Professional Conduct, Preamble). An advocate “is to present the client’s case with persuasive force” (VSB, Rule 3.3, Comment 1). However, “a prosecutor has the responsibility of a minister of justice and not simply that of an advocate” (VSB, Rule 3.8, Comment 1). The prosecutor and defense attorney are then placed within an adversary system. They compete. The defense attorney with a single focus. The prosecutor with a dual focus.

The criminal justice system “rel[ies] upon the self-interest of the litigants and counsel for full and adequate development of their respective cases” (*Sacher et al. v. United States*, 1952, p. 455). Nevertheless, the prosecutor must have no self-interest. A conviction must come “through the pursuit of justice, not an unbridled desire to convict” (*Lemons v. Commonwealth*, 1994, p. 622). Prosecutors are representatives “not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done” (*Berger v. United States*, 1935, p. 88). Prosecutors represent all the people. Those people “include the defendant and his family and those who care about him. It also includes the vast majority of citizens who know nothing about a particular case, but who give over to the prosecutor the authority to seek a just result in their name” (Corrigan, 1986, p. 539). However, the United States Supreme Court has also articulated that “the very premise of our adversary system of criminal justice is that partisan advocacy on both sides of a case will best promote the ultimate objective that the guilty be convicted and the innocent go free” (*Herring v. New York*, 1975, p. 862). A prosecutor must then balance these competing expectations within an adversarial system.

Pilot Study

The pilot study was in seminar format and presented virtually in two segments. Each segment was four hours. Topics covered were current public perceptions of prosecutors and criminal justice, personal motivation, emotional intelligence, and servant leadership

behaviors. Those behaviors – conceptual skills, creating value for the community, behaving ethically, empowering others, putting others first, helping others grow and succeed, and healing – were then applied to the duties and responsibilities of a prosecutor. The seminar concluded with the participants developing a personal servant leadership plan.

The participants were six industry professionals: 20% practiced law for less than eight years, 20% practiced law between eight and 10 years, and 60% practiced law for more than 15 years. Of the participants, 16.67% had civil private practice experience, 83% had prosecution office experience, and 33.33% had other law experience. Virtual video and audio were activated throughout the seminar. It was participatory, with breakout sessions and group discussions. Ten-minute breaks were taken for every hour of the presentation. Surveys were submitted via email: Pre-Assessment I before the first four-hour session, Post-Assessment I after the first four-hour session, Pre-Assessment II before the second four-hour session, Post-Assessment II after the second four-hour session, and Seminar Evaluation after the conclusion of the seminar. The survey results were collected and analyzed. The breakout sessions were conducted in the same virtual seminar format, with all participants contributing.

Prosecutors as Servant Leaders

Servant leadership is composed of seven behaviors or competencies that exemplify servant leadership. First, servant leaders possess conceptual skills (Liden et al., 2008). In its simplest form, this means being good at what you do. It “refers to the servant leader’s thorough understanding of the organization – its purposes, complexities, and mission” (Northouse, 2016, p. 233). Second, they create value for the community (Liden et al., 2008). Leaders can use this to “link the purposes and goals of an organization with the broader purposes of the community.” (Northouse, 2016, p. 235). Prosecutors have an opportunity, more than most, to build value for their community. Third, servant leaders behave ethically (Liden et al., 2008). Since ethics are legally defined for prosecutors, this competency combines ethics and morality. Fourth, servant leaders empower others to grow in their confidence and abilities (Mittal & Dorfman, 2012). Fifth, they put others first by developing participation, wellness, and success in others (Hale & Fields, 2007). Sixth, servant leaders help others grow and succeed by helping them achieve their personal and professional goals (Schwarz et al., 2016). Seventh, servant leaders heal (Spears, 2004). Prosecutors are uniquely positioned to recognize hurt in all parties and help others heal from pain and loss.

Prosecutors as Public Servants

Prosecutors are public servants. As public servants, they are “committed to the public good and characterized by an ethic built on benevolence, a life in service of others, and a desire to affect the community” (Houston, 2006, p. 68). How does a prosecutor balance the duty to be a minister of justice, a zealous advocate without a client, and a diligent

searcher for truth within an adversarial competitive system while acting without the unbridled desire to convict? Servant Leadership. While leadership is a process accessible to all (Northouse, 2016), it must be taught. It can be learned.

Leaders influence others to achieve a common goal (Northouse, 2016). Likewise, “power is the capacity or potential to influence” (Northouse, 2016, p. 10). A prosecutor’s authority is “broad and extensive” (Demleitner & Steinheimer, 2020, p. 188). They are “the hub of a system that reshapes not just law enforcement but entire communities” (Demleitner & Steinheimer, 2020, p. 193). Prosecutors “have the community standing and the authority to convene multiple stakeholders” (Demleitner & Steinheimer, 2020, p. 193). There is no question that prosecutors have discretion. The question is how they have been trained to use it within their leadership roles.

Servant leadership is ultimately focused on serving others, so they develop to their maximum potential, and they then, in turn, serve others to create value for their community (Sendjaya & Sarros, 2008). “Servant leaders...derive influence from service itself” (Stone et al., 2004, p. 357). Despite the name and the behaviors, “working from a need to serve does not imply an attitude of servility in the sense that the power lies in the hands of the followers” (van Dierendonck, 2011, p. 1231). On the contrary, it means that prosecutors serve, as defined in the context of leadership, victims of crime, other prosecutors, defense attorneys, witnesses, judges, juries, defendants, and families. Those served, in turn, develop to their full potential. Servant leaders “develop relationships where followers are encouraged to follow their lead of service” (Stone et al., 2004, p. 357). This development creates value for the community, including the most vulnerable and the underserved, victim and defendant alike.

Servant Leadership, Emotional Intelligence, and Prosecutors

Servant leaders “focus on serving the highest needs of others in an effort to help others achieve their goals” (Trastek et al., 2014, p. 379). Some consider it a counterintuitive approach to leadership. In a courtroom filled with influential people, the servant leader stands out as a departure from the standard. In fulfilling their duty, a servant leader embraces personal development “through awareness and self-knowledge” (Trastek et al., 2014, p. 379). Often referred to as emotional intelligence (EI), this ability enables leaders to be more successful because they are “more sensitive to their emotions and the impact of their emotions on others” (Northouse, 2016, p. 28). EI gives prosecutors “the ability to manage [themselves] and [their] relationships effectively” (Goleman, 2000, p. 80). Whether a prosecutor is a hierarchical leader or supervisor is of no matter. Prosecutors are leaders regardless of experience, classification, or status.

A leader cannot lead to their highest potential until they know who they are as a leader. Many are thrust into supervisory positions or elected to executive posts. The legal and organizational rules that govern both are a matter of knowledge and information. Knowledge can be acquired. Information can be acquired. A Juris Doctor prepares a law

student to learn and think like a lawyer. A policy manual prepares an employee to learn and think as the organization dictates. A supervisor can follow every mandate within a policy manual but still be ineffective as a leader. They must learn to lead.

There was a time when “it was believed that people were born with [innate qualities and characteristics] and that only the ‘great’ people possessed them” (Northouse, 2016, p. 19). These “great” people were considered leaders. However, experience has shown that “an individual with leadership traits who was a leader in one situation might not be a leader in another situation” (Northouse, 2016, p. 19). That is why the development of EI is critical for successful leadership. Each relationship a leader has must be developed and maintained differently. EI encompasses four vital competencies: self-awareness, self-management, social awareness, and social skill (Goleman, 2000, p. 80). These capabilities “enable a leader to understand his or her purpose, beliefs, and individual characteristics” (Trastek et al., 2014, p. 379). When leaders achieve emotional intelligence, they can “take into consideration the effects of their actions and the actions of the individuals that they serve ‘on the least privileged in society’” (Trastek et al., 2014, p. 379). That is the duty of every prosecutor. The distinct reality is that the least privileged in society are those most often within the purview of the criminal justice system. A prosecutor must successfully lead within that system.

A servant leader is “first experienced as a servant to others, and...this simple fact is central to the leader’s greatness. True leadership emerges from those whose primary motivation is a deep desire to help others” (Spears, 2004, p. 8). Ask any new prosecutor why they want to be a prosecutor. Most responses are “to help people.” Ask any seasoned prosecutor why they wanted to be a prosecutor. Most responses are an embarrassed laugh followed by “because I wanted to help people.” It seems trite and naïve given the current climate toward the criminal justice system. And yet, that is why prosecutors have the local discretion they have – to help the victim, to help the defendant, and to help their community.

Prosecutors have extensive legal training in their ethical duties and responsibilities and a multitude of legal issues. However, there is no mandated and designed leadership training for prosecutors. Servant leadership training corresponds to the duties of a prosecutor. Where legal training teaches prosecutors the law and their respective duties, leadership training teaches prosecutors how to honor and perform their duties. Servant leadership training teaches prosecutors how to effectively use the discretion and influence they legally possess to serve those within the criminal justice system and create a more prosperous community for everyone.

Results and Discussion of the Pilot Study

Public Opinion

The Pre-Assessment Surveys showed that 100% of the respondents believed that a positive view of prosecutors was Very Important in doing their job successfully. The Post-Assessment Surveys showed that 66.67% of the respondents believed that the current public opinion of prosecutors has been Very Significant when it comes to doing their job successfully. The opening section of the seminar focused on the historical versus the current public opinion of prosecution. These responses show that public opinion is important to the ability of a prosecutor to do their job successfully. It also suggests that Sections 1 and 2 of the seminar successfully demonstrate the changing view of prosecution and how it has impacted prosecutors doing their job successfully.

Emotional Intelligence

The Pre-Assessment Surveys showed that 83.33% of the respondents thought it Very Important for prosecutors to use empathy in their professional relationships. However, 50% were Somewhat Familiar with Emotional Intelligence, and the other 50% were Very Unfamiliar with Emotional Intelligence. The Pre-Assessment Surveys also showed that 83.33% responded that self-awareness was important, with 66.67% Very Important and 16.67% Somewhat Important. Of interest, 16.67% responded that self-awareness was Very Unimportant. However, the Post-Assessment Surveys showed that 100% of the respondents thought that Emotional Intelligence was important, with 83.33% responding Very Important and 16.67% responding Somewhat Important. Also, 100% responded that managing emotions was Very Important to do their job successfully. This contrast in pre-seminar and post-seminar responses suggests the seminar effectively demonstrated the importance of Emotional Intelligence to the participants in doing their job successfully.

Balancing Duties of a Prosecutor

The Pre-Assessment Surveys showed that 40% of the respondents thought they were Very Successful in balancing the multiple duties of a prosecutor, while 20% thought they were Somewhat Successful, and 40% were Undecided. The Post-Assessment Surveys showed those numbers drop to 16.67% responding they were Very Successful, while those responding Somewhat Successful rose to 66.67% with 16.67% Undecided. The Post-Assessment surveys also showed that 100% responded that discretion was Very Important in their duty to pursue justice. Those changes in response suggest the effectiveness of the seminar with concerning the role Emotional Intelligence plays in the prosecutor's balance of duty and discretion.

Personal Servant Leadership Plan

The Pre-Assessment Surveys showed that 83.33% of the respondents had never developed a personal leadership plan, and 100% had never had any leadership development training through their employment. Interestingly, 100% responded that it was Very Important for them to know their strengths to do their job successfully. In comparison, 100% also thought it was important for their strengths to match their professional duties, with 50% responding Very Important and 50% responding Somewhat Important. Also, 66.67% of the respondents were unfamiliar with Servant Leadership, with 50% Very Unfamiliar and 16.67% Somewhat Unfamiliar. The Post-Assessment survey results showed that 83.34% responded it was important for them to develop a personal leadership plan, with 66.67% responding Very Important and 16.67% Somewhat Important.

Additionally, the Post-Assessment Surveys showed that 83.34% responded the seven servant leadership behaviors were important to their personal leadership plan, with 66.67% responding Very Important and 16.67% responding Somewhat Important. Before the seminar, 66.67% of the respondents were unfamiliar with servant leadership. After the seminar, 83.34% thought the seven servant leadership behaviors were important to their personal leadership plan. This result suggests that the seminar demonstrated a positive and successful outcome in applying the behaviors of servant leadership to prosecutors. In addition, 60% of the respondents had practiced law for more than 15 years, and 40% had practiced law for less than 10 years. This range of experience correlates with the Post-Assessment Survey results regarding the significance that experience plays in being a balanced prosecutor. The responses indicated that 100% thought experience was significant, with 83.33% responding Very Significant and 16.67% responding Somewhat Significant. Yet, 83.34% responded that it was still important for them to develop a personal leadership plan, and 83.34% thought servant leadership was important to their personal leadership plan. These responses suggest that the seminar is valuable to both new and seasoned prosecutors.

Learning Experience

The learning outcomes for the seminar were: 1) What is servant leadership? 2) How does it apply to prosecutors? 3) Why is now the right time? When responding to the statement, "The learning outcomes for this seminar were met," 100% responded with Strongly Agree. When responding to the statement, "The breakout sessions contributed to my learning experience," 100% responded with Strongly Agree. When responding to the statement, "I would suggest a follow-up or advanced level for this seminar," 100% agreed, with 80% Strongly Agree and 20% Agree. One respondent commented: "I'm inspired to do better and would love to have more training in this field." Another respondent commented, "I think all prosecutors would benefit from this seminar." When responding to the statement, "This seminar would be beneficial to all prosecutors regardless of experience," 100% agreed, with 60% Strongly Agree, and 40% Agree.

Suggestions for improvement included: "Having participants read some material beforehand, so these concepts aren't foreign." This suggestion is valid as 66.67% of the respondents were unfamiliar with Servant Leadership, and 100% had never had leadership training. Another suggestion was: "Less time on day one material, which could be covered in about an hour and more time on servant leadership." This suggestion is also valid as an eight-hour seminar was insufficient to cover the material presented. The second four-hour session was rushed due to time constraints. These suggestions support the implementation of an expanded seminar to cover the material presented or an advanced-level seminar.

Value of the Pilot Study

Regarding the principles of servant leadership, 100% responded that the seminar provided valuable and useful principles that they could use in their jobs as prosecutors. Specific comments included, "I didn't know that servant leadership existed as a category of leadership. It helped me recognize both what it is and how it can be a valuable teaching and learning tool." When asked what respondents learned the most from the seminar, one commented, "How principles of servant leadership can be applied to the work of prosecutors." Another respondent requested "more time on servant leadership, which goes beyond emotional intelligence. The application of servant leadership is transformational." Other comments included: "I need to be better attuned to how emotional responses guide my behavior. I also better appreciate my role as a leader in the community and am more sensitive to the power I've been handed as a prosecutor." Another respondent commented: "I enjoyed the personality survey which gave me insight to how I think and function in the workplace...this seminar showed me different, more in-depth, examples of how much power a prosecutor has in the community and in the courtroom." When responding to the statement, "I will be able to apply the knowledge I gained from this seminar to my leadership as a prosecutor," 80% responded, Strongly Agree. Additionally, 100% responded Strongly Agree when responding to the statement, "The debriefing session at the end of seminar helped me gain additional insights into how servant leadership is relevant to me as a prosecutor." These reviews demonstrate the effectiveness of the seminar in effectively presenting servant leadership behaviors and applying those behaviors to the duties and power of prosecutors.

Conclusion

Today's prosecutors must comply with competing duties, multiple ethical obligations, and discretionary authority. By their duties and obligations, prosecutors are leaders, regardless of their experience. While they are taught how to be lawyers through law school and prosecutors through tailored training, they are not taught how to be successful leaders. Servant leadership is fitting for prosecutors because it prescribes behaviors that support a prosecutor's ethical duties and discretion. The survey results showed that prosecutors want to learn how to balance their competing duties to serve

those within the criminal justice system. The results also showed overwhelming support for leadership training, including developing a personal leadership plan consistent with servant leadership behaviors. The results of the pilot study will be implemented into a larger study of participants from various offices. The Servant Leadership Training Seminar will help prepare prosecutors of all levels of experience to provide the best possible service to victims, defendants, their communities, and the criminal justice system.

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