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VIEWPOINT: PROMOTING DIVERSITY IN THE CRIMINAL JUSTICE SYSTEM

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Author: by Professor R. Michael Cassidy

R. Michael Cassidy is a Professor at Boston College Law School and Director of the Rappaport Center for Law and Public Policy. He was appointed by Governor Patrick to serve on the Special Commission to Study the Compensation of District Attorneys and Staff Attorneys for CPCS.

Text

[*20] The decisions of grand juries in Missouri and New York not to indict police officers responsible for shooting unarmed black men has sparked intense debate in this country about racial disparities in our criminal justice system. Turning this public outcry into meaningful reform will not be easy. But if public confidence in law enforcement is going to be strengthened, one important step is to make sure that the most powerful actors in our criminal justice system mirror the racial composition of the communities they represent.

We need more people of color serving as police officers, judges, jurors, public defenders, and perhaps most importantly *prosecutors*. Their talent, background, and perspective are essential to balanced and informed decision-making. Just as importantly, their presence in the courthouse will be critical to restoring a perception that our criminal laws will be fairly applied to all. Until our prosecutors are as diverse as the public that they purport to protect, citizens will naturally question the fairness of charging and plea bargaining decisions that occur behind closed doors.

African Americans make up almost 13% of the population in this country, but only about **4.8 % of licensed attorneys**. The National Black Prosecutor's Association, a membership organization that bills itself as the premier professional network for black prosecutors across the country, counts only **800 members in their entire organization**, even though there are over 25,000 lawyers working as state prosecutors in the United States. Here in Massachusetts, my colleagues among the district attorneys estimate that in some counties as little as 2% of the courtroom legal staff identify as African American.

One factor contributing to this underrepresentation is salary. Massachusetts prosecutors are among the lowest paid in the country--even below those in Arkansas and Mississippi, states with dramatically lower costs of living. Entry level prosecutors in Massachusetts earn \$ 37,500 per year. The national median starting salary for prosecutors among the 50 states and the District of Columbia is \$ 51,000. In most [*21] courthouses across this Commonwealth, the prosecutor is the lowest paid state employee in the building--behind the custodians, the secretaries, and the assistant clerks. And the public defender does not fare much better.

This problem is not new. The starting salaries for prosecutors in Massachusetts have not been raised since 2007. In May of 2014, a blue ribbon commission formed by the Massachusetts Bar Association issued a report entitled *"Doing Right by Those who Labor for Justice"* exposing this gross inequity. The report concluded that "The present salaries paid to attorneys working in our criminal justice system are so inadequate that they cannot meet the financial obligations attendant to everyday, normal living. The unvarnished truth is the compensation is so poor that it drives these lawyers away from the criminal justice system or into the ranks of the working poor." The Boston Globe **highlighted** prosecutors forced to live with their parents just to make ends meet. A Commission formed by Governor Patrick to study the problem issued **a report** in December, 2014 highlighting the urgency of this situation, and calling on the legislature to make specific reforms.

What does this have to do with diversity? Many African American law students who are passionate about careers in criminal law simply cannot afford to work as prosecutors or public defenders due to the low salary. **On average**, law students borrow \$ 125,000 to attend a private law school and \$ 75,000 to attend a public law school. This debt can lead to average monthly loan repayments of between \$ 650 and \$ 1600, depending on consolidation and the term of the loan. With an entering salary of \$ 37,500, young prosecutors in Massachusetts take home a monthly paycheck of approximately \$ 2,200 after deductions--barely enough to pay for housing, transportation, food, clothing and utilities. This salary structure makes recruitment and retention of minority attorneys particularly difficult, as **recent surveys** show minorities are more likely to graduate law school with debt. Many African American students who have high loans simply cannot afford to undertake careers as prosecutors, and thus choose to work at law firms instead. Low salary and high indebtedness may not be the only reason African American lawyers forsake careers in the criminal justice system, but they are certainly a contributing factor. Governor Patrick echoed this concern in his **letter to the legislature** that accompanied the 2014 Special Commission Report, where he stated that the low salary structure "inhibits the recruiting and retention of public lawyers who mirror the communities they serve."

Race is not the only demographic affected by low salaries in our state's prosecutors' offices. The grossly inadequate salary for ADAs has led to a situation where the only people who can afford these jobs are those who have a cushion of support from other family members; e.g., a parent or spouse. Single men and women and persons from lower socioeconomic backgrounds are increasingly becoming underrepresented in many county DA offices, making these important public positions less and less reflective of the communities they serve. Unless we are prepared to tolerate a situation where law school graduates with independent means and family support are the only ones capable of undertaking this crucial form of public service, we must improve the salary structure for prosecutors and public defenders. [*22] It is well past time for the legislature to take action. Parity with other

states, parity with other government lawyers within Massachusetts, and fundamental fairness all dictate that salaries for our state prosecutors and public defenders should be raised in the 2016 budget. Adding to the urgency of this situation is a legitimate concern for increased diversity among the ranks of our prosecutors, who are making life and death decisions that affect all of us.

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