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Profiles in Public Integrity: Cyrus Vance, Jr.

Cyrus R. Vance, Jr., was first inaugurated as the District Attorney of New York County on January 1, 2010. Over the following four years, Mr. Vance enhanced the Manhattan District Attorney's Office as a national leader in criminal justice by expanding the offices expertise on an array of 21st century crimes, including identity theft, cybercrime, white-collar fraud, hate crimes, terrorism, domestic violence, human trafficking, and violent and gang-related crimes.

Upon taking office, Mr. Vance modernized the Manhattan District Attorney's Office by reorganizing its resources and creating new specialized bureaus and units, including the Cybercrime and Identity Theft Bureau, Major Economic Crimes Bureau, Special Victims Bureau, Violent Criminal Enterprises Unit, Hate Crimes Unit, and the Public Corruption Unit.

In July 2011, Mr. Vance was elected by his peers to serve as President of the District Attorneys Association of the State of New York for the 2012 term. Mr. Vance also serves as co-chair of the New York State Permanent Commission on Sentencing.



You began your legal career as an Assistant District Attorney in the Manhattan District Attorney's Office, which you now head. How has your experience as a "rank-and-file" prosecutor in the office influenced the way you approach your job as District Attorney?

As a Manhattan ADA in the 1980s, I handled cases involving murder, organized crime, career criminals, political corruption, and white-collar crime. It was a crash course in the mechanics of prosecution, and in the human impact of criminal justice policy. Nothing could have prepared me better for the job I now hold.

New York City in the 1980s was a vastly different place. It truly was the Bad Old Days, as the saying goes. In the face of such rampant crime and disorder, we had very different expectations about the future of the City. Frankly, we expected things to get worse. Now, we expect things to get better, and as prosecutors, we take personal responsibility to ensure that they do.

While in Seattle, you co-founded your own law firm and, back in New York, you worked as a principal at the Morvillo, Abramowitz firm. Has being a defense lawyer made you a more effective District Attorney? How important do you think having that perspective has been?

Being a defense attorney is one of the most satisfying roles a lawyer can play, and also one of the most important. Individuals are entrusting you with their liberty and their livelihood.

In our Office, whether we are addressing systemic criminal justice issues, or litigating individual cases, it helps to know the system from both sides. I have no doubt that my experience as defense counsel runs through the initiatives I pursue as District Attorney – like creating New York State’s first conviction integrity program, raising the age of criminal responsibility, providing services and specialized courts for the mentally ill, and diverting low-level, non-violent offenders away from the criminal courts.

My private-sector experience also reaffirmed my belief that every defendant who comes before the court deserves the strongest possible defense. Ensuring fairness for defendants is no small feat – typically, the resources you bring to defend your client are not as great as what the Government brings to bear to prosecute its case. Often, there is a significant resource and informational asymmetry between the prosecution and the defense. I ask our Assistants to take these factors into account when working with defense attorneys, and encourage them to – when feasible – disclose information beyond that which the law requires.

Shortly after taking office as District Attorney you expanded the Office’s Public Integrity Unit. What was your motivation for dedicating these staff and resources to the issue of public corruption?

We expanded our Public Corruption Unit in order to be more proactive in the ways we identify and investigate corruption. Some areas of practice in our office are more reactive in nature – the police arrest someone on, say, violent felony charges, and refer the case to us for criminal prosecution. But very few public corruption cases simply walk through the door. The very nature of this work is that you have to be proactive. Getting there requires a significant investment of human and financial capital, and strong partnerships with other investigative agencies.

Our Public Corruption Unit is designed to fight corruption at all levels. While we continue to pursue corruption offenses by elected officials, corruption at lower levels of government has similarly far-reaching effects – it depletes our public coffers, and erodes public trust in our institutions. Moreover, lower-level corruption probes often illuminate illicit activity at higher levels.

During your tenure as president of the District Attorneys Association of the State of New York you convened a White Collar Crime Task Force, which studied, among other things, corruption laws and procedures statewide, and made a number of recommendations to change them. And in a recent op-ed, you again called for local prosecutors to be given stronger tools to help fight public corruption. What are the recommendations that, if enacted, would be of the greatest benefit to your office in prosecuting corruption cases?

The FBI and several U.S. Attorneys have proven themselves remarkably capable of policing corrupt officials in New York State, using federal laws like extortion, mail fraud and wire fraud. But state prosecutors in New York have historically handled corruption investigations, and been very effective in doing so. Over the last several decades, however, state laws have not evolved at the pace of federal laws – both in substantive laws and procedural laws – and are outdated.

Today, our state criminal statutes therefore do not adequately prohibit, penalize or deter corruption at the highest levels of government. As a result, compared to our federal counterparts, District Attorneys are fighting high-level corruption with one hand tied behind our backs. To combat high-level corruption more effectively, we need the following changes:

- ***End transactional immunity.*** Contrary to the laws of 49 states, every witness before a New York State grand jury automatically receives full immunity about anything to which they testify. As a result, prosecutors are reluctant to call the very people who know about corruption, for fear of giving them a lifetime pass for their transgressions. This defies logic, and should end today.
- ***Permit accomplice corroboration.*** In most cases of high-level corruption, the only people who know about it are in on the scheme. New York law requires accomplice testimony to be corroborated before it can support a conviction, but also provides that the corroboration cannot come from another accomplice. The result is an excessively high bar for evidence in corruption cases.
- ***Close the bribery carve-out for public officials.*** To prosecute a person for bribing a real estate developer, a labor leader or even a professional boxer, a state prosecutor need prove only an “intent to influence” the recipient of the bribe. Bribery of a public official, on the other hand, also requires an explicit “understanding or agreement” between the bribe giver and the official for the crime to be complete. In practice, this means that those who bribe public officials are less likely to be prosecuted than those who bribe boxers. There is no justification for this imbalance.
- ***Criminalize undisclosed self-dealing.*** New York State needs a law that specifically targets public servants who further their own, undisclosed economic interests in the performance of their official duties. A 2010 U.S. Supreme Court opinion limited the ability of our federal partners to prosecute undisclosed self-dealing. This provides an opening for state

prosecutors to lead the charge against high-level corruption. More than ten other states punish undisclosed self-dealing as a felony. New York's district attorneys need a similarly powerful tool.

You spoke at CAPI's Corruption in the 21st Century conference about the role of prosecutors in upholding public integrity. What can CAPI do to help offices like yours in your endeavor to more effectively prosecute corruption?

CAPI has emerged as an important resource at a critically important moment in the fight against corruption. By building a community of anticorruption leaders, and advancing research and scholarship on the issue, CAPI is arming a new generation of practitioners with the tools and knowledge necessary to achieve long-overdue reform.

Persuading lawmakers in Albany to strengthen our anticorruption laws requires an unprecedented, all-hands-on-deck approach. CAPI can help us more effectively prosecute corruption by joining our call for badly-needed legislative changes, including amending penal laws relative to transactional immunity, accomplice corroboration, bribery of public officials, and undisclosed self-dealing.