



**Career Development Office
Guide to Interviewing with
Prosecutors and Public Defenders**

Criminal Law Interviewing Guide

Each year, Richmond Law graduates enter careers as prosecutors and public defenders. Most of these new attorneys worked in prosecutors' or public defenders' offices during one or both summers, through a clinical placement, or participated in the Children's Defense Clinic at the law school, thus gaining invaluable experience in the courtroom and with clients and witnesses. Law graduates who have used a third-year practice certificate to try criminal cases are highly sought after, as they have the necessary experience to handle a docket immediately after being hired.

Whether you are interviewing for a summer position or a post-graduate position with one of these offices, there are commonalities as well as special considerations for each type of office, both in terms of what the employer is looking for, and what questions will be asked in interviews. As is true for many public interest employers, evidenced commitment to public interest will be important. The main difference between interviewing with a public defender or prosecutor, and interviewing with other employers, is that the use of hypothetical questions during interviews is very common, particularly among prosecutors.

For both fields, passion for the work, and skill in litigation, are two of the most important considerations. For Virginia commonwealth's attorneys and public defenders, grades are rarely considered, or even asked for. In federal settings, which are much more competitive, GPA and academic standing play a more important role. Coursework in criminal law, evidence, and trial advocacy are also valued, as are foreign language skills (particularly in Spanish).

In some states, hiring for post-graduate public defender or prosecutor positions may take place prior to graduation or receipt of licensure – but this is rare. In Virginia, neither commonwealth's attorneys' offices nor public defender's offices hire lawyers until they have passed the bar (there are rare exceptions). The Department of Justice hires some new attorneys as third-year students through its Honors program, and some of these may be assigned to prosecutors' offices. Federal public defenders rarely hire recent graduates.

Richmond Law graduates who have received Bridge to Practice fellowships may work in either a prosecution or a public defense setting using their third-year practice certificate while awaiting bar results. Once licensed, Virginia public defenders have an additional requirement of state certification to accept court-appointed cases from the courts – some offices will hire attorneys pending certification, while others require new attorneys to be certified before hiring. To become certified to take misdemeanor cases, new attorneys must attend an eight-hour training; to represent clients with felonies, attorneys must additionally assist an experienced attorney with four felony cases from start to finish.

Because defense attorneys and prosecutors are exposed to sometimes horrific circumstances, and must deal with people who may be angry, fearful, or otherwise upset, interviewers will also seek to determine your ability to cope with a wide variety of people and circumstances, and to tolerate frank language.

Both prosecutors and public defenders are looking for those who are dedicated to the work of their office. They may even be suspicious of those who have worked for, or express interest in working for, the “other side.” This attitude is more prevalent among public defenders than prosecutors. However, if you are applying for a position with a prosecutor or a public defender, and you have previous experience with the opposing side, be prepared to address the reason for this in your cover letter, and be prepared to answer questions about your commitment in the interview. In reality, many attorneys have served on both sides, sometimes more than once, and exposure to each can make for a better, more prepared attorney.

Applying for Public Defender positions

Public defenders value attributes such as compassion for the underprivileged; passionate and zealous advocacy for clients; and strong litigation skills. Evidence of an interest in criminal law is helpful as well. Interviews will vary depending on the office and the type of position for which you are applying. Public defenders will expect you to understand how the public defense system works in the state where you are applying.

First-year summer internships: When you apply for a summer internship, highlight any experience with underprivileged persons (such as volunteering in inner-city schools), as well as a general commitment to public service, is important, since you will not have much criminal law coursework on your transcript. During the interview, students will be asked questions about their interest in criminal law generally, and in public defense work specifically. Because summer interns are frequently tasked with conducting initial client interviews, often in jails, students will be asked questions designed to discern their ability to establish a rapport with persons from many different backgrounds, as well as their comfort level in assisting persons currently incarcerated, who may be angry and hostile, and those who may have committed violent offenses.

Second-year summer internships: Most public defenders allow second-year students with a third-year practice certificate to try a few cases during their summer. Some offices do not, so if you wish to get courtroom experience, ask during the interview. Attorneys interviewing second-year students will often ask about plans to become a public defender, or may question students who have interned with a prosecutor’s office about their commitment to defense work. Second-year students are also likely to be asked “hypotheticals.” The questions are designed to assess your understanding of issues such as your duty to clients and the ethics of speaking with others about clients, as well as the zealotry of your commitment to representing criminal defendants. Sometimes, hypotheticals may be about specific areas of the law; but generally, these would be testing your understanding of issues such as fourth amendment jurisprudence, as opposed to your knowledge of specific statutes or cases, though they may test your awareness of such matters as a defense attorney’s duty under *Padilla vs. Kentucky*.

Post-graduate attorney positions: Having experience in a criminal law setting, especially defense experience, is vital to gaining a public defender position. If your criminal law experience was gained through a prosecutor’s office, you will need to explain in your cover letter why you are now interested in the defense side. Hypotheticals posed during a public defender attorney position will be focused on your duty to your client (especially if you have prosecution experience) and your understanding of the fourth amendment, but may

also include questions about issues of law. The interviewer will be assessing your thought process and your understanding of the issues.

Applying for Prosecutor positions

Prosecutors are looking for those with a desire to protect the public, as well as evidence of an interest in criminal law. Prosecutors may be wary of hiring those who seem too zealous about being “tough on crime,” as diversionary or rehabilitation programs may be better at preventing recidivism than incarceration; also, given the statistics on wrongful convictions, prosecutors want to make sure their hires will be focused on getting things right and seeking justice, not merely convictions. Applicants should be able to articulate this nuanced understanding of the prosecutor’s role, as well as knowledge of the criminal justice system.

First-year summer internships: students will be asked about their interest in criminal law generally, and prosecution specifically. Students will help interview witnesses, as well as research legal questions and help organize evidence, so evidence of good “people skills” will help students.

Second-year summer internships: prosecutors appreciate second-year students with third-year practice certificates, who can help attorneys with their very busy dockets. Often prosecutors will give students a full misdemeanor docket to handle by the time they have completed their summer. Students demonstrated an interest in, and ability to handle, such a docket, including advanced trial classes and moot court or trial advocacy board experience will be favored. Second-year students are likely to be asked “hypotheticals” during interviews.

Post-graduate attorney positions: as with public defender positions, prosecutors are looking for someone who has criminal trial experience and extensive criminal law coursework, and who will be able to handle a misdemeanor docket right away with minimal training. Prosecutors are not averse to hiring those whose criminal trial experience came from defense work; but applicants will need to explain why they are committed to prosecution, and how their work will make them a better prosecutor. The use of hypotheticals in interviews for entry-level prosecutor positions is common, and is used to assess your thought process and ability to spot issues of law, procedure, and ethics.

Interview questions

The “hypothetical” interview question is the most distinguishing feature of criminal law job interviews. They are especially common for prosecutors, less so for defense attorneys. When asking “hypos,” interviewers don’t usually pose questions based on a specific area of criminal law – instead, questions are focused on procedure, legal ethics and professional responsibility, the ability to issue-spot, and how you would act in a variety of common criminal law circumstances.

Defense hypotheticals usually seek to test your understanding of your duty to your client:

- Whether you might give a witness against your client directions to the courthouse:
 - Interviewers will want to know that you understand that your duty to your client means, for example, that you should not make it easier for witnesses to find their way to testify against your client (your duty as an officer to the court, however, means you may not actually mislead the witness).
- If you should reveal an error in the evidence that benefits your client:

- Defense attorneys have an affirmative duty to not reveal errors that benefit their client (however, they may not make any misrepresentations to the court).

Prosecution hypotheticals may include fact patterns designed to determine your knowledge and understanding in such areas as:

- A prosecutor's duty under *Brady v. Maryland* to reveal information favorable to the defense
 - A prosecutor has an affirmative duty to reveal information to the defense that may be exculpatory or impeaching, such as a witness's criminal record, or inconsistent statements, or another person's confession to the crime, even if this makes the case more difficult to win.
- The Fourth Amendment
 - Criminal cases sometimes fail because of problems with the search or seizure of defendants or evidence. Many hypothetical questions will be posed to see if you understand what is allowed under Fourth Amendment jurisprudence
- Your ability to quickly make decisions in light of new evidence
 - The nature of criminal cases is that no matter how well prepared you are, you may learn on the morning of trial of a new witness, or a witness who has changed his/her statement, or a problem with the evidence. These hypotheticals test your ability to understand the ramifications of a new wrinkle and to think quickly. "I would ask my supervising attorney" is not the answer they are looking for. Instead, they are looking for what your thought process would be.
- Sensitivity to witnesses and victims
 - Sometimes witnesses and victims do not want to go forward with a case, and may even change their story in order to seem a less-useful witness, especially in domestic violence cases. You may be asked what you would do if a victim told you she would no longer testify, or that the event never happened. While some prosecutors charge witnesses who don't cooperate with making a false report, the best prosecutors know that this further victimizes a victim, and may work with the victim and victim/witness personnel to help them gain the support they need to feel confident in going forward with a trial.

RESOURCES

PSJD's Top Ten Tips to Nail Prosecutor and Public Defender Interviews:

<http://blog.psjd.org/2012/08/30/expert-opinion-ten-tips-to-nail-prosecutor-and-public-defender-interviews/>

Advice for interviewing with prosecutors: <http://noncuratlex.com/?p=324>

Learn more about Virginia public defender offices and the requirements for certification here:

<http://www.indigentdefense.virginia.gov/index.htm>