Prosecutors and the Unethical Decision to Use Dubious Evidence

There are many ethical decision situations within the criminal justice system. Many of these situations occur within the courts system and involve the criminal prosecutors assigned to a case. One ethical decision situation that may occur is whether or not a prosecutor should use dubious evidence solely based on their belief that the person they are prosecuting did in fact convict a crime and should not go free. This situation raises questions of not only bias but also the misuse of evidence to gain a result that may be good for society, but is illegal. At its worse, an innocent person could also be put in jail if the prosecutor is bias enough to ignore a smoking gun form of evidence that proves they did not commit a crime. Ultimately, if the wrong decision is made those who are affected the most are the individuals who are facing a prison term or worse.

This ethical decision occurs frequently, and the reason at times is connected to the very nature of their work. Prosecutors are prone to growing a mentality where they value winning more than justice. Prosecutors can gain recognition, raises, and even higher positions based on high conviction rates. Gaining more encourages some prosecutors to leave ethics by the wayside at times. Even when the majority of the evidence shows a person did commit crimes, the misuse of even one piece of evidence tarnishes the spirit of justice. According to Miller (2009), “Prosecutorial misconduct can be explained by utilitarianism and egoism, focusing on the consequences of their wrong actions, but such actions are definitely not justified by any deontological ethical system that recognizes that the inherent nature of the act must be good.” These ethical theories coupled with the immense amount of discretion prosecutors have allows situations like this to arise.

References

Donahue, K. S. (2001). Prosecutorial Ethics: The Case for the Per Se Rule, 18 Fordham

Urb. L.J. 407. Retrieved from https://ir.lawnet.fordham.edu/ulj/vol18/iss2/7

Kleinig, J. (2008). Ethics and Criminal Justice : An Introduction. Cambridge, UK:

Cambridge University Press. Retrieved from https://search-ebscohost-com.vlib.excelsior.edu/login.aspx?direct=true&db=nlebk&AN=304618&site=eds-live&scope=site

Miller, J. M. (2009). 21st Century Criminology: A Reference Handbook. Thousand Oaks:

SAGE Publications, Inc. Retrieved from https://search-ebscohost-com.vlib.excelsior.edu/login.aspx?direct=true&db=e000xna&AN=525933&scope=site

Podgor, E. S. (2000). The Ethics and Professionalism of Prosecutors in Discretionary

Decisions, 68 Fordham L. Rev. 1511. Retrieved from https://readingroom.law.gsu.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=2455&context=faculty\_pub