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CRIME

Criminally Yours: What Makes A Good D.A.

By TONI MESSINA

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In this column, I often write about my bad experiences with prosecutors — the ones who have too little experience but too much power; the ones who put winning ahead of justice; the ones who have little, if nothing, in common with the communities they represent. Many lack even a smidgen of sympathy for defendants even though the person they prosecute one day could be their star witness, as the victim of a crime, the next. Many use the job as a stepping stone to higher political office and spend little time thinking about how to make their offices more fair, not just for the entitled but also for the disenfranchised.

Things have been changing, though, in Brooklyn, and they're starting to change, as well, in the Bronx. Thanks to the innovative practices of Brooklyn District Attorney Ken Thompson, the office has been implementing new procedures to go after bad cops, review past convictions that were legally infirm, and bridge the gap between law enforcement and the communities they patrol. Thompson, with only three years in office, spearheaded initiatives that proved prosecutor's offices could not only be tough on crime, but more fair to those they prosecuted. Unfortunately, Thompson died last week of cancer. He was only 50.

In 2013, Thompson, by promising change, defeated incumbent Brooklyn D.A. Charles Hynes, a fixture in Brooklyn politics since 1990. He became the first black man to head that office, and he related to his constituency personally.

Thompson grew up in a Harlem public-housing project with a single mom, one of the first women doing patrol duty for the NYPD. He graduated magna cum laude from John Jay, attended NYU Law, then became a federal prosecutor in the Eastern District where he worked with Loretta Lynch and was part of the team that prosecuted P.O. Justin Volpe, the cop accused of sodomizing Abner Louima in 1997.

Once elected District Attorney for Brooklyn (Kings County), he went into the communities he served and listened to people — their worries, their fears, their distrust of police. He represented a borough quickly gentrifying but still crammed with ethnic neighborhoods as entrenched as Nathan's hotdogs. The jury pools were among the most diverse in the country — Guyanese bus drivers side by side with dot-com executives. He represented something positive to all of them — a leader who went after the cops and crooks alike, who understood the struggle of people with warrants and criminal histories, a person willing to press for change.

Thompson entered office vowing to clean up police corruption. He actively sought to overturn convictions based on the perjured testimony of former detective Louis Scarcella, a cop who ascribed confessions to people who'd never made them. Following Thompson's investigations, 21 people were exonerated and released from jail.

In his work as a private-sector attorney prior to becoming the Brooklyn D.A., he'd represented victims and defendants alike. This gave him a wider grasp of the context of people's lives and informed his decisions as chief D.A. — which cases to go after whole-hog, which to consider making a good plea offer, which to dismiss.

His approach helped bridge the gap between his office and the communities he represented. He stopped prosecuting people for low-level marijuana possession even though this was not sanctioned by the legislature and other NYC boroughs were still busting people for pot. He made it easy to clear up old warrants on misdemeanor cases and get the record wiped clean. Hopefully, his successor will continue this positive work and share his insight.

In the Bronx, too, under the leadership of Darcel Clark, a black woman who became head Bronx D.A. just last January, they're finding ways to oversee complaints made against prosecutors in their office.

Although all the District Attorneys in the state opposed a bill to form a disciplinary board for prosecutors similar to the Commission on Judicial Conduct, Clark instituted a new Professional Responsibility Bureau in her office. The unit will be charged with reviewing ethics complaints against Bronx prosecutors. This is something that hasn't existed up to now, another positive step.

Prosecutors have a lot of power. They choose the crimes on which to focus their resources, which infractions aren't worth the effort, and how to train and supervise the army of prosecutors under their control. Prosecutors with a more global sense of the communities they serve are in the best position to do this.

Toni Messina has been practicing criminal defense law since 1990, although during law school she spent one summer as an intern in a large Boston law firm and realized quickly it wasn't for her. Prior to attending law school, she worked as a journalist from Rome, Italy, reporting stories of international interest for CBS News and NPR. She keeps sane by balancing her law practice with a family of three children, playing in a BossaNova band, and dancing flamenco. She can be reached by email at tonimessinalw@gmail.com or tonimessinalaw.com, and you can also follow her on Twitter: [@tonitamess](https://twitter.com/tonitamess).

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