Preface

Melba Pearson

My path to prosecution was quite meandering—as well as unlikely. I grew up in a suburb of New York, the daughter of Caribbean immigrants with a very conservative view on life. I watched the show *People’s Court* as a little girl and was fascinated by the workings of a courtroom. When I was old enough to understand what attorneys did, I was hooked. I loved *Law and Order*—and actually thought my office would look like the set. Boy, was I in for a shock. I spent more time in dingy shared offices with furniture hanging on for dear life than I could have ever dreamed.

In law school, I realized I loved the rough and tumble world of trial work—and learned I would not get this experience in the big law firm arena. So, I applied to both public defenders’ and prosecutors’ offices. I received an offer I could not refuse from Miami, Florida. It was December 30th of my final year in law school—a dreary New York winter may have had something to do with the decision. I accepted the job, left everyone I knew, and away I went to begin a new career. I spent one year in misdemeanor court. After failing the bar exam, I took a four-year hiatus, working in marketing, events, and public relations for various companies and nightclubs. Through my work, I became deeply entrenched in the ’90s nightclub scene in South Beach. I became a “party girl”—rubbing shoulders with celebrities and witnessing (sometimes participating) in all of the unhealthy trappings that came with it—including drugs. After leaving an abusive relationship, I retook the bar exam, passed, and returned to the Miami-Dade State Attorney’s Office.

It was during that four-year period I grew and matured; upon my return to the prosecutor’s office, I was a different person.
altogether. I had seen what addiction looked like in people around me—including coworkers and friends—and the resulting freefall that happened in their personal lives. I saw how easily a night out caused dire consequences. Due to witnessing mental illness in my own family, I saw the lack of resources and options that families face when a loved one is in crisis. I survived a domestic violence relationship, and was determined to help other survivors. I actually interacted with people who had a criminal history—far from the sheltered upbringing I enjoyed. I didn’t have all the answers, but the twenty-seven-year-old me had much more life experience than the twenty-three-year-old me. This framed my perceptions of people and how discretion should be used.

When I entered the felony division, I had a tremendous caseload of 300 cases. I quickly learned to pick and choose my battles. Drugs? Credit time served in jail. Sale of drugs? Thirty days in jail. Burglarizing a home? That was likely a trial case. One thing is for sure—you learn to use your discretion when you lose a case. You learn what cases are complete dogs. You learn which officers will tell you the full story, and who will not. Your “BS meter” from witnesses, victims, and officers improves with time, enabling you to make more sound decisions. I learned to ask questions, realizing that you need to push victims, witnesses, and officers. If they have trouble in your office answering questions or keeping their story straight, it will be ten times worse on the witness stand. As I prepared for trials after getting burned by surprises that pop up from the witness stand, I became highly thorough in investigating the allegations. Victims deserve true closure with the right person answering for the crime. Defendants need to be treated fairly in the system regardless of wealth, race, or background. Incarceration does not need to be the default position. Visits to crime scenes became a regular part of my practice so that I could see what made sense and what did not—especially when distance was a contested part of the story. Lastly, I learned to have a jury of the nonlawyers in your life. My mom used to be my jury. Then it was my husband. If your arguments do not make sense to them, there is no way it will pass muster in front of a jury. Their life
experiences showed me where the holes were and what questions they had—inevitably, the trial jury will have the same ones.

After four years prosecuting homicides in the Domestic Crimes Unit, I spent time as a community prosecutor. There, I really dug deep into the issue of privilege and poverty—the haves and the have-nots. The words of James Baldwin truly resonated during this chapter of my career—

“If one really wishes to know how justice is administered in a country, one does not question the policemen, the lawyers, the judges, or the protected members of the middle class. One goes to the unprotected—those, precisely, who need the law’s protection most!—and listens to their testimony.”

For instance:

• the woman that stayed in an abusive relationship because she literally has nowhere to go, and her job does not pay her enough;
• the eyes that turned away from drug deals because the dealers take care of the community financially; or
• the young man who wants to do right but has no resources—and his baby is hungry.

I learned that life is never black and white. There’s a story behind every person. When I returned to trial work as an assistant chief in the Career Criminal Robbery Unit, where I worked on violent robberies and homicides, the totality of my life experience both inside and outside the courtroom shaped how I viewed the cases. I demanded mitigation packets from defense attorneys that would explain why a defendant should receive a reduced sentence—then read them cover to cover. I met with the defense attorneys of the cases I supervised. I had no qualms speaking to defendants—many attorneys left their clients alone with me (which is not common practice) because they knew I was a straight shooter. There were times that I was doing the job of a defense attorney in a case—not because I wanted to be one, far from that—but because I saw injustice unfolding before my eyes and it was not going to happen on my watch. There were times I had
to go toe to toe with supervisors in my office, because I felt strongly that a certain outcome was appropriate based on all of the facts. I usually won—because the facts were on my side.

My thinking continued to evolve when I was elected president of the National Black Prosecutors Association in 2014. Up until that time, I viewed life through the big city prosecutor’s lens. I did not have a problem with the concept of minimum mandatory prison sentences, because in my experience, we waived them regularly. In my mind, you waived a minimum mandatory because it was appropriate, not just to get a deal to close a case. It was only when I started traveling the country that I learned that many offices used minimum mandatories and the death penalty as leverage to extract a plea from a defendant. Over the next two years, my eyes continued to be opened to the power that prosecutors hold, and how with the stroke of a pen, lives can be improved or utterly devastated.

What did I learn in this journey? I learned it is critical to have diversity in a prosecutor’s office. Not just diversity in terms of race, gender, ethnicity, and religion, but also diversity in wealth, geography, and perspective. A prosecutor must bring their entire selves to the job, and not compartmentalize their experiences from the courtroom. If that entire self includes bias or racism, it needs to be addressed via training, or more drastic measures if justice is not being attained in their cases. Prosecutors must learn early in their careers how to recognize and root out racism or bias in themselves, other prosecutors, defense attorneys, police officers, and judges. They must be empowered to confront an officer who is exhibiting bias. Office wide, transparency is critical. An elected prosecutor should never be afraid of data—because the numbers do not lie. What is the racial impact of what you are doing? Who is being sent to diversion? What pleas are people receiving? This dictates whether the training and policies are effective.

Defense attorneys are not immune from this as well, and need to confront racism within their own ranks. I will never forget the time when I was in court, wearing a suit and pearls, working at the prosecutor’s table, and an older white defense attorney struggled to believe
I was the prosecutor and not the clerk. He kept insisting that I file a document for him. Finally, when his case came before the judge, he went as hard as he could against me because, well, I must not be competent. I won that day—but that experience stayed with me as a reminder that those who are supposed to protect the community can fall quite short.

The journey continued with me leaving the prosecutor’s office to work on criminal justice reform, voting rights, and other civil rights issues as the deputy director of the American Civil Liberties Union (ACLU) of Florida. There, I continued to meet people who were adversely affected by the criminal justice system, and it strengthened my resolve to make the system more equitable for everyone. After three years, I came to the conclusion that I must use my expertise from the inside—and decided to challenge my former boss for the seat of Miami-Dade State Attorney. The election will be August 18, 2020. Wherever the journey ends, success to me looks like increased awareness and savvy voters, equipped to help make our criminal justice system better.