

MEET THE AUTHOR

PROFESSOR IRENE O. JOE

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An interview with Professor Joe on her Article, *Regulating Mass Prosecution*

Q: What would you say is the main argument of your piece?

A: We've built a general consensus that something is wrong with the criminal justice process, and then we can have different ideas about how we should address it and how we can improve things. What I'm arguing is that we actually have a tool in place right now that we can use to really change the ordinary course of business. The tool we have is the ethical and professional rules that guide every attorney and every prosecutor. At their core, these rules say that one attorney shouldn't engage in behavior that would make another attorney violate ethical rules. My paper argues that, when the prosecutor's office brings so many cases that the public defender is overwhelmed, they are doing exactly that. That prosecutors are compromising their own adherence to their relevant ethical and professional rules by putting the public defender in a position where she would compromise her own.

Q: Favorite things to do in your free time?

A: I love to read, and I also love to play video games. I'm usually reading two or three books at the same time. They are usually a mix of books about history or that provide greater insight into the criminal justice arena. I'm also usually always reading a book that's really geared more towards young adults. For example, right now I'm finishing up Rachel Barkow's *Prisoners of Politics*, I've just started *Lincoln's Depression* (a really fascinating suggestion from Professor Jasmine Harris), and speeding through *Children of Blood and Bone — Legacy of Orisha*. If I'm not reading though, you might catch me playing Super Mario or *Legend of Zelda: Breath of the Wild*. That's how I like to unwind.

Q: Favorite place to eat/get coffee in Davis?

A: I have a couple of places that I really really love and where you'll usually see me at least once a week. One is this really nice cupcake shop called *Let Them Eat Cake*. If you ever see me and it's the end of the semester or I've just given a talk and I'm racing out of the building to my car, chances are that I'm meeting up with one of the other junior professors (most likely Professor Shayak Sarkar) to get some of their cupcakes. I'll be the one grabbing two, the red velvet and caramel by the sea, and exhibiting absolutely no shame about the fact that I'm eating two cupcakes at the same time.

Date posted: 01/X/2020 This interview has been edited for clarity.

Q: Could you tell us a little bit about yourself?

A: I'm in my fourth year as a professor here at UC Davis. I teach primarily criminal law and legal ethics related classes, but I also teach a course that really focuses on jury selection. I was born in Nigeria and grew up in Texas, and came to California for law school. After law school, I worked in Alabama for a bit doing death penalty work with the Equal Justice Initiative, which is actually being profiled right now in a movie, *Just Mercy*. I highly encourage everyone to go see it. It does a great job of profiling my old boss, Bryan Stevenson, along with some of the other people I worked with when I was there such as Eva Ansley. My favorite part of the movie however, is that one of my first clients Kuntrell Jackson has a role in it! Kuntrell was fourteen years old when he was sentenced to life without parole in a felony murder case where he was not the shooter. It's amazing that he has been released after years of hard work and that now we have a chance to see him on the big screen! After my time at EJI, I became a public defender in New Orleans. I then transitioned to legal academia - starting off as a fellow at UCLA and then being fortunate enough to get a tenure-track position here at UC Davis.

Please join the UC Davis Law Review and BLSA on Feb. 3rd at 12 p.m. in Room 1001 as we host a discussion with Professor Joe about her article.

UC DAVIS
LAW REVIEW

Q: How did you first get into criminal law?

A: I actually went to law school knowing that I wanted to do something in criminal law. My initial focus was death penalty work, but other important work presented itself and I soon branched out. For example, while I was a fellow at EJI, the organization expanded the scope of its work to help the marginalized, and we started working on behalf of juveniles that were sentenced to life in prison without parole (hence my experience helping to represent Kuntrell). I then transitioned into being a public defender in New Orleans with a brand new public defender's office that was opened after Hurricane Katrina. I've always been interested in criminal law, maybe as a result of the way I grew up and the fact that the lawyers I knew about and heard about were criminal defense lawyers. They were really the lens in which I most understood the law's influence on everyday life.

Q: What inspired you to start writing this piece? How did you first come upon the idea?

A: I didn't come into legal academia through what most would say is the traditional way of entering legal academia. I didn't grow up wanting to be a law professor, I didn't go to law school wanting to be a law professor, I didn't leave law school wanting to be a law professor. But what happened is that I was working in a public defender's office that was brand new and we were trying to build it from scratch and wanted it to be a model office that really provided quality representation to the poor people of New Orleans. While I was there, our workloads were, for lack of a better word, just simply insane. They were unworkable. That's what led me to legal research and academia in general. I wanted to explore what it is about the public defender's institutional design (and indeed the criminal process in total) that created situations like those in Louisiana.

I'm also a process-oriented person, so I find legal ethics and the rules that are supposed to guide the legal profession fascinating. I started thinking through what the ethical and professional rules say about what's going on with the public defender. As I looked through it, I realized that it wasn't so much what they said about the public defender, but ways in which they are supposed to guide the other attorneys in the criminal justice process. That's where the idea of what happens with the prosecutor in terms of how they handle workload that then overwhelms the public defender came from.

Q: Did you come across anything that surprised you as you were writing this piece?

A: I wouldn't say I came across anything that surprised me, but I certainly came across a bunch of different issues and questions that I have for future research that I'm really excited about. A project that I'm just about finishing up now looks at how the public defender office is created in general, and how each state manages the public defender. I think the separation of powers language would be familiar to most students, but a number of states do it under the executive branch and a number of states do it under the judicial branch. I think that for those of us who have studied professional responsibility might be a bit surprised that some states do it under the executive branch, because that is also the same branch that the prosecutor is under. It seems like there might be some sort of inherent conflict. My research so far, however, seems to suggest that that might actually be the better place for it. More so because there is a sort of political dimension in making sure that the public defender can do the job that they need to do under the Constitution. I'm still sort of exploring all of that, but developing that idea was a great side benefit to the already beneficial task of completing the UC Davis article.

Q: Do you have any advice for students interested in criminal law related research in preparation for writing a Note/paper?

A: I would say to speak with as many professors as you can. I would also really pay attention to the news. I remember when I was a law student, and it's completely understandable, but I was sort of living in a bubble (as much as you can live in a bubble while in law school). It is so necessary because you have so much work and for many of you, as it was for me, it might be a completely different environment than you or anybody in your family has ever experienced have ever experienced. But I think it's really important to know what's going on in the real world as much as possible. Pretty soon you're going to be in a position where you're out there effectuating change in the world, and you can spend the time here in law school really developing your critical thinking skills on some of those issues provided you remain aware of them.

Q: Any memorable stories from your experience as a law student that may be of interest to King Hall students?

A: I have one really memorable one that I'd like to share. My very first job after law school was in Alabama doing death penalty work. It came about because I had applied to do an externship in New York with the capital defender office. That also happened to be the year where rulings had come down and the New York death penalty was basically on hold and there was no work for me to do. So I ended up emailing a professor out of the blue I had taken a class with, Professor Larry Marshall at Stanford. Now I was never a student that spoke up a lot in class or sat in the front, I'm very much an introvert. But I enjoyed the class, so I emailed him and said something along the lines of "You may not remember me, but I was one of the 15-20 students in your Wrongful Conviction class. I was hoping to do this externship in New York but it didn't work out, do you have any advice for me going forward?" He very kindly said that he would email my name, my interests, and my resume out to his network and see if anyone had an opening for me. At the time, Bryan Stevenson, who is still a professor at NYU, happened to be on leave from the school. He emailed Professor Marshall back and told him that he was on leave that semester, but that he could take on a student from Stanford. So that's how I came to spend a semester externing in Alabama. After that, Bryan was kind enough to give me a fellowship post-graduation even though at the time the fellowship was limited to NYU Law graduates. I always think of it as a really memorable moment, because I'm glad I was able to get out of my comfort zone and ask Professor Marshall for his thoughts. It's also a reminder that if you do good work, you don't necessarily have to be the person that's always speaking up super loud in class. And that you should ask your professors for help if you need it. You'd be surprised what lengths they might go to in order to help you out. I'm still in contact with Professor Marshall to this day – keeping him updated on my research and my experience in legal academia. It's really nice that we've developed that relationship, even though I was by no means a vocal student in his class.

Q: What has your experience been like working with the UC Davis Law Review?

A: It's been really great. It's my first time working with the UC Davis Law Review on a piece, and I found them to be remarkably professional. I've loved the fresh ideas that they gave, the thought processes for so many of the students that I've worked with during this publication process has been really insightful and meaningful. I've also really appreciated how professional they've been in terms of respecting that this is a project that I'm really passionate about and have been working on for quite some time, and so I'd like it to be presented in a way that is going to have the strongest effect and still maintains my voice and the contribution that I am trying to provide to the literature. The editors have been very sensitive to that and been supportive in making sure my goals are met. I'm very thankful to them for this entire experience.