



Daniel D. Blinka
Professor of Law

lawyer, teacher, scholar

by Christine Wilczynski-Vogel

Do law professors really miss—or, for that matter, know much about—the actual practice of law? When he walked out of Milwaukee County’s Safety Building to join the Marquette law faculty in 1985, Daniel D. Blinka wondered how soon the pull of the trial courts would draw him back into their orbit. The law school and the courthouse seemed to be very different places that posed a stark choice between “lawyering” and academic life. So which one? The short answer is both. Nearly two decades later, Dan Blinka relishes teaching, enjoys scholarship and writing, and has remained actively involved in the life of the practicing bar. Indeed, he is the president of the Milwaukee Bar Association for the 2003-2004 term. Rather than “droning on” (his words) about teaching and scholarship, he took this opportunity to reflect on law practice and how it affected his life and professional development.

After graduating from law school, Blinka began his career in the Milwaukee County District Attorney’s Office. “The Milwaukee DA’s office shaped me personally as well as professionally,” he relates. Even though his academic record might have opened the door to broader venues, it was the only job for which he applied. Blinka says that several factors influenced his choice. First, the

Milwaukee DA's office has a reputation as one of the finest prosecutor's offices in the nation. "Over the last 35 years, Mike McCann," notes Blinka, referring to the DA of Milwaukee County, "has infused an extraordinarily high level of professionalism and public service in his staff. The prime rule that governs all decision-making in that office is to ensure that justice is done." This is no small point, says Blinka: "Prosecutors are invested with enormous legal power to command arrests, charge persons with crimes, and recommend imprisonment. Mike McCann made clear to me—and to all others who work under him—that this power must be exercised with great care and humility so that the needs of crime victims, the rights of suspected criminals, and the public's interest in an efficient yet just criminal justice system are all furthered. This can be done so long as you treat all people with dignity, whether they are the accused, the victim, or a witness." Lest there be any doubt on the matter, Blinka concludes by saying, "My respect for Mike McCann is boundless."

Blinka says that he learned as much about life as he did about law in his seven years as a prosecutor, especially his years handling sexual assaults as part of the Sensitive Crimes Unit. Blinka proudly underscores that it was the first such specialized unit in the nation. "On a daily basis as a prosecutor you meet with people who are often poor and not well educated. The crimes are frequently horrific murders, sexual assaults, or armed robberies. And the task of deciding what happened, who is being truthful, and what should be done," said Blinka, "is far more demanding—and significant—than anything to be encountered in a graduate school colloquium. At any moment you may have to sit down with a five-year-old child, who is otherwise a complete stranger, and talk to her about something terrible that was done to her."

Whatever the job's difficulties, Blinka says he relished it. "It was rewarding and always interesting. At the end of the day you never had to wonder whether what you did really mattered. It clearly did, and you felt that you were playing an important role in the community." Blinka adds one final point on the matter: "And for that very reason, I've never ruled out going back to the Milwaukee DA's office. It's no accident that my Marquette office has a view of the courthouse and the Safety Building."

Besides its embodiment of public service, the DA's office permitted Blinka to learn the skills of a trial lawyer. "It's quite simple," says Blinka. "Trial lawyers—all lawyers—learn through experience. The more cases you try, and the tougher they are, the better you get. I spent seven years in court and couldn't begin to count the number of trials, hearings, and proceedings. I learned about how to examine and cross-examine witnesses and how to argue cases before juries." Complex cases, he says, had to be simplified yet also presented in a compelling, persuasive way that satisfied the burden of proof. "And given the caseload, you seldom had time to prepare as thoroughly as you might have liked," recalls Blinka. "You either learned how to do it well or fell by the wayside. What I took from that experience is an abiding appreciation for how difficult trial practice is, and a deep admiration for those lawyers who do it well."

While in the DA's office, Blinka frequently lectured to lawyers and judges about evidence and criminal procedure, which in a roundabout way brought him to Marquette University Law School. As part of his attempt to become a good trial lawyer, Blinka had devoted himself to mastering the law of evidence, for the rules of evidence are used, often spontaneously, in nearly every judicial proceeding. Eventually he was asked to be part of the faculty of the Wisconsin Judicial College, which annually instructs the state's trial judges. "I enjoyed the

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teaching,” Blinka relates, “probably because trial lawyers are natural teachers in the sense that they must educate the judge and jury.” Blinka saw the opening at Marquette as providing him an opportunity to learn whether he could transform his skills as a trial lawyer and instructor into those demanded of law professors. “Moreover,” he says, “I wanted to write about evidence and trials, but only a legal academic has the time and resources to do that in a serious way.”

“My initial concern,” Blinka adds, “was that I’d find an unbridgeable gap between the worlds of the practicing lawyer and the legal academic. Truth be told, I didn’t enjoy law school very much.” He is quick to add, with a smile, “Of course, I did not attend Marquette. In any event, the few professors whom I found engaging were those who bridged the classroom and law offices.” This is an important point to Blinka: “Law school is not a graduate school. Our essential goal is not to produce teachers and scholars, but to prepare students for the practice of law.” Blinka is well qualified to make the distinction, because in addition to his law degree, he also holds a Ph.D. in American history.

Blinka’s affection and respect for law practice inform his teaching, scholarship, and service at Marquette. He remains actively involved in presenting continuing legal education courses for lawyers and judges. “As much as I enjoy teaching the basics of evidence to law students,” Blinka allows, “it is even more challenging to speak with experienced trial lawyers and judges about recent developments and trends.” He also writes a number of books and articles that are directed primarily at the practice of law. Blinka’s *Wisconsin Evidence* (published by WestGroup and now in its second edition) is frequently relied upon by appellate courts as

well as the trial bench and bar.

Consistent with his faculty responsibilities, Blinka strives to find some time for a limited law practice, one that occasionally pairs him against other Marquette faculty. Earlier this year Blinka filed an amicus brief in the Wisconsin Supreme Court that took a position directly opposite of that argued by Joseph D. Kearney, now Dean of the Law School, regarding whether Wisconsin should change its rule regarding expert evidence. Neither Blinka nor Kearney appeared in the case as a Marquette faculty member. Blinka also does limited consulting and has served as a special prosecutor on a number of occasions, including an investigation several years ago into alleged improprieties involving the Wisconsin Public Service Commission.

Blinka, who is the current President of the Milwaukee Bar Association, also believes that it is vitally important for law faculty to be visible and active in professional associations and the community. He has served on the MBA’s board of directors since 1999. From 1992 through 1997, Blinka served on the Wisconsin Judicial Council, which is devoted to ensuring the fairness and efficiency of the state’s civil and criminal justice system.

On the walls of Blinka’s Marquette Law School office one finds that his doctoral degree in American history is displayed directly next to a plaque honoring his service in the Milwaukee County DA’s office. “One is my Ph.D. in history, a purely academic accomplishment, and the other embodies my Ph.D. in life, the law, and the profession. Each took about seven years to get. Any guess as to which one I found both more difficult and yet more rewarding?” •