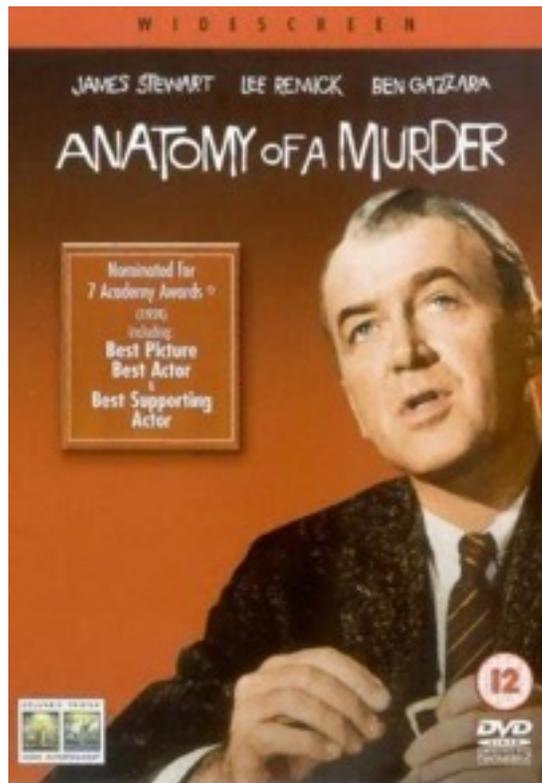


Garden State CLE presents another POPCORN CLE:

Ethical Issues in “Anatomy of a Murder”



Lesson Plan

Cast of Characters



James Stewart 1908 – 1997

At the time of the film, 51 years old

(Paul Biegler, Esquire)



George C. Scott (1927 – 1999)

At the time of the film, 32 years old

**Claude Dancer, Asst. State Attorney
General**



Ben Gazzara (1930 – 2012)

At the time of the film, 29 years old

(Lt. Frederick Manion)



Joseph N. Welch (1890 - 1960)

At the time of the film, 69 years old

Judge Weaver



Lee Remick (1935 – 1991)

At the time of the film, 24 years old

Laura Manion

Introduction and overview of ethical issues

This film was directed by Otto Preminger and released in 1959.



1.) Character of Paul Biegler:

Defeat in election as county prosecutor (after being in office for 10-years) has

soured him on the practice of law. It also accounts for the complete lack of civility (and open contempt) he demonstrates in the court room to his adversaries.

His law practice is failing, due to his lack of interest. He has no money and is behind on paying his loyal secretary. The only constant in his life is a profound love and abiding respect for the law...but he is also capable of engaging in unethical conduct when required to advance his client's (or his own) interests.

2.) This 1959 film is one of the first to deal frankly and openly with serious adult topics related to sexual assault, promiscuity, alcoholism, the stigma of divorce, mental disease and the criminal justice process. The clinical testimony during the trial from experts uses words

and phrases that were never heard in American cinema prior to this movie.

3.) The film portrays the criminal trial as a messy, confusing, disjointed process conducted by flawed human beings from which the jury is expected to find the truth.

4.) Unlike all the films prior to this era, where evil was always punished in the end, the moral questions of guilt, innocence, punishment and justice are ambiguous and left for the audience to decide.

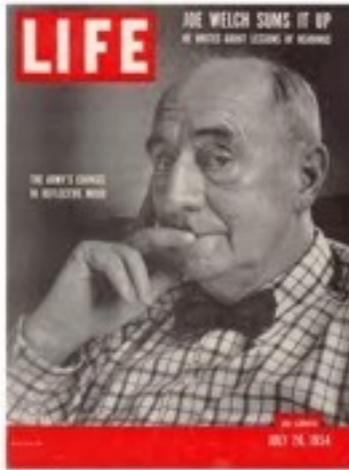
5.) Finally, throughout the film, in order to accomplish a goal in the trial, the attorneys engage in a wide variety of unethical (and sometimes ethical) conduct that would be largely lost on lay persons

**but should be readily apparent to
modern-day seasoned attorneys.**

Chapter 1

Point of Order (Documentary) (1964)

Directed by Emile de Antonio



RPC 3.4(c). Fairness to Opposing Party and Counsel
A lawyer shall not:

**[knowingly disobey an obligation under the rules of a tribunal
(which includes a legislative body - See RPC 1.0(n))]**

But see The Speech or Debate Clause is a clause in the United States Constitution (Article I, Section 6, Clause 1). The clause states that members of both Houses of Congress<http://congress/> ...shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their attendance at the Session of their Respective Houses, and in going to and from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

See Gravel v. United States, 408 U.S. 606 (1972)

Chapter 2

Prospective Clients



RPC 1.18. Prospective Client

(a) A lawyer who has had discussions in consultation with a prospective client shall not use or reveal information acquired in the consultation, even when no client-lawyer relationship ensues, except as RPC 1.9 would permit in respect of information of a former client

(d) A person who discusses with a lawyer the possibility of forming a client-lawyer relationship with respect to a matter is a "prospective client," and if no client-lawyer relationship is formed, is a "former prospective client"

RPC 1.4. Communication

(a) A lawyer shall fully inform a prospective client of how, when, and where the client may communicate with the lawyer.

(b) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

(c) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

(d) When a lawyer knows that a client expects assistance not permitted by the Rules of Professional Conduct or other law, the lawyer shall advise the client of the relevant limitations on the lawyer's conduct.

Chapter 3

Planning Defense Strategy



RPC 1.2(d)

A lawyer shall not counsel or assist a client in conduct that the lawyer knows is illegal, criminal or fraudulent, or in the preparation of a written instrument containing terms the lawyer knows are expressly prohibited by law, but a lawyer may counsel or assist a client in

a good faith effort to determine the validity, scope, meaning or application of the law.

Chapter 4

Legal Fees



RPC 1.5. Fees

(a) A lawyer's fee shall be reasonable. The factors to be considered in determining the reasonableness of a fee include the following:

- (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;**
 - (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;**
 - (3) the fee customarily charged in the locality for similar legal services;**
 - (4) the amount involved and the results obtained;**
 - (5) the time limitations imposed by the client or by the circumstances;**
 - (6) the nature and length of the professional relationship with the client;**
 - (7) the experience, reputation, and ability of the lawyer or lawyers performing the services;**
 - (8) whether the fee is fixed or contingent.**
- (b) When the lawyer has not regularly represented the client, the basis or rate of the fee shall be communicated**

in writing to the client before or within a reasonable time after commencing the representation.

Chapter 5

Improper Influence



RPC 3.5. Impartiality and Decorum of the Tribunal
A lawyer shall not:

(a) seek to influence a judge, juror, prospective juror or other official by means prohibited by law.

New Jersey Code of Judicial Conduct

Canon 1. A Judge Should Uphold the Integrity and Independence of the Judiciary

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing, and should personally observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. The provisions of this Code should be construed and applied to further that objective.

Canon 2. A Judge Should Avoid Impropriety and the Appearance of Impropriety in All Activities.

A judge should respect and comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

Chapter 6

Fairness & Courtesy



RPC 3.2. Expediting Litigation

A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client and shall treat with courtesy and consideration all persons involved in the legal process.

RPC 3.4(a). Fairness to Opposing Party and Counsel

A lawyer shall not unlawfully obstruct another party's access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value, or counsel or assist another person to do.

Disclosure of Exculpatory Evidence



**(Cross examination using perfect
& imperfect information)**

RPC 3.8. Special Responsibilities of a Prosecutor

The prosecutor in a criminal case shall:

(d) make timely disclosure to the defense of all evidence known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense, and, in connection with sentencing, disclose to the defense and to the tribunal all unprivileged mitigating information known to the prosecutor, except when the prosecutor is relieved of this responsibility by a protective order of the tribunal.

Chapter 8

Alcoholism



RPC 1.1 Competence

A lawyer shall not:

- (a) Handle or neglect a matter entrusted to the lawyer in such manner that the lawyer's conduct constitutes gross negligence.**
- (b) Exhibit a pattern of negligence or neglect in the lawyer's handling of legal matters generally.**

RPC 1.3 Diligence

A lawyer shall act with reasonable diligence and promptness in representing a client.

Lawyers Assistance Program –

The program was founded by the NJSBA in 1993. Under it, lawyers with alcohol, drug abuse and gambling problems can reach out for assistance on a confidential basis. Among other services, the program provides:

- **A 24-hour telephone hotline;**
- **Consultation and evaluation by staff specialists;**
- **Referral to appropriate resources;**
- **Client follow-up concentrating on relapse prevention;**
- **Introduction to a network of recovered attorney peer counselors;**
- **Coordination of volunteer attorneys who can help maintain a law practice in situations where short-term assistance is needed.**

The program is free. For lawyers needing assistance, there is a toll-free telephone number: 800-24NJLAP (800-246-5527).

Chapter 9

Evidence and objections



RPC 3.4. Fairness to Opposing Party and Counsel

A lawyer shall not:

(e) in trial, allude to any matter that the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence, assert personal knowledge of facts in issue except when testifying as a witness, or state a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant or the guilt or innocence of an accused;

Chapter 10

Plea Colloquy



Rule 3:9-2

A defendant may plead only guilty or not guilty to an offense. The court, in its discretion, may refuse to accept a plea of guilty and shall not accept such plea without first questioning the defendant personally, under oath or by affirmation, and determining by inquiry of the defendant and others, in the court's discretion, that there is a factual basis for the plea and that the plea is made voluntarily, not as a result of any threats or of any promises or inducements not disclosed on the record, and with an understanding of the nature of the charge and the consequences of the plea.