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**Judicial and Prosecutorial  
Independence, The Role of  
Interdependence Between  
These Institutions and the Need  
for Self-Disciplining  
Mechanisms**

# HYPOTHESIS I

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- *An 'ordered society' cannot exist without the rule of law; the rule of law, either in the private or public sense, cannot exist absent a competent and trusted criminal justice system; a competent and trusted criminal justice system cannot exist without an independent judicial authority acting in concert with an independent prosecuting body each free from corruption in reality as well as perception, that is, an independent judiciary functioning symbiotically with an autonomous prosecutorial authority, both of which enjoy the trust and confidence of the society they serve.*

## HYPOTHESIS II

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- *Between the judiciary and the prosecution in the accusatorial, inquisitorial or mixed criminal justice systems, there must exist a collegial tension designed, in part, to protect the independence and integrity of each of these bodies*

## HYPOTHESIS III

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- *In the absence of a self-disciplining mechanism constructed by and operating independently within each of the respective disciplines, both of which are recognized as competent and forthright by the society they serve, neither judicial nor prosecutorial independence can be complete.*

# DEBATE TOPIC I

PUBLIC TRUST IN THE JUDICIARY IS ENHANCED WHEN  
JUDGES ARE SELECTED DIRECTLY THROUGH THE  
CONSTITUENCY THEY SERVE :

ELECTED VS APPOINTED  
CONSIDER THE EFFECT ON JUDICIAL INDEPENDENCE

# DEBATE TOPIC II

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- IMPROPRIETY IN OFF-BENCH BEHAVIOR AS A THREAT TO THE INDEPENDENCE OF THE JUDICIARY – THAT WHICH ENGENDERS A LACK OF PUBLIC TRUST UNDERMINES AN IMPORTANT ELEMENT NECESSARY TO JUDICIAL INDEPENDENCE
- “Judging is not merely a job but the privilege of dealing with society’s most precious asset -- justice”
  
- Consensual sexual relationship with subordinate
- Drunk driving not associated with judicial activities
- Fiscal irresponsibility resulting in public lawsuits by unpaid creditors

# DEBATE TOPIC III

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- ① PRESERVING THE INDEPENDENCE OF THE JUDICIARY
- ② Maintaining A Fair Arena versus Maintaining Judicial Independence During Trial; When the judge ‘steps off of the bench’ to assume the role of prosecutor or defense lawyer
- ③ Maintaining A Fair Arena versus Responsibility For Providing A Public Trial; Public comments to the media

# DEBATE TOPIC IV

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- ① JUDICIAL SELF-DISCIPLINING MECHANISMS
- ② Self-Disciplining schemes versus Independent, non-judicial disciplining bodies
- ③ Transparency in discipline procedures versus Professional reputation of the judge
- ④ Discipline of judges through independent bar association mechanisms versus Judicial independence

# DEBATE TOPIC V

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- MAINTAINING THE INDEPENDENCE OF THE PUBLIC PROSECUTION
- An independent disciplining body versus prosecutorial independence
- Internal prosecutorial guidelines versus outside regulation of prosecutorial conduct; the McDade Amendment
- Transparency in charging decisions versus the need for maintaining the security of the office of the prosecutor; the appearance of propriety

# DEBATE TOPIC VI

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- PRIVACY VERSUS TRANSPARENCY
- A public servant's right to privacy versus transparency and judicial/prosecutorial independence; asset declaration

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