

Why We Should be Concerned about the Problem of Prosecutor Misconduct

“The prosecutor has more control over life, liberty, and reputation than any other person in America.” --- Former U.S. Attorney General Robert Jackson

A majority of the nation’s 30,000 prosecutors are believed to be ethical. But prosecutor misconduct is a problem that we can no longer afford to ignore:

- Over 1,200 innocent Americans have been exonerated of serious crimes, and *each year many thousands of innocent citizens are wrongfully convicted.*
- Misconduct by prosecutors and other officials accounts for 43% of all wrongful convictions.¹

Over-Criminalization

Many believe we have far too many laws on the books, the criminal intent (“*mens rea*”) requirement is often missing, and many crimes are too broadly defined.

This can prove to be too great a temptation for prosecutors who are politically ambitious, ideologically-motivated, or simply lack good judgement:

“Some prosecutors are ambitious and might see some personal advantage in pursuing a questionable prosecution against a big company or an infamous person....Some might succumb to pressure from law enforcement officers...And some might simply have bad judgment or be mistaken about what a vague law really means.”
– John Malcolm, Testimony to the House Over-Criminalization Task Force, June 14, 2013

Enormous Cost to Taxpayers

Prosecutor misconduct wastes millions of dollars of taxpayer money each year for wrongful prosecutions, appeals, re-trials, housing of wrongfully convicted inmates, victim compensation, and civil lawsuits.

In some cases, the cost for a single botched prosecution can exceed \$1 million.

Accountability and Honesty

To rein in rogue prosecutors, we need to:

1. Stop “charge-piling” and charging innocent persons for crimes without probable cause.
2. Require open-file discovery and end the practice of withholding innocence-proving (“exculpatory”) evidence.
3. Bring transparency to closed-door plea bargaining activities.
4. Establish independent Prosecution Review Boards, similar to existing judicial oversight committees.
5. Require judges to report *all* instances of prosecutor misconduct to the state prosecutor ethics committee.
6. Remove absolute immunity and extend the statute of limitations, so victims of rogue prosecutions can restore justice.

Mandate for Change

According to a national survey:²

- 43% of respondents say prosecutor misconduct is widespread
- 72% believe new laws are needed to curb prosecutor misconduct

Americans are worried about the widespread problem of unethical prosecutors, and are calling for reform!



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¹ National Registry of Exonerations, UPDATE: 2012 National Registry of Exonerations, April 3, 2013.

² Center for Prosecutor Integrity. Most Americans Doubt Fairness of Criminal Justice System, Reveals Center for Prosecutor Integrity. Press release. June 11, 2013.