

# Prosecutor Misconduct is White Collar Crime

## *So Why Are So Many Rogue Prosecutors Being Let Off the Hook?*

Texas prosecutor Ken Anderson charged Michael Morton for the murder of his wife Christine, leading to his conviction in 1987.

But in 2011, a DNA test proved another man was the killer. Michael Morton was set free, having spent 25 years behind bars.

On April 19, 2013, a Texas court of inquiry found probable cause that during the trial, Ken Anderson had concealed exculpatory evidence. The judge offered this scathing rebuke:

This court cannot think of a more intentionally harmful act than a prosecutor's conscious choice to hide mitigating evidence so as to create an uneven playing field for a defendant facing a murder charge and a life sentence.

Anderson has now been charged on three felony counts for concealment of evidence. The trial is set for December 2013.

### *Only 1-2% of Misconduct is Subject to Sanctions of Any Kind*

The Anderson case is unusual because for once, an unscrupulous prosecutor is being held accountable for his or her actions.

A Center for Prosecutor Integrity report reviewed analyses of 3,000 cases of prosecutor misconduct. Any guesses what was the consequence for these legal scofflaws? The CPI report reveals:

Overall, these studies reveal that sanctions are imposed on only 1-2% of prosecutors who were found to have engaged in misconduct, *even when the misbehavior was found to be egregious*. And all too often these sanctions represented a proverbial “slap-of-the-wrist.”<sup>1</sup>

### *'I'll Scratch Your Back if You Scratch Mine'*

The problem isn't just a lack of accountability. The problem is a series of “justice-be-damned” practices that serve to excuse rogue prosecutors who engage in legal malpractice.

These practices include:

1. Judges who never report the misconduct to disciplinary bodies.
2. “Harmless-error” policies that say prosecutor misconduct is OK so long as no one gets hurt.
3. Absolute immunity policies and statutes of limitations.
4. Defense attorneys who keep quiet because reporting the malpractice could affect future working relationships.
5. Disciplinary bodies that make excuses like, “The allegation is enough of a punishment.”

CPI has developed a series of 20 reforms to bring an end to these self-serving practices.<sup>2</sup>

### *Get Out of Jail Free*

While most prosecutors follow the legal standards, *unethical practice has become too widespread for us to continue looking the other way*. Misconduct by prosecutors and other officials is now known to account for 43% of all wrongful convictions.<sup>3</sup>

Prosecutorial misconduct is a White Collar crime. Citizens are demanding an end to “Get Out of Jail Free” cards for prosecutors who think they shouldn't have to play by the rules.



*Center for Prosecutor Integrity*  
P.O. Box 1221, Rockville, Maryland 20849  
[www.prosecutorintegrity.org](http://www.prosecutorintegrity.org)

<sup>1</sup> Center for Prosecutor Integrity. An Epidemic of Prosecutor Misconduct. 2013. <http://www.prosecutorintegrity.org/wp-content/uploads/EpidemicofProsecutorMisconduct.pdf>

<sup>2</sup> CPI. Roadmap to Prosecutor Reform. 2013. <http://www.prosecutorintegrity.org/wp-content/uploads/WhitePaper-RoadmapProsecutorReform.pdf>

<sup>3</sup> National Registry of Exonerations, UPDATE: 2012 National Registry of Exonerations, April 3, 2013.