

BASED

The Prosecutor Episode

- I. Hey guys! Welcome back to BASED.
 - A. I guess we're going to have to call these monthly episodes the "OG BASED episodes" now to avoid confusion.
 - B. In case you missed it, I've expanded the brand! BASED has been such a hit and I wish I could do it every week. But, as I'm sure you can tell, these episodes are really time-consuming to produce. I spend hours researching, writing, and outlining for each one, which means I'm limited in the number I can put out per month.
 - C. So I've launched the BASEDBrief alongside my friend and colleague Brad Polumbo, which is a new weekly series where we'll break down the current events and top headlines of the moment. Those will be out every Wednesday. Plus, you'll still get the original BASED episodes each month.
 - D. If you're interested in advertising you can message me as we will be adding that option to the audio version of the shows. And if you have a moment, please be sure to leave us a 5 star review on Apple iTunes. We'll read them aloud each week.
 - E. Now, with all that out of the way, I'm excited to tell you about our topic this month. I think it's one that is very timely given current events. And if you know me, you know that I've been on one about this for years. We're talking about prosecutors, and specifically prosecutorial misconduct.
 - F. It is one of my lifelong dreams to form a group that specifically focuses on taking the vast majority of District Attorneys out of office and replacing them with people who are not completely off their rockers.
 - G. When people ask me how they can get involved with criminal justice reform or make a difference, the number one thing I tell them to do is figure out who their district attorney is, what their practices are, and begin working to hold them accountable, or to kick them out of office.
 - H. You know that here on the show, I'm committed to getting to the root cause of problems. And, after working around the criminal justice system in great depth for nearly a decade, I can tell you without a doubt that prosecutors are one of the root causes of the problems in our criminal justice system.
 - 1. They're also the number one reason that, despite criminal justice reform being extremely popular, we struggle to get even the most basic policies passed.
 - I. So today, I'm going to give you the inside ballgame picture of the role prosecutors play in our system, the ways they manipulate convictions, and why nothing is done about it. Let's jump in.

II. First and foremost, I want to give a basic civics lesson so you understand the structure of the “justice” system, which many prefer to call a legal system because it is hardly just.

- A. When you go inside a courtroom, I think most people are sort of vaguely familiar with the prominent roles you find there.
 - 1. You have a judge. You have an attorney who represents the defendant (which is the person charged with a crime)—and that can be a privately hired defense attorney, or it can be a public defender which the state provides to people who are too poor to pay for a lawyer. And then you have the prosecutor, which is the attorney who works for the government and makes the case on behalf of the state. They work to convict the defendant and this position is never a private attorney in the US.
- B. Now. If Law & Order SVU is also your emotional crutch like it used to be mine, you’re probably of the opinion that the prosecutor is the “good guy.” And that’s because Hollywood acts like a propaganda arm of the police state and always portrays cops and prosecutors as the good guys while dragging defense attorneys.
 - 1. When I was younger I used to think about becoming an attorney and when people would ask me what kind I would want to be I’d be like, “of course a prosecutor, I could never represent the bad guys.” Because all of this media around our justice system has created a stereotype that defense attorneys are these sellouts willing to help violent offenders if it makes them a quick buck while prosecutors are portrayed as noble and choosing to make less money to keep people safe.
- C. But bestie, no. While you can arguably make a great deal more as a private attorney than either prosecutors or public defenders do working for the state, when it comes to choosing which “side” you work on for the government, prosecutors definitely have the upperhand.
 - 1. Pay wise, they’re pretty close - averages [range](#) between \$50,000 to \$80,000 in both professions dependent on experience and location. But when it comes to workload and resources, well, we’ll get into that in a bit.
- D. Now, in this civics lesson, it’s important to remember that things differ between the state and federal levels of the justice system, and even within the state level (which we’ll mostly focus on today) things differ across state lines.
- E. Thankfully, the bulk of the justice system does not reside federally. That’s a good thing as they technically have little [authority](#) to be involved in these issues, and because as a limited government ideologue I always want to see things handled as locally as possible because it is easier to change laws at that level, and because competition amongst states drives smarter public policy.
 - 1. When one state’s laws lead to high crime and their neighbors are faring much better, they’ll be incentivized to take on their neighbor’s way of doing things.
- F. So, while there are some exceptions to this, the vast majority of the time, the top prosecutor is a nonpartisan, elected position at the county level. In most states

this position is called a District Attorney, which we often shorten to DA, but they can also be referred to as a Solicitor, the State Attorney, or the Prosecuting Attorney.

1. Once elected, the DA then hires assistant DAs, other attorneys, investigators, and staff, and it is their office that carries out the bulk of the day to day case workload.
- G. It's somewhat important to point out that DAs were not always elected in the US, and we're still one of the few places that does this.
1. Up until the Civil War, they were appointed by Governors, judges, or legislatures.
 2. But beginning with Mississippi in 1832, states began adopting new constitutions, statutes, or amendments that made prosecutors elected officials. And by 1861, nearly three-quarters of the states in the Union elected their prosecutors.
 3. This change in policy was not really driven by concerns for fairness or efficiency in the system, but rather by concerns that the appointments were treated as political patronage, the increasing partisanship of the position, and the hope that making this an elected position would make prosecutors more accountable to their communities. Cute.
- H. It's an optimistic theory that making prosecutors an elected position would give voters more accountability. And to be clear, I'm in favor of them being elected. But in practice, voters have not done their job of being engaged citizens and holding their feet to the fire. And, much of the time, voters have not ultimately been given much of a choice at the ballot even if they were doing their due diligence.
1. In 2020, of the more than 2,300 jurisdictions that elect their prosecutor, fewer than 700 presented voters with more than one candidate on the ballot.
 2. Still, while most of these elections do go uncontested it is very important to note that more than a quarter of the entire US population lives in only 35 prosecutor districts. And more than half of the entire U.S. population lives in only 147 prosecutor districts. So, most of y'all don't give a pass because these larger districts do provide options.
- I. Once elected, prosecutors wield a tremendous, and I mean jaw-dropping, how the heck did we ever decide it was a good idea to give one person this much power, level of power.
1. Prosecutors hold more unilateral power than just about any other political position. They answer to basically no one but the voters and it is their sole choice whether or not to bring charges against someone.
 2. They decide what charges to bring, what plea bargains to bring—and if a person accepts their plea bargain, what sentences to give. Remember that 95 to 99 percent of all cases are now plead out and no longer go to trial. Due to mandatory minimums attached to many sentences, they also have a large influence in sentences that do go to trial too as they

determine which charges to seek. Meaning prosecutors are the number one driver of mass incarceration, far surpassing the drug war or any other component of the system.

3. They decide what sentences to seek, like whether or not to pursue the death penalty. And these decisions are based on nothing but their own subjective opinions. This means that prosecutors are also responsible for much of the racial disparities we see in sentencing.
 - a) And listen. I don't want to go too deep down a rabbit hole here. But when it comes to things like the racial disparities in our justice system, it's important to understand how it happens. I don't think all prosecutors are getting together in a room and secretly wearing white hoods in their off time. What I do think, and ample scientific studies show this, is that all humans are prone to bias. We see the world as "us vs. them," and this is an evolutionary mechanism in our brains that used to serve us in the wild. But it didn't just disappear when we got air-conditioning and grocery stores.
 - b) Now keep in mind that a whopping 95 percent of prosecutors in the country are [white](#) and 83 percent are men. That means as a whole, prosecutors are likely prone to see people of color as bigger threats in their assessments. There are safeguards that we could put in place to address this—like cognitive bias trainings or developing systems with AI to determine threats/charges instead of leaving it up to individuals—but that's largely not what we do.
 - c) And so what do we [end](#) up with?
 - (1) A 2017 study of about 48,000 criminal cases in Wisconsin showed that white defendants were 25 percent more likely than black defendants to have their most serious charge dismissed in a plea bargain.
 - (2) A 2014 study of Manhattan criminal cases found that black defendants were 19 percent more likely to be offered plea deals that included jail time.
 - (3) A 2013 study found that after adjusting for numerous other variables, federal prosecutors were almost twice as likely to bring charges carrying mandatory minimums against black defendants as against white defendants accused of similar crimes. The list goes on. Don't come for me on the systemic racism in our government and especially our justice system. I've got all the numbers and let me just say this, for those who continue to try to excuse this data, I've got your number too. I see right through you.
- J. As you can see, prosecutors have a shocking amount of power, and that power has been one of the main drivers of mass incarceration—making the US the leading incarceration nation by a long shot—and giving us a system that is rife

with racial disparities. But that's not all. Oh no. Not by a long shot. Honey we're just getting started.

III. So, now that you have an idea of the authority prosecutors have in the system, let's look at the ways the system is structured that make that power even more potent.

- A. I think most people were taught in school that our legal system was structured with the idea that it is better to let 100 guilty men go free than one innocent person perish.
 - 1. Though this is often attributed to Benjamin Franklin, its actual origins are the English jurist, William Blackstone.
 - 2. And this is a really fantastic concept that was starting to form in the 1700s in recognition that the government is always more powerful, has more money, and more resources than the average citizen, and that because of that the scales of justice are tipped in one direction.
 - a) In an effort to actually uphold human rights and basic liberties, thinkers of the time realized that in forming new ways of governing, they needed to put a thumb on the scale to even things out. And that's why we have things in our Bill of Rights like the right to an attorney, the right to due process, and the right to privacy. But it wasn't enough.
- B. First and foremost, many of those rights have never been fully upheld. For an example, though the Bill of Rights says you have a right to an attorney, it wasn't until 1963 that a US Supreme Court case, [Gideon v. Wainwright](#), extended the right to counsel to all indigent criminal defendants charged by the states.
 - 1. And while Gideon gave the command, it did not give orders on how to provide such representation or pay for it (which would be outside the court's purview). And if it seems like it took a long time for the Supreme Court to catch up to the Constitution's intent, it took even longer for states to catch up to the Supreme Court's decision in this case.
 - 2. There still is no uniform protocol for how state and local governments provide attorneys to those who cannot afford them. Some use contract attorneys, some have public defender offices, and others appoint attorneys. Who pays for these services is also up in the air with the county, state, or some combination of the two usually on the hook for the bill.
 - 3. Though indigent defense systems have increased drastically since Gideon, many of these departments still struggle to finance their work. As "tough on crime" policies led to the incarceration rate quadrupling, and 90% of defendants qualify as indigent, these offices have struggled beneath the weight of the system. Translation, there's never enough money.
- C. So yes, while you have the right to an attorney if you're charged with a crime, it doesn't mean you've always been provided with one or with a good one.

1. On Texas' death row, nearly one in four inmates had an attorney that was later disbarred or disciplined.
 2. In North Carolina, 73 percent of the death row inmates were sentenced to die before the formation of an indigent defense fund.
 3. In the early 2000s, a death row inmate came within minutes of execution despite having an attorney who slept through his trial when the US 5th Circuit Court of Appeals [ruled](#) that while you have a right to an attorney, you don't have the right to one who is awake.
- D. And on top of the funding for defense attorneys, and the shaky standards that qualify as a defense, are the caseloads that defense attorneys carry.
1. I want to be clear, some of the best and brightest attorneys I've ever met are defense attorneys. I truly think they are heroes. But the [caseloads](#) they're asked to represent are impossible, no one could do it adequately.
 - a) In Kentucky, the average is 448 cases, which is 54 percent more than the recommended national standards.
 - b) In Louisiana, one attorney alone had 194 felony cases at the same time. That attorney was not an outlier in the state either. Of public defenders in Louisiana at the same time, two dozen had even more clients.
 - c) The true scale of the problem is not even quantifiable, as information on each state is not widely released or even tracked. The last nationwide survey of public defenders offices is over a decade old, but it found that 73 percent of the county-funded public defender offices in 27 states were functioning above the recommended caseload level.
- E. So, if and when they go to trial—which is basically never—prosecutors merely have to go up against a defense attorney who is carrying hundreds of cases and severely underfunded most of the time (because most of the time people of means [don't](#) go to jail in this country). And that's not the only way the deck is stacked in their favor.
- F. In actuality, despite all our rhetoric about “better to let 100 guilty men go free than 1 innocent person perish,” our system stacks virtually every resource on the side of the prosecutor. Let's run the numbers.
1. First, the police work for the prosecutors. They work to gather evidence for them, find witnesses, and give testimony on their behalf. The defense has no similar team. And while it is technically illegal for prosecutors to hide exculpatory evidence (known as a [Brady violation](#)), it happens all the time and nothing happens to them as a result.
 2. Secondly, prosecutors have funds to [pay](#) witnesses with. While legally defense attorneys could also pay witnesses, they rarely have the budget.
 - a) I did not know witnesses could be paid until I was working in pro bono litigation a number of years ago. We sued the state and found out during the course of the lawsuit the the state was paying a doctor to come give testimony that backed up their stupid laws -

I think it was a law that said you had to have a license to braid hair - and they were paying a doctor thousands in our tax dollars to come back up their health and safety claim in court. I was floored.

3. Not only can prosecutors pay witnesses though, they can often give them something even better: a deal.
 - a) Prosecutors often give other suspects deals to provide testimony on a defendant, they comb jails looking for jailhouse informants, they shave time off sentences, the list goes on. Obviously all of these actors have every incentive to lie and quite frequently do, 19 percent of wrongful convictions involved [jailhouse informants](#) who gave bad information. This practice should not be legal at all, and prosecutors frequently abuse it.
4. Not only do the police work for the prosecutors, so do the crime labs. YES YOU HEARD ME RIGHT.
 - a) All states [maintain](#) a crime-lab system. The majority of labs are located within police or sheriff's departments, although some are run by prosecutors or the state department of justice. A few have been subsumed within medical examiner's labs, and some are associated with universities.
 - b) Not only that. Not only that. Y'all aren't ready. You ready? Some crime labs are even [paid](#) based off of conviction rates instead of being paid flat rates for testing.
 - (1) I said that to a group of lawmakers I was speaking to one time and they looked like I'd shot them. They couldn't believe it. Look it up. Links in show notes. Some states have started banning this practice since it came to light but not nearly enough.
 - c) And as you might expect, all kinds of [corruption](#) comes out of these labs. I'll probably do a whole episode on it in fact. But I don't want to get too off track today.
- G. Another way the deck is stacked for the prosecutors and against the individual is in the fact that most [judges](#) are former prosecutors themselves. And if you know anything about cognitive bias you know this means they are more inclined to favor them and their argument, and less likely to discipline them for misconduct.
 1. In fact, one of the reasons prosecutors are not often disciplined for their misconduct is that judges, who have a legal obligation to report prosecutorial misconduct to the disciplinary committee of the state bar, [rarely](#) do so.
- H. Additionally, due to the prevalence of plea bargains, remember hardly anyone gets a trial in this country anymore, prosecutors rarely have to actually prove their case. Most of the time they're able to force people into plea deals because it is too expensive to fight them, and because when someone does resist they're often met with the trial penalty. Let me break down why all of this is so corrupt for you.

1. You have a right to a trial for a good reason. It's much harder to convince 12 people of guilt than it is one. And there is supposed to be a very high bar that the government has to prove before it can take away someone's liberties.
 2. Because 95 to 99 percent of cases are plead out, the government rarely has to meet that burden. That not only means they have a much higher conviction rate, it also means they can go after way more people because it isn't as costly and time-consuming to charge someone when you don't have to prove your case.
 3. To get people to agree to all these pleas, even when they're innocent, prosecutors threaten to throw much harsher charges at them should they insist on a trial (and they will, leading to what's known as the trial penalty where most people do get harsher sentences if they go to trial than they would in the plea deal). So they coerce them.
 4. And when a person has a public defender, as most do, they'll rarely get the option as the public defender will also pressure them to take a deal due to the fact they have too many cases and trials are a lot of work.
 5. Should the person have a private attorney, prosecutors can also run out the clock when people insist on a trial. Because prosecutors are paid a salary while you would pay a private defense attorney by the hour, most people can't afford to fight them for long.
- I. As if that were not enough, the mainstream media tends to operate as a mouthpiece for both prosecutors and police, frequently only reporting on their side of the story in major cases and matters of criminal justice reform and failing to educate the public about their true activities.
- J. And lastly, post-conviction, the entire apparatus of the justice system works to uphold the prosecutor's convictions. It is extremely difficult to get new evidence tested, get a hearing to present new evidence, or get a new trial—even if vast prosecutorial misconduct is discovered.
1. This is something I was truly unaware of before I worked on the death penalty. I thought if you discovered new evidence or there'd been a problem with misconduct in the trial it would be like STOP THE PRESSES! And everyone would immediately stop what they were doing to examine it and free the innocent person. Lolol, nope.
 2. Instead, the appellate process is really just looking to see if the i's were dotted and the t's were crossed. It isn't structured to reexamine the facts of the case or look for potential innocence. And even when potential innocence is discovered, mostly by pro bono outside groups like the Innocence Project, the system works to uphold itself.
 3. There are tons of tiny loopholes in our law, that unless you have a meticulous private attorney working for you, you'll certainly miss. Many things like arbitrary filing deadlines and submissions if you even want to present new evidence. And even then, prosecutors get to, and stringently do, argue against the need for testing or new hearings and trials.

K. Everything. And I do mean everything, is stacked against you as an individual in our justice system. And it ought to scare you. Because if you're a middle class person they can do it to you as fast as they do to anyone else.

1. And it shouldn't have to happen to you before you get outraged and active.

IV. What I've covered so far is mostly just how things operate legally. Though corrupt, nothing I've mentioned so far is even prosecutorial misconduct, which is rampant. So let's get into the ways prosecutors misbehave despite the very long leash they're given.

A. Let's circle back to Brady violations which I briefly mentioned earlier. Like I said these are literally everywhere in our cases, they're like Tinkerbell's fairy dust.

These violations includes:

1. Withholding evidence suggesting someone other than the accused committed the crime, evidence of a witness's prior inconsistent statements, evidence of a witness's motive to lie, information that casts doubt on the credibility of the police, information that casts doubt on a crime lab technician, and any evidence that is favorable to the defense.
2. While they haven't called it that yet, I believe this happened in the Kle Rittenhouse case where the FBI and the prosecutors seemed to have been in possession of better video of the incident the whole time that they withheld from the defense.

B. Another type of misconduct is jury stacking.

1. Obviously America has a pretty racist and sexist past and this was evident in our juries for centuries. Black people couldn't serve on juries until reconstruction (and even then states like LA passed laws to water down the weight of their votes making it to where you only need 10 votes instead of 12 to convict). And women weren't allowed on juries until 1968. Again, return to what we know about cognitive bias and you see why who is on a jury matters so much. Americans are supposed to have a right to a jury *of their peers*. But this component of the right is one we still do not consistently uphold.
2. Each year, over 30 million people are sent a summons in the mail. From that, an estimated 1.5 million are selected to serve on a jury. And it's during that selection process when most of the problems emerge. Attorneys have a certain number of "strikes", or peremptory challenges, where they can remove jury candidates without any explanation. For decades, it was perfectly legal to use these strikes on a discriminatory basis — and that's exactly what prosecutors did.
3. The issue finally came to a head in 1986. The Supreme Court made it illegal to strike based on racial or sexual discrimination. But what has that really changed? Umm, not much.

- a) As one example, between 2005-2009, prosecutors in Houston County, Alabama had excluded 80% of black people who qualified for jury service on death penalty cases.
 - b) A Michigan State University legal study found that from 1990 to 2010, prosecutors from Forsyth County were more than twice as likely to strike Black jurors from capital cases. Another study conducted by Wake Forest University found the disparity in strikes of Black vs. white jurors was even wider when researchers analyzed data from all types of trials that occurred in 2011.
 - c) In the recent Ahmaud Arbery case, which was infamous for its racial elements, only one Black person made it onto the jury.
- 4. Basically to get around this, prosecutors just have to say the reason they struck the potential juror was not over race or sex and provide an alternative. They've been known to give [excuses](#) like they had a pierced left ear, a hyphenated last name, or did not seeking counseling after their car stereo was stolen. Okayyy.
- C. The misuse of jailhouse informants is another type of common misconduct by prosecutors. While they are technically allowed to work with them and give them deals, the lines become murky pretty quickly.
 - 1. Take the case of Florida death row inmate James Daily. Daily is on death row based on little to no evidence other than that of a prolific jailhouse informant, Paul Skalnik.
 - a) During a two-year stay in jail, Paul estimated that he gathered evidence for prosecutors in 33 cases. Most of the defendants pleaded guilty.
 - b) Over the years, prosecutors have [denied](#) planting Skalnik in cells with accused murderers or telling him what to say on the witness stand. But umm, that's kind of a load of crap. This man didn't just happen to get 33 confessions and land dozens in jail and on death rows by happenstance during the course of two years. Come on.
 - 2. Or take the Curtis Flowers case down in Mississippi. This one is a doozy and yet it still wouldn't have come to an end were it not for a very thorough podcast that shone a light on the corrupt prosecutor, Doug Evans.
 - a) Flowers was tried capitally six times on circumstantial evidence, largely gathered through questionable informant practices. On top of committing numerous brady violations, jury stacking, and witness tampering (which at least resulted in the case being overturned numerous times, though Evans just got to keep re-trying it), evidence presented in the podcast also indicates Evans worked with an informant to frame Flowers.
 - b) In a lawsuit, Flowers accuses Evans and one of his investigators of persuading Odell Hallmon to falsely testify that Flowers had confessed to him while the two were in prison together. Hallmon

was a key witness in the last four of Flowers trials. He [admitted](#) to the “In the Dark” podcast that his testimony was a “bunch of lies” he told in exchange for leniency from Evans in his own criminal cases. Evans is still in office.

- D. Another type of misconduct prosecutors often commit is introducing improper arguments and/or giving false evidence.
 - 1. This is why we saw the judge get so mad in the recent trial of Kyle Rittenhouse. That prosecutor attempted to bring up evidence that the judge had excluded and he also questioned Kyle on his (constitutionally protected) right to stay silent. While the jury was told to disregard these statements, what’s done is often done and juries can’t unhear things. I think the prosecutor did these things intentionally because he knew he was losing and he got desperate.
 - 2. That kind of behavior is not all that uncommon. What’s uncommon is to see a judge react so strongly towards a prosecutor. And likely that was because of the prominence of the case and the concern that these actions - especially caught on tape - could cause a mistrial. But much of the time nothing happens.
- E. And all of this misconduct relates to the actions prosecutors take when they decide to press charges. It says nothing of all the decisions they make, completely behind the scenes to NOT bring charges. Which of course can be just as overrun with corruption and misconduct.
 - 1. One obvious rule is that if a case is going to be on the front page, they want to win it. This can mean, perversely, that a DA might dismiss a big case rather than risk a stinging loss—it’s less important to succeed than it is to not fail to them. Winning at all costs is the game of this profession.
 - a) Some reporting has suggested that when prosecutors made a quiet decision not to pursue Harvey Weinstein in 2015, it was because the DA was [reeling](#) from an earlier sexual assault case that had fallen apart in highly visible fashion.
 - 2. But other times, the DA doesn’t bring charges to protect the good ole’ boys club.
 - a) Take the truly crazy and ongoing case of the [Murdaugh Murders](#). This family had control of the prosecutors office in their tiny SC town for generations. And through it they’d grown extremely powerful. The double-murder of the matriarch and one of the sons on their hunting property first brought attention to the family a number of months ago, but as scrutiny in the case has increased the family has now been credibly linked to multiple years-old deaths in the town that all appear to have been swept under the rug by police and prosecutors.
 - b) Or take the case against the McMichaels and their neighbor Bryan for the lynching of Ahmaud Arbery. Charges weren’t brought in this case for over two months and likely would never have been had

the men not foolishly leaked video of their murder thinking it would clear their names. Because the elder McMichael was a former cop and had worked for the DA, not one but two DAs worked to prevent their arrest and interfere with the investigation.

c) Now, imagine what all goes on in smaller cases you've never heard of.

F. All of this kind of misconduct leads to countless wrongful convictions. We've discovered thousands, but that is largely thanks to nonprofits working outside the system and there is truly no way of knowing how many more are in there. Of those we have proven, prosecutorial misconduct has been [responsible](#) for at least 36 to 42 percent of them.

V. None of this should surprise you when you consider the fact that prosecutors have been given absolute immunity by the US Supreme Court.

A. That's right. You've heard of qualified immunity, which is atrocious and protects government actors from accountability? Prosecutors get an even higher standard.

B. Prosecutors are [absolutely immune](#) from liability, which means that they cannot be sued for their decisions as prosecutors, no matter how outrageous their conduct.

C. The Supreme Court has held that absolute immunity protects prosecutors who knowingly used false testimony and suppressed evidence in a murder trial. Following the high Court's lead, lower courts have granted absolute immunity to prosecutors who have falsified evidence, coerced witnesses, and known but failed to disclose police misconduct.

1. I hope y'all hate it here now as much as I do. Do you see what it's like being me? Walking around with the information I have in my head? I don't know how I don't combust.

VI. On top of all of this, prosecutors are actually as terrible outside the courtroom as they are in it. Don't ever let them tell you "they're just enforcing the law." No buddy, they're not, they're up at state capitols on your dime actively working to make the law.

A. This practice is called taxpayer-funded lobbying and it ought to be illegal. It's when government actors show up to legislatures in their official capacity and lobby while on the clock for or against laws. Meaning they're using your tax dollars to actively work against you while you're stuck at work.

B. In every state I've worked in, there has been a District Attorneys Association. And that association has worked overtime to block every, and I do mean every criminal justice reform proposed. They don't want to give up an ounce of their power and they'll fight dirty for it.

C. I've heard them flat out lie about data while giving testimony. I've heard them threaten lawmakers telling them they'll tell their districts they're "soft on crime" if

they vote for reforms. I've seen them go to the media and put out hit-pieces against good bills. They're a full on lobbying and propaganda arm of the state.

- D. People often ask me why it's so hard to get criminal justice reforms passed when they're so popular, total common sense, and polls show the vast majority of the country want them. And I always tell them the same thing. The DAs. The DAs are the only consistent, organized group lobbying to block justice reform. But they are very powerful, and for some reason, lawmakers continue to put too much stock into what they say.

VII. So, until the day that I retire and get to launch my dream prosecutor opposition group. Here are some changes we can push for that would get these people under control.

- A. Taxpayer-funded lobbying should be banned, across the board
- B. Jailhouse informants should no longer be allowed
- C. Disconnect labs from prosecutors' offices and implement background quotas on judges (we need more intellectual diversity on the bench).
- D. Pass laws that actually punish prosecutors for Brady violations and install third parties to ensure evidence is not withheld and that misconduct is actually reported.
- E. Better fund and hire more defense attorneys.
- F. Term limits (not usually in favor, but for this role I would be)
 - 1. People don't run against them because if they lose they'll have to face them in court for years to come.
- G. Vote in reform prosecutors. Quit falling for "tough on crime" talking points.
- H. Pressure media to provide more scrutiny.
- I. Implement a system where prosecutors have to alert the public to their decisions in each case and provide explanations for them.