

RECAST 2013



Reining In The Mavericks

DEFENSE BAR WANTS CLOSE WATCH KEPT ON 'OUTLIER' PROSECUTORS

ity of prosecu-
tors who con-
duct themselves
with integrity,
fairness and
common sense,
there exists a
small handful
who operate
out of step with
what is consid-
ered reasonable
and just. They
are those who
treat criminal
defendants and
their attorneys
with disdain and contempt.



Tara Knight

Although outliers, they are allowed to wield their power often unimpeded and to abuse their discretion with little regard to the staggering consequences their decisions have on individuals, family members and society as a whole.

For instance, some of these prosecutors having forgotten their oath to do justice, will silently tolerate police abuses—some have even expressed their feeling that such abuses are sometimes necessary to get the “bad guys.” Additionally, some believe that it is their job to shield law enforcement from their own excesses and illegalities — even so

far as protecting them from potential civil redress by wronged defendants.

Moreover, it is commonplace for some to fail to skeptically scrutinize police reports, instead regarding them as sacrosanct even when it is apparent that some law enforcement officers are routinely engaged in clear civil rights violations—using pretextual reasons to stop, search and sometimes arrest those they deem “suspicious.” There are those who know of the bad apples in police departments, yet turn their heads. Some police misconduct has been tolerated for years, even when those of us in the system knew exactly who the bad apples were. Finally, too often these prosecutors are remiss, at best, in determining what constitutes “Brady” material and will engage in ends-justifies-the-means trial strategy.

These are individuals who do not exercise their discretion and power with common sense and a view to the big picture. They rationalize wrong-headed decisions by claiming they are merely enforcing the laws when in reality they are bestowed with immense discretion and expected

to use it wisely. They insist on felony convictions when such are clearly not warranted — a stigma staining an individual's life forever — and have a short-sighted view of the long range consequences of their decisions.

They fail or refuse to recognize that the difference between a felony and misdemeanor

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conviction can mean the difference between a job or unemployment; a student loan or no education; a license or a lost chance to work in the trades. They either fail to see or seem not

to be concerned that this monu-
sion can be life altering and will a-
and family members perpetuating
ending circle of hopelessness ig-
poverty.

Timid Judges

Yet more troubling still is the b-
tion that judges and the defense
strat in dealing with these outlier
them to act unchecked in the state

The judiciary, the state, and th-
should not tolerate these maverick
ten the judges and defense attorn-
plicit in this unfair system. Some
little criminal law background, a-
to make the big decision that law-
sometimes requires. Some in-
judges will routinely side with th-
they are unsure what to do — a sa-
estimation.

Judges need to hold the state r-
the face of prosecutorial excess c-
these few. They need to grant mo-
press when warranted and stop rou-
ing police witnesses as a mere matt-
peer pressure or simple lack of c-
defense bar needs to speak up and
tion that the renegade prosecutor
the system. These individuals need
to task when they abuse their disc-
improperly — the lives of those
caught in their crosshairs are at sta-
to happen, it would surely be a step
making our criminal justice system
world has to offer.

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