



PROSECUTORIAL MALPRACTICE

PROGRESSIVE PROSECUTORS,
PUBLIC SAFETY, AND FELONY OUTCOMES



FOREWORD

Ensuring justice is done is a sacred duty – a charge laid down by our Founding Fathers and an obligation to the American people. The brave men and women who enforce our laws and ensure the public safety sacrifice a great deal to keep our streets safe from dangerous criminals. Their work deserves not only our praise but our support and the support of our elected officials, especially our elected prosecutors. District attorneys are bound to serve their constituents and uphold the law. Their job is to hold the guilty accountable and, through a fair process, represent the public good. They are the “people’s counsel” – pursuing justice and safety for all.

Sadly, a worrisome new trend has developed as some of these elected prosecutors pursue ideological ends before public safety. This groundbreaking study, *Prosecutorial Malpractice*, demonstrates that these so-called “social justice” prosecutors have failed to successfully prosecute offenders, dropping or losing more cases than their predecessors. Many have expressed clear animus toward their law enforcement colleagues, in the police, and in their own offices. At the same time, crime is rising in most of these jurisdictions while it is falling elsewhere in the country.

Before I served as US Attorney General, I was a frontline prosecutor in California handling felony cases. I worked with police, witnesses, and victims on a daily basis. My colleagues and I fought for law and order against the scourge of crime ravaging lives and neighborhoods.

When I became Attorney General under President Ronald Reagan, I continued that fight to prosecute those who would hurt others and cause disorder. Alongside our frontline prosecutors and law enforcement partners, we sought to earn the public’s trust and preserve public safety. Vigorously and diligently pursuing law-breakers made our communities safer. Violent criminals who prey on innocents do not deserve to be coddled. Prosecutors who fail to hold them accountable are derelict in their duty to justice.

Now, it is becoming increasingly clear that a cadre of well-financed activist prosecutors are committed to undoing the progress we have made against crime over the past few decades. Their failure to prosecute effectively endangers both the Rule of Law and the public safety.

This study should serve as a wake-up call to our elected leaders, law enforcement officers, and the media that leftist ideas of social justice and true criminal justice are not compatible. The duty of every prosecutor is to serve the public’s interest, not their own. Ideological crusades have no place in the court of law, and criminal conduct cannot be sanctioned on personal whims.

I encourage you to read this important report closely and take action to restore justice for all.

Sincerely,

Edwin Meese III

75th US Attorney General
Member, Board of Directors,
Law Enforcement Legal Defense Fund

ABOUT THE LAW ENFORCEMENT LEGAL DEFENSE FUND (LELDF)

The Law Enforcement Legal Defense Fund (LELDF) is a 501(c)(3) non-profit dedicated to supporting and defending the law enforcement profession and those law enforcement officers who have devoted their lives to upholding the Constitution and serving the United States and its citizens while enforcing its laws. We also seek to educate the public about the many risks and threats to law enforcement personnel in order to build a more informed, respectful, and appreciative society.

THESE SO-CALLED “REFORM” DISTRICT ATTORNEYS HAVE IMMENSE POTENTIAL TO RESHAPE THE JUSTICE SYSTEM AS A WHOLE

DISTRICT ATTORNEYS – WHO SERVE AS THE CHIEF LAW ENFORCEMENT OFFICERS FOR REGIONS, CITIES, OR COUNTIES IN THE UNITED STATES – wield enormous power and influence over the operations of the criminal justice system. The more than 2300 elected prosecutors are charged with representing the public’s interest in promoting public safety and ensuring that justice is done.

Recently, a movement to elect “progressive” or “reform” district attorneys has emerged. Propelled into office by wealthy donors and progressive activists, these prosecutors seek to reorient the criminal justice system toward more lenient and less harsh outcomes, eschewing “tough on crime” and “law and order” practices. These “reform-minded” prosecutors now hold office in dozens of jurisdictions across the country from San Francisco to Brooklyn. Overseeing prosecutions in large urban areas where both most crime occurs and most criminal cases are filed, this cadre of district attorneys has immense potential to affect criminal case outcomes and to reshape the justice system as a whole.

This paper examines the efficacy of these progressive prosecutors in holding felony offenders accountable.

FINDINGS

UNDER REFORM PROSECUTORS,
THE DISTRICTS SAW AN AVERAGE:

19%
DECLINE ▼
in guilty verdicts
or pleas

20%
INCREASE ▲
in dropped or
lost felony cases

WHILE PROSECUTIONS
DECLINED, CRIME INCREASED:

DALLAS AND SAN ANTONIO
15% INCREASE ▲
in VIOLENT CRIME



BALTIMORE
65% INCREASE ▲
in HOMICIDE

PHILADELPHIA
18% INCREASE ▲
in SHOOTINGS/AGGRAVATED
ASSAULT BY GUN

SIX DISTRICTS. SIX REFORM PROSECUTORS.

Six (6) profiled district attorneys are compared to their predecessors in the same jurisdiction on all felony dispositions by outcome type (guilty, not guilty, dismissed etc.) over time¹. Outcomes for select felony charges are also examined.

		COMPARED TO PREDECESSOR	
		GUILTY VERDICTS OR PLEAS	DROPPED OR LOST CASES
p.5	DALLAS COUNTY, TX	-30%	+18%
p.6	PHILADELPHIA, PA	-27%	+26%
p.8	BALTIMORE, MD ²	-23%	+5%
p.9	BEXAR COUNTY (SAN ANTONIO), TX	-17%	+18%
p.10	COOK COUNTY (CHICAGO), IL	-13%	+40%
p.11	ST. LOUIS COUNTY, MO ³	-10%	+21%

DATA SOURCES

Maryland Judiciary, Baltimore Felony Dispositions, FY2013-FY2018, Public Records Request, Received December 2, 2019.

Cook County States' Attorney Office; Cook County Felony Disposition 2013-2019.

Missouri State Courts, St Louis County Felony Outcomes 2018-2019, Public Records Request, Received April 28, 2019.

Philadelphia District Attorney's Office, Public Data Dashboard for Case Outcomes, 2014-2019.

Texas State Courts Database, Dallas County Felony Dispositions 2013-2019 and Bexar County Felony Dispositions 2013-2019.

METHODOLOGY

Data is derived from respective state courts or district attorneys' offices for the final disposition of a felony case. Each jurisdiction's dataset is comparable year-to-year internally, but not across jurisdictions. Due to data limitations, Cook County (2013-2019) and Baltimore (FY2013-FY2018) reflect the outcomes for the "top count" in a given felony case. As it reflects an overlapping fiscal year, FY2015 has been excluded from Baltimore's totals. Predecessor is used in the singular but may reflect multiple office holders that predated the reform DA's tenure.

1. Reform DAs tenure calculated from first calendar year in office.

2. Baltimore City reflective of data FY2013 through FY2018.

3. St Louis County data reflective of 2018-2019.

4. Shawn Shinneman, "The Era of Dallas County District Attorney John Creuzot Is Almost Here," D Magazine, November 26, 2018.

5. Stephen Young, "Dallas DA Creuzot Takes Heat from Council Members Over New Theft Policy," The Dallas Observer, April 23, 2019.

6. Editorial Board, "What's causing Dallas crime to spike?" Dallas Morning News, February 13, 2020.

7. Dallas Police Department, Compstat End of Year 2019.

DALLAS COUNTY (DALLAS, TEXAS)

DISTRICT ATTORNEY: **JOHN CREUZOT**

ASSUMED OFFICE: **2019**

Dallas County District Attorney John Creuzot, who pledged to decriminalize numerous offenses and offer lenient deals to criminals, admitted his campaign was largely funded “through (George) Soros. And I got money through the Texas Organizing project.”⁴

Pledging to decriminalize drug possession, criminal trespass, and theft under \$750, Creuzot issued a memo to prosecutors on his reform directives – without consulting the police.⁵ Since then, crime has risen. Judges, local and state elected officials, business owners, and the public are blaming Creuzot’s policies for the jump, suggesting his leniency is letting dangerous criminals out to commit new crimes. But Creuzot says his office “isn’t data-driven” and has no information on re-offense rates.⁶

In his short tenure, Creuzot has lost or dropped 20% more felony cases than his predecessors and attained a significantly lower conviction rate for violent and serious crimes as well. At the same time, violent crime spiked 15% in 2019 while homicide jumped 27.5%—prompting Texas Governor Greg Abbott to send in state troopers to police parts of Dallas over the summer. Even with Abbott’s intervention which curtailed crime dramatically in a few months, assault went up 19% and auto theft went up 13% since Creuzot has been DA.⁷

DALLAS

19% INCREASE ▲
in ASSAULT

DALLAS COUNTY, TX		GUILTY VERDICTS OR PLEAS	DROPPED OR LOST CASES
ALL FELONIES	Predecessor (2014-2019)	41.7%	51.1%
	Creuzot (2019-Present)	30.9% (-26%)	61.1% (+20%)
ROBBERY	Predecessor	41.8%	49.7%
	Creuzot	35.7% (-15%)	53.7% (+8%)
AGGRAVATED ASSAULT	Predecessor	31.9%	59.8%
	Creuzot	26.6% (-17%)	62.7% (+5%)
AUTO THEFT	Predecessor	53.4%	43.5%
	Creuzot	37.0% (-31%)	60.1% (+38%)
DRUG SALES	Predecessor	35.5%	58.4%
	Creuzot	23.3% (-34%)	71.5% (+22%)

CITY OF PHILADELPHIA

(PHILADELPHIA, PENNSYLVANIA)

DISTRICT ATTORNEY: **LARRY KRASNER**

ASSUMED OFFICE: **2018**

At then-defense attorney Larry Krasner's election victory party the night he won the primary to be Philadelphia District Attorney in 2017, a chant went up among the crowd: "F—the FOP," targeting Philadelphia's police union.⁸ That hostile sentiment expressed by supporters of Krasner, who had himself sued the city's police department 75 times and publicly derided the police, set the tone of the relationship between the new DA and his law enforcement partners.⁹ Since then, dozens of experienced frontline prosecutors have been fired or resigned under Krasner's watch.¹⁰

Krasner has gone further than most in promoting diversion and leniency for petty offenders, he has actively promoted the appeal of convicted cop-killer Mumia Abu-Jamal.¹¹ The state supreme court has intervened to ascertain what conflicts exist in Krasner's office, which employs former defense attorneys affiliated with Abu-Jamal.

Since Krasner took office, aggravated assaults by gun (shootings) are up 18%. Last year alone, overall violent crime rose 5% while robberies rose by 7%.¹²

PHILADELPHIA, PA		GUILTY VERDICTS OR PLEAS	DROPPED, LOST OR DIVERTED CASES
ALL FELONIES	Predecessor (2014-2018)	48.6%	51.4%
	Krasner (2018-Present)	35.5% (-27%)	64.5% (+26%)
ROBBERY	Predecessor	50.8%	49.2%
	Krasner	43.9% (-14%)	56.1% (+14%)
AGGRAVATED ASSAULT (GUN)	Predecessor	48.0%	52.0%
	Krasner	36.7% (-24%)	63.3% (+22%)
AUTO THEFT	Predecessor	55.5%	44.5%
	Krasner	39.1% (-30%)	60.9% (+37%)
DRUG SALES	Predecessor	66.4%	33.6%
	Krasner	44.5% (-33%)	55.5% (+65%)
ILLEGAL FIREARM POSSESSION	Predecessor	66.5%	33.5%
	Krasner	52.6% (-21%)	47.4% (+42%)

PHILADELPHIA

REAL-LIFE CONSEQUENCES

Krasner's leniency toward offenders and hostility toward police contributed to the tragic murder of a Philadelphia police corporal, James O'Connor, who was killed by a repeat felon let off by Krasner. Hassan Elliot – who was caught in 2017 possessing a firearm illegally – was released almost immediately for time served when Krasner took office in January 2018 (Elliot had been detained by Krasner's predecessor). The following year, Elliot was apprehended for possession large quantities of cocaine for distribution. Elliot had violated his supervision requirements and was eligible for detention. Instead, Krasner released Elliot, scheduling his trial. That same day (March 1, 2019) Elliot killed someone. Krasner filed a murder warrant. Unbelievably, the day after Elliot failed to appear for his cocaine case trial which allowed for Elliot to be detained on the parole violation alone, Krasner instead dropped that charge altogether. Elliot remained a fugitive until he murdered O'Connor.¹³



JAMES O'CONNOR

Photo: Philadelphia PD

8. Julia Terruso and Stephanie Farr, "Krasner, police union spar on day after primary election," *The Philadelphia Inquirer*, May 17, 2017.
9. Alan Feuer, "He Sued Police 75 Times. Democrats Want Him as Philadelphia's Top Prosecutor," *The New York Times*, June 17, 2017.
10. Amy Kaplan, "Phila. District Attorney Larry Krasner sued by two prosecutors for age discrimination," *The Daily Pennsylvanian*, February 20, 2020.
11. Julie Shaw, "Pa. Supreme Court will investigate alleged conflicts in DA Larry Krasner's handling of Mumia Abu-Jamal's appeals," *The Philadelphia Inquirer*, February 24, 2020.
12. Philadelphia Police Department, "Crime Stats Reports, 2017-2019".
13. US Attorney William McSwain, "Statement of U.S. Attorney William M. McSwain Regarding the Murder of Philadelphia Police Corporal James O'Connor," US Department of Justice, March 6, 2020.

BALTIMORE CITY

(BALTIMORE, MARYLAND)

STATE'S ATTORNEY: **MARILYN MOSBY**

ASSUMED OFFICE: **2015**

Reform prosecutors like Baltimore State's Attorney Marilyn Mosby preside over some of the most violent cities in America.

Since Mosby took office, Baltimore has reigned as America's big city murder capital with homicides climbing 65% during her five-year tenure. Meanwhile, she dropped or lost 44% of all felony cases. An astounding 50% of homicides suspects in Baltimore have prior "violent crime" arrests and 31% were on parole or probation at the time of their arrest.

Of those who are found guilty under Mosby's watch, few serve the mandatory minimum (5-years) stipulated by state law. Under a loophole, the prosecutor can waive the minimum under an "ABA plea" deal. Of previously convicted felons charged and convicted of illegal possession of a firearm (PS 5-133), Mosby agrees to overly lenient sentences well-below statutory guidelines more frequently than her predecessor.

"Tougher penalties and more prosecutions are not the way out of the problems our city faces."¹⁴

BALTIMORE STATE'S ATTORNEY MARILYN MOSBY

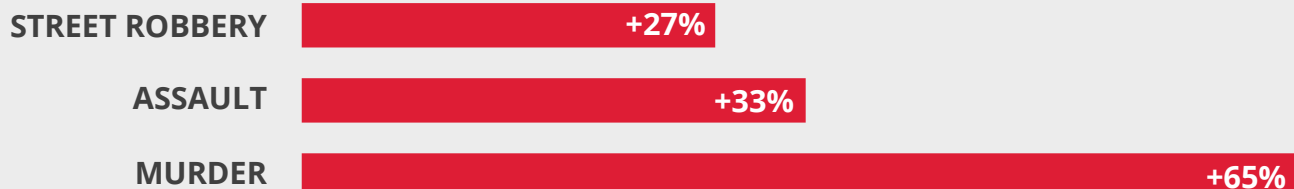
BALTIMORE

46% DECLINE ▼
in guilty verdicts for
firearms possession

42% DECLINE ▼
in mandatory minimum
sentences for gun felonies

272% INCREASE ▲
in carjackings

BALTIMORE CRIME (% CHANGE, 2014-2019)



14. Marilyn Mosby, "Maryland Gov. Hogan's crime proposals are ineffective and undemocratic," *The Washington Post*, December 19, 2019.

BEXAR COUNTY

(SAN ANTONIO, TEXAS)

STATE'S ATTORNEY: **JOE GONZALES**

ASSUMED OFFICE: **2019**

The election of defense attorney Joe Gonzales as District Attorney for Bexar County, which includes San Antonio, was championed by wealthy progressive donors and activists. Before taking office, he said, "Part of my whole progressive philosophy about restorative justice is to give people an opportunity to avoid convictions, avoid being saddled with having convictions on their records."¹⁵

Based on his first year of felony outcomes, Gonzales has put that into practice – dropping or losing felony cases 11% more often. These were

not just not minor crimes, as serious and violent offenders are also significantly less likely to be convicted under Gonzales.

SAN ANTONIO

11% INCREASE ▲

in dropped or
lost felony cases

BEXAR COUNTY , TX		GUILTY VERDICTS OR PLEAS	DROPPED OR LOST CASES
ALL FELONIES	Predecessor (2014-2019)	47.1%	52.9%
	Gonzales (2019-Present)	41.1% (-13%)	58.9% (+11%)
SEX ASSAULT ON ADULT	Predecessor	35.2%	64.2%
	Gonzales	24.4% (-31%)	75.6% (+19%)
AGGRAVATED ASSAULT OR ATTEMPTED MURDER	Predecessor	34.2%	65.6%
	Gonzales	26.9% (-21%)	73.0% (+11%)
ROBBERY	Predecessor	52.8%	46.8%
	Gonzales	48.2% (-9%)	51.5% (+11%)
AUTO THEFT	Predecessor	52.1%	47.9%
	Gonzales	46.3% (-12%)	53.7% (+13%)

15. Daniel Nicheanian, "San Antonio DA candidate pledges to put 'real teeth' into cite-and-release program," *The Appeal*, October 28, 2018.

COOK COUNTY (CHICAGO, ILLINOIS)

STATE'S ATTORNEY: **KIM FOXX**

ASSUMED OFFICE: **2017**

While the Jussie Smollett case made national headlines, Kim Foxx's tenure has been more radical than her interference in a high-profile hoax investigation.

Justice has been ill-served as there has been a 13% decrease in felony guilty outcomes, with a 27% decline in guilty verdicts and a 54% increase in dropped and dismissed cases. And Foxx's results are worsening. In 2019, only 58% of her felony cases resulted in guilty outcomes compared to 75% under her predecessor. For victims, that means the perpetrators are now more likely to be back on the streets. Nearly 20% fewer robbery cases resulted in guilty outcomes and 9% fewer rape and sex crime cases were adjudicated as guilty under Foxx.



KIM FOXX MADE NATIONAL HEADLINES FOR HER INTERFERENCE IN THE JUSSIE SMOLLETT HOAX CASE

Photo: Chicago Police Department

COOK COUNTY, IL		GUILTY VERDICTS OR PLEAS	DROPPED OR LOST CASES
ALL FELONIES	Predecessor (2013-2016)	75.5%	24.4%
	Foxx (2017-Present)	65.8% (-13%)	34.0% (+39%)
SEX CRIME	Predecessor	54.0%	43.7%
	Foxx	48.9% (-9%)	49.5% (+13%)
ROBBERY	Predecessor	73.9%	25.1%
	Foxx	59.3% (-20%)	40.0% (+59%)
AGGRAVATED ASSAULT	Predecessor	58.5%	40.3%
	Foxx	54.2% (-7%)	45.0% (+12%)

16. Joel Currier, "Third prosecutor forced out by Wesley Bell gets \$70,000 settlement with St. Louis County," *St. Louis Post-Dispatch*, August 24, 2019.
17. Joel Currier, "Lobster, ribeye: Prosecutor Wesley Bell's office has charged \$30,000 in meals, travel to St. Louis County credit cards," *St. Louis Post-Dispatch*, October 28, 2019; Lauren Trager, "Whistleblower says controversial hire in STL Co. Prosecutor's Office is 'slap in the face to the career professionals,'" *KMOV4*, August 27, 2019.
18. Alice Speri, "Five Years After Ferguson St Louis County's New Prosecutor Confronts a Racist Criminal Justice System," *The Intercept*, January 24, 2019.
19. Mark Berman, "These prosecutors won office vowing to fight the system. Now, the system is fighting back," *The Washington Post*, November 9, 2019.

ST. LOUIS COUNTY (ST. LOUIS, MISSOURI)

COUNTY PROSECUTING ATTORNEY: **WESLEY BELL**

ASSUMED OFFICE: **2019**

Wesley Bell, a former public defender who ran for Ferguson, Missouri city council after the death of Michael Brown in 2014, has hired former public defenders with contentious relationships with the police while firing experienced prosecutors. Those firings have resulted in large settlements for the dismissed DAs.¹⁶ In addition, Bell has been accused of excessive spending – \$30,000 on meals and travel – and the inappropriate hiring of an “intern” earning more than many full-time office employees with an office and name placard.¹⁷

After defeating a 28-year “tough-on-crime” incumbent, Bell announced he would stop prosecuting marijuana possession of less than 100 grams. His prosecutors would stop requesting bail for misdemeanor cases and issue summonses instead of warrants for misdemeanors and low-level felonies. He also promised to refrain from criminally prosecuting the failure to pay child support.¹⁸

ST. LOUIS COUNTY, MO		GUILTY VERDICTS OR PLEAS	DROPPED OR LOST CASES
ALL FELONIES	Predecessor (2018)	69.2%	30.0%
	Bell (2019)	62.5% (-9%)	36.3% (+21%)

CONCLUSION

Under the banner of criminal justice reform and buoyed by tens of millions of dollars funneled through progressive donors and political action committees, a wave of progressive candidates won elected office as local prosecutors.¹⁹ Previously, campaigns to become district attorney were subdued affairs, buried far down on the ballot. Competency and experience, not ideological zeal, were the primary bona fides DA candidates burnished.

But in the last decade, wealthy progressive donors and activists have mobilized to elect “reform-minded” prosecutors to these offices to transform the criminal justice system toward more lenient and compassionate outcomes. Some of these progressive prosecutors take that approach a step further as the newly-elected DA of San Francisco Chesa Boudin said, “a district attorney can challenge the legitimacy of laws by declining to bring charges in certain cases.”

That ethos and limited law enforcement experience begs the question: what outcomes are these reform minded prosecutors achieving for their citizens and how are cases being disposed of compared to their predecessors?

The answer is not many and not very effectively. In every one of the six profiled jurisdictions, “reform DAs” are less effective at achieving guilty outcomes for felonies – including serious and violent offenses like robbery, aggravated assault, and auto theft.

Correspondingly, in most jurisdictions, crime is rising precipitously under progressive prosecutors while police morale ebbs to new lows. Using felony conviction rates as a metric and comparing this new cohort of district attorneys to their immediate predecessors, justice is not being done as well and as often as before. This signals a troubling trend as these progressive activists attain local prosecutorial roles and may mark a rise in crime in the affected jurisdictions and nearby locales.



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