



Prosecutorial Independence and Democracy: Why It Matters and Why It's Under Threat

By Michael Collins

Executive Summary

American democracy is being eroded, and one of its most important safeguards is being dismantled in plain sight.

Prosecutors are among the most powerful actors in American government. They decide who is investigated, who is charged, and how the coercive weight of the state is brought to bear against individuals. Because of this power, independent prosecutors have long served as a firewall against the political abuse of the justice system. They check the powerful. They enforce accountability. They are one of the few institutional actors positioned to resist both government overreach and popular demands for punishment. When prosecutors lose their independence, democracy loses a critical line of defense.

That firewall is burning.

Over the past decade, a clear and dangerous pattern has emerged: the mechanisms designed to hold prosecutors accountable have been repurposed to punish them for lawful policy choices. What began as state-level backlash against reform-oriented prosecutors — executive suspensions, legislative preemption, impeachment attempts, and organized recall campaigns — has escalated into a coordinated, multi-level assault on prosecutorial independence itself. Today, that assault has reached the federal government, where the Trump Administration has fired U.S. Attorneys, directed the Department of Justice to pursue political enemies, and launched federal investigations targeting locally elected prosecutors who exercise independent judgment.

Why This Matters Now

When scholars recently compiled 12 markers of democratic erosion — including defying courts and persecuting political opponents — they found the United States had regressed on all 12. Prosecutorial independence was not among the markers tracked. It should be.

Critically, this threat predates Donald Trump and transcends partisan lines. Some of the same politicians who now decry the weaponization of law enforcement helped normalize the very tactics now deployed at national scale. Democrats who used executive power to override progressive prosecutors, and Republicans who built the architecture of preemption laws, together set the stage for the current crisis. The erosion of prosecutorial independence did not begin as a constitutional catastrophe — it began as a political convenience. What was once aberrational has become systematic. The consequences are severe. When prosecutors cannot exercise independent judgment:

- Criminal law becomes a political weapon, deployable against opponents.
- Local democratic choices are overridden by state and federal actors with ideological agendas.
- The checks that prevent the consolidation of coercive power are dismantled.
- Communities — particularly communities of color — lose the ability to elect prosecutors who reflect their values and priorities.
- Federal power is consolidated in ways that undermine both federalism and the separation of powers.

This is not a story about progressive versus conservative prosecution. It is a story about whether democracy can survive the politicization of law enforcement at every level of government. The decentralized structure of American prosecution – with most chief prosecutors locally elected – is not an accident; it is a core democratic feature intended to prevent the concentration of coercive power. Attacks on that structure are attacks on democracy itself.

This report documents the origins and acceleration of this trend, charts its progression from state-level preemption to federal interference, and argues that policymakers, funders, scholars, and civil society must treat attacks on prosecutorial independence as what they are: attacks on democracy. It concludes with a set of near-term and structural recommendations – specific, actionable, and cross-ideological – to interrupt this slide before it becomes irreversible.

The Core Argument

Prosecutorial independence is not a professional privilege or a partisan preference. It is a foundational democratic safeguard – essential to the rule of law, the integrity of elections, and the preservation of self-governance. Addressing the crisis requires renewed commitment to structural protections, clear standards, and a recognition across the political spectrum that the independence of prosecutors is inseparable from the independence of democracy itself.

Introduction

The prosecutor is undoubtedly the most powerful actor in our criminal justice system.¹ While popular culture makes much of the adversarial nature of prosecutors, judges, defense lawyers, witnesses, and more, the reality is that the vast majority of cases do not make it to trial.² Instead, many of the decisions about if and how a case will move forward are made by the prosecutor, typically out of public view (although it is worth noting that reform prosecutors have higher standards on transparency).³ Prosecutors will decide internally on details of a plea deal, whether to charge a crime, which crimes to charge, whether to request bail, and what sentence to recommend.⁴

Despite the secrecy of the decision-making process, the outcomes of prosecution decisions are very public, and the impacts are profound. In ordinary cases, individuals charged with a crime are extremely likely to plead guilty and be saddled with a criminal record.⁵ With high-profile cases in the public eye, the mere fact of charging can impact an individual's life forever.⁶

Those indictment choices can also have important political consequences. A prosecutor can announce an investigation, present an indictment, or speak publicly about the evidence in a case that implicates a political opponent.⁷ If done unethically, prosecutorial actions can tip an election, intimidate would-be political actors, and otherwise undermine free and democratic society.

Because of this tremendous power and the opacity of the process, our laws and norms have recognized the importance of prosecutorial independence, imposing restraints on prosecutors and other actors who might influence them. Prosecutors traditionally limit their involvement in partisan politics and are expected to avoid even the appearance of external influence.



The American Bar Association (ABA) and state laws provide special ethical guidelines for prosecutors: for example, requiring that prosecutors charge only when there is probable cause and safeguard the constitutional rights of the accused.⁸ Moreover, many prosecutors follow more stringent guidelines and will not endorse elected officials or take leadership roles in political organizations.⁹

Likewise, norms and laws seek to limit the influence of outside actors on prosecutors. In the United States, almost all state attorneys general and the vast majority of local prosecutors are elected, not appointed like police chiefs. The U.S. Department of Justice (DOJ), where the President appoints the Attorney General, adopted a range of rules to prevent improper political conduct, including avoiding conduct that might influence an election (sometimes known as the “60-day rule”), extensive rules regarding communication between the President and DOJ, and special requirements when investigating a member of Congress.¹⁰

Though imperfect, these laws and norms have, for many decades, insulated prosecutors from

partisan politics and protected democratic norms under the rule of law.

This report will outline why prosecutorial independence is so essential to democracy and discuss the types of prosecutorial independence under attack. It will then illustrate the way these attacks have manifested over the past decade at the local, state, and federal levels, and what the consequences of such attacks are for U.S. democracy. The report will demonstrate that attacks on prosecutorial independence did not start with President Trump. Rather, the undermining of prosecutors began with politicians who disagreed with local prosecutors over policy decisions, felt pressure to act, and sought ways to curb their independence, sanction them, or remove them from office entirely. Some of those same politicians who now rail against the White House’s abuse of democratic norms inadvertently set the stage for the current wide-scale erosion of prosecutorial independence.¹¹

The report will conclude by sounding the alarm on this threat, which has often been overlooked by scholars of democracy and advocates, and by providing recommendations to protect the

independence of prosecutors moving forward. There must be codification of certain prosecutorial “norms” into actual law and higher, nonpartisan standards for the removal of public officials or any intervention in their offices. Fundamentally, politicians and the wider public must see attacks on prosecutorial independence as an attack on our democracy and place them within the wider crisis that the country now faces. What makes this crisis distinctive – and what this report demonstrates – is that it was normalized by actors on both sides of the aisle, long before it became a national emergency.

Part 1: **The Importance of Prosecutorial Independence for Democracy**

The role of a prosecutor in the justice system is both widely recognized and misunderstood. In its most common understanding, the prosecutor faces off against the defense in a trial and tries to secure a guilty verdict against someone accused of a crime. In reality, the role of a prosecutor is more all-encompassing and less adversarial. A prosecutor’s role can begin even prior to a person’s arrest by police, with police and prosecutors often working closely on investigations – including choosing whom to “target” – so that police can ensure that a case will be successful when brought to court.¹²

In the case of an arrest, a person is brought to the police station, where they are booked. In these initial moments, prosecutors are often asked to review the case for legal validity within the first 24 hours. While it varies by state, most people then receive a bail hearing where a prosecutor recommends to a judge whether a person should be held until their trial, or, if they are to be released, what restrictions should be imposed – a certain amount of money to be paid for release, electronic monitoring, release without having

to pay, etc.¹³ The prosecutor often decides after further investigation whether or not to charge an individual. If they do charge, the prosecutor may work with the person’s defense counsel on a plea agreement, with the prosecutor often dictating terms that are then presented to a judge as a *fait accompli*. Ninety-seven percent of criminal cases are resolved by plea. That means the prosecutor – not the jury or the judge – is effectively the decision-maker in nearly every criminal case in America.¹⁴

This gives prosecutors substantial leverage over a person as they seek to avoid a trial by promising a lengthier sentence should the case go to court. The plea offer need not only include a sentence, but can also include myriad conditions, such as parole/probation, drug tests, certain programming, orders to stay away from certain locations, and more.¹⁵ And while the prosecutor plays a role in the unlikely event a case does go to trial, they also continue to play a pivotal role after the conviction, arguing during appeals and often weighing in on any early release, such as parole. Because prosecutors heavily influence outcomes in the overwhelming majority of cases, their discretion can function as a substitute for adjudication – making ethical independence essential to democratic legitimacy.

Not only do the decisions made by prosecutors impact the liberties of individuals, but they can also powerfully impact public perception. Simply announcing charges can affect a person’s friendships, family relationships, career prospects, and – in the case of politicians – electoral viability.¹⁶ State and national bodies governing prosecutors have imposed strong ethical guidelines instructing prosecutors to employ charging restraint, recognizing the profound impact of simply being charged with a crime.¹⁷

This immense power has also meant that prosecutors have viewed their prosecutorial



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independence as key to their role. Amid all the competing audiences – politicians, the media, the public – they must serve as “Ministers of Justice” and be free from political, partisan, or people pressure.¹⁸ This was underscored by the U.S. Supreme Court in *Berger v. United States* (1935), when the Court noted that the prosecutor “is the representative not of an ordinary litigant, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done.”¹⁹ The Court’s framing reflects a democratic principle: that state power must be exercised with restraint, proportionality, and fidelity to the public interest – not factional or political advantage.

The American Bar Association Criminal Justice Standards for the Prosecution Function describes the role of the prosecutor as “an administrator of justice, a zealous advocate, and an officer of the court ... [who] serves the public interest... by pursuing appropriate criminal charges of appropriate severity, and by exercising discretion to not pursue criminal charges in appropriate circumstances. The

prosecutor should seek to protect the innocent and convict the guilty, consider the interests of victims and witnesses, and respect the constitutional and legal rights of all persons, including suspects and defendants.”²⁰

What makes a prosecutor important within a democratic framework is that they serve as a check on power. If a person who makes the law also breaks the law, then prosecutors step in to ensure accountability. Because they are one of the few actors who have such power, they are often keen to be seen as outside of traditional politics, knowing that they cannot get too comfortable with politicians who they one day may investigate. They can also prevent the justice system itself from being weaponized against political opponents. In moments of political polarization, prosecutors are often the last institutional actors positioned to resist both government overreach and popular demands for punishment. This is one of the reasons that most of the nation’s 2,300 chief prosecutors are elected, not appointed.²¹ They are not beholden to a governor or a mayor; they are beholden to the public that elects them. Their judge and their jury is democracy itself. This decentralization is not

accidental – it is a core feature of American democracy designed to prevent the concentration of coercive power.

In 45 of 50 states, local jurisdictions elect their own prosecutors. These are local officials with local constituencies, tasked with enforcing state law consistent with local resources and priorities. They are often seen as points of reference on matters of public safety and corruption. They have a huge political influence, not least because many elected officials started off their careers as prosecutors. In many cities and towns, the prosecutor is a household name, alongside the mayor or the governor in terms of public profile and media presence. Unlike their state or federal counterparts, local prosecutors can be involved in any aspect of the criminal code, ranging in seriousness from public intoxication to homicide.

Over the years, much has been said about the necessity of courts being independent and judges being free from political pressure.²² The same is true of prosecutors because of their power and quasi-judicial role, and because – as noted – so few cases actually make it to court, leaving prosecutors at times in the role of judge and jury.²³

It is worth bearing in mind that not every country has the same system for prosecutors. Indeed, the U.S. is an outlier because of the election of local prosecutors, known as District Attorneys, State’s Attorneys, County Attorneys, or Prosecuting Attorneys. In France, prosecutors are part of the judiciary, and judges investigate cases.²⁴ In the United Kingdom, prosecutors can also switch roles and essentially become public defenders.²⁵ Comparatively, prosecutors in the U.S. have tremendous power, are generally beholden to the electorate, serve

as an important check on power, and ensure equal application of the law. They can thus be considered a key component of U.S. democracy as the primary – and often only – actor empowered to bring criminal charges before the courts.

Part 2: Prosecutorial Discretion Framework – Democracy Demands Discretion

It is important to distinguish between “prosecutorial independence” and “prosecutorial discretion.” Prosecutorial independence is the structural separation from the executive that

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gives the role independence for decision-making purposes, whereas prosecutorial discretion is the power to choose which cases to bring and which policies to enact. As we shall see, opponents of prosecutors use disagreement with discretionary choices as a pretext to destroy a prosecutor’s independence. Increasingly, opponents of reform-orient

ed prosecutors collapse these concepts intentionally, treating disagreement with discretionary decisions as justification to eliminate independence altogether. This tactic transforms political disagreement into structural punishment – and undermines democratic checks on executive power.

In exploring prosecutorial discretion, we know that prosecutors wield this power in the context of individual cases. They have power from arrest to sentencing recommendations, and beyond, and are obligated to evaluate cases based on the evidence and the law. Individualized justice is not merely a professional norm – it is a democratic safeguard. Without discretion, criminal law would operate mechanically, imposing uniform punishment without regard to context, culpability, or proportionality.

In *McCleskey v. Kemp* (1987), the U.S. Supreme Court noted, "The capacity of prosecutorial discretion to provide individualized justice is firmly entrenched in American law."²⁶ To fulfill that obligation, prosecutors must be free from case-specific interference from other branches of government, which would replace legal judgment with political will — precisely what the separation of powers is meant to prevent.

A second way in which prosecutorial discretion is manifested is via the development and implementation of policy. Prosecutors are often elected on policy platforms that outline what they will do once they are in office.²⁷ A prosecutor may decide to have a policy where nobody charged with gun possession is allowed to be released pretrial. Another prosecutor may decide to decline to hold people without bail for simple drug possession.²⁸ Some policies can underpin programs, whereby a

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specific approach to a specific offense dictates the outcome, e.g. people with drug use issues may be directed to a drug court program. Policy is often negotiated with other government entities and actors; indeed, good public service demands some coordination between overlapping systems. When voters elect a prosecutor on a stated policy platform, they are exercising democratic control over the enforcement of criminal law. Undermining a prosecutor's ability to implement those policies nullifies that democratic choice.

A third area of prosecutorial discretion is in resources and focus. Prosecutors' offices have limited resources and must make decisions

about the allocation of time, energy, and material resources to prioritize issues they see as most important for the community.²⁹ For example, a prosecutor may decide that their jurisdiction would benefit from an enhanced focus on crimes against elderly people or wage theft and thus devote more office resources to the prosecution of such offenses. This area also includes discretion related to staffing. Prosecutors have discretion over who is hired to work in their office — especially at a leadership level — and can therefore make specific choices like hiring a former public defender to manage exonerations or hiring a former police officer to run their police accountability work.³⁰ Again, a consequence of prosecutorial independence is the ability to be insulated from external politicians influencing personnel decisions. Political interference in staffing or resource allocation is a classic method of institutional capture. Preserving prosecutorial discretion in these areas protects offices from becoming instruments of partisan enforcement. This is important for all public servants, but for prosecutors, who have a monopoly over charging and conviction, the need is even greater to insulate them from outside influence.

Part 3: **State vs. Local Conflict: The Undermining of Elected Prosecutors**

a) The Myth of Individualized Enforcement

The use of prosecutorial discretion — individual case and/or policy choices — is not new. Rather, what is new — and what has led to much of the current backlash — is *how* prosecutorial discretion is being used by progressive prosecutors. In a 2025 paper, Justin Murray notes that use of discretion has always been common among prosecutors, but it has often benefited those in power. Murray cites categorical, widespread, and systemic non-prosecution of vice crimes, lynching, and financial crimes. Murray notes that a key difference



between that and progressive prosecutor policies is that the former benefited the wealthy and those in power, so it went unchallenged, whereas the latter benefit working class communities of color and are thus ripe for attack by those in power who do not wish to level the playing field.³¹ By the same token, traditional prosecutors tend to have policies that are informal and opaque, whereas the progressive policies are formal and transparent and emphasize fairness, making them vulnerable to attack. The backlash against progressive prosecutorial discretion is not about the existence of discretion, but about who benefits from it.

b) Oversight of Prosecutors – Watching the Watcher

Even though local prosecutors are typically elected by and accountable to voters, there have long been mechanisms to remove them from office, just as with any elected official. Given the longstanding importance of prosecutorial independence, the bar for removal has tradi-

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tionally been set very high and is often the result of the local prosecutor being convicted of a crime. For example, in 2007, Mike Nifong was disbarred and removed from office as the

District Attorney of Durham County, N.C., due to his unethical conduct during the Duke lacrosse case.³² In 2017, Contra Costa County, Calif., District Attorney Mark Peterson was automatically removed from office following his conviction for misuse of campaign finances.³³ Others have resigned when evidence of serious misconduct came to light and their removal was likely. Recognizing the importance of this oversight function, the ABA supports "appropriate oversight of prosecutors suspected of being mentally or physically unfit or who engage in 'gross deviation' from professional norms."³⁴

Legitimate oversight of prosecutors has a clear and historically consistent profile. It is triggered by evidence of criminal misconduct, demonstrated incapacity, or gross deviation from professional norms – not disagreement with policy choices. It is conducted by an independent body with no direct political stake

in the outcome and subject to procedural protections including notice, an opportunity to respond, and meaningful judicial review. And it is applied consistently, regardless of the ideology of the prosecutor or the party in power. The Nifong and Peterson cases illustrate this standard: both involved documented, serious misconduct unrelated to policy; both resulted in removal through established legal processes; and neither required the intervention of elected officials with competing political interests. This is the standard against which the actions documented in this report must be measured. What follows is not a record of appropriate oversight. It is a record of that standard being systematically abandoned.

In recent years, across states and political contexts, mechanisms originally designed for accountability are being repurposed to discipline elected prosecutors for lawful discretionary decisions. This shift represents a fundamental break from democratic norms and threatens the decentralization and separation of power that undergirds the American justice system. What follows is not a collection of isolated controversies, but a coherent national trend.

c) Rise of the Progressive Prosecutor Movement

Over the past decade, the bar for intervention became a lot lower as a response to the rise of the “progressive prosecutor” movement in the mid-2010s.³⁵ Criminal justice reform advocates began to succeed in electing prosecutors who had a vision for the office that departed from the status quo. Elected prosecutors such as Kim Foxx in Cook County, Ill., Larry Krasner in Philadelphia, Marilyn Mosby in Baltimore City, George Gascón in San Francisco and Los Angeles, and Chesa Boudin in San Francisco – to name a few – implemented policies where they used their discretion to decline to prosecute certain minor offenses, held police

accountable for misconduct, overturned wrongful convictions, reduced racial disparities, and more.³⁶ Some offices introduced declination policies, whereby they would decline to prosecute certain categories of crime, rationalizing that such offenses had contributed to inequities in the justice system. For example, upon taking office in 2018, Larry Krasner issued a memo with the justification that, “These policies are an effort to end mass incarceration and bring balance back to sentencing.”³⁷

d) The Undermining Begins

In 2017, Orlando State Attorney Aramis Ayala decided upon taking office that she was not going to seek the death penalty. Soon after, Florida Governor Rick Scott took the extraordinary and unprecedented measure of removing Ayala from any cases that could result in the death penalty and reassigning those cases to other local prosecutors, a move that was upheld in court.³⁸ Ayala’s discretion over individual cases and policy was undermined by the governor’s actions simply because he disagreed with her policy. This action did not correct misconduct or illegality; it nullified a democratically expressed policy choice.

Krasner’s moves, including the aforementioned memo,

sparked fierce criticism from conservatives.³⁹ In 2019, the Pennsylvania state legislature passed a law that gave authority to then-state Attorney General Josh Shapiro to prosecute certain firearms violations in Philadelphia – but nowhere else in the state.⁴⁰ The bill was passed by a Republican-led state legislature – which had claimed Krasner was “soft-on-crime” since he took office – and signed by a Democratic governor. The move meant that if Krasner declined to prosecute or diverted a firearms case, police could take the same case to the AG’s office. Despite the bill being pushed by Josh Shapiro, his office stated that they would

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not use the law to “go around” Larry Krasner. Nonetheless, an opening salvo against Krasner’s discretion had been fired. In 2023, the state legislature passed another law giving a special prosecutor jurisdiction over crimes committed only on Philadelphia’s public transit system.⁴¹

These efforts to undermine local prosecutors spread to Maryland, where Republican Governor Larry Hogan requested that Democratic Attorney General Brian Frosh use his authority to prosecute cases in Baltimore City, after Hogan claimed that Baltimore City State’s Attorney Marilyn Mosby was not sufficiently tough on guns and drugs in the city.⁴² While Hogan produced no evidence to back his claim, Mosby produced data showing that her conviction rate was no different than her predecessors and that there was no evidence she was soft on guns or drug offenses.⁴³ Nonetheless, Frosh expressed support for Hogan’s move, although the idea was ultimately shut down by the state legislature.

In these examples, we see two early indicators of a trend where “progressive prosecutors” were accused of being “soft-on-crime” — that is

to say, pursuing a different policy approach — and therefore, the state decided to step in, undermine them, or remove their authority to prosecute certain cases and designate it to another actor. Both Krasner and Mosby highlighted how fundamentally undemocratic it was to be elected to prosecute certain crimes and to limit the harms of the system on public safety, especially for Black communities, and then have that authority removed by external forces.

Back in Florida, Governor Ron DeSantis doubled down on his predecessor Rick Scott’s approach. Under the Florida constitution, the governor has the power to suspend certain elected officials — including local prosecutors — for malfeasance, misfeasance, neglect of duty, incompetence, permanent inability to perform official duties, or commission of a felony.⁴⁴ Notably, this suspension power is broader than most states and allows action before any criminal conviction or formal disciplinary proceedings. After the reversal of *Roe v. Wade* in 2022, Tampa’s elected prosecutor Andrew Warren signed a letter with other local prosecutors stating that he would use his discretion to not prosecute abortion-related offenses.

DeSantis seized on the letter — and other reform policies Warren had implemented — as a pretext to remove Warren and handpick his replacement.⁴⁵ Warren subsequently lost his court battle to be reinstated.⁴⁶

A few years later, DeSantis would repeat the same move against another progressive prosecutor, Monique Worrell. Worrell had taken over from Aramis Ayala, demonstrating that the voters of Orlando continued to support a reform approach to prosecution. Yet rumors that DeSantis planned to oust Worrell swirled for months, and in August 2023, he removed her from office citing — without evidence — “neglect of duty and incompetence.”⁴⁷ DeSantis installed an ally in her stead, yet just over a year later, Worrell ran again and handily won election to her old position. These removals demonstrate how executive suspension powers can be repurposed into tools of ideological discipline.

e) State Preemption Efforts

These interventions marked a turning point. No longer limited to extraordinary executive actions, state legislatures began codifying mechanisms to override, discipline, or remove certain prosecutors for policy decisions alone. While legislatures are a core part of the democratic process, these measures raise important questions about the balance between state-wide authority and local democratic choice. Prosecutors are typically elected by local constituencies to reflect community priorities around public safety, resource allocation, and justice. When state-level actors intervene to reverse those local electoral decisions, particularly absent clear misconduct, it effectively nullifies the will of the voters. This shift from ad hoc retaliation to structural preemption represents a significant escalation, not simply in policymaking, but also in the reallocation of democratic authority away from local communities.

As DeSantis relied on existing state law to remove Warren and Worrell, a number of state legislatures across the country suddenly began passing laws to enable the removal of prosecutors, even giving themselves the power to investigate, impeach, and remove officials. Such efforts — known as preemption because they preempt the power of local officials — became increasingly common after 2020.

Fourteen states have recently placed limits on prosecutorial independence, according to the latest report from Local Solutions Support Center and Public Rights Project.⁴⁸ Of note, even states that do not have a progressive prosecutor have enacted such laws, demonstrating the extent to which animosity toward progressive prosecutors has become a cause célèbre of the right.

State preemption of prosecutorial discretion represents a vertical consolidation of coercive power. While intervention from higher levels of government has historically been essential to correct local injustices — particularly in the civil rights context — these new mechanisms operate differently. Rather than expanding protections or remedying rights violations, they often constrain the ability of locally elected prosecutors to make policy judgments about resource allocation, public safety, and fairness. When used to override local policy decisions absent misconduct or constitutional violations, this consolidation can reduce accountability, concentrate power, and limit the flexibility needed to respond to community-specific conditions.

There are examples of preemption from all across the country, a selection of which are outlined below.

In Philadelphia, Larry Krasner faced years of investigation and litigation by Republicans in the state legislature, who even impeached him, though the case was eventually dismissed

by the state Supreme Court.⁴⁹ In Memphis, prosecutor Steve Mulroy continues to face down attempts to remove him.⁵⁰

In Georgia, the state passed a law creating an independent commission — the Prosecuting Attorneys Qualifications Commission — that has the power to remove elected prosecutors from office. A motivating factor for the Georgia law was District Attorney Fani Willis' attempted prosecution of Donald Trump, as was then-Athens District Attorney Deborah Gonzalez, who had disputes with the governor.^{51 52} Not only does the law allow removal, but it also bans running for election for 10 years afterwards.

Iowa passed legislation that allows the attorney general to take over any criminal case without a request from the responsible county attorney.⁵³ In 2023, Texas passed a law that defined any blanket declination policy by a district attorney as misconduct and enabled any resident to file suit for removal.⁵⁴ These laws convert criminal enforcement from a locally accountable function into a centralized political instrument.

There are also examples of attorneys general taking over cases from local prosecutors without request and generally interfering in the duties of the local office. Often this action is initiated by Democrats against other Democrats, such as in 2023, when Gov. Tim Walz — a year away from being the vice presidential candidate — removed a case from local County Attorney Mary Moriarty and gave it to Attorney General Keith Ellison, after victim concerns about the leniency of a plea deal.⁵⁵

Meanwhile, in California, two elected prosecutors — District Attorneys Chesa Boudin of San Francisco and Pamela Price of Alameda County — were removed via the recall process, while Los Angeles District Attorney George Gascón survived two recall attempts. While recalls are not undemocratic, in these cases, proponents spent massive amounts of money — often from

right-wing or dark money sources — to oust democratically elected prosecutors simply because they disagreed with their policy and case decisions, particularly those that were meant to reduce incarceration.⁵⁶ Policy disagreements are what regularly scheduled elections are for.

The following chart illustrates the breadth, form, and normalization of these state-level efforts to strip local prosecutors of independence for policy reasons rather than misconduct.

Taken together, these examples of preemption represent a coordinated national shift — not a collection of local disputes — in which the mechanisms of democratic accountability have been turned into instruments of ideological enforcement.

EXAMPLES OF PROSECUTOR PREEMPTION EFFORTS

STATE	TYPE OF ACTION	STATUS	SUMMARY OF ACTION
Florida	Executive action (governor suspension of elected prosecutor)	Enacted (2022-23)	The governor removed reform-minded State Attorney Andrew Warren — who declined certain prosecutions — a use of executive power to override local prosecutorial discretion. He later removed another progressive, Monique Worrell.
Georgia	Legislation creating a statewide commission to discipline/remove prosecutors	Enacted (Senate Bill 92, 2023; Senate Bill 332, 2024; Senate Bill 605, 2026)	Created a Prosecuting Attorneys Qualifications Commission (PAQC) that can remove district attorneys for “willful and persistent failure” or refusal to prosecute certain offenses.
Iowa	Legislation to allow the state attorney general to override local prosecutor decisions	Enacted (Senate File 514, 2023)	Allows the state AG to intervene in a county attorney’s prosecution of any crime even if they don’t request help.
Mississippi	Legislation establishing special courts with state-appointed prosecutors for certain jurisdictions (e.g., Capitol Complex)	Enacted (Senate Bill 140, 2023)	Removes local prosecutor authority in those jurisdictions — instead cases are handled by prosecutors appointed by the state AG or other state actors.
Missouri	Other actions: special prosecutor arrangements or pressure leading to resignations	Mixed (ended with resignation in 2023)	In St. Louis, pressure and legal action contributed to the resignation of a reform-oriented Circuit Attorney after state-level attempts to remove her or challenge her discretion.
Pennsylvania	Legislative attempts to strip DA of certain jurisdiction	Enacted (Act 40, 2023)	For crimes on public transit only in Philadelphia, the state law grants exclusive jurisdiction to a state-appointed or state-controlled prosecutor instead of the locally elected DA.
Texas	“Rogue prosecutor” law allowing removal/petitions against DAs who decline prosecution	Enacted (HB 17, 2023)	Empowers courts (or petitioners) to seek removal of a prosecutor for declining to prosecute certain categories of crime.



Part 4: **Federal-Level Erosion of Prosecutorial Independence**

Once the punishment of lawful prosecutorial discretion became normalized at the state level, the same logic migrated upward. The erosion of prosecutorial independence did not stop at state lines — it reached the federal government itself.

a) Presidential Pressure on the Department of Justice

Once political actors normalized the punishment of local prosecutors for lawful discretion, it was inevitable that the same logic would be applied at the federal level. However, even prior to President Trump, we saw one clear instance of this during the administration of President George W. Bush.

In 2006, the DOJ requested the resignation of nine U.S. Attorneys. This caused shockwaves at the time because U.S. Attorneys, while subject to presidential appointment, are Senate-approved and party to the “blue-slip” process, whereby each U.S. Attorney must be approved

by both Senators from the state they will take office in.⁵⁷ While a new administration typically changes all U.S. Attorneys, to do so during the second term raised concerns. The firings led to accusations that the Bush Administration had exacted political retribution because of the U.S. Attorneys’ investigation of political corruption among elected Republicans. A subsequent Inspector General report found the dismissal process to be “arbitrary” and “fundamentally flawed,” noting that it “raised doubts about the integrity of Department prosecution decisions.”⁵⁸ At the time, the incident was treated as aberrational. In retrospect, it foreshadowed a broader erosion of norms protecting prosecutorial independence.

b) President Trump's Abuse of Prosecutorial Independence

President Trump’s first term did not have seismic impacts on prosecutorial independence compared to his second, but it would not be without incident. In his first term, he publicly called for the prosecutions of a range of his political enemies: Peter Strzok, Hillary Clinton, Andrew McCabe, and more.⁵⁹ He also called on the DOJ to reduce its sentencing recommendation for his ally Roger Stone.⁶⁰

In his second term, Trump has ramped up attacks on prosecutorial independence in myriad ways, including:

- Direct public and private pressure on the DOJ to investigate and charge his political enemies, including former FBI Director James Comey, New York Attorney General Letitia James, former Federal Reserve Chair Jerome Powell, and Senator Adam Schiff.⁶¹
- Political firings of U.S. Attorneys and DOJ officials who refused to comply with presidential demands (e.g., firing or demanding resignations of federal prosecutors who did not believe the evidence warranted charging Comey or dropping charges against then-New York Mayor Eric Adams).⁶²
- Firing or demoting prosecutors as retribution for involvement in prior cases (e.g., Russia election interference investigations, January 6 insurrection participant cases, investigations into Trump for document mishandling and his role in January 6).⁶³

To date, the organization Protect Democracy has tracked 22 arrests, investigations, or prosecutions by the Trump Administration that it deems “political.”⁶⁴ All this has led many to see Trump’s weaponization of the DOJ against his enemies as a true crisis for democracy.

c) Federal-Level Erosion: DOJ Pressure on Local Prosecutors

Federal pressure on local prosecutors collapses federalism, democratic accountability, and prosecutorial independence in a single move. The Trump Administration has not limited itself to attacks on federal prosecutors. Indeed, a key part of Project 2025 was the removal of certain local prosecutors who did not adhere to the administration’s values:

“Where warranted and proper under federal law, initiate legal action against local officials—

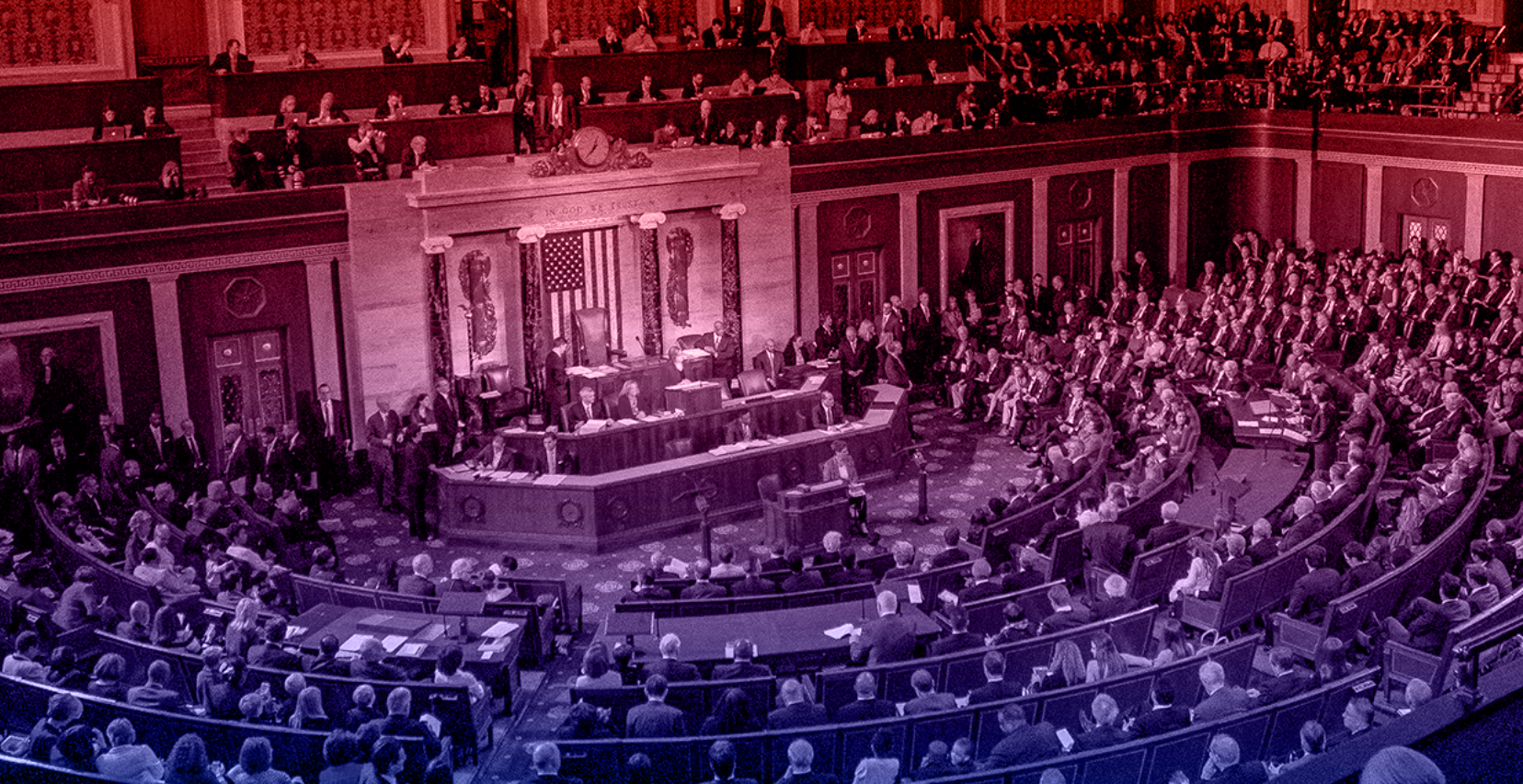
including District Attorneys—who deny American citizens the ‘equal protection of the laws’ by refusing to prosecute criminal offenses in their jurisdictions. This holds true particularly for jurisdictions that refuse to enforce the law against criminals based on the Left’s favored defining characteristics of the would-be offender (race, so-called gender identity, sexual orientation, etc.) or other political considerations (e.g., immigration status).”⁶⁵

This language explicitly reframes prosecutorial discretion as a civil rights violation when it conflicts with federal political priorities.

The first Trump Administration also threatened progressive prosecutors, albeit on a smaller scale. DOJ used the grants process and the threat of losing federal funding to try and push cities and prosecutors to enforce federal immigration laws. In a 2019 speech, Attorney General Bill Barr attacked progressive prosecutors who “style themselves as ‘social justice’ reformers.”⁶⁶

The current administration has gone further. Hennepin County, Minn. Attorney Mary Moriarty provoked the ire of conservative pundits when her office diverted the case of a person accused of setting fire to Teslas in Minneapolis.⁶⁷ A short time later, the DOJ Civil Rights Division announced it was investigating Moriarty and her office over a policy to consider “racial identity” in prosecutorial decision-making.⁶⁸ Local Progress – an organization that supports local elected officials – made the connection:

“The Trump Administration’s recently launched investigation into Moriarty’s office is a calculated, politically-motivated, and unlawful attack on democracy and governing power of duly elected local elected officials. As a network of more than 1,600 local leaders nationwide, we are deeply concerned that the Trump Administration is weaponizing its power to erode local control. Let’s be clear: this investigation is not just an attack on one bold



prosecutor, it is a calculated attempt by the Trump Administration to undermine and strip power from all local elected officials who are fighting back against its harmful agenda.”⁶⁹

Trump congressional allies have also sought to undermine progressive prosecutors. In November 2025, House Judiciary Chairman Jim Jordan opened an investigation into Parisa Dehghani-Tafti, the Commonwealth’s Attorney for Arlington County and the City of Falls Church, Va., over her decisions during an investigation into alleged threats against Stephen Miller, White House Deputy Chief of Staff for Policy.⁷⁰ The Fairfax County Commonwealth’s Attorney was brought before the House Judiciary Committee to testify after right-wing claims that his policies on immigration have led to murders.⁷¹ These are not isolated investigations. They are a coordinated federal strategy to use congressional and executive power to override the democratic choices of local voters – and they follow the same playbook that state legislatures have been running for a decade.

Part 5: **A Roadmap for Protecting Prosecutorial Independence**

The following recommendations are directed at Congress, state legislators, the judiciary, bar associations, voters, media, and the broader democracy community. They are organized in two tiers: actions that can be taken immediately within existing authority followed by structural reforms requiring new law or constitutional action. Both are necessary. Near-term actions build political will and legal infrastructure; structural reforms create protections that endure beyond any single administration.

These recommendations are not partisan. They rest on principles that unite conservatives, federalists, libertarians, and progressives: decentralized power, local democratic accountability, separation of powers, and the protection of individual liberty from government overreach. Attacks on prosecutorial independence threaten all these values, regardless of which party is doing the attacking.

TIER 1: NEAR-TERM ACTIONS

Actions within existing authority – no new legislation required

1. Establish and Apply Consistent, Nonpartisan Standards for Intervention

The absence of clear standards for when intervention in prosecutorial decisions is legitimate has enabled abuse across party lines. Attorneys general, bar associations, and professional bodies should adopt and publish explicit guidelines distinguishing lawful oversight from political interference – and apply them without regard to the ideology of the prosecutor targeted.

AUDIENCE	ACTION
State Attorneys General	Adopt and publish formal guidelines specifying the threshold required before intervening in a locally elected prosecutor's cases – limited to documented misconduct, incapacity, or constitutional violation, not policy disagreement.
State & National Bar Associations	Issue formal ethics opinions clarifying that policy disagreement alone does not constitute misconduct, neglect of duty, or grounds for bar discipline, and that using bar complaint mechanisms to harass prosecutors for lawful discretionary choices is itself a misuse of the disciplinary process.
Both Political Parties	Publicly commit to opposing state and federal intervention in local prosecutorial decisions absent clear misconduct – and hold their own officials accountable to that standard, not just the opposition's.

2. Recognize Attacks on Prosecutors as Democratic Erosion

Democratic backsliding frameworks – used by scholars, media, and civil society to track the health of U.S. democracy – have systematically omitted prosecutorial independence as an indicator. That gap must be closed. The politicization of prosecution belongs alongside judicial interference and executive overreach as a recognized marker of democratic decline.

AUDIENCE	ACTION
Democracy Scholars & Researchers	Incorporate prosecutorial independence as a formal indicator in democratic health indices and backsliding research, alongside existing metrics for judicial independence, press freedom, and separation of powers.

AUDIENCE	ACTION
Media & Editorial Boards	Cover attacks on locally elected prosecutors as democracy stories, not merely criminal justice stories, and apply the same scrutiny to politically-motivated removals regardless of the prosecutor's ideology or the party initiating the removal.
Civil Society & Advocacy Organizations	Treat prosecutorial independence as a standing democracy issue – not a reactive one – and connect state-level pre-emption to the broader pattern of democratic erosion at the federal level.

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3. Build Cross-Ideological Opposition to Prosecutorial Preemption

Attacks on prosecutorial independence have succeeded in part because they have been framed as partisan disputes. A durable defense requires a coalition that cannot be dismissed as ideological – one that includes conservative federalists, libertarians, and civil libertarians alongside progressive advocates. The argument for local prosecutorial independence is, at its core, an argument against the consolidation of coercive power, and it should be made on those terms.

AUDIENCE	ACTION
Conservative & Libertarian Organizations	Apply federalism and anti-consolidation principles consistently: oppose state and federal preemption of locally elected prosecutors on the same grounds used to oppose other forms of top-down overreach of local democratic governance.
Voters & Local Communities	Treat attempts to remove or override locally elected prosecutors for policy reasons as a form of voter suppression – an override of the democratic choices made at the ballot box – and organize accordingly.
Philanthropic Community	Fund prosecutorial independence as a core democracy and rule-of-law issue, not a subcategory of criminal justice reform, with grantmaking that supports legal defense, public education, and cross-ideological coalition work.

4. Support Legal Defense of Prosecutors Facing Politically Motivated Removal

Prosecutors facing politically motivated removal or interference currently lack organized legal support. Existing pro-democracy legal organizations should treat these cases as a priority, both for the immediate protection they provide and for the legal precedents they create.

AUDIENCE	ACTION
Pro-Democracy Legal Organizations	Prioritize prosecutorial independence cases – including removal challenges, preemption litigation, and federal interference claims – as a core area of litigation and develop model legal arguments and amicus infrastructure for rapid deployment.
Law Schools & Legal Clinics	Establish prosecutorial independence as a recognized area of constitutional and administrative law scholarship and clinic work, building the legal talent pipeline and analytical frameworks needed for sustained litigation.
State & Federal Courts	Apply meaningful scrutiny to removal proceedings that lack misconduct findings and distinguish between legitimate accountability mechanisms and the use of legal process to punish lawful discretionary decisions.

TIER 2: STRUCTURAL REFORMS

Legislative, constitutional, and institutional changes for durable protection

Near-term actions are essential but insufficient. The mechanisms of erosion documented in this report – broad executive suspension powers, preemption statutes, federal funding coercion, and the normalization of politically-motivated removal – require statutory and structural responses. The following reforms are concrete, legally grounded, and achievable with the political will to pursue them.

5. Congress: Codify DOJ Independence Protections into Law

Decades of Justice Department norms preventing presidential interference in prosecutorial decisions have proven insufficient. Norms without enforcement mechanisms are suggestions. Congress must convert the most critical protections into enforceable statute, with oversight mechanisms that survive changes in administration.

AUDIENCE	ACTION
Congress	Enact legislation establishing statutory protections for federal prosecutors, including a prohibition on presidential direction of specific charging or investigation decisions, with enforcement via an independent DOJ Inspector General reporting directly to Congress.
Congress	Make the DOJ Inspector General fully independent by statute, with its own appropriation, subpoena authority, and direct congressional reporting – insulated from executive interference.
Congress	Codify the 60-day rule and White House communication restrictions as law, with penalties for violation including mandatory congressional notification and independent review.
Congress	Prohibit conditioning of federal criminal justice grants – including funds from the Byrne Justice Assistance Grant (JAG) and the Office of Community Oriented Policing Services (COPS) – on local prosecutorial charging decisions, declination policies, or immigration enforcement cooperation, with penalties for federal officials who use grants as coercion.

6. Congress: Protect Local Prosecutors from Federal Interference

The Trump Administration's direct targeting of locally elected prosecutors – through DOJ investigations, congressional subpoenas, and public intimidation – is an unprecedented assault on federalism. Congress must establish clear limits on federal authority to interfere with locally elected officials exercising lawful discretion.

AUDIENCE	ACTION
Congress	Enact legislation clarifying that federal civil rights statutes do not authorize DOJ investigation or prosecution of local prosecutors for lawful declination policies absent specific, documented evidence of discriminatory intent applied to individual cases – not general policy choices.
Congress	Establish clear limits on congressional subpoena authority directed at locally elected prosecutors, requiring a threshold showing of federal jurisdiction and relevance before subpoenas may be issued.

AUDIENCE	ACTION
Congress	Conduct oversight hearings on political interference in federal and local prosecution and establish a permanent mechanism for tracking and reporting on executive branch attempts to direct prosecutorial decisions.

7. State Legislatures: Establish Higher, Nonpartisan Removal Standards

State removal and suspension mechanisms have been the primary vehicle for politically-motivated attacks on prosecutors. The current patchwork – from Florida’s broad executive suspension power to Georgia’s newly created removal commission – reflects the absence of principled national standards. State legislatures should reform these mechanisms to require genuine misconduct findings, not policy disagreements.

AUDIENCE	ACTION
State Legislatures	Reform removal statutes to require that suspension or removal of an elected prosecutor be based on a formal finding of criminal misconduct, incapacity, or gross deviation from professional norms – not policy disagreement – made by an independent body with no direct political stake in the outcome.
State Legislatures	Require due process protections in all removal proceedings, including advance notice of charges, an opportunity to respond, a formal hearing, and meaningful judicial review.
State Legislatures	Repeal or significantly narrow “rogue prosecutor” laws – such as Texas HB 17 and Georgia SB 92 – that authorize removal or discipline based on declination policies or other lawful exercises of prosecutorial discretion.

8. State Legislatures: Repeal Preemption Laws That Override Local Democratic Choices

State preemption laws have converted criminal enforcement from a locally accountable function into a centralized political instrument. These laws do not increase public safety or improve accountability – they override voter choice and consolidate coercive power. They should be repealed.

AUDIENCE	ACTION
State Legislatures	Repeal statutes that allow state attorneys general to take over local cases without request based on policy disagreement rather than documented misconduct or constitutional violation.
State Legislatures	Repeal or reform special prosecutor arrangements that remove jurisdiction from locally elected prosecutors for specific jurisdictions or offense categories based on politics rather than demonstrated need.
State Legislatures	Enact affirmative protections for local prosecutorial independence, establishing that state intervention is permissible only upon a threshold showing of misconduct, constitutional violation, or clear legal error – not ideological disagreement.

9. All Levels of Government: Protect the Funding Architecture of Local Justice

Funding coercion has become a favored tool for pressuring locally elected prosecutors into political compliance. Protecting operating budgets from politically-motivated manipulation is essential to preserving the independence that local election is designed to guarantee.

AUDIENCE	ACTION
Congress	Amend federal criminal justice grant programs to explicitly prohibit conditioning awards on prosecutorial charging decisions, declination policies, or enforcement priorities, with independent enforcement and penalties for misuse.
State Legislatures	Enact provisions prohibiting state legislatures or executives from withholding operating funds from a county or district attorney's office based on policy disagreement – funding decisions must be based on budget criteria, not political compliance.
Voters & County Governments	Scrutinize attempts to reduce or eliminate a prosecutor's office's budget in the aftermath of political disputes and recognize funding manipulation as a form of political retaliation against democratically elected officials.

10. The Democracy Community: Embed Prosecutorial Independence in Democratic Governance Frameworks

The most important long-term structural change is recognition – by democracy scholars, funders, advocates, and the public – that prosecutorial independence is a core component of democratic governance, not a criminal justice subspecialty. Without that recognition, the other structural reforms lack the political infrastructure to be enacted or sustained.

AUDIENCE	ACTION
Democracy Researchers & Scholars	Formally incorporate prosecutorial independence into established democratic health frameworks, including Freedom House, V-Dem, and the Economist Intelligence Unit Democracy Index, using the documented evidence of systematic erosion in this report as a basis.
State & National Bar Associations	Adopt formal resolutions and policy statements connecting prosecutorial independence to judicial independence as co-equal democratic safeguards and commit institutional resources to active defense of both.
Philanthropy	Treat prosecutorial independence as a democracy and rule-of-law funding priority – not a subcategory of criminal justice – supporting litigation, legal scholarship, public education, and the coalition infrastructure needed for structural reform.

THE STANDARD FOR ACTION

It is not too late to interrupt the slide. The cost of inaction is visible in the cases documented here. The roadmap for action is clear. Protecting prosecutorial independence is one of the most concrete and critical paths available to those who want to defend American democracy – and it requires a response equal to the scale of the threat.

CONCLUSION – A NOTE OF URGENCY

Prosecutorial independence is not a professional privilege – it is a democratic necessity. It is a cornerstone of the rule of law in modern U.S. democracy. Yet the convergence of federal political interference and state legislative preemption has created a crisis for American justice.

The tactics documented in this report – executive suspensions, legislative preemption, federal investigations of local officials, congressional harassment, funding coercion – did not emerge fully formed. They were normalized incrementally, often by actors who did not intend to set the precedents they created. Reversing that normalization requires the same incremental, cross-ideological, institutionally grounded effort that created it. The difference is that those who created the problem were not trying to preserve democracy. Those who must reverse it are.

Democracies rarely collapse all at once. They erode when exceptions become precedents, when retaliation becomes governance, and when the institutions designed to resist consolidation are captured one by one. The question is whether Congress, state legislators, the bar, the media, the democracy community, and the public will treat prosecutorial independence as the democratic necessity this report demonstrates it to be.

The roadmap laid out above is not aspirational – it is urgent.

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ABOUT PROSECUTORS ALLIANCE ACTION

Prosecutors Alliance Action advocates for pro-justice and pro-democracy laws, defends prosecutors facing bad-faith partisan attacks, and mobilizes voters to support leaders and policies committed to fairness, safety, and constitutional rights. Learn more about PAA at paaction.org.

REFERENCES

- ¹ ACLU of Washington, *The Power of the Prosecutor: The Basics*, July 28, 2022.
- ² National Association of Criminal Defense Lawyers, *The Trial Penalty: The Sixth Amendment Right to Trial on the Verge of Extinction and How to Save It*, July 10, 2018.
- ³ Bruce A. Green and Rebecca Roiphe, *A Fiduciary Theory of Progressive Prosecution*, *American Criminal Law Review* 60 (2023): 1431.
- ⁴ Fair and Just Prosecution, *Issues at a Glance: Plea Bargaining*, 2022.
- ⁵ National Association of Criminal Defense Lawyers, *The Trial Penalty*.
- ⁶ Longman Jakuback, *Are There Long-Term Effects If You Are Overcharged?*, September 2, 2023.
- ⁷ Protect Democracy, *Prosecuting Political Leaders During an Election*, April 3, 2024.
- ⁸ American Bar Association, *Rule 3.8: Special Responsibilities of a Prosecutor*, *Model Rules of Professional Conduct*.
- ⁹ District Attorneys Association of the State of New York, *The Right Thing: Ethical Guidelines for Prosecutors*, 2015.
- ¹⁰ U.S. Department of Justice, 9-85.000: *Protection of Government Integrity*, *Justice Manual*.
- ¹¹ Consider This from NPR, *Pennsylvania Democratic Governor Josh Shapiro on resisting Trump*, January 27, 2026.
- ¹² American Bar Association, *Criminal Justice Standards for the Prosecution Function*, 2017.
- ¹³ University of Washington School of Law, *What Is Bail, and How Does It Work in the U.S. Court System?*, October 27, 2025.
- ¹⁴ National Association of Criminal Defense Lawyers, *The Trial Penalty*.
- ¹⁵ Fair and Just Prosecution, *Issues at a Glance: Plea Bargaining*.
- ¹⁶ Longman Jakuback, *Are There Long-Term Effects If You Are Overcharged?*
- ¹⁷ District Attorneys Association of the State of New York, *The Right Thing*.
- ¹⁸ Ellen S. Podgor, *Bennett Gershman on the Prosecutor's Role as 'Minister of Justice'*, *Ohio State Journal of Criminal Law* 16 (2018): 399.
- ¹⁹ *Berger v. United States*, 295 U.S. 78 (1935).
- ²⁰ American Bar Association, *ABA Supports Protecting the Independence of Prosecutors*, September 28, 2023.
- ²¹ Green and Roiphe, *A Fiduciary Theory of Progressive Prosecution*.
- ²² Sandra Day O'Connor, *The Importance of Judicial Independence*, *Stanford Lawyer*, May 15, 2008.
- ²³ Jordan A. Sklansky, *The Nature and Function of Prosecutorial Power*, *Journal of Criminal Law and Criminology* 106 (2016): 473.
- ²⁴ Johan Dechepy-Tellier, *The Public Prosecutor's Office in the French Legal System*, *DPCE Online*, April 15, 2024.
- ²⁵ Jacqueline Hodgson, *The Changing Role of the Crown Prosecutor*, *Centre for Crime and Justice Studies*, March 2010.
- ²⁶ *McCleskey v. Kemp*, 481 U.S. 279 (1987).
- ²⁷ Jonah E. Bromwich, *Alvin Bragg Wins, Becoming First Black D.A. in Manhattan*, *The New York Times*, November 2, 2021.
- ²⁸ Johns Hopkins Bloomberg School of Public Health, *Baltimore's No-Prosecution Policy for Low-Level Drug Possession and Prostitution Finds Almost No Rearrests for Serious Offenses*, October 19, 2021.
- ²⁹ Daniel S. Lawrence, Camille Gourdet, Duren Banks, Michael G. Planty, Dulani Woods, and Brian A. Jackson, *Prosecutor Priorities, Challenges, and Solutions*, RAND Corporation, 2019.
- ³⁰ Ethan Johnson, *Cherokee DA taps prosecutor to lead Gang/Organized Crime Unit*, *Tribune Ledger News*, April 17, 2026.
- ³¹ Justin Murray, *Prosecutorial Reform and the Myth of Individualized Enforcement*, *Washington University Law Review* 102 (2025): 1435.
- ³² WRAL, *Judge Suspends Resigned Nifong From DA's Office*, June 18, 2007.
- ³³ NBC Bay Area, *Grand Jury Seeks Removal of Contra Costa County District Attorney*, May 11, 2017.
- ³⁴ American Bar Association, *ABA Supports Protecting the Independence of Prosecutors*.
- ³⁵ Ojmarrh Mitchell and Nick Petersen, *The Rise of Progressive Prosecutors in the United States: Politics, Prospects, and Perils*, *Annual Review of Criminology* 8 (2025): 459.
- ³⁶ Wendy N. Davis, *Progressive prosecutors are encountering pushback*, *ABA Journal*, July 21, 2022.
- ³⁷ Philadelphia District Attorney's Office, *Philadelphia DAO New Policies*, February 15, 2018.
- ³⁸ BBC News, *Florida prosecutor Aramis Ayala removed in death penalty row*, April 4, 2017.
- ³⁹ Ben Austen, *In Philadelphia, a Progressive D.A. Tests the Power — and Learns the Limits — of His Office*, *The New York Times Magazine*, October 30, 2018.
- ⁴⁰ Akela Lacy and Ryan Grim, *Pennsylvania Lawmakers Move to Strip Reformist Prosecutor Larry Krasner of Authority*, *The Intercept*, July 8, 2019.
- ⁴¹ Peter Hall, *Philly DA Krasner sues state to overturn special transit prosecutor law as unconstitutional*, *Pennsylvania Capital-Star*, January 11, 2024.
- ⁴² Vanessa Herring, *Hogan directs AG to prosecute more violent crimes in Baltimore*, *WBAL-TV*, September 19, 2019.

- ⁴³Kelly Broderick, City State Attorney Marilyn Mosby releases letter addressed to Governor Hogan, WMAR 2 News, September 19, 2019.
- ⁴⁴State of Florida, Florida Constitution.
- ⁴⁵Office of the Governor of Florida, Executive Order Number 22-176, August 4, 2022.
- ⁴⁶Jim Saunders, Court ends legal fight of Florida prosecutor ousted by DeSantis, News Service of Florida, January 11, 2025.
- ⁴⁷Office of the Governor of Florida, Governor Ron DeSantis Suspends State Attorney Monique Worrell for Neglect of Duty and Incompetence, August 9, 2023.
- ⁴⁸Local Solutions Support Center and Public Rights Project, Preempting Progress: States Take Aim at Local Prosecutors, May 2024.
- ⁴⁹Associated Press, Philly DA Larry Krasner scores legal win against GOP impeachment effort , September 26, 2024.
- ⁵⁰Jacob Gallant and Bria Bolden, Ethics complaints filed against DA have been dismissed, Action News 5, February 12, 2025.
- ⁵¹Jeff Amy, Georgia enacts law letting panel punish, oust prosecutors, Associated Press, May 5, 2023.
- ⁵²Sam Levine, Georgia governor signs bill that allows removal of district attorneys, The Guardian, May 5, 2023.
- ⁵³Thomas Laehn, Opinion: Taking discretion from Iowa county attorneys like me is perilous, Des Moines Register, April 15, 2023.
- ⁵⁴Jolie McCullough and Eleanor Klibanoff, Texas Legislature passes bill reining in “rogue” prosecutors, The Texas Tribune, May 28, 2023.
- ⁵⁵David Schuman and Esme Murphy, The death of Zaria McKeever: Gov. Tim Walz intervenes to move juvenile murder case to AG Keith Ellison's office, CBS Minnesota, April 6, 2023.
- ⁵⁶Charles Stimson and Zack Smith, George Gascón: A Rogue Prosecutor Whose Extreme Policies Undermine the Rule of Law and Make Los Angeles Less Safe, The Heritage Foundation, January 28, 2021.
- ⁵⁷Barry J. McMillion, The Blue Slip Process for U.S. Circuit and District Court Nominations (1917–Present), Congressional Research Service, November 20, 2025.
- ⁵⁸DOJ Office of the Inspector General and Office of Professional Responsibility, An Investigation into the Removal of Nine U.S. Attorneys in 2006, U.S. Department of Justice, September 2008.
- ⁵⁹Adam Klasfeld and Ryan Goodman, Chronology of a Dozen Times Trump Pushed to Prosecute His Perceived Enemies, Just Security, September 23, 2024.
- ⁶⁰Tierney Sneed, Roger Stone sentencing proposal change was ‘highly unusual’ but politics didn’t play an improper role, DOJ watchdog says, CNN, July 24, 2024.
- ⁶¹Peter Stone, How Trump is weaponizing the DoJ to ‘bully, prosecute, punish and silence’ his foes, The Guardian, November 4, 2025.
- ⁶²Madeline Halpert and Mike Wendling, Flurry of resignations after DOJ tells prosecutors to drop Eric Adams case, BBC News, February 14, 2025.
- ⁶³Alanna Durkin Richer, DOJ abruptly fires 3 prosecutors involved in Jan. 6 criminal cases, AP sources say, Associated Press, June 28, 2025.
- ⁶⁴Protect Democracy, Tracking retaliatory use of arrests, prosecutions, and investigations by the Trump administration, May 4, 2026.
- ⁶⁵The Heritage Foundation, Project 2025: Mandate for Leadership, 2023.
- ⁶⁶Michael Balsamo, Barr defends police, takes swipe at progressive prosecutors, Associated Press, August 12, 2019.
- ⁶⁷Bill Glahn, Opinion: Minnesota DA’s woke two-tier justice prizes Tesla violence above all, New York Post, April 24, 2025.
- ⁶⁸U.S. Department of Justice, U.S. Department of Justice Announces Civil Rights Investigation into the Consideration of Race in Prosecutorial Decision Making by Minnesota’s Hennepin County, May 5, 2025.
- ⁶⁹Local Progress, Statement: Amid Federal Threats, Local Leaders Stand Strong for True Civil Rights, May 8, 2025.
- ⁷⁰Victor Nava, Va. prosecutor accused of ‘stymying the investigation’ into alleged threats against Trump aide Stephen Miller faces House probe, New York Post, November 13, 2025.
- ⁷¹Jason Johnson, Opinion: Justice Department Should Investigate Stephanie Minter’s Killing, The Wall Street Journal, March 12, 2026.