



**National District Attorneys Association**

99 Canal Center Plaza, Suite 510, Alexandria, Va 22314

703.549.9222 / 703.683.0356 fax

[www.ndaa-apri.org](http://www.ndaa-apri.org)

Letter to the Editor – LA Times – June 26, 2006

As President of the National District Attorneys Association and State's Attorney in Rockford IL for 20 years, I was astonished to read Alan Hirsh's ill conceived Op-Ed of June 21, 2006, "Overzealous Prosecutors, Cross-Examine Yourself." Mr. Hirsch displays a stunning lack of knowledge about the daily conduct and exemplary service of our nation's prosecutors – the "people's attorneys."

Mr. Hirsch, in an effort to denigrate the prosecutor in the Durham, NC alleged rape case, conjures up the hubris to say that it is not uncommon for "prosecutors [to] blatantly . . . overstep professional bounds all too frequently." He references a 2003 study by the Center for Public Integrity (the Center) that found "Since 1970, trial and appellate courts cited prosecutorial misconduct as a factor when dismissing charges, reversing convictions or reducing sentences in more than 2,000 cases." Keep in mind that since 1970 prosecutors have achieved millions of convictions of felons in our state courts.

What Mr. Hirsch does not say is that the Center, in responding to a District Attorney's letter that questioned the accuracy of their report, stated on their website, "We agree that prosecutorial misconduct is episodic, not epidemic. We never said – or meant to imply – otherwise." It seems that Mr. Hirsch has no qualms about presenting the public with his obviously jaded interpretation of "The Center's" findings.

Mr. Hirsch also mentions the "Innocence Project, whose DNA testing has "exonerated" 180 wrongly convicted people in the last 15 years. Terms used by experts are important, and the term "exonerated" does not mean "factually innocent." It is also important to note that during that 15-year period there were over 15-million felony convictions across America. The error rate is almost too small to estimate, but would be something like .03%. That means that prosecutors had a success rate of about 99.97% of achieving a conviction that has stood up under appeal. Additionally, the actual number of people taken off death row by DNA is less than 10 people.

Mr. Hirsch further promotes the tired mantra of the Innocence Project, and others, by attempting to lead readers to believe that prosecutors regularly suppress information, use false testimony, fabricate evidence, and convict the innocent. This assertion is an outrage. The fact is that in our criminal justice system, the burden of proof of guilt beyond a reasonable doubt lies solely with the prosecutor. Prosecutors are held to the highest standards of ethical conduct, and that's the way it should be. Prosecutors are the only lawyers in the courtroom who are responsible for seeking the truth wherever it leads them, ensuring that justice prevails on behalf of defendants and victims alike.

When prosecutors make a mistake, no matter if it is unintentional or technical, it is called "prosecutorial misconduct." When a defense attorney makes a mistake, it's called "ineffective assistance of counsel." And when a judge makes a mistake, it's referred to as "judicial error."

Clearly, the terminology denotes that prosecutors are held to the highest standard of professional and ethical conduct in the courtroom. And they diligently, and most often successfully, perform in accordance with the standards to which they must adhere

Another erroneous statement by Mr. Hirsch is that prosecutors systematically work to disallow the use of DNA testing of people who have already been convicted, prior to the use of DNA, and are serving time in prison. The truth is that prosecutors have, since the inception of DNA, staunchly promoted its use during the investigation, trial, and post conviction of a criminal – but only if it can conclusively prove guilt or innocence.

While our system of justice is not perfect, and mistakes are made, they occur in extraordinarily small numbers. The people of America can rest assured that prosecutors are overwhelmingly honest, ethical and committed to keeping communities safe. Everyday they serve the victims of crimes and their families and seek the appropriate punishment for criminal behavior.

Mr. Hirsch's, column, of June 21<sup>st</sup> has grossly twisted the truth and painted a wholly inaccurate picture of prosecutors. It is both interesting and sad that Mr. Hirsch makes no mention of the millions of innocent victims of crime who suffered, immeasurably, at the hands of violent criminals -- but seems to care far more about spreading misconceptions and questionable research concerning our nation's prosecutors.

Sincerely,

Paul A. Logli  
President, National District Attorneys Association  
& State's Attorney, Winnebago County, IL

*To Be the Voice of America's Prosecutors and to Support Their Efforts to Protect the Rights and Safety of the People*