

# The Soros Rogue Prosecutor Movement and the Insurance Industry

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## KEY TAKEAWAYS

In cities where smash-and-grab thefts, looting, and other violent crimes run rampant, businesses are suffering and insurance claims have increased.

The rogue prosecutor movement, and organizations that fund or promote it, are pushing to abolish all prisons, jails, and capitalism itself.

Imposing law and order is not a partisan issue, but rogue prosecutors are ignoring entire categories of crimes and refusing to prosecute lawbreakers.

Did you know that crime rates, including violent crime, have been dropping across the country for the past 30 years?<sup>1</sup> Incarceration rates, which peaked in 2008, have also fallen since then.<sup>2</sup>

You would not know that, though, if you listened to the “progressive prosecutors” out there who drone on about so-called mass incarceration and the need to reform the criminal justice system, which had, by the way, been working well, until they came along.

And while it is true that we have one of the highest incarceration rates in the world,<sup>3</sup> the majority of convicted criminals in state prison are there for a good reason: They were convicted of violent crimes, including murder, rape, armed robbery, and the like.<sup>4</sup> Shockingly, the U.S. homicide rate is seven times higher than the combined rates of 21 Western

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nations plus Japan, according to a 2011 study by researchers of the Harvard School of Public Health and the UCLA School of Public Health.<sup>5</sup>

But the national trends—lower crime and incarceration rates—are real. However, for those who live in New York City, Chicago, San Francisco, Los Angeles, Baltimore, Philadelphia, St. Louis, Seattle, Boston, and a few other cities, rising crime rates have been a big problem for the past few years.

In these cities, crimes like shoplifting, smash-and-grab thefts, and looting from businesses—not to mention murder, shootings, and other violent crimes—are rampant. Businesses are suffering, from large stores like Target, Walmart, and CVS to thousands of small stores. Take, for example, Sneaker City in Seattle, owned by Caroline Cho and her family. At Sneaker City, criminals break the storefront windows twice a month and steal merchandise in broad daylight weekly, but there are no arrests, no prosecutions, and no remedies.<sup>6</sup> Many of these smaller businesses have gone out of business. The larger chains close inner city stores and absorb the losses, at least for now.

Although it is impossible to put an actual number on it, the losses must be in the tens or hundreds of millions of dollars. For insurance claims professionals, some of those losses must be hitting the bottom line—directly through claims filed, or indirectly when a client simply closes up shop.

This is a recent phenomenon, and there is a cause.

Each of these cities has a toxic trio: a prevailing “defund the police” mentality, demoralization of the police, and so-called progressive prosecutors. (My Heritage colleague and co-author of a forthcoming book Zack Smith and I call them “rogue prosecutors.” We have been researching and writing about them for years and are writing a book on the movement, to be published in March 2023.)<sup>7</sup>

This new breed of elected prosecutor proudly refuses to prosecute misdemeanors, including theft, larceny, shoplifting, breaking and entering, malicious destruction of property, possession with intent to distribute any drug, resisting arrest, and dozens of other crimes. And since the gatekeeper to the criminal justice system is the elected district attorney (DA) (not the police chief, the mayor, or the governor), even when people are arrested for those crimes, nothing happens.

To understand what motivates these prosecutors, it is important to understand the rogue prosecutor movement, its origins, beliefs, and playbook—and how it is at odds with the proper role of a prosecutor. Finally, it is important to recognize how insurance industry professionals can shed light on the ramifications of the lawlessness of the rogue prosecutor movement and how its policies harm businesses and individuals alike.

## Origins, Beliefs, and Playbook

If you listen to the talking points from the rogue prosecutor movement, or from the organizations that fund or promote them, such as Fair and Just Prosecution, you would think that this is a mainstream reform movement aimed at bettering the criminal justice system. And who isn't for reform?

Aspirational language is used to persuade city residents to vote for their candidates, using phrases that have now become part of our everyday lexicon—phrases such as mass incarceration; reimagining prosecution; carceral state; correctional free lunch; redefining justice; trauma-informed, restorative justice; and more. And since these expressions sound reasonable—who isn't for fairness?—many of these George Soros-funded or -inspired candidates are elected as the next district attorney.

On one level, the movement was begun as an antidote to the so-called tough-on-crime prosecutors, the death penalty, and “mass incarceration.” (It came into existence precisely to act as a counterweight to law-and-order prosecutors, to abolish the use of the death penalty no matter the crime, and to stop sending most criminals to prison or even jail.<sup>8</sup>) However, on a deeper level, this movement is the latest outgrowth of the movement to abolish all prisons, jails, and capitalism itself.

**Origins.** At the root of the anti-prison movement is the belief that our country and its institutions, including capitalism, are racist. Progressive intellectuals like Herbert Marcuse, Marcus Garvey, and Stokely Carmichael laid the foundation for this belief.<sup>9</sup>

The modern-day heirs of these intellectuals argue that America was built on the back of slave labor.<sup>10</sup> They believe that—despite a Civil War to end slavery; the ratification of the 13th, 14th, and 15th Amendments; the abolishment of Jim Crow laws; the passing of federal civil rights legislation; and cases such as *Brown v. Board of Education*<sup>11</sup> brought before the Supreme Court, and more—the entire United States (all corporations, American capitalism itself, and the criminal justice systems in all 50 states and the federal government) is systemically racist. To them, the only solution is a radical transformation of our entire system of government, including the norms and practices of civil society.

One of the leaders of the modern prison abolition movement is Angela Davis, who wrote the highly influential book *Are Prisons Obsolete?* In it, Davis unabashedly calls on us to “imagine a world without prisons.”<sup>12</sup> She equates prisons to modern-day slavery and opines that “the prison has become a black hole into which the detritus of contemporary capitalism is deposited,”<sup>13</sup> and that throwing people into prisons “relieves us of the responsibility of seriously engaging with the problems of our society, especially those produced by racism and, increasingly, global capitalism.”<sup>14</sup>

Davis decries the “prison industrial complex” and writes that “prisons are racist institutions” filled with “enormous numbers of people [who] are in prison simply because they are, for example, black, Chicano, Vietnamese, Native American or poor, regardless of their ethnic background.”<sup>15</sup>

In addition, Patrisse Cullors and Alicia Garza (AKA Alicia Schwartz), along with Davis, call the movement to abolish all prisons the “abolitionist movement.”

Cullors founded Dignity and Power Now, which, according to its website, is a “Los Angeles based grassroots organization founded in 2012 that fights for the dignity and power of all incarcerated people, their families, and communities.”<sup>16</sup>

Alicia Garza, a devotee of Angela Davis, is a towering figure in the abolish prisons movement. Garza is a vocal critic of capitalism and the rule of law in the United States. At the Left Forum in 2015—a gathering of Marxists from around the world, sponsored by the John Jay College, City University of New York—Garza said, “It’s not possible for a world to emerge where black lives matter if it’s under capitalism. And it’s not possible to abolish capitalism without a struggle against national oppression and gender oppression.”<sup>17</sup>

**Beliefs.** What is their solution? Rachel Barkow, a law professor, author, and a former member of the U.S. Sentencing Commission, has summed up the goal of the progressive prosecutor movement as follows: “to reverse-engineer and dismantle the criminal justice infrastructure” that currently exists.<sup>18</sup> And the only way for advocates of the movement to achieve that ambitious goal is to eliminate traditional prosecutors and replace them with pro-criminal, anti-victim zealots. They do not care if the incumbent is a Democrat, Independent, or Republican. They reject the notion that the district attorney’s job is to enforce the law and seek justice by convicting the guilty and protecting the innocent. Yet, that is exactly the prosecutor’s duty, according to the American Bar Association.<sup>19</sup>

It is a serious movement in large part because leftist billionaires such as George Soros and others have dumped and continue to dump tens of millions of dollars into specific district attorney races, often through dark-money political action committees (PACs) that identify, recruit, and fund criminal defense attorneys to run against independent law-and-order prosecutors.

According to a report by the Law Enforcement Legal Defense Fund, from 2018 to 2021, Soros spent \$13 million on just 10 prosecutor races, and that spending comprised the majority of the candidates’ campaign spending, as much as 90 percent in some cases.<sup>20</sup> To date, Soros has shelled out more

than \$40 million on direct campaign spending in the past 10 years to elect rogue prosecutors. Those prosecutors have jurisdiction over 72 million Americans, including 25 of America's 50 most populous cities and counties.<sup>21</sup>

The rogue prosecutor movement started in 2015, when an employee of Soros and an employee of the ACLU decided to try to unseat district attorneys who were for the death penalty.<sup>22</sup> They got Soros to put over \$1 million into "Safety and Justice" groups that helped elect two anti-death penalty district attorneys in Louisiana and Mississippi and re-elect a third in Mississippi.<sup>23</sup>

What began as a modest goal grew into a national movement with a more ambitious goal: to elect district attorneys who side with criminals and believe in abolishing prisons. *New York Times* bestselling author Emily Bazelon summed up the goals of the rogue prosecutor movement as follows: "[C]hange who occupies the prosecutor's office, and you can make the system operate differently."<sup>24</sup>

They first set their sights on unseating Democrat Anita Alvarez, the Cook County State's Attorney in Chicago, because of her support for mandatory minimum penalties for gun crimes and her initial refusal to file charges against a Chicago Police Officer for shooting a black man.<sup>25</sup> Soros contributed \$400,000 to create the Illinois Safety and Justice PAC, which also received \$300,000 from the Civic Participation Action Fund, and that money went to their candidate of choice, Kim Foxx.<sup>26</sup> Foxx, flush with cash from the Illinois Safety and Justice PAC and others, amassed \$3.8 million and beat Alvarez in the March 2016 primary, 58.3 percent to 28.7 percent, and went on to win the general election.

And so, the national movement was born.

Today in Chicago, there are, on average, more people killed per year (525) than Americans who were killed, on average per year, during the wars in Iraq (435) and Afghanistan (141).<sup>27</sup> Soros-funded or -inspired rogue prosecutors include George Gascón of Los Angeles, Chesa Boudin in San Francisco (who was recalled on June 8, 2022), Kim Gardner in St. Louis, Larry Krasner in Philadelphia, Marilyn Mosby in Baltimore,<sup>28</sup> Rachael Rollins, the former district attorney in Boston who is now the U.S. Attorney for Massachusetts, and other lesser-known district attorneys.

**Playbook.** There is an unspoken understanding between those who are funded, supported, or inspired by the Soros machine and the candidates who are elected. The understanding is this: We will back you, and when you are elected, you toe the line and enact our policies.

And their policies are pro-criminal and anti-victim. Every single one of them.

Some of these impact the insurance industry. And if you live in one of these cities, they impact you personally, as crime rates have skyrocketed, public safety has fallen dramatically, and you have to watch your back every time you step out of your house or apartment. Large businesses, like Seattle-based Amazon, recently moved around 1,800 employees from downtown Seattle to Bellevue, because Seattle is a crime-ridden, drug-infested, high-crime hellhole.<sup>29</sup>

Here is the movement's playbook:

- No bail, not even for career criminals;
- Refusal to prosecute all or most misdemeanors, including:
  - Possession of any drug,
  - Possession with intent to distribute any drug,
  - Most driving offenses,
  - Prostitution,
  - Breaking and entering a dwelling house,
  - Malicious destruction of property,
  - Resisting arrest by a police officer,
  - Larceny,
  - Theft under \$950 dollars, and
  - Use of any illegal drug, including heroin, cocaine, and methamphetamine.
- Refusing to send any criminal under 18 to adult court, no matter the crime, including murder, child abuse, rape, and sexual assault;
- Sending written orders to prosecutors. For example, in Los Angeles, George Gascón, has issued written orders<sup>30</sup> to all 900 of his prosecutors, such as:

- Do not attend parole hearings;
- Do not file enhancements (like guns) or allegations (like prior convictions);
- Do not ask for the death penalty;
- Do not ask for life-without-parole sentences;
- Do not ask for bail;
- Must work to release 25,000 to 30,000 convicted felons whose appeals have been denied after they have served 15 years in prison;
- Set up police prosecution units;
- Work to unwind tens of thousands of convictions by the office if they suspect the conviction (even though appeals have been denied) was based on faulty evidence or racist motivations; and
- Prohibit prosecutors from asking for the maximum sentence, or from telling the judge about prior convictions.

## Not Requiring Bail Has Deadly Consequences

In 2001, Jonathan Madden<sup>31</sup> was convicted of felony robbery but was given a second chance and was put on probation. The next year, he was convicted of burglary and grand theft. In 2006, he was convicted of robbery again. In 2009, he was convicted of possessing drugs while in prison. In 2018, he was caught with a weapon and was convicted of being a felon in possession of a firearm and possession with intent to distribute cocaine. This impressive resume was amassed prior to George Gascón becoming the Los Angeles district attorney in 2020.

On February 4, 2021, Madden was caught again with a gun in his possession. He was charged with being a felon in possession of a firearm. Under California law, prosecutors *are required* to file any prior violent or serious felony convictions under California Penal Code section 667(a). But, following Gascón's special directives, prosecutors did not include any reference to Madden's prior convictions on the charging document. Nor were they allowed to tell the judge about Madden's violent criminal past. In essence, the judge would assume, incorrectly, that Madden was a criminal virgin when setting bail.

To make matters worse, Gascón's policies prohibited prosecutors from asking for the correct amount of bail (at least \$160,000 under the bail schedule) because they could not consider any prior violent convictions. Since the judge did not know about the priors, he set the bail at \$30,000, and Madden paid the bail bondsman the \$3,000 (10 percent of the bail) and walked out of jail.

Three months later, while still released on minimum bail, Madden was arrested and charged with selling narcotics, a felony. Under California law, if a person is out on bail when he commits a new crime, a sentencing enhancement can be added to his new charges, but since Gascón's new policies did not allow for any such enhancements to be used by prosecutors, they could not file the enhancement. And again, instead of facing a bail of at least \$190,000, the judge set bail at only \$100,000. Madden quickly bailed out again, after posting \$10,000—not much for a drug dealer.

Seven months later, on January 8, 2022, while out of custody on two grants of minimal bail, Madden tried to use a counterfeit \$20 bill in the drive-through at a Taco Bell in South Los Angeles. The cashier spotted the fake and refused to accept the bill. Madden shot and killed him, a 41-year-old husband and father of three children. As a convicted felon, Madden had no right to possess a firearm.

What are the consequences of not allowing prosecutors to add enhancements or priors? Often, deadly.

Emiel Lamar Hunt<sup>32</sup> brutally abused his three-year-old son, putting him into a coma. Hunt was convicted in 2005 and sentenced to 12 years in prison.

On March 1, 2019, Hunt and his girlfriend, Taquesta Graham, killed Trinity, Taquesta's daughter, and dumped her body on the side of the road in Los Angeles County. The two were arrested and charged.

Because he had a prior 2005 felony conviction, Hunt would have faced 50 years to life for first-degree premeditated murder if convicted, versus the 25 years to life received by Taquesta. For this enhancement to apply, however, prosecutors were *required* to cite the prior conviction in the charging document against him. One week after Gascón took office, his policies relating to prior conviction allegations were being enforced by his reluctant deputy district attorneys. As a result, Hunt's prior conviction was stricken from the indictment. Now, both defendants face the same punishment for murdering Trinity, even though Hunt had a serious and violent record.

Or take the case of Darryl Collins,<sup>33</sup> who, in 1992, was convicted of attempted robbery and went to prison but was let out early. Six years later, in 1998, he killed two people on two separate dates while engaged in a string of armed robberies. That should have been the end of the line. He pled guilty



to both murders and was sentenced to 50 years to life. But after serving over two decades in prison, the California Parole Board granted him parole and released him. And less than a year later, he murdered Fatima Johnson while Gascón was the district attorney. Gascón let this murderer off the hook by preventing his prosecutors from filing a special circumstances allegation that would make him eligible for life without parole.

Under the law,<sup>34</sup> prosecutors can file a “special circumstance” allegation when someone murders more than one person in his life. If convicted of the new murder charge with a special circumstance, Collins would face either a life without parole (LWOP) sentence or a death sentence. But since Gascón prohibited all special circumstance allegations, Collins, if convicted, will face neither life without parole, nor the death penalty, which he richly deserves. Instead, the 51-year-old will likely receive a sentence of 25 years to life. And because of the Elder Parole law in California, he will likely get out of prison at around 70 years of age.

And what happens when prosecutors refuse to prosecute misdemeanor shoplifting, store theft, and car break-ins? Car break-ins are so ubiquitous in San Francisco that some residents have taken to leaving notes in the cars informing would-be-robbers that there is nothing of value inside. Others roll down their windows, unlock their doors, or even leave their trunks open.<sup>35</sup> The *San Francisco Chronicle* maintains a close-to-real-time Car Break-In Tracker to keep citizens informed.<sup>36</sup> By the end of 2021, citizens of San Francisco had reported 20,663 thefts from vehicles to the San Francisco Police Department.<sup>37</sup> That is a 39 percent increase in the number of reported thefts from vehicles over the previous year (2020).<sup>38</sup> What is even more shocking is that the available numbers for 2022 look even worse. As of March 31, 2022, San Franciscans had reported 4,724 thefts from vehicles. That is a 36 percent increase in the number of those thefts as of the same date in 2021, which already had an extremely high number.

“Smash-and-Grabs” at retail stores have become commonplace, too, with a number of them filmed by incredulous shoppers.<sup>39</sup> These thefts have prompted some stores to put all their items behind locked display cases, a mere annoyance to many thieves who have no problem breaking the glass enclosures. Walgreens reports that at one point it had spent 35 times more on security guards at its San Francisco stores than in other cities where it operates<sup>40</sup> and announced in May that it was closing 17 stores in the city.<sup>41</sup> Target stores are now closing early because of rampant shoplifting at certain locations.<sup>42</sup>

Then there is the case of Jerry Lyons, who had a record dating back to 2007, including charges of attempted robbery, burglary, evading police, driving a stolen vehicle, weapons charges, shoplifting, trespassing, and drug charges.<sup>43</sup>

In December 2020, Lyons, driving a stolen car, was observed running a red light, making an illegal U-turn, driving over a traffic median, and weaving between two lanes. He was on supervised release for a theft case at that time. He was arrested for driving a stolen car and without a license and on suspicion of driving while under the influence of drugs and alcohol.

Under the leadership of Chesa Boudin, the district attorney's office insisted on getting the positive lab results back before charging Lyon. Boudin's office had released Lyon from jail by the time the lab results were returned. On January 22, 2021, an intoxicated Lyons, driving a stolen truck, ran a red light and plowed into eight cars, killing 26-year-old Sheria Musyoka and severely injuring three others.

Gascón and Boudin's orders have been replicated, to some extent or another, by other rogue prosecutors around the country, including Alvin Bragg in Manhattan.<sup>44</sup>

Bragg has ordered his prosecutors to charge anyone who commits first-degree robbery with petty larceny—even in cases in which force (or threat of force, in which a dangerous weapon is displayed) is used. That is the difference between a sentence of five to 25 years for first-degree robbery and a sentence of probation up to one year in jail. Bragg also ordered his prosecutors to water down felony commercial burglary: Anyone who commits a second-degree burglary can only be charged with a third-degree burglary. A conviction for second-degree burglary gets you three-and-a-half to 15 years, while a conviction for third-degree burglary gets you probation to seven years.

It gets worse. Bragg, like all rogue prosecutors, does not believe in pretrial detention. Bragg has declared that there is a “presumption of non-incarceration” for:

- Robbery,
- Burglary,
- Breaking and entering,
- Carjacking,
- Possession with intent to distribute any drug,
- Domestic violence,

- Witness tampering,
- Arson,
- Bribery,
- Kidnapping,
- Larceny,
- Use of a child in a sexual performance,
- Criminal possession of a firearm,
- Child endangerment, and
- Elder abuse, among others.

Crime is up in every city that has a rogue prosecutor. Here are some examples.

In Los Angeles, since Gascón was elected DA in 2020, homicides are up 33.9 percent, robberies up 17.7 percent, aggravated assaults up 18.8 percent, burglaries up 5.6 percent, motor vehicle theft 34.7 percent, shooting victims up 64.5 percent, and arrests are *down* 20.8 percent.

In Baltimore, in the eight years before Marilyn Mosby was elected, there were an average of 229 homicides per year. Every year since she has been in office, that average has risen to 333 homicides per year. Rapes have also gone up in Baltimore. In the five years before she was elected, there were 292 rapes, on average, annually. After Mosby was elected, that annual average jumped to 330. Aggravated assaults went up by an additional 562 per year.

In Chicago, where Kim Foxx is the rogue prosecutor, there was an average of 445 homicides per year in the five years before she was elected. Since she was elected in late 2015, there has been an average of 680 homicides per year, more than the yearly average of combat deaths in Iraq or Afghanistan during the height of those wars.

In Philadelphia, where Larry Krasner is the rogue prosecutor, there were on average 271 homicides per year in the five years before he was elected. After he was elected in 2018, there has been an average of 440 homicides per year. In 2021, there were 561 people slaughtered on the streets of Philadelphia, 83 percent of whom were black and most of whom were men.

Aggravated assaults exploded under Krasner's tenure. And the two crimes that impact the insurance industry the most—retail theft and car theft—are off the charts.

In the five years before he took office, there were 37,061 instances of retail theft, an average of 7,412 events per year. Under Krasner, that average has jumped to 9,084 per year. Thanks to Krasner's pro-criminal, hands-off approach, auto thieves are enjoying a bonanza in Philly. In the five years before Krasner took office, there were 28,455 auto thefts, an average of 5,691 per year. Since he took over as the district attorney, there have been 43,327 auto thefts, an average of 8,665 per year. That is an "extra" 8.1 car thefts per day thanks to Krasner's policies.

There has also been a significant rise in crime in San Francisco. Rapes and aggravated assaults have exploded under Chesa Boudin and his immediate predecessor, George Gascón. In the two years before Gascón took office in 2011, there was an average of 24,152 thefts per year, or 66 per day. But after Gascón took office, between the years 2011 and 2019, there was an average of 36,905 thefts per year, an average of 101.1 per day. In 2017, there were 46,733 retail thefts alone, an average of 126.9 per day. In Boudin's first two years in office (2020-2021), there were 57,734 thefts, an average of 28,867 per year, or 79 per day.

It is important to note that crime is *not* up in cities with real prosecutors. A comparison between two cities—Philadelphia and San Diego, tied as the 7th largest in the United States—illustrates the problem. San Diego sits between Los Angeles and Mexico, on the border with Tijuana. Mexican gangs, cartels, and other violent persons flow from Mexico into San Diego County into the interior of California. Interstate 5 runs from the Mexican border north through San Diego County and up the entire West Coast.

Philadelphia also has gangs. Interstate Route 95 runs north-south through the city and is a major thoroughfare for drug runners, gangs, and other criminals. But San Diego has a real prosecutor, Summer Stephan, who works closely with the sheriff and chief of police. Her prosecutors work in drug court, domestic violence court, and the Family Justice Center. And they help run the Peer and Teen Court, actively working with the U.S. Attorney's Office, school principals, and other stakeholders in the criminal justice system and community to make the community safe.

Philadelphia, on the other hand, has a Soros-funded rogue prosecutor, Larry Krasner. Krasner is a career criminal defense and civil rights attorney who had sued the Philadelphia Police Department dozens of times over the decades. He received almost \$1.45 million<sup>45</sup> from George Soros when he ran for office. The first day in office, he fired 31 career prosecutors and issued non-prosecution memos to the remaining prosecutors in his office.

How do the two cities compare?

In 2021 in Philadelphia, there were 599 homicides in addition to the 1,800 people who were shot and wounded.

In 2021 in San Diego, there were 57 homicides in the city, and 118 in the entire county.

That is the difference between a real and a rogue prosecutor.

## The Proper Role of a Prosecutor

There are over 2,300 elected district attorneys in this country at the county level, and the vast majority of crimes are prosecuted by them. And 90 percent of people in prison in this country are in state prisons.<sup>46</sup> Only about 10 percent are in federal prison.<sup>47</sup>

The elected district attorney is the gatekeeper to the criminal justice system. She, and she alone, decides if someone should be prosecuted. The Soros machine knows this. While 95 percent of incumbent district attorneys win their reelections, most district attorney races were (until recently) low-visibility, low-dollar campaigns.<sup>48</sup> Twenty-five thousand dollars, for example, was a lot for a candidate to raise and spend. They have figured out that there is a high return on investment if you dump a small amount of money—relatively speaking—into these races to get your preferred candidate elected.

Prosecutors are part of the executive branch of local government. Their job is to enforce the laws as written. They do not pass laws, which is the job of the state legislature. District attorneys have a legal duty to enforce the criminal laws of the state where they work, in a fair but firm manner, exercising the appropriate amount of discretion on a case-by-case basis.

They cannot ignore entire categories of crimes and refuse to prosecute people when they break those laws. That is not prosecutorial discretion; it is prosecutorial nullification. They are effectively amending or eliminating whole provisions of the criminal code, which is not allowed. Yet rogue prosecutors do just that and pretend that they are merely using prosecutorial discretion, which is simply untrue.

Imagine a different type of rogue prosecutor: one who decides not to prosecute violations of insider-trading laws or cheating on taxes; or one who decides not to prosecute polluting the environment in violation of environmental laws; or a real sicko who decides that any sexual contact between an adult and minor is an act of love, so they will not prosecute anyone for violating those laws.

It is the same concept.

Seeking to impose law and order is not, or at least should not be, a partisan issue. Those behind the Chesa Boudin recall were inner-city residents, the vast majority of whom are Democrats. Those funding the successful recall were tech billionaires.

Those behind the recall effort against George Gascón are minorities, victim rights groups, and the Association of Deputy District Attorneys for the Los Angeles District Attorney's Office, a union, 97.9 percent of whom voted to support his recall. The Los Angeles County Sheriff, Alex Villanueva, a Democrat who refuses to let Immigration and Customs Enforcement (ICE) into county jails, is working hard to recall George Gascón.

The reason is simple: Gascón's policies harm the community, especially black and brown members of the community.

This is a fight between those on the one hand who believe in law and order, holding people accountable for violating the law, and providing access services for those who need it to help them become productive members of society and those on the other who think that the entire criminal justice system is racist, criminals are victims, real victims do not matter, and the police are the enemy.

## What You Can Do About It

There are several things that can be done about this.

Insurance professionals are keenly aware of, and have access to, data, statistics, and reports that the general public does not have. The industry is aware of states that are trial-lawyer, tort-lawsuit friendly. The industry regularly relies on the American Tort Reform Foundation's "Judicial Hell-holes" report each year and knows the "bad" from the "good" states.<sup>49</sup>

My recommendation: Look into the cities that, because of rogue prosecutors, are criminal-friendly. Crime has started spiking again in these cities; claims from small businesses have increased. Crime has also impacted larger businesses, and a number of businesses have closed. Dig into the reasons for the closures. Is it because of COVID-19, rising crime, or something else?

It will be difficult, but not impossible, to delineate between those businesses that have closed because of COVID-19 lockdowns and lack of customers and those that closed, or moved, because the elected district attorney decided not to prosecute the criminals that have ransacked these businesses.

Document, across the industry, the financial impact that larceny, looting, destruction of property, theft, and the like have had in cities with rogue prosecutors. That number is in the billions.

Look for patterns in which the same store is robbed over and over and nothing happens. Find out why they went out of business. Were they robbed blind and could not make ends meet? Document how many stores put in for theft claims above historical averages. Ask them what happened and whether their local prosecutor held the criminals accountable.

Second, after the data are collected, publish it far and wide. Publish not only in major trade and insurance industry publications, but mainstream publications and the media. Do a thorough, professional job: Use professional statisticians and analysts. Show the public, civil society, academia, and politicians how these soft-on-crime, criminal green-light policies have and continue to impact businesses, their bottom line, and the insurance industry.

Third, show how these losses have impacted insurance rates and why. Explain to policymakers at the state level, where insurance companies have licenses, how rising rates are passed on to consumers, and the extent to which the insurance industry has done so in reaction to these rogue prosecutors. Some of these cities self-insure. Others take out insurance policies that insurance, or reinsurance companies, underwrite. If appropriate, tell city leaders with rogue prosecutors that your company will not underwrite them any longer because doing so is a risk that could be avoided if they just enforced the law like they are supposed to.

Take a stand for law and order.

Fourth, the insurance industry as a whole has huge political leverage and should use its voice. The industry employs lobbyists, through whom it spends money on legislation and candidates. That spending is protected speech.

According to Open Secrets, individuals and political action committees (PACs) associated with the insurance industry made \$120 million in federal contributions during the 2020 election cycle.<sup>50</sup> In 2021, that number jumped to \$152 million. Last year, the insurance industry donated to 423 out of 435 members of the House of Representatives, and 99 out of 100 Senators.<sup>51</sup>

Many of these district attorney races across the country have no contribution limits. Those candidates or incumbents can accept any amount of money, from individuals and PACs. Others have limits. Most of these races are low-dollar races. A little money goes a long way.

Use crime-related claims data to show the insurance industry that pro-criminal policies have not only cost lives but also billions of dollars. This is useful for the insurance industry to know before they interact with candidates and PACs and decide where to spend such money.

Finally, as a citizen, you have a duty to inform yourself about candidates for district attorney. Be aware of any candidate who is funded by Soros, Fair and Justice Prosecution, or any of dozens of cutouts or PACs associated with them. Be aware of candidates who talk about “mass incarceration,” say the “entire criminal justice system is racist,” or that they will not prosecute “quality of life offenses.” Always pay attention to their law enforcement policies, which could impact your bottom line.

Support reform-minded law-and-order prosecutors regardless of their party affiliation.

The rogue prosecutor movement is failing. Chesa Boudin was recalled because his policies caused death and destruction. George Gascón of Los Angeles may be recalled this fall because his policies are all pro-criminal and anti-victim. The Baltimore State’s Attorney, Marilyn Mosby, will likely be voted out of office for the same reason. But until each and every one of them loses his office, we have to live with the consequences of their rogue and radical policies, and we will all pay the price, one way or the other.

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## Endnotes

1. See generally John Gramlich, What the Data Says (and Doesn't Say) about Crime in the United States, Pew Research Center, Nov. 20, 2020, <https://www.pewresearch.org/fact-tank/2020/11/20/facts-about-crime-in-the-u-s/>; Federal Bureau of Investigations, Uniform Crime Reporting Publications, <https://www.fbi.gov/how-we-can-help-you/need-an-fbi-service-or-more-information/ucr/publications>; Steven D. Levitt, *Understanding Why Crime Fell in the 1990s: Four Factors that Explain the Decline and Six that Do Not*, Journal of Economic Perspectives, Vol. 18, No. 1 (Winter 2004); Matt Ford, *What Caused the Great Crime Decline in the U.S.?*, The Atlantic, Apr. 15, 2016, .
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15. *Id.* at p. 113.
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