

A Prosecutor's Vision for a Better Justice System by ted.com

The following are my opinions, and do not reflect the opinions or policies of any particular prosecutor's office.

(Laughter)

I am a prosecutor. I believe in law and order. I am the adopted son of a police officer, a Marine and a hairdresser. I believe in accountability and that we should all be safe in our communities. I love my job and the people that do it. I just think that it's our responsibility to do it better.

By a show of hands, how many of you, by the age of 25, had either acted up in school, went somewhere you were specifically told to stay out of, or drank alcohol before your legal age?

(Laughter)

All right.

How many of you shoplifted, tried an illegal drug or got into a physical fight -- yes, even with a sibling? Now, how many of you ever spent one day in jail for any of those decisions? How many of you sitting here today think that you're a danger to society or should be defined by those actions of youthful indiscretion?

(Laughter)

Point taken.

When we talk about criminal justice reform, we often focus on a few things, and that's what I want to talk to you about today. But first I'm going to -- since you shared with me, I'm going to give you a confession on my part. I went to law school to make money. I had no interest in being a public servant, I had no interest in criminal law, and I definitely didn't think that I would ever be a prosecutor.

Near the end of my first year of law school, I got an internship in the Roxbury Division of Boston Municipal Court. I knew of Roxbury as an impoverished neighborhood in Boston, plagued by gun violence and drug crime. My life and my legal career changed the first day of that internship. I walked into a courtroom, and I saw an auditorium of people who, one by one, would approach the front of that courtroom to say two words and two words

only: "Not guilty." They were predominately black and brown. And then a judge, a defense attorney and a prosecutor would make life-altering decisions about that person without their input. They were predominately white. As each person, one by one, approached the front of that courtroom, I couldn't stop but think: How did they get here? I wanted to know their stories. And as the prosecutor read the facts of each case, I was thinking to myself, we could have predicted that. That seems so preventable... not because I was an expert in criminal law, but because it was common sense.

Over the course of the internship, I began to recognize people in the auditorium, not because they were criminal masterminds but because they were coming to us for help and we were sending them out without any.

My second year of law school I worked as a paralegal for a defense attorney, and in that experience I met many young men accused of murder. Even in our "worst," I saw human stories. And they all contained childhood trauma, victimization, poverty, loss, disengagement from school, early interaction with the police and the criminal justice system, all leading to a seat in a courtroom. Those convicted of murder were condemned to die in prison, and it was during those meetings with those men that I couldn't fathom why we would spend so much money to keep this one person in jail for the next 80 years when we could have reinvested it up front, and perhaps prevented the whole thing from happening in the first place.

(Applause)

My third year of law school, I defended people accused of small street crimes, mostly mentally ill, mostly homeless, mostly drug-addicted, all in need of help. They would come to us, and we would send them away without that help. They were in need of our assistance. But we weren't giving them any. Prosecuted, adjudged and defended by people who knew nothing about them.

The staggering inefficiency is what drove me to criminal justice work. The unfairness of it all made me want to be a defender. The power dynamic that I came to understand made me become a prosecutor.

I don't want to spend a lot of time talking about the problem. We know the criminal justice system needs reform, we know there are 2.3 million people in American jails and prisons, making us the most incarcerated nation on the planet. We know there's another seven million people on probation or parole, we know that the criminal justice system disproportionately affects people of color, particularly poor people of color. And we know there are system failures happening everywhere that bring people to our courtrooms. But what we do not discuss is how ill-equipped our prosecutors are to receive them. When we talk about criminal justice reform, we, as a society, focus on three things. We complain, we tweet, we protest about the police, about sentencing laws and about prison. We rarely, if ever, talk about the prosecutor.

In the fall of 2009, a young man was arrested by the Boston Police Department. He was 18 years old, he was African American and he was a senior at a local public school. He had his sights set on college but his part-time, minimum-wage job wasn't providing the financial opportunity he needed to enroll in school. In a series of bad decisions, he stole 30 laptops from a store and sold them on the Internet. This led to his arrest and a criminal complaint of 30 felony charges. The potential jail time he faced is what stressed Christopher out the most. But what he had little understanding of was the impact a criminal record would have on his future.

I was standing in arraignments that day when Christopher's case came across my desk. And at the risk of sounding dramatic, in that moment, I had Christopher's life in my hands. I was 29 years old, a brand-new prosecutor, and I had little appreciation for how the decisions I would make would impact Christopher's life. Christopher's case was a serious one and it needed to be dealt with as such, but I didn't think branding him a felon for the rest of his life was the right answer.

For the most part, prosecutors step onto the job with little appreciation of the impact of our decisions, regardless of our intent. Despite our broad discretion, we learn to avoid risk at all cost, rendering our discretion basically useless. History has conditioned us to believe that somehow, the criminal justice system brings about accountability and improves public safety, despite evidence to the contrary. We're judged internally and externally by our convictions and our trial wins, so prosecutors aren't really incentivized to be creative at our case positions, dispositions, or to take risks on people we might not otherwise. We stick to an outdated method, counterproductive to achieving the very goal that we all want, and that's safer communities.

Yet most prosecutors standing in my space would have arraigned Christopher. They have little appreciation for what we can do. Arraigning Christopher would give him a criminal record, making it harder for him to get a job, setting in motion a cycle that defines the failing criminal justice system today. With a criminal record and without a job, Christopher would be unable to find employment, education or stable housing. Without those protective factors in his life, Christopher would be more likely to commit further, more serious crime. The more contact Christopher had with the criminal justice system, the more likely it would be that he would return again and again and again -- all a tremendous social cost to his children, to his family and to his peers. And, ladies and gentlemen, it is a terrible public safety outcome for the rest of us.

When I came out of law school, I did the same thing as everybody else. I came out as a prosecutor expected to do justice, but I never learned what justice was in my classes -- none of us do. None of us do.

And yet, prosecutors are the most powerful actors in the criminal justice system. Our power is virtually boundless. In most cases, not the judge, not the police, not the legislature, not the mayor, not the governor, not the President can tell us how to prosecute our cases. The decision to arraign Christopher and give him a criminal record was exclusively mine. I would choose whether to prosecute him for 30 felonies, for one felony, for a misdemeanor, or at all. I would choose whether to leverage Christopher into a plea deal or take the case to trial, and ultimately, I would be in a position to ask for Christopher to go to jail. These are decisions that prosecutors make every day unfettered, and we are unaware and untrained of the grave consequences of those decisions.

One night this past summer, I was at a small gathering of professional men of color from around the city. As I stood there stuffing free finger sandwiches into my mouth, as you do as public servant --

(Laughter)

I noticed across the room, a young man waving and smiling at me and approaching me. And I recognized him, but I couldn't place from where, and before I knew it, this young man was hugging me. And thanking me. "You cared about me, and you changed my life." It was Christopher.

See, I never arraigned Christopher. He never faced a judge or a jail, he never had a criminal record. Instead, I worked with Christopher; first on being accountable for his actions, and then, putting him in a position where he wouldn't re-offend. We recovered 75 percent of the computers that he sold and gave them back to Best Buy, and came up with a financial plan to repay for the computers we couldn't recover. Christopher did community service. He wrote an essay reflecting on how this case could impact his future and that of the community. He applied to college, he obtained financial aid, and he went on to graduate from a four-year school.

(Applause)

After we finished hugging, I looked at his name tag, to learn that Christopher was the manager of a large bank in Boston. Christopher had accomplished -- and making a lot more money than me --

(Laughter)

He had accomplished all of this in the six years since I had first seen him in Roxbury Court. I can't take credit for Christopher's journey to success, but I certainly did my part to keep him on the path.

There are thousands of Christophers out there, some locked in our jails and prisons. We need thousands of prosecutors to recognize that and to protect them. An employed Christopher is better for public safety than a condemned one. It's a bigger win for all of us. In retrospect, the decision not to throw the book at Christopher makes perfect sense. When I saw him that first day in Roxbury Court, I didn't see a criminal standing there. I saw myself -- a young person in need of intervention. As an individual caught selling a large quantity of drugs in my late teens, I knew firsthand the power of opportunity as opposed to the wrath of the criminal justice system. Along the way, with the help and guidance of my district attorney, my supervisor and judges, I learned the power of the prosecutor to change lives instead of ruining them.

And that's how we do it in Boston. We helped a woman who was arrested for stealing groceries to feed her kids get a job. Instead of putting an abused teenager in adult jail for punching another teenager, we secured mental health treatment and community supervision. A runaway girl who was arrested for prostituting, to survive on the streets, needed a safe place to live and grow -- something we could help her with. I even helped a young man who was so afraid of the older gang kids showing up after school, that one morning instead of a lunchbox into his backpack, he put a loaded 9-millimeter. We would spend our time that we'd normally take prepping our cases for months and months for trial down the road by coming up with real solutions to the problems as they presented.

Which is the better way to spend our time? How would you prefer your prosecutors to spend theirs? Why are we spending 80 billion dollars on a prison industry that we know is failing, when we could take that money and reallocate it into education, into mental health treatment, into substance abuse treatment and to community investment so we can develop our neighborhoods?

(Applause)

So why should this matter to you? Well, one, we're spending a lot of money. Our

money. It costs 109,000 dollars in some states to lock up a teenager for a year, with a 60 percent chance that that person will return to the very same system. That is a terrible return on investment.

Number two: it's the right thing to do. If prosecutors were a part of creating the problem, it's incumbent on us to create a solution and we can do that using other disciplines that have already done the data and research for us.

And number three: your voice and your vote can make that happen. The next time there's a local district attorney's election in your jurisdiction, ask candidates these questions. One: What are you doing to make me and my neighbors safer? Two: What data are you collecting, and how are you training your prosecutors to make sure that it's working? And number three: If it's not working for everybody, what are you doing to fix it? If they can't answer the questions, they shouldn't be doing the job.

Each one of you that raised your hand at the beginning of this talk is a living, breathing example of the power of opportunity, of intervention, of support and of love. While each of you may have faced your own brand of discipline for whatever malfeasances you committed, barely any of you needed a day in jail to make you the people that you are today -- some of the greatest minds on the planet.

Every day, thousands of times a day, prosecutors around the United States wield power so great that it can bring about catastrophe as quickly as it can bring about opportunity, intervention, support and yes, even love. Those qualities are the hallmarks of a strong community, and a strong community is a safe one. If our communities are broken, don't let the lawyers that you elect fix them with outdated, inefficient, expensive methods.

Demand more; vote for the prosecutor who's helping people stay out of jail, not putting them in.

Demand better. You deserve it, your children deserve it, the people who are tied up in the system deserve it, but most of all, the people that we are sworn to protect and do justice for demand it.

We must, we must do better.

Thank you.

(Applause)

Thank you very much.