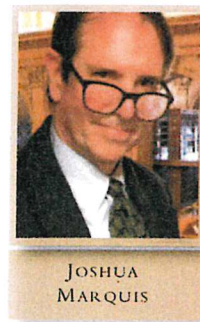


The PROSECUTOR

Is George Soros a Threat to Apolitical Prosecutors and Politics-free Prosecution?



BY JOSHUA MARQUIS

TIP O'NEILL, the late great Speaker of the House, famously said "all politics is local." Combine that truth with the fact that only in America are chief trial prosecutors elected, and you find a unique marriage of democracy and justice — the election of the chief prosecutor.

Incumbency was considered for decades to be the ultimate vaccination against successful opposition. Political experts tell candidates that if their state allows the use of the term "incumbent" on the ballot, it is likely worth at least 20 points.

In many parts of America, the average prosecutor's office is the District Attorney, one assistant District Attorney, and five support staff. The jobs pay modestly in comparison to other practices of law, and there is relatively little interest in dislodging those willing to toil in the fields of justice as a prosecutor.

But hands have changed frequently in many of the nation's largest District Attorney offices when the incumbent was challenged. One of the best examples is in the largest District Attorney's office on the planet, Los Angeles County, California, with more than 1000 lawyers, where, between 1984 and 2000, Bob Phillibosian was defeated by Ira Reiner, who was

defeated by Gil Garcetti, who was defeated by Steve Cooley. Cooley managed to stay in power for 12 years, until he resigned and the County's first African-American and woman District Attorney, career prosecutor Jackie Lacey, took over.

America's prosecutors represent a diverse group of Democrats, Republicans, and Independents, and hold widely varying opinions on criminal justice controversies. There are more women in top spots than in any other practice of law. Diversity in race and ethnicity is widely sought.

Jason Carlile, long-time District Attorney in Albany, Oregon, noted in a speech to his Oregon colleagues that they probably kept more people out of jail than all the defense attorneys in the state. It's true throughout America. But self-described "progressive" political activists whose success at grass-roots campaigning almost won Bernie Sanders the nomination for President, and the same groups' anger and frustration over the election of Donald Trump as President, are calling for the replacement of "old-fashioned, tough-on-crime, lock-em-all-up" prosecutors. Their demand is strengthened on the left by the ACLU and billionaires like George Soros; and on the right by the Koch

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Brothers, sponsors of the “criminal justice reform” group, Right on Crime. Over \$10 million has been dumped into the last two election cycles, specifically to unseat existing prosecutors and replace them with others who rush to prove that convicting felons is a low priority, in response to headlines like the one in the March 27, 2018 issue of *New York* magazine: “What if Prosecutors Wanted to Keep People Out of Prison?”

Results have been mixed. Sometimes it’s hard to tell whether the incumbent was defeated because she or he had made too many missteps or over-stayed their welcome, or because their opponent had 50 times as much money to spend on the campaign.

Soros’ Open Society Institute used pop-up Political Action Committees, almost always entitled “Safety and Justice for YOUR STATE HERE” in the 2016 elections. Sometimes the money went directly to fund the candidate. More often it went through what in federal election parlance is a “527 group” or “dark money,” meaning that the money is independently collected and spent. This gives the candidate who benefits total plausible deniability, being able to say they “have never met Soros” and “never saw any of these terrible ads.”

Soros pumped \$1.4 million into the Orlando-based Florida State’s Attorney race. Jeff Ashton, the incumbent, had won just four years earlier by defeating his long-time boss. Ashton himself gained notoriety after losing the murder case against Casey Anthony. Ashton’s run wasn’t made any easier by an anonymous hack of the adultery/dating website AshleyMadison.com. Soros money supported Aramis Ayala in the Florida race, who had spent a decade as a public defender and who had worked less than two years, before and after her longer stint as a defense lawyer, in two different prosecutors’ offices. She used her husband’s eight years in prison as evidence that she understood the problems of the incarcerated.

More recently, Soros dumped almost \$2 million into the Democratic primary in Philadelphia, PA to replace the now-imprisoned DA, Seth Williams. In Philadelphia as in many cities, the Democratic nomination is tantamount to election. So, although only 16 percent of registered Democrats turned out to vote in

November 2017, they overwhelmingly elected Larry Krasner, a long-time defense attorney with absolutely no prosecution experience. Krasner took his election as a mandate. He purged dozens of long-time prosecutors within weeks of election, announced his office would never seek a death sentence, and put himself on a collision course with the city’s police rank and file.

Soros is not always successful. In Jefferson County, a large suburban area that surrounds Denver, CO, Soros and affiliated groups (like the Democracy Alliance) in 2016 put over \$3 million into play against one-term incumbent DA Peter Weir who raised barely \$90,000. Despite the changing demographics of Colorado, Weir kept his office. Even media not generally friendly to Weir were alarmed by the sudden flood of huge amounts of out-of-state special interest money.

Although politics and money may influence who gets elected prosecutor, how a prosecutor fulfills his or her responsibility to the community should never be influenced by politics or money. Prosecutors are ministers of justice. Their job, simply put, is to do the right thing. Sometimes that means supporting diversion programs for offenders, sometimes that requires seeking lengthy prison sentences or even the death penalty. The influx of money and political pressure into prosecution races appears to have influenced how some prosecutors are doing their job.

What goes unanswered is: What is “criminal justice reform”? Does it necessarily mean finding ways to never send a felon to prison? Most DAs of all stripes work with alternative programs, recognizing the reality that few felons actually go to prison. Or does it involve elevating the rights of victims? Does having a Drug Court mean you aren’t interested in finally making sure repeat wife beaters do hard time?

Ultimately the question is the same as it is at the national level: Does democracy benefit when amounts of money 10 to 50 times what any ordinary candidate could possibly raise are poured into campaigns — of any sort — to buy TV and radio time, and fund direct mailers? Is democracy advanced when one side has such a large megaphone that it effectively drowns out all possible debate?