RECAST 2013

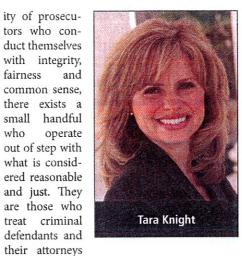
Reining In The Mavericks

Defense bar wants close watch kept on 'outlier' prosecutors

ninal justice system is the best the world esupposes that our ue due process and less, humanity and

nt lines, I can atmerican system of entally flawed. Our a vast underclass employable, hopesociety. Moreover, nation of laws and ny is in the hands o do not exercise om and humanity st troubling is the e demonstrated by the wheel of what is ad the "big picture" abuse of authority

rance on the part of hen it comes to sufprosecutors in this prosecute according gy and zealotry. We ow prosecutors and know who they are, d with a vast major-



with disdain and contempt.

Although outliers, they are allowed to wield their power often unimpeded and to abuse their discretion with little regard to the staggering consequences their decisions have on individuals, family members and society as a whole.

For instance, some of these prosecutors having forgotten their oath to do justice, will silently tolerate police abuses—some have even expressed their feeling that such abuses are sometimes necessary to get the "bad guys." Additionally, some believe that it is their job to shield law enforcement from their own excesses and illegalities — even so

far as protecting them from potential civil redress by wronged defendants.

Moreover, it is commonplace for some to fail to skeptically scrutinize police reports, instead regarding them as sacrosanct even when it is apparent that some law enforcement officers are routinely engaged in clear civil rights vio-

lations-using pretextual reasons to stop, search and sometimes arrest those they deem "suspicious." There are those who know of the bad apples in police departments, yet turn their heads. Some police misconduct has been tolerated for years, even when those of us in the system knew exactly who the bad apples were. Finally, too often these prosecutors are remiss, at best, in determining what constitutes "Brady" material and will engage is ends-justifies-the-means trial strategy.

These are individuals who do not exercise their discretion and power with common sense and a view to the big picture. They rationalize wrong-

headed decisions by claiming they are merely enforcing the laws when in reality they are bestowed with immense discretion and expected to use it wisely. They insist on felony convictions when such are clearly not warranted — a stigma staining an individual's life forever — and have a short-sighted view of the long range consequences of their decisions.

They fail or refuse to recognize that the difference between a felony and misdemeanor



conviction can mean the difference between a job or unemployment; a student loan or no education; a license or a lost chance to work in the trades. They either fail to see or seem not to be concerned that this monu sion can be life altering and will a and family members perpetuatir ending circle of hopelessness ig poverty.

Timid Judges

Yet more troubling still is the bettion that judges and the defense strate in dealing with these outlier them to act unchecked in the state

The judiciary, the state, and the should not tolerate these mavericated the judges and defense attornation plicit in this unfair system. Some little criminal law background, at to make the big decision that law sometimes requires. Some injudges will routinely side with the they are unsure what to do—a sa estimation.

Judges need to hold the state of the face of prosecutorial excess of these few. They need to grant morpress when warranted and stop rooting police witnesses as a mere matter peer pressure or simple lack of of defense bar needs to speak up and tion that the renegade prosecutor the system. These individuals nee to task when they abuse their distimproperly — the lives of those caught in their crosshairs are at state to happen, it would surely be a step making our criminal justice system world has to offer.

Tara Knight is a founding pa New Haven firm of Knight & Cer former president of the Connect Defense Lawyers Association. S been named as Yale Law School tor in Law for the spring 2013