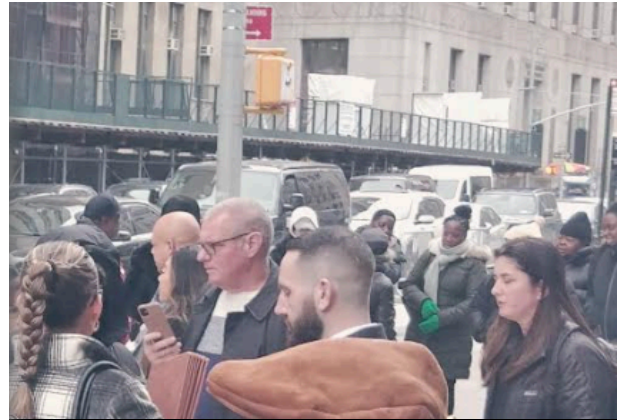


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Prosecutorial s Going Nowhere

the Manhattan DA's office exonerates the
(1-31-2024). Even though he agreed to
Queens prosecutor, chided the duo's lawyer
conduct in the case. Theodore Hamm

Almost three years after it was signed into law, the commission lacks key staff and is saddled with the reputation of being a do-nothing agency.

THEODORE HAMM Jan 31

The numbers alone are staggering. Since 2021, around 1,000 criminal convictions have been overturned by district attorneys in the five boroughs, largely because of police misconduct.

While these district attorneys seek praise for overturning convictions, the

role their offices played in securing false convictions remains immune to scrutiny.

As the *Independent* recently detailed, attempts by the New York Prosecutor Accountability Project to pursue Grievance Committee actions against prosecutors who have committed misconduct have been ignored. Meanwhile, an oversight entity first created by the state legislature in 2018 has thus far taken no concrete action.

Many of the advocates who helped initiate the New York State Commission on Prosecutorial Misconduct now wonder if it has been designed to fail. The entity's track record makes it hard to suggest otherwise.

After a judge found that the 2018 legislation that created the commission violated the state constitution, Gov. Cuomo approved the current iteration in mid-2021. Then, early last year, Gov. Hochul alarmed the commission's supporters when she chose Daniel Alonso as one of her four appointees to the board.

As top deputy under Manhattan DA Cy Vance, Alonso defended the office against charges of prosecutorial misconduct. In the debate over the 2018 legislation, Alonso argued that a commission targeting prosecutors' "errors" was wrongheaded and redundant given the existence of the Grievance Committee.



The degree to which Alonso has helped slow down the commission's work is an open question.

Last May, the commission **posted** a job listing seeking an administrator to guide its work. The legislation specified that this person would direct the entity's operations. As of the end of January, the position remains unfilled.

Prosecutors are almost never held accountable when they use unethical practices to obtain false convictions.

"The Commission has made significant progress in selecting the Administrator," explains Michael Simons, board chair and dean of the St. John's law school. "At this point, we are awaiting the completion of the final bureaucratic steps necessary for the Administrator to officially assume the position. We expect to have an announcement soon."

"We are anxiously awaiting the announcement regarding the administrator's appointment and to learn his or her qualifications," says Bill Bastuk, a former Rochester-area elected official.

After he was **wrongfully prosecuted** for sexual assault in 2008, Bastuk created **It Could Happen to You**, an organization dedicated to providing oversight of New York's criminal justice system, and he helped build legislative support in Albany for the creation of the misconduct commission.

Given that his inquiries regarding the status of the administrator position have gone unanswered for several months, Bastuk welcomes any and all actions by the commission. "Hopefully," he says, "staff and operational procedures will be

in place prior to the commission's required annual report in March."

Longtime Albany lawyer Steve Downs says that he modeled the legislation creating the prosecutor oversight entity on the judicial misconduct commission created by the state legislature in the mid-1970s. "There was strong resistance to that effort at first," Downs recalls, "but within a few years even judges were thanking us because we helped clarify what the best practices were."

In Downs' view, the current prosecutor commission has created "a perception problem" for itself. "When you are perceived to be inactive," he says, "that's difficult to overcome."

Alas, the perception may be the reality that the state's powerful District Attorneys Association seeks. The *Indypendent* will nonetheless track the commission's moves throughout the year.

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