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Guilty before proven guilty
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Eng-102 A with Honors project

This research project is about identifying if there is a problem with the current justice system on how prosecutors handle pleas and the impact they have with their sole discretionary power. Prosecutors have been shown to hold an unbalanced amount of power and leave the system unjust. Focusing on the legal, moral and ethical standings that prosecutors should follow and whether or not the acts that some prosecutors use break those principles. The American Bar Association has set up specific guidelines for prosecutors to follow, however they may be too broad and thus allow them to manipulate the system with surreptitious tactics that allow them to unfairly sway cases into their favors without factoring in whether the defendant is guilty or not. The second problem is there is no limit to the amount of charges they can rack up on an individual to increase the amount of time they would spend in jail.

ABSTRACT

Imagine that one day you were home with your significant other. Tragically she dies and there were no witness to her death. As unfortunate as that sounds it creates an unjust system in need of calibration. Whether you commit the crime or not is irrelevant to the fact that they can charge you with additional crimes. Prosecutors can give you essentially an ultimatum in plea deals before they represent the evidence collected, take the plea for 6 months in jail or go to trial and face 20 years, this is not an exaggeration. In the case of Booker VS Washington the guidelines that prosecutors had to follow went from mandatory to advisory giving them sole responsibility and discretion to apply several different crimes against the defense in an attempt to increase the amount of jail time spent rather then argue with the defense on the actual crime committed.

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Context

Imagine that one day you were home with your significant other. Tragically she dies and there were no witness to her death. As unfortunate as that sounds it creates an unjust system in need of calibration. Whether you commit the crime or not is irrelevant to the fact that they can charge you with additional crimes. Prosecutors can give you essentially an ultimatum in plea deals before they represent the evidence collected, take the plea for 6 months in jail or go to trial and face 20 years, this is not an exaggeration. In the case of Booker VS Washington the guidelines that prosecutors had to follow went from mandatory to advisory giving them sole responsibility and discretion to apply several different crimes against the defense in an attempt to increase the amount of jail time spent rather then argue with the defense on the actual crime committed.

Description of the Issue

• Is the tactics used by prosecutors, breaking any conventional terms set up by the American bar association
• Is what they do legal
• Is what they do moral
• Is what they do ethical
• How might the tactics used create an unjust system
• How does this effect the average defendant
• Should there be stricter guide lines set up for plea deals
• If there is an issues what would an alternative be and would that alternative be practical
• Would their tactics be considered sureptitious

Issue and Position

Issue- do some prosecutors hold too much power and does prosecutorial discretion impact pleas and sentencing

Yes- they have little to no checks and it creates an unjust system in need of calibration

Position and Support

• I believe that prosecutors hold too much power and it creates an unjust system
• There are several cases where the prosecutors would withhold information for the defense until the last minute and make it difficult to evaluate the legitimacy of the case.
• Prosecutors can give you essentially an ultimatum in plea deals before they represent the evidence collected, take the plea for 6 months in jail or go to trial and face 20 years, this is not an exaggeration.
• In the case of Booker VS Washington the guidelines that prosecutors had to follow went from mandatory to advisory giving them sole responsibility and discretion to apply several different crimes against the defense in an attempt to increase the amount of jail time spent rather then argue with the defense on the actual crime committed.

Future

The future largely depends on further research to create a just system. Implementing something new is difficult and would take time and large amount of resources. Two potential changes could be to have the Judge be apart of the plea deal process to act as a balance to the charges given. Another is to use a plea jury to have a jury of peers decide if the plea and charges are adequate given the circumstances.