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More Than 80 Criminal Justice Leaders Urge GA Court to Declare SB 92 Unconstitutional and Protect Prosecutorial Independence and Democracy

Georgia's new prosecutor oversight commission politicizes the prosecutor's office, discourages transparency and infringes on voters' ability to have a say in their local justice system

ATLANTA – Today, a bipartisan group of 84 current and former elected prosecutors and former U.S. Attorneys and Department of Justice officials sought leave to file an [amicus brief](#) calling on the Fulton County Superior Court to uphold the well-established independence of locally elected district attorneys and to safeguard the right of voters to choose leaders who reflect their values. The brief was submitted in support of a [lawsuit](#) brought by four Georgia prosecutors challenging the constitutionality of Senate Bill 92 (SB 92), which created an oversight commission appointed by state leaders with the power to investigate and remove local prosecutors from office. The signatories to the brief argue that SB 92 illegally infringes on prosecutorial discretion, undermines local control and self-governance, will reduce transparency in prosecutors' offices, and raises serious questions about fairness and politicization of the justice system, all of which threaten community trust in the criminal legal system and undermine public safety.

There already are extremely concerning signs that SB 92 will politicize the role of the district attorney in Georgia and erode the prosecutorial independence that has been a cornerstone of the American criminal legal system for hundreds of years. A state senator recently called for the commission to investigate Fulton County District Attorney Fani Willis after she indicted former President Donald Trump. No one is above the law, and elected prosecutors have an obligation to pursue accountability regardless of someone's position or authority. But as the signatories to the brief note, SB 92 "necessarily chills investigations into the powerful, and could entangle what are intended to be independent decisions by prosecutors in the world of politics."

"The impact of SB 92 is no longer hypothetical – already, some politicians are seeking to use it to protect their political interests and power, and it is fundamentally at odds with our democracy to allow these intrusions on local control and prosecutorial independence to stand," said **Miriam Krinsky, Executive Director of [Fair and Just Prosecution](#)** and a former federal prosecutor.

"We hope that the court will protect the well-established apolitical role of prosecutorial discretion and ensure that the people of Georgia maintain the right to choose leaders who best reflect their community's vision of justice."

The signatories to the brief stress that the oversight commission threatens the very foundations of our democracy by infringing on the rights of voters to be represented by their chosen elected leaders. They emphasize that the commission “can remove an official, no matter how many people voted for that person, how well the prosecutor’s decisions reflect their values, and how safe the community is.” The effects of this breach of democracy would be extreme: “When a community thinks they will have no say in how their democratically elected official carries out their job, and whether that individual stays in office, public trust in the system suffers, and necessarily, so does public safety.”

“As an elected prosecutor, I am accountable to my community to follow through on their vision of justice and public safety, and every four years, they get to decide whether I have done enough to earn their support. But SB 92 threatens to upend that system of democracy in Georgia by allowing outside forces to oust prosecutors over nothing more than political differences. If people believe their vote can be overturned at any time, trust in our democracy and institutions will suffer, which makes us all less safe,” said **Wyandotte County (Kansas City), Kan. District Attorney Mark Dupree**, a signatory to the brief.

“For decades, our judicial system has respected and safeguarded prosecutorial discretion, and there is no reason for the courts not to maintain that commitment to separation of powers and the independence of the prosecutor. To disregard such a cornerstone of the American criminal legal system could have devastating effects on democracy and public safety,” said **former U.S. Solicitor General Charles Fried**, a former Associate Justice of the Supreme Judicial Court of Massachusetts and signatory to the brief.

Other signatories to the brief include **Georgia District Attorneys Shalena Cook Jones** (Chatham County), **Deborah Gonzalez** (Western Judicial Circuit) and **Dalia Racine** (Douglas County); **former DeKalb County, Ga. District Attorney J. Tom Morgan**; **former U.S. Solicitor General Seth Waxman**; **current Attorneys General Kathleen Jennings** (Delaware) and **Brian Schwalb** (District of Columbia); and **former Attorneys General Douglas Chin** (Hawaii), **Scott Harshbarger** (Massachusetts) and **Patricia A. Madrid** (New Mexico).

Amici are represented by local counsel, **former Macon (Georgia) Judicial Circuit District Attorney David Cooke** of Gautreaux Law Firm.

Read the brief [here](#); see below for a list of *amici*.

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Fair and Just Prosecution is a national network of elected prosecutors working towards common-sense, compassionate criminal justice reforms. To learn more about FJP’s work, visit our [website](#) and follow us on [Facebook](#), [Twitter](#), [LinkedIn](#), and [Threads](#).

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