

# PROSECUTORS BURIED EVIDENCE AND MISLED THE COURT. TEN YEARS LATER, THEY GOT A SLAP ON THE WRIST.

Supervisory error justified leniency, a court ruled. One supervisor now runs the Justice Department office that investigates prosecutorial misconduct.

Shawn Musgrave, Molly Farrar, Brooke Williams

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**AFTER RULING THAT** federal prosecutors withheld key evidence resulting in a defendant's wrongful imprisonment, D.C.'s top court took nearly a decade to decide on an appropriate sanction. In December, after extensive hearings, the D.C. Court of Appeals [gave](#) two prosecutors a year of probation plus a stern warning not to commit any further misconduct, or they would be suspended from practicing law for six months.

Both prosecutors, Mary Chris Dobbie and Reagan Taylor, still work for the Justice Department, according to [media reports](#) and other records. One of their former supervisors, Jeffrey Ragsdale, currently leads the department's Office of Professional Responsibility, which oversees investigations into alleged prosecutorial misconduct.

Under the landmark U.S. Supreme Court decision in *Brady v. Maryland*, prosecutors have a constitutional obligation to disclose exculpatory evidence to defense attorneys. At the trial for two defendants accused of assaulting an officer during a jailhouse brawl, Dobbie and Taylor withheld unequivocal evidence that their lead witness, a corrections officer, had a history of filing false reports. Based on the officer's testimony, one defendant was imprisoned for more than four years before his conviction was reversed.

In 2021, the D.C. Board on Professional Responsibility, a disciplinary panel appointed by the appeals court, [unanimously recommended](#) a six-month suspension for Dobbie and Taylor. But in a divided opinion, the court ratcheted down the sanction to probation based on "one overriding mitigating circumstance": the "deficient conduct" of Ragsdale and another supervisor, John Roth, who later served as inspector general for the Department of Homeland Security. There were no ethics charges or misconduct findings for either supervisor.

Reached by phone, Roth declined to comment, saying that he was not aware of the decision. Attorneys for Dobbie and Taylor did not respond to multiple requests for comment, nor did Ragsdale. The Justice Department also failed to respond.

The dissenting judge, Joshua Deahl, argued that Dobbie and Taylor “should face real consequences for their actions.”

“The board comes to us – despite innumerable favorable inferences drawn in respondents’ favor – with the rare recommendation of an actual suspension that at least comes close to reflecting the gravity of this serious prosecutorial misconduct,” Deahl wrote. “Yet this court balks.”

Deahl noted a dissonance between how courts treat prosecutors’ ethical violations versus misconduct by private attorneys, who are routinely disbarred or suspended for actions like dipping into client funds.

“That is too harsh a result, the majority concludes, when prosecutors intentionally suppress evidence in violation of the Constitution and thereby secure felony convictions resulting in years of unjust imprisonment,” wrote Deahl, who was appointed by President Donald Trump in 2019 and served as a public defender before joining the bench.

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Even this relatively lenient sanction **is a rarity** for federal prosecutors. And the protracted timeline – a year of probation more than 14 years after the violation – illustrates systemic shortcomings in current accountability mechanisms.

“The dramatic delay is all the more troubling,” Bruce Green, a Fordham Law School professor who studies prosecutorial ethics, told The Intercept, because “the disciplinary process is the principal way of holding prosecutors publicly accountable for misconduct.”

In Green’s view, the court appeared to be grasping for reasons not to suspend Dobbie and Taylor. He read the majority’s opinion as “looking for something to say to mitigate the sanction, and the best they could do was to put some of the blame on inadequate supervision.”

## A “Faxing Mishap”

By the prosecutors’ account, the constitutional violations could largely be blamed on an uncooperative fax machine.

In 2009, weeks before two defendants went on trial for assaults at a D.C. jail, the line prosecutors, Dobbie and Taylor, learned that their “lead identification witness” had a serious credibility issue: Officer Angelo Childs had recently been demoted after he maced a man in custody who was already restrained. Childs then submitted a false incident report suggesting that the man was acting violently, as well as a false disciplinary report charging the man with assaulting an officer and a K9. Security footage contradicted both reports.

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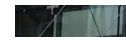
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Dobbie and Taylor received a 10-page report from the corrections department about Childs's discipline, including a findings section on the final page. They had a clear constitutional obligation to disclose this information to the defendants, which “should not have been a hard call for the government,” the appeals court ruled in 2014.

The report was “powerfully impeaching,” the court noted. “It did not simply establish that Officer Childs had a track record for untruthfulness. It established that he was willing to make false reports implicating inmates in assaults on law enforcement agents – the precise context of this case.”

**“This is a witness we intend to call at trial who now has a veracity issue.”**

Instead of promptly disclosing the report, the prosecutors sought their supervisors' guidance. They first consulted Ragsdale, then chief of the felony major crimes section of the U.S. Attorney's Office in D.C.

Ragsdale passed the request to his supervisor, John Roth, who at the time headed a committee that advised on whether to call law enforcement officers to the stand when their credibility was in question. “This is a witness we intend to call at trial who now has a veracity issue,” Ragsdale wrote in an email to Roth.

Less than two weeks before trial, Roth and Ragsdale provided instructions to the line prosecutors that the appeals court majority called “inaccurate,” “regrettable,” and “deficient.”

Roth “cavalierly” questioned the corrections department’s findings that Childs had lied, a disciplinary committee later found. “Not sure that the DOC conclusion that he lied is supported by the record, but I will leave it to you folks to hash out,” Roth, who did not consult any underlying evidence, wrote in an email. Still, he directed the prosecutors to “disclose the report” and “litigate its admissibility” at trial. While this represented an antagonistic approach to handling evidence of dishonesty by the government’s key witness, at least it would have given the defense the opportunity to argue in favor of sharing the information with jurors.

This is where Ragsdale “played a role in this case going awry,” according to the appeals court majority. He directed Dobbie and Taylor to file the report under seal with the court, instead of disclosing it to the defense directly, along with a motion arguing that the defendants should not be allowed to ask the officer about it on the stand.

Five days before trial, the prosecutors filed a “misleading and factually incomplete motion,” the appeals court ruled, along with a sealed copy of the first five pages of the report. The most damning information about Childs started on the sixth page, and the findings were at the very end.

The motion noted that the corrections department “may” have made “potentially adverse credibility findings” about Childs’s incident report, but it entirely omitted the fact that the officer had been demoted, used excessive force, and filed a false disciplinary report. Echoing Roth, the prosecutors expressed unfounded skepticism about the report’s accuracy.

When the judge sought confirmation that the version the prosecutors filed was complete, Dobbie answered that the copy she brought to court was also just five pages. Taylor, meanwhile, had a copy of the full 10-page report with her but said nothing. Based on the prosecutors' assurances that they had accurately summarized the contents, the judge repeatedly denied the defendants access to the report itself.

The D.C. court majority attributed this omission to an unintentional faxing error, which the dissenting judge called "far from the most natural inference." The disciplinary committee "cut Dobbie and Taylor repeated breaks," Deahl wrote, "crediting their testimony that their actions were mistakes, despite strong evidence to the contrary."

Based on the officer's testimony at trial, both defendants were convicted and sentenced to more than five years in prison. They obtained the damning report three months after they were convicted, but it took another four years for the D.C. Court of Appeals to rule that the prosecutors unconstitutionally withheld it. The court reversed the conviction of one defendant; the other acknowledged that he had been correctly identified.

The court was "left with many questions about the government's behavior," the judges [wrote](#). How could the prosecutors fail to realize that half the report was missing, "particularly when the trial court specifically asked if the five-page copy it had in hand was the complete report?"



A view of the D.C. Court of Appeals in Washington, D.C., on Sept. 18, 2020. Photo: Graeme Sloan/Sipa via AP Images

## Watered-Down Discipline

The court's scathing reversal in 2014 set off two disciplinary investigations.

The Justice Department's Office of Professional Responsibility opened an investigation, the results of which have not been made public. For [decades](#), OPR, now led by Ragsdale, has faced intense criticism over its [abysmal transparency](#). Green, the expert in prosecutorial ethics, called the office "the roach motel of the Justice Department," while a former U.S. attorney for D.C. [said](#) it was "known as the Bermuda Triangle of complaints against prosecutors."





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The D.C. Office of Disciplinary Counsel, which serves as the chief prosecutor for attorney disciplinary matters in D.C., launched a separate, more transparent inquiry soon after the court’s reversal. Five years later, the office filed a disciplinary petition against the line prosecutors with the Board on Professional Responsibility. Dobbie and Taylor expressed remorse for not turning over the report but argued that their actions constituted mistakes of inexperience rather than ethical violations. At the time of the trial, Dobbie had been a federal prosecutor for a few years and Taylor for a little over a year.

In January 2021, after a disciplinary committee [agreed](#) that Dobbie and Taylor had committed misconduct by withholding the report, the full Board on Professional Responsibility recommended a six-month suspension.

The appeals court, however, shifted the blame and watered down the discipline. The divided court ruled in December that the errors of Roth and Ragsdale, who were not themselves at risk of professional penalty, weighed against the line prosecutors’ suspension. Dobbie and Reagan “should not, and probably do not, shoulder full responsibility,” Judge Loren AliKhan wrote for the majority.

In a brief supporting the line prosecutors, the Justice Department argued that any sanction at all was “unwarranted,” urging the court not to “blink away”

## The Justice Department “could hold its prosecutors

the supervisors' role. The Justice Department did not answer questions from The Intercept about OPR's

**publicly accountable if it wanted to.”**

inquiry into the case or how the court's decision reflected on Ragsdale's fitness to oversee misconduct investigations for all federal prosecutors.

Michael P. Heiskell, president of the National Association of Criminal Defense Lawyers, told The Intercept that “deficient conduct of experienced supervisors deserves much harsher condemnation” than the appeals court gave.

“I'm happy there's a sanction,” said Shawn Armbrust, executive director of the Mid-Atlantic Innocence Project, which filed a brief urging the court to impose the six-month suspension. “There are a lot of jurisdictions that wouldn't even do that.”

This decadelong disciplinary saga brought Green back to his central critique: We have very little insight into how the Justice Department itself is policing federal prosecutors. The department “could hold its prosecutors publicly accountable if it wanted to” through OPR, Green said, “but it doesn't.”

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