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Statement of the Missouri Association of Prosecuting Attorneys on Justice and Public Safety for Citizens of St. Louis City and House Bill 301

Prosecutors play a unique and vital role in the criminal justice system. A prosecutor must protect public safety by vigorously prosecuting those who violate the law while also protecting the innocent from wrongful charges. The United States Supreme Court and the national standards for prosecutors both recognize the importance of a prosecutor's twin duties to prosecute the guilty and protect the innocent.¹

Missouri's prosecutors are elected by the people they serve, as Missouri law has long recognized that local control provides the best form of government.² To honor the

¹ *Berger v. United States*, 295 U.S. 78, 88, 55 S.Ct. 629, 79 L.Ed. 1314 (1935) (The prosecutor "is in a peculiar and very definite sense the servant of the law, the twofold aim of which is that guilt shall not escape or innocence suffer. He may prosecute with earnestness and vigor—indeed, he should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one."); *State ex rel, Griffin v. Smith*, 258 S.W.2d 590, 593 (Mo. banc 1953); National District Attorneys Association National Prosecution Standards, 4th Ed. with Rev. Commentary, Section 1-1.1 p. 3 (January 2023) ("The prosecutor is an independent administrator of justice. The primary responsibility of a prosecutor is to seek justice, which can only be achieved by the representation and presentation of the truth. This responsibility includes, but is not limited to, ensuring that the guilty are held accountable, that the innocent are protected from unwarranted harm, and that the rights of all participants, particularly victims of crime, are respected.").

² The Missouri Supreme Court has emphasized the importance of local election of prosecutors: "A public prosecutor is a responsible officer chosen for his office by the suffrage of the people. He is accountable to the law, and to the people. He is 'vested with personal discretion entrusted to him as a minister of justice, and not as a mere legal attorney. . . . He is expected to be impartial in abstaining from prosecuting as well as in prosecuting, and to guard the real interests of public justice in favor of all concerned.'" *State ex rel, Griffin v. Smith*, 258 S.W.2d 590, 593 (Mo. banc 1953).

trust citizens place in the prosecutors they elect for their respective jurisdictions, it is incumbent upon all prosecutors to do justice and protect the safety of the citizens of their jurisdictions. While the Association does not take sides on any issues plaguing the City of St. Louis, we are concerned for the citizens of the City and their right to justice and public safety.

Where a prosecutor has failed to live up to the standards demanded by the law and the community the prosecutor serves, Missouri law already provides two avenues to remove that prosecutor.

First, should the citizens of a jurisdiction feel an elected prosecutor is failing to fulfill his or her duty in providing justice and public safety, those citizens may file a petition to remove that prosecutor pursuant to Sections 106.220-106.290 of the Revised Statutes of Missouri.

Second, the Missouri Attorney General has authority to remove a prosecutor on the same grounds through an action called *quo warranto*. And, of course, a prosecutor who can no longer adequately perform the functions of his or her office should resign.³

Simply put, when any prosecutor fails to live up to the demanding standards to be an effective minister of justice, Missouri law already enables the public that elected that prosecutor to remove the prosecutor. For that reason, proposals to vest the Attorney General or a special prosecutor with new or concurrent jurisdiction alongside any elected prosecutor are unnecessary and counterproductive. House Bill 301 would actually leave an offending prosecutor in place to prosecute—or, at their sole discretion, *refuse* to prosecute—the vast majority of cases in a jurisdiction. The Missouri Association of Prosecuting Attorneys opposes House Bill 301 and any other measure that would fundamentally change the system, which has served the citizens of Missouri well since 1875, that holds local prosecutors accountable to the public they serve.

³ Commentary, National District Attorneys Association National Prosecution Standards, 4th Ed. with Rev. Commentary, p. 13 (January 2023) “Prosecutors should be mindful of their responsibility to seek justice. Should a prosecutor find himself or herself in a situation in which the public trust in the office has diminished to the extent that he or she can no longer fulfill that primary responsibility, resignation should be considered.”).