Small Town Dicks

Season 1, Episode 4

All Due Respect

Cops and defense attorneys sit on opposite sides in the courtroom. So, what happens when you put them at the same table? In today’s briefing, we find out. Detective Dave welcomes Public Defender Lissa to talk about why she left the prosecutor’s office to become a defender of the accused, how she does her job, and what she feels is the common ground in the fight for justice – hint, it’s spelled r-e-s-p-e-c-t.

**Dan: [**[**00:00:04**](http://www.smalltowndicks.com/episode/all-due-respect/#00:00:04)**]** In police stations across the country, officers start their shifts in The Briefing Room.

**Dave: [**[**00:00:09**](http://www.smalltowndicks.com/episode/all-due-respect/#00:00:09)**]** It’s a place where law enforcement can speak openly and candidly about safety, training, policy, crime trends, and more.

**Dan: [**[**00:00:17**](http://www.smalltowndicks.com/episode/all-due-respect/#00:00:17)**]**We think it’s time to invite you in.

**Dave: [**[**00:00:19**](http://www.smalltowndicks.com/episode/all-due-respect/#00:00:19)**]** So, pull up a chair.

**Dave and Dan: [**[**00:00:20**](http://www.smalltowndicks.com/episode/all-due-respect/#00:00:20)**]**Welcome to The Briefing Room.

[Briefing Room theme playing]

**Dave: [**[**00:00:35**](http://www.smalltowndicks.com/episode/all-due-respect/#00:00:35)**]** In today’s Briefing Room, we have, of course, Yeardley-

**Yeardley: [**[**00:00:39**](http://www.smalltowndicks.com/episode/all-due-respect/#00:00:39)**]** Hello, Dave.

**Dave: [**[**00:00:40**](http://www.smalltowndicks.com/episode/all-due-respect/#00:00:40)**]** -and Dan.

**Dan: [**[**00:00:41**](http://www.smalltowndicks.com/episode/all-due-respect/#00:00:41)**]** Hello, team.

**Dave: [**[**00:00:43**](http://www.smalltowndicks.com/episode/all-due-respect/#00:00:43)**]** After last week’s discussion about stop and frisk, we thought, “Let’s have a defense attorney on our show.”

**Yeardley: [**[**00:00:49**](http://www.smalltowndicks.com/episode/all-due-respect/#00:00:49)**]**Yeah, someone who scrutinizes law enforcement investigation of a crime from a different angle than the DA does.

**Dave: [**[**00:00:57**](http://www.smalltowndicks.com/episode/all-due-respect/#00:00:57)**]** Yeah. So, we’ve asked someone who works in our town to join us today. Please welcome defense attorney, Lissa.

**Lissa: [**[**00:01:03**](http://www.smalltowndicks.com/episode/all-due-respect/#00:01:03)**]** Hello.

**Yeardley: [**[**00:01:04**](http://www.smalltowndicks.com/episode/all-due-respect/#00:01:04)**]** Hello, Lissa. We are so pleased to have you. Thank you.

**Lissa: [**[**00:01:07**](http://www.smalltowndicks.com/episode/all-due-respect/#00:01:07)**]** I’m so excited to be here. I’m honored that you wanted to have me on and talk with me.

**Dan: [**[**00:01:12**](http://www.smalltowndicks.com/episode/all-due-respect/#00:01:12)**]** So, who are you charging these billable hours to?

**Lissa: [**[**00:01:15**](http://www.smalltowndicks.com/episode/all-due-respect/#00:01:15)**]** I’m billing it all to Dave.

[laughter]

**Yeardley: [**[**00:01:19**](http://www.smalltowndicks.com/episode/all-due-respect/#00:01:19)**]** Perfect. That works for me.

**Dave: [**[**00:01:21**](http://www.smalltowndicks.com/episode/all-due-respect/#00:01:21)**]** It might surprise our listeners to know that a cop and a defense attorney can be friends. And not only friends, but we’re respectful of each other. To me, it’s a perfect example of the way things should work. It’s not personal in the courtroom. She’s doing her job, I’m doing mine. Truly, I appreciate the role defense attorneys have in the system. And early in my detective career, I had heard about Lissa.

**Lissa: [**[**00:01:51**](http://www.smalltowndicks.com/episode/all-due-respect/#00:01:51)**]** Oh, really?

**Yeardley: [**[**00:01:52**](http://www.smalltowndicks.com/episode/all-due-respect/#00:01:52)**]** Your reputation preceded you.

**Dave: [**[**00:01:55**](http://www.smalltowndicks.com/episode/all-due-respect/#00:01:55)**]** You have a reputation is that you will fight and you will write lots of motions to suppress.

**Lissa: [**[**00:02:00**](http://www.smalltowndicks.com/episode/all-due-respect/#00:02:00)**]** I do. Well, don’t do shit I have to suppress then, Dave. [Yeardley laughs] I won’t have to write it. [laughs]

**Dave: [**[**00:02:07**](http://www.smalltowndicks.com/episode/all-due-respect/#00:02:07)**]** I get it. That’s why I just started making stuff up. [Lissa laughs] It’s more believable in court.

**Lissa: [**[**00:02:11**](http://www.smalltowndicks.com/episode/all-due-respect/#00:02:11)**]** Well, now I’m going to cross examine you on that.

**Dave: [**[**00:02:13**](http://www.smalltowndicks.com/episode/all-due-respect/#00:02:13)**]** Yeah. Right. [Lissa laughs]

**Yeardley: [**[**00:02:14**](http://www.smalltowndicks.com/episode/all-due-respect/#00:02:14)**]** There you go.

**Dave: [**[**00:02:16**](http://www.smalltowndicks.com/episode/all-due-respect/#00:02:16)**]** I’ve worked with and against Lissa, [Yeardley laughs] with the common teammate always being truth.

**Lissa: [**[**00:02:25**](http://www.smalltowndicks.com/episode/all-due-respect/#00:02:25)**]** That’s right. Dave, are you going to cross examine me now?

**Dave: [**[**00:02:28**](http://www.smalltowndicks.com/episode/all-due-respect/#00:02:28)**]** God, I’ve been waiting for this for years [Lissa laughs] and you are under oath. I think it’d be useful for us to get your CV, your background, and the career path of Lissa, and how you’ve landed where you are today.

**Lissa: [**[**00:02:45**](http://www.smalltowndicks.com/episode/all-due-respect/#00:02:45)**]** Okay. Well, after law school, I was a prosecutor for just under four years. While I was a prosecutor, I tried all variants of misdemeanors and some felonies and handled a variety of different cases. I spent a year as a prosecutor doing solely domestic violence prosecution. So, that was a specialty that I had while I was on that side.

**[**[**00:03:14**](http://www.smalltowndicks.com/episode/all-due-respect/#00:03:14)**]** In about 2012, I switched over to the defense side and have been doing retained and public defense ever since. The majority of my career is retained defense, but over the past year or so, I’ve started doing some court appointed work in various courts locally and the state level and federal level. I also do some victims’ rights representation, actually, stalking orders, protective orders, and litigating those sorts of cases. So, that’s my general practice.

**Dave: [**[**00:03:49**](http://www.smalltowndicks.com/episode/all-due-respect/#00:03:49)**]** Like I said, Lissa and I have squared off where she was the defense attorney on a case that I had investigated, and I think at least once I’ve testified for the defense in a case that you were the defense attorney and going against your former employer, your old office.

**Lissa: [**[**00:04:09**](http://www.smalltowndicks.com/episode/all-due-respect/#00:04:09)**]** Yes, I have to frequently litigate against my old office every day. A lot of my court appointed work and most of my retained work is against my former coworkers, some of whom I’m still very close friends with, but they’re my opponents when we go into court.

**Yeardley: [**[**00:04:26**](http://www.smalltowndicks.com/episode/all-due-respect/#00:04:26)**]** If you watch any scripted procedural television show, you’ll see the lawyers go at it in the courtroom head-to-head, and then go out and have a beer together, and I always thought, “Is that real?” Is that real?

**Lissa: [**[**00:04:41**](http://www.smalltowndicks.com/episode/all-due-respect/#00:04:41)**]** It is. For me, it is. Not for every defense attorney. The way that I practice it is, it can’t be like that with me and all of my opponents. There are some opponents who probably would not want to have a beer with me, but that might be mutual.

[laughter]

**Lissa: [**[**00:04:57**](http://www.smalltowndicks.com/episode/all-due-respect/#00:04:57)**]** But there are several that I litigate against on a daily basis that I know are good people, and I’m happy to have as colleagues, and I hope that they feel when we go to court, I have a client to defend, and I’m going to fight them, and then I’m going to shake their hand afterwards. That’s how I try to practice with people who can practice that way with me.

**Dave: [**[**00:05:19**](http://www.smalltowndicks.com/episode/all-due-respect/#00:05:19)**]** Lissa, just to get it out of the way, you’ve got some constraints about where you can go in discussing specifics. Can you just explain where your boundaries are when you come on a show like this, people hear from us, the detectives, and we’re giving them facts and intimate details? You have some constraints.

**Lissa: [**[**00:05:40**](http://www.smalltowndicks.com/episode/all-due-respect/#00:05:40)**]** Yes. So, I cannot talk about specific cases or clients that I have defended. There are rules of professional conduct that lawyers have to abide by where I can’t reveal client confidences or talk about certain or any cases really, but I can talk about defense work in general, cross examining officers, and just my job and my experiences.

**Yeardley: [**[**00:06:09**](http://www.smalltowndicks.com/episode/all-due-respect/#00:06:09)**]** That’s fair. When people find out you’re a defense attorney at a dinner party where they don’t already know you, probably they want to ask you, “How do you defend somebody that you suspect is guilty?” So, of course, that’s my first obvious question.

**Lissa: [**[**00:06:23**](http://www.smalltowndicks.com/episode/all-due-respect/#00:06:23)**]** Sure. It doesn’t impact how I defend them. Whether or not a client tells me I’m guilty, it doesn’t change my duties to defend them. Guilty people have rights, and innocent people have rights, and those are the same rights. People ask me that. That’s usually the first question, especially if there’s a case that I’ve been doing that is in the press locally or is emotionally charged in some way and people say, “How do you do that? How do you talk to those people, and how can you defend what they did?”

**[**[**00:06:57**](http://www.smalltowndicks.com/episode/all-due-respect/#00:06:57)**]** I’m not defending what they did or didn’t do. I’m making sure they get the process that they are do. The more emotionally charged an accusation or a case, the more that person needs me to put any emotion aside and defend them. If it’s a really, really heinous accusation that someone has launched against someone I’m defending, it’s my job to put that aside and see if they do have a defense, regardless of the emotional dynamics in the case. The more heinous the case is the more that’s needed, in my opinion.

**Dave: [**[**00:07:41**](http://www.smalltowndicks.com/episode/all-due-respect/#00:07:41)**]** Lissa, I can say which of our Small Town Dicks Podcast episodes you were the defense attorney on, correct, since we don’t actually name the people involved?

**Lissa: [**[**00:07:51**](http://www.smalltowndicks.com/episode/all-due-respect/#00:07:51)**]** I don’t know the answer to that, honestly, but I don’t think I can say which ones they are. I’m sorry, Yeardley.

**Yeardley: [**[**00:07:57**](http://www.smalltowndicks.com/episode/all-due-respect/#00:07:57)**]** No, don’t be.

**Dave: [**[**00:07:58**](http://www.smalltowndicks.com/episode/all-due-respect/#00:07:58)**]** I was going to tell her how offline you’ve always told me, they all confessed and said what a great Detective Dave was.

[laughter]

**Lissa: [**[**00:08:07**](http://www.smalltowndicks.com/episode/all-due-respect/#00:08:07)**]** Mm, prove it, Dave.

[laughter]

**Dave: [**[**00:08:09**](http://www.smalltowndicks.com/episode/all-due-respect/#00:08:09)**]** Right.

**Lissa: [**[**00:08:11**](http://www.smalltowndicks.com/episode/all-due-respect/#00:08:11)**]** Because you ain’t got that. [laughs]

**Dave: [**[**00:08:12**](http://www.smalltowndicks.com/episode/all-due-respect/#00:08:12)**]** Right. Maybe that’s not the case and I’m making that up.

[laughter]

**Dave: [**[**00:08:17**](http://www.smalltowndicks.com/episode/all-due-respect/#00:08:17)**]** But, yeah, it’s always an interesting dynamic, because I don’t immediately know– When I arrest somebody, usually it’s a week or two, three weeks later where I find out who’s representing that person. So, it’s rare for me to go into an arrest already knowing which defense attorney I’m going to be dealing with. But there are times where I’ll get like a text message from Lissa and she’ll say, “Oh, hey, I read one of your police reports recently.” And I’m like, “Well, which one?” And she’ll say, “Okay, well, I guess, I’ll be seeing you soon.”

[laughter]

**Dave: [**[**00:08:50**](http://www.smalltowndicks.com/episode/all-due-respect/#00:08:50)**]** So, it’s an interesting dynamic to be friends with a defense attorney, because there’s sometimes where even me on the police side, I’m like, “Hey, is this off the record?” She’s like, “Well, Dave, you know, it’s not off the record if it’s going to end up in court. If it goes to the facts, then nothing’s off the record.” So, she’s always been respectful of that boundary and I don’t think that I’ve ever revealed anything that she didn’t know already.

**Lissa: [**[**00:09:18**](http://www.smalltowndicks.com/episode/all-due-respect/#00:09:18)**]** Nope.

**Dave: [**[**00:09:19**](http://www.smalltowndicks.com/episode/all-due-respect/#00:09:19)**]** It’s not like talking to the press though. When you talk to the press and you say, “This is off the record,” if they burn that, you’re probably never going to work with that journalist ever again, because they’re supposed to protect their sources. Defense attorneys are officers of the court, so they are bound to the truth just as much as we are with keeping the defendant’s rights in mind.

**Lissa: [**[**00:09:41**](http://www.smalltowndicks.com/episode/all-due-respect/#00:09:41)**]** I think that’s something people don’t realize about defense work is, I know that it’s not a popular profession. I get a lot of emotional responses from people if they find out that’s what I do and they don’t know me, but I’m bound to my representations in court just as much as the prosecutors are. Just because it’s a defense attorney saying something, it doesn’t mean that we aren’t bound to say things in good faith to the court, we have to. I will not go before a jury and say something that I don’t believe.

**[**[**00:10:15**](http://www.smalltowndicks.com/episode/all-due-respect/#00:10:15)**]** So, we are bound in the same way, even though we may not be looked at the same way by juries or by cops or by society. We’re two sides of the same coin in the same system and we have to follow the same rules.

**Yeardley: [**[**00:10:37**](http://www.smalltowndicks.com/episode/all-due-respect/#00:10:37)**]** Lissa, why did you decide to switch from prosecution to defense?

**Dan: [**[**00:10:41**](http://www.smalltowndicks.com/episode/all-due-respect/#00:10:41)**]** Money.

[laughter]

**Yeardley: [**[**00:10:45**](http://www.smalltowndicks.com/episode/all-due-respect/#00:10:45)**]** Thank you, Dan.

**Lissa: [**[**00:10:46**](http://www.smalltowndicks.com/episode/all-due-respect/#00:10:46)**]** So, there was a massive budget cut within my office. They cut a third of the office. And so, when I was in there, I thought I was going to be a career prosecutor, and I was happy to be a career prosecutor, and I thought that was going to be my path and my role. When I was a law student, they let me try a case. I went to a different county in my state and tried a case, and people came in because they wanted to see the new kid trying a case, because I wasn’t even a barred lawyer yet. And they said, “Wow, she even looks like a prosecutor.” And I was like, “Yeah, this is a role that fits me.” I feel good about this, I feel good about my work. I like working with cops, I like getting to know cops, I like figuring out search warrant issues, and going and seeking those from judges. I had a blast doing it. It was a great job to have.

**[**[**00:11:33**](http://www.smalltowndicks.com/episode/all-due-respect/#00:11:33)**]** Then budget cuts happen and I wasn’t sure what I was going to do. But it was a really nice interview process, because everyone knew that there were people out looking that weren’t necessarily bad lawyers. It was 8 out of over 30 that were just out looking because of an external force of funding. And so, you weren’t going into interviews with people wondering. It was a known thing in our community that this was happening. And that’s okay.

**[**[**00:12:01**](http://www.smalltowndicks.com/episode/all-due-respect/#00:12:01)**]** I was thinking about doing family law. I started working in private practice and started doing criminal defense and just loved it and just knew, “Okay, maybe I’m even a better fit for this than I was as a DA. Maybe I’m better suited to sit down and get to know clients and figure out how to defend them as opposed to figuring out how to prosecute them.” I think that’s turned out to be true. But because I used to be on the other side, I think I can maintain friendships and professional relationships with people on the other side, because they’re not an enemy there where I used to be.

**Yeardley: [**[**00:12:40**](http://www.smalltowndicks.com/episode/all-due-respect/#00:12:40)**]** Right.

**Lissa: [**[**00:12:41**](http://www.smalltowndicks.com/episode/all-due-respect/#00:12:41)**]** So, I can use that perspective and just– and I’ll tell clients that too. I’ll tell people that are seeing if I can be their attorney that too. If you want 100% cop hater, I’m not your attorney, because there are people trying to do their job. And if they make mistakes, I’ll take them down if I have to fight for you, because that’s my job. But they’re people and they’re just trying to do a job. I think I have a different perspective being on both sides of it.

**Yeardley: [**[**00:13:08**](http://www.smalltowndicks.com/episode/all-due-respect/#00:13:08)**]** Yeah, sure.

**Dave: [**[**00:13:10**](http://www.smalltowndicks.com/episode/all-due-respect/#00:13:10)**]** I’ve had people that are not familiar with the system and they’re like, “Well, this one time I saw this cop got up and lied on the stand,” and I’m like, “It’s just so exceedingly rare for a police officer. I’m not saying it didn’t happen, but I recognize there’s a difference between getting it wrong, like testifying inaccurately versus intentionally deceiving and lying and just being factually. I don’t care about the facts. This is what I’m saying.” People that just say, “Well, that cop just got up and lied his ass off on the stand.” I’m like, “God, there’s so much to lose.”

**Lissa: [**[**00:13:49**](http://www.smalltowndicks.com/episode/all-due-respect/#00:13:49)**]** There’s so much to lose. I’ve seen it happen. I know that because I’ve proved it. But I agree. It’s not like every cop gets on the stand and just lies from beginning to end, and they just all lie and all cops are liars. That’s what I say like, “If you want a cop hater, I’m not your defense attorney.” There are times where cops can get corrupt and then the thing is, you find a trail of cases, because then they start doing it all the time. That doesn’t mean all cops are lying. That means that that person was really problematic and they started lying and they got away with it, and so they lied some more.

**Dave: [**[**00:14:24**](http://www.smalltowndicks.com/episode/all-due-respect/#00:14:24)**]** And we don’t like working with them either.

**Lissa: [**[**00:14:26**](http://www.smalltowndicks.com/episode/all-due-respect/#00:14:26)**]** And you don’t like working with them either because how the hell are you supposed to have community trust when you got these people wearing the same badge you have? It doesn’t help.

**Dan: [**[**00:14:36**](http://www.smalltowndicks.com/episode/all-due-respect/#00:14:36)**]** Law enforcement in the United States is very unique. In that, someone from the neighboring jurisdiction can say, “Hey, I’ve got probable cause to arrest somebody who’s in your city. Will you go grab them for me?” This is a tug of war you have, because one hand, you think, “This is my brother in blue and I should automatically trust this person. They took the oath and they took it as seriously as I did.” That’s a battle that you have. A lot of times I’d say, “Why don’t you send me your report, so I can read it?”

**Lissa: [**[**00:15:08**](http://www.smalltowndicks.com/episode/all-due-respect/#00:15:08)**]** Good.

**Dan: [**[**00:15:09**](http://www.smalltowndicks.com/episode/all-due-respect/#00:15:09)**]** Because if I don’t know you, I’m not going to just go out there. I mean, what if this person resists arrest and then I have to use force against them? And God forbid it, it turns into something more than just me putting hands on them when all I had to do is say, “Hey, send me a report real quick.”

**Lissa: [**[**00:15:27**](http://www.smalltowndicks.com/episode/all-due-respect/#00:15:27)**]**Trust but verify.

**Dan: [**[**00:15:29**](http://www.smalltowndicks.com/episode/all-due-respect/#00:15:29)**]** Yeah. That’s one of the unique things about law enforcement in the United States is, is that’s very, very common. That’s why sometimes, when we’ve had murder cases that have our suspect has crossed state lines and you call up these neighboring jurisdictions and say, “Hey, my suspect is rolling through your state right now. If you have contact with him, can you grab onto him?” And they’ll say, “You got a warrant, because they don’t know us from Adam?”

**Yeardley: [**[**00:15:54**](http://www.smalltowndicks.com/episode/all-due-respect/#00:15:54)**]** Mm-hmm.

**Lissa: [**[**00:15:54**](http://www.smalltowndicks.com/episode/all-due-respect/#00:15:54)**]** That’s right. You don’t know if you’re talking to one of the good ones or one of the problematic ones. I think it’s more problematic to not acknowledge that there are problematic cops in defense of a thin blue line and in defense of a brotherhood, which I understand why that exists and I understand why there needs to be trust within agencies, and you need to be able to trust your fellow officers because of the situations that you’re put in. But if you don’t acknowledge internally if there’s a problematic person and you defend them or you hide that in defense of a thin blue line, it hurts everyone, including you and your ability to do the job, because once you lose the trust of the community, you can’t effectively police them anyway.

**Dan: [**[**00:16:42**](http://www.smalltowndicks.com/episode/all-due-respect/#00:16:42)**]** Yeah, that social contract is void.

**Dave: [**[**00:16:45**](http://www.smalltowndicks.com/episode/all-due-respect/#00:16:45)**]** Right. We police with their consent.

**Lissa: [**[**00:16:47**](http://www.smalltowndicks.com/episode/all-due-respect/#00:16:47)**]** You have to make the hard, courageous decisions to keep that social contract, and no one’s hoping you do that more than defense attorneys. We want your investigations to be good. We want prosecutors to only bring the cases they can prove in court, and they need to be able to trust their officers to bring them the good cases. The trust has to extend and there has to be people of conscience on both sides. That’s what I mean by that. If you hide things for the short-term gain of preserving an image in defense of a thin blue line, you’re only going to fester corruption further and hurt everybody. So, what’s the point?

**Yeardley: [**[**00:17:32**](http://www.smalltowndicks.com/episode/all-due-respect/#00:17:32)**]** Since you guys have said you’ve been on opposite sides at a trial before, is it nerve wracking for either one of you? For Dave, you to be grilled by Lissa and Lissa, for you to tee up questions for Dave?

**Dave: [**[**00:17:45**](http://www.smalltowndicks.com/episode/all-due-respect/#00:17:45)**]** For me, it’s not adversarial or it shouldn’t be. It does not make you look credible to be fencing with the defense attorney. What everyone’s going for is the fact. We’re just trying to establish a fact and the truth. There are certainly times where and I’m not speaking about Lissa, I’m speaking about other defense attorneys who try to be crafty, and you can see where they’re going, and they’re trying to paint you into a corner, and they are leaving out context about things that you’ve written in a police report. I always recognize that, “Okay, I see where you’re going with this.”

**[**[**00:18:21**](http://www.smalltowndicks.com/episode/all-due-respect/#00:18:21)**]** There have been times where there’s been a little bit of that adversarialness, but I think juries also recognize when a defense attorney is trying to eliminate a portion of your answer, even though the whole answer is the truth, they just want you to repeat the last five words of that answer.

**Lissa: [**[**00:18:40**](http://www.smalltowndicks.com/episode/all-due-respect/#00:18:40)**]** I agree and that’s not my style. I don’t think it’s an effective style. I will never confess fear of Dave. I will never be nervous crossing you. [Yeardley laughs] No, I don’t mind crossing him at all. For me, in a lot of the cases that I end up in that are the level of crimes that Dave investigates, my issue or what I’m trying to establish for the jury isn’t necessarily about the police. These are cases with witnesses that the case will hinge more upon those witnesses’ credibility or what they are able to testify to than what Dave or other law enforcement witnesses are going to be testifying about. I would have no problem if Dave got on the stand and he did not investigate a part of a case that I thought he should have. I would just ask him, “Did you do this or not?” But I also know that Dave would say yes or no.

**[**[**00:19:36**](http://www.smalltowndicks.com/episode/all-due-respect/#00:19:36)**]** He’s not married to a certain fact. He’s just there to say what happened. And so, if Dave’s on the stand with me in a case, we can probably get through it pretty quickly. I think if the times Dave has been on the stand with me, we did get through it pretty quickly.

**Dave: [**[**00:19:52**](http://www.smalltowndicks.com/episode/all-due-respect/#00:19:52)**]** Absolutely.

**Lissa: [**[**00:19:53**](http://www.smalltowndicks.com/episode/all-due-respect/#00:19:53)**]** My issue that I was trying to demonstrate to the jury wasn’t about Dave’s credibility. That being said, Dave’s my friend, but if I did have an issue with Dave’s credibility on a case, he’s well aware that I would say it in front of the jury, but I haven’t had to do that.

**Dave: [**[**00:20:10**](http://www.smalltowndicks.com/episode/all-due-respect/#00:20:10)**]** Right. Dan can probably recognize this as well. You get these police officers who like to spar with defense attorneys and want to fight, won’t even relent on a suggestion that your investigation was incomplete, even if it’s something small, where you’re like, “You know what? I probably should have done that, but I didn’t.” You take the fuel out of the fire, if you just concede a good point and I’m sure Dan’s been on the stand when he recognizes that he’s being asked some questions about, “Well, why didn’t you do this?” There’s probably a good reason why he didn’t. And maybe the defense attorney is putting on a show. There’s also times where you can be like, “That’s fair. I did not do that. That’s a great idea. Next time I will.”

**Dan: [**[**00:20:57**](http://www.smalltowndicks.com/episode/all-due-respect/#00:20:57)**]** I think in a situation like that, and I have been, I think any police officer who’s actually investigated cases that made it to court that didn’t get dismissed, because a lot of cases do get dismissed because of lazy police work on the front end. But when you’re getting cross examined by a defense attorney and they bring up something that is probably a minuscule part of this case, if you make that into a bigger deal than it is, you’ve just done the defense a favor.

**Lissa: [**[**00:21:26**](http://www.smalltowndicks.com/episode/all-due-respect/#00:21:26)**]** That’s right.

**Dan: [**[**00:21:27**](http://www.smalltowndicks.com/episode/all-due-respect/#00:21:27)**]** If you just admit like, “You know what? Hindsight, I wish I would have done that.” That’s what prompts a prosecutor, if they know the case as well as you do to on redirect, come back to you and you can clear up that point. But I think what a lot officers do when they’re on the stand, they take things personally they’re not prepared. They haven’t reviewed their case well enough, so they’re not versed in their case where they don’t have to keep diving into their report. If you know your report and you know the case, I think it’s very easy for you to testify truthfully, and accurately, and realize that they’re trying to sow seeds of doubt in your investigative abilities, the path you chose in your investigation. And that’s where I see– I can’t even say younger officers.

**[**[**00:22:22**](http://www.smalltowndicks.com/episode/all-due-respect/#00:22:22)**]** I’ve seen 20, 25-year veteran officers who just got eviscerated on the stand, because they’re not prepared and they take everything personally. The truth is the truth. So, just tell the truth. That’s really the bottom line. Just tell the truth.

**Yeardley: [**[**00:22:39**](http://www.smalltowndicks.com/episode/all-due-respect/#00:22:39)**]** Right. So, Lissa, you had said a couple of minutes ago that if you had something to call Dave out on you, you wouldn’t have any bones about doing that. Does that quality in your work make you that frank in your relationships?

**Lissa: [**[**00:22:59**](http://www.smalltowndicks.com/episode/all-due-respect/#00:22:59)**]** Yes. [laughs] What you see is what you get with me. [Yeardley laughs] I don’t know how to be anything else but me. And so, I’m not going to get up and be anything but authentic when I’m in court. And the people that I have in my life, no matter what they do, I think know that about me.

**[**[**00:23:19**](http://www.smalltowndicks.com/episode/all-due-respect/#00:23:19)**]** When I’m in court, I have a client that I am trying to make sure gets what’s due to them. If that means I have to cross examine Dave, I have no issue doing that. I have no problem cross examining officers that I grew up with as a prosecutor. There are certain officers now that I took them before a jury and asked a jury to convict on their word that now I’m cross examining them. The ones that come up and shake my hand afterwards and say, “I really respect how you just ask me those questions,” probably did a better job for the state than the ones that get offended by what I’m doing.

**[**[**00:24:01**](http://www.smalltowndicks.com/episode/all-due-respect/#00:24:01)**]** What I’m doing is trying to show the jury what the facts are, not whether or not this officer is a good person or a bad person. Any more than the states trying to show whether or not my client is a good person or a bad person. They’re trying to show what acts happened and how it happened, and they’re trying to see if they can meet their burden of proof. If I’m in trial, I don’t think they can. And so, it’s my job to point that out.

**[**[**00:24:32**](http://www.smalltowndicks.com/episode/all-due-respect/#00:24:32)**]** The officers that end up doing the best job in trial and coming across is the most authentic are the ones that just say, “No, I didn’t do that.” Because if you think about it, where am I going to go with that? “So, Dave, isn’t it true that you didn’t do this part of the investigation?” “Well, no, I didn’t.” It’s like the wind draw out of my sails at that point. But if they come back at me and say, “Well, I didn’t do it because of this, this, and this,” well, I know they’re investigative techniques and I’m going to call them out and say, “But you should have, because if you would have X, Y, and Z.” If you just concede, then you concede. The jurors can write it down in their notebooks and we can move on with the trial.

**[**[**00:25:12**](http://www.smalltowndicks.com/episode/all-due-respect/#00:25:12)**]** There have been times where I’ve had officers who have had trouble with me crossing them when before I was putting them up as state’s witnesses. We’ve worked through it. I think most of the time if I’m in court, the officers know that I’m going to be talking about my case and I’m going to be taking them on in the same way I’d be taking on any other witnesses. The ones that can’t understand that, I don’t really associate with. Maybe those are the ones who wouldn’t go out for a beer with me.

[laughter]

**Lissa: [**[**00:25:42**](http://www.smalltowndicks.com/episode/all-due-respect/#00:25:42)**]** But the ones that will understand that they have a job to do, and I have a job to do, and we’re both just trying to do that.

**Dan: [**[**00:25:51**](http://www.smalltowndicks.com/episode/all-due-respect/#00:25:51)**]** Dave and I, our step mom worked in the DA’s office. Then when a bunch of attorneys from the DA’s office went into defense work, she went to work for them. So, she was on both sides. I knew these guys as prosecutors, and then I also knew them as defense attorneys, and it was just never a big deal to me. They just had a different job to do. They were on the other side of it now. Now their job was to defend. These were very talented, smart attorneys. To me, it was valuable knowing that there’s men and women on both sides of that that it’s about the truth.

**Lissa: [**[**00:26:27**](http://www.smalltowndicks.com/episode/all-due-respect/#00:26:27)**]** There really is.

**Dave: [**[**00:26:45**](http://www.smalltowndicks.com/episode/all-due-respect/#00:26:45)**]** I think people might be curious about, “How does a case come to you?” Say, we’ve got a big-time crime and it lands in your lap, walk us through how you get that, how you start evaluating it, how you strategize, and how you put a game plan together on how am I going to defend this person?

**Lissa: [**[**00:27:04**](http://www.smalltowndicks.com/episode/all-due-respect/#00:27:04)**]** Sure. So, for a big-time crime that’s retained, sometimes defense attorneys can represent people who think they might be under investigation, or they’ve been contacted and told they’re under investigation, or a search warrant has been executed on their house. That’s a pretty good sign. Something’s coming down the pike. And so, you can call a defense attorney for legal advice, if you’re under investigation and you haven’t been charged yet. So, in those types of cases, a potential client or a family member will call me and say, “I’m under investigation, I need some legal advice.”

**[**[**00:27:42**](http://www.smalltowndicks.com/episode/all-due-respect/#00:27:42)**]** What I’m doing in those cases is either communicating directly with the detective on the case or communicating with the DA. Because by the time you’re in major crimes, a lot of times, as I’m sure your listeners know, and Dan and Dave definitely know, they’re in contact with prosecutors from the beginning on some of their bigger cases, asking them for advice and working with them to get warrants. And so, a lot of times, my first call is to the officer or the detective to say, “Who you’re working with on this one?” And they’ll tell me, and then I can say, “Okay. A lot of times, at least, I hope my reputation is that you don’t have to go chase my clients around.”

**[**[**00:28:21**](http://www.smalltowndicks.com/episode/all-due-respect/#00:28:21)**]** If I know somebody’s under investigation and an officer calls me, I will be there with my client to have them surrender if they will extend me that professional courtesy. Most of them do. And then I can negotiate somebody going in to meet with the officer and get arrested right there and get taken into custody and it helps to have somebody that they have been working with that provides some comfort in a really stressful situation. And then the prosecution begins, and we start litigating.

**[**[**00:28:51**](http://www.smalltowndicks.com/episode/all-due-respect/#00:28:51)**]** If somebody’s already in jail, it’s usually a family member that calls me and says, “I have a family member in jail. We’re looking for an attorney.” If they’re in custody, I’ll go visit with them and see if we’re a good fit to work together. I just sit down and get to know them, because I think it’s a very tempting instinct on anyone’s part to see this person as the accusation that’s happened. And they’re not. They’re a person that’s in the system that needs help.

**[**[**00:29:24**](http://www.smalltowndicks.com/episode/all-due-respect/#00:29:24)**]** I don’t know what kind of help I’m going to be able to provide for them. It’s different in every case. I don’t go in and just say, “Okay, I see you’re accused of this, so I’m going to look at you in that lens now.” You are a person I’m going to sit down and get to know and figure out how this all happened and see if you can trust me and we can work together, and I just get to know them.

**Yeardley: [**[**00:29:45**](http://www.smalltowndicks.com/episode/all-due-respect/#00:29:45)**]** Is there anything in that assessment process where you feel like, “If this happens, if I get a sense either that they’re not being truthful or they say something in a tone or tell us what the phrase is or something that you’re like, “That’s a red flag, this is not going to be a good fit.” Are there any absolutes like that?

**Lissa: [**[**00:30:06**](http://www.smalltowndicks.com/episode/all-due-respect/#00:30:06)**]** The only time it’s an absolute is if they’re so upset that they can’t communicate with me at all and I’m just not the right person to be with them in this situation. That’s okay. I’ve done this a while, so I am used to talking to people in really stressed-out situations when they’re really scared. And so, most people I can get along with just fine, and we can sit down. I don’t go in and just immediately say, “Okay, tell me everything that happened.” I don’t even ask, not when I’m first meeting them, because I just want to get to know them and figure out what information they want. It’s different for every client. Some people are more concerned about things that I wouldn’t even think of, if they were arrested and I wasn’t there on some of my court appointed cases, sometimes they have a pet that needs to be fed.

**[**[**00:31:02**](http://www.smalltowndicks.com/episode/all-due-respect/#00:31:02)**]** If I’m not talking with them about that in the first meeting, I’m not getting to know them, because they don’t want to talk with me about anything else yet. They want to make sure their dog is okay. All right, that’s what we’re talking about today, and that’s okay. It’s figuring out where they are and what they need from me in that moment. And then if they can trust me, then I can start helping them make decisions. But I just look at myself as a person with some specialized knowledge that can come in and just be with them in that situation and help them figure out what they’re up against, because a lot of times, they don’t know.

**[**[**00:31:33**](http://www.smalltowndicks.com/episode/all-due-respect/#00:31:33)**]** Most people think that people accused of really heinous crimes are just a total asshole to everybody. I don’t talk to assholes all day long. I talk to people who are really scared. It’s easy for people to not think of someone in a jail cell as scared. They think of someone in a jail cell as, “Well, something must have happened and it must have been pretty awful, or you wouldn’t be in the cell.” And that’s not always the case.

**Yeardley: [**[**00:32:08**](http://www.smalltowndicks.com/episode/all-due-respect/#00:32:08)**]** Lissa, what’s the first question you ask when you sit down with someone to get to know them?

**Lissa: [**[**00:32:14**](http://www.smalltowndicks.com/episode/all-due-respect/#00:32:14)**]** I say, “What information can I give you right now? I talk for a living, so I can talk with you about the law and technicalities all day long, but some of that stuff doesn’t matter to you right now. So, what information can I give you right now to just start this off and help you feel a little bit more informed in a situation where you don’t have a lot of information?” A lot of times people just want to know, “Are they going to get out? What’s going to happen to them? Where’s their family? Does their family know? What is going on?” They’re in shock. And so, I don’t dig in right away. I don’t think it helps them trust me. I don’t think I’m going to really get very far until they trust me. And so, I just try to let them guide and it helps me understand what their fears are and what their priorities are, and then that helps me figure out how to defend them, because I’m their lawyer, and I can take a lot of actions on their behalf. But Criminal defense attorneys, their representation of their clients is really directed by the client.

**[**[**00:33:30**](http://www.smalltowndicks.com/episode/all-due-respect/#00:33:30)**]** The rules are set up to where I make strategic decisions, I determine whether or not I’m going to call Dave on the stand and cross examine him. I determine if I’m going to file a motion to suppress something Dave did or my client’s statements, whether or not they go to trial or whether or not they take a deal is totally up to them. It doesn’t matter how much legal advice I give them. It’s their choice, because they have to live with the consequences of that decision. And so, they’re really directing. They’re the voice of the defense. And so, I’m just trying to figure out what that is initially and what their goals are, and then I can figure out what I can and can’t do for them.

**Dave: [**[**00:34:11**](http://www.smalltowndicks.com/episode/all-due-respect/#00:34:11)**]** Obviously, there’s lots of negotiation that goes on in the weeks and months after a grand jury indictment. This is just out of sheer curiosity on the law enforcement end, but on some of these big ones where the initial offer is 30 plus years. You have to bring that to a client. Walk us through the mood of that room. I’ve had cases where the initial offer is dozens of years, and you know that you’re sitting very good as far as a prosecutor. Their perspective, they feel pretty good about the case if they’re offering decades in prison. But on the defense side, we never get into that room, so we never see what that looks like.

**Lissa: [**[**00:34:57**](http://www.smalltowndicks.com/episode/all-due-respect/#00:34:57)**]** I’m going to give the general lawyer answer. It depends. That’s what we always say. But it does depend on the case. So, a lot of times I’ve already talked with clients about what their potential exposure is, given whatever the charges are. I try to tell them what I think other cases have settled for in certain prosecutors’ offices or other cases that I’ve had that are similar that prosecutors have offered what types of practices specific prosecutors have on how they structured negotiations, because each of them are in charge of their own caseload. They all answer to the elected DA, but they’re in charge of their own caseload and they’re determining the plea offers that they’re going to make. And so, they have their approaches to situations.

**[**[**00:35:48**](http://www.smalltowndicks.com/episode/all-due-respect/#00:35:48)**]** I just try to prepare my clients for what potentially could happen. Then by the time, an offer comes down in a big case like this, it’s not going to be a week after. On misdemeanor caseloads, you can get offers at arraignments from these DAs that just say, “Take one misdemeanor, I’ll dismiss the other.” With these bigger major crimes, it’s not like that. Offers don’t come for months, sometimes. And that’s okay, because a lot of times when– well, I guess I’ll answer what the mood is like in the room first. It’s anticlimactic because I’ve been having theoretical discussions with them up until the point where a plea offer might be coming to prepare them, “Look, at some point, the DA is going to make you an offer. I will come in, and I will bring it to you, and then I’ll discuss your options with you.”

**[**[**00:36:39**](http://www.smalltowndicks.com/episode/all-due-respect/#00:36:39)**]** It doesn’t mean that you have to take it. You order me. I counsel you, but you order me what to do. That’s how it should be. By the time I’m discussing a plea offer with any client, it’s not really that eventful of a meeting, [chuckles] because we’ve run so many potential scenarios. And then I tell them most of the time, “Just sit with it for a little bit. Now it’s actually here. Trial is not tomorrow. Just sit, let this percolate with you for a little bit and then ask me questions that you have about it.” So, the conversations prior to that and how I approach cases are more stressful than the actual by the time we’re getting down to brass tacks and numbers.

**Dave: [**[**00:37:21**](http://www.smalltowndicks.com/episode/all-due-respect/#00:37:21)**]** Moving on from that, there comes a time where it’s time to, “We’re going to trial or we’re taking the offer.” I imagine there’s two buckets here. One, where you’re like, “I suggest we go to trial.” There’s others where you’re like, [laughs] “We’re not sitting pretty. [Lissa laughs] I’m telling you to take the deal” type thing. When somebody finally says, “You know what? I don’t want the deal,” and you’re sitting there with perceived apprehension about they got a mountain of evidence against you, what that does to you work mode wise, like does it flip a switch for, Lissa?

**Lissa: [**[**00:37:58**](http://www.smalltowndicks.com/episode/all-due-respect/#00:37:58)**]** No, because they’re the ones who have to serve the time. And so, I’m already working the case from two angles. Anytime I take one. I’m working up the case. I’m looking at witnesses, I’m investigating possible defenses, because they can’t evaluate the plea offer until they know what their defense would look like anyway. And so, especially on some of these major cases, the cops are still getting evidence. Things are still being sent to the crime lab. The investigation is still underway. If my client is indicted, they’re still getting stuff to me.

**[**[**00:38:35**](http://www.smalltowndicks.com/episode/all-due-respect/#00:38:35)**]** So, I figure if they want to go to trial, then I’ve prepared it. If they want to take a deal, then I’ve prepared it, so they can evaluate the deal. It’s a no-lose situation for me to take a really active approach to defense, which I do. Some defense attorneys don’t, I suppose. [laughs] Maybe that’s why people think I’m aggressive, but I actively defend cases, because once you’re at this level, the cases aren’t going to stop moving as soon as someone’s charged. Witnesses are still going to be talking to people, they’re going to be talking to the DA, they’re going to be talking to the cops, they’re going to be talking to your investigator, sometimes each other, when they shouldn’t be. It just depends on the case. And so, you have to move with the case as it’s going, which is why prosecutors don’t make offers in the beginning of these cases, because they don’t know everything they have, either.

**[**[**00:39:29**](http://www.smalltowndicks.com/episode/all-due-respect/#00:39:29)**]** So, both sides get involved. The detectives are still doing follow up. Things are still moving, and we see where it settles and then go, “Okay, now we both know the universe of information.” The state does and the defense does. Is this reasonable or not? If it’s not reasonable from the prosecutor’s side, then I go back to them and I say, “That’s not reasonable. That’s not an offer.” And then they tell me, “Well, I’m not going to bid against myself. I’m not going to make you another offer.” And I say, “Okay, well, see you later.”

**[**[**00:39:57**](http://www.smalltowndicks.com/episode/all-due-respect/#00:39:57)**]** Part of being known by my opponents is they know what meeting we’re having pretty quickly. So, if I come in and say, “Look, this isn’t an offer and here’s why,” they’ve had that conversation with me before. They understand how I defend cases.

**Dan: [**[**00:40:21**](http://www.smalltowndicks.com/episode/all-due-respect/#00:40:21)**]** You talk about trial prep, and probably one of the first things you do as a defense attorney, I would imagine, is read the report or the reports. I’ve heard from other defense attorneys that I know that when they read a report, one of the first things they do is they look at who actually wrote the report. Working in a small area, defense attorneys, they get exposed to certain officers more than others or they’ve had history with a certain officer. Are there times when you read a report and you see the name at the bottom and you start licking your chops?

**Lissa: [**[**00:40:58**](http://www.smalltowndicks.com/episode/all-due-respect/#00:40:58)**]** [laughs] Yes.

**Yeardley: [**[**00:41:00**](http://www.smalltowndicks.com/episode/all-due-respect/#00:41:00)**]** Because it’s not a good report, or because it is a good report?

**Dan: [**[**00:41:03**](http://www.smalltowndicks.com/episode/all-due-respect/#00:41:03)**]** Because it’s probably not a good report, and there are a lot of questions left unanswered.

**Lissa: [**[**00:41:11**](http://www.smalltowndicks.com/episode/all-due-respect/#00:41:11)**]** Yes. The cops that do those lazy investigations are known. They’re known by the cops who don’t do lazy investigations, who are probably just as annoyed with them as we are, because they end up with cases in trial that maybe didn’t need to go to trial. Had they just done their job upfront? But, yes, there are certain officers where, if I see that they’re on a case, I have background with them and I know whether or not they do it right or not, most of the time.

**Dan: [**[**00:41:41**](http://www.smalltowndicks.com/episode/all-due-respect/#00:41:41)**]** And you can say Dave’s name.

[laughter]

**Lissa: [**[**00:41:46**](http://www.smalltowndicks.com/episode/all-due-respect/#00:41:46)**]** Yes. Whenever I read one of Dave’s reports, I’m like, “Oh, Jesus.” No, [Yeardley laughs] that’s not true.” I know certain ones that are frankly lazy or they’re not very good at their jobs. I know that I’m going to go investigate, and I’m going to find witnesses that they should have found, and I’m going to find evidence that they should have found. And they didn’t. Had they done that, maybe the case would have turned out differently. But instead, I have to pick up the baton and continue the investigation that didn’t happen. But that’s law enforcement is a job like any job. There’s going to be people who are really, really good at it, and there are going to be people who are in the wrong profession, and then they’re going to be people who are kind of middle of the road. That’s okay. The system is made up of people. And so, it’s just going to be different. But, yes, there are a few where I lick my chops.

**Dave: [**[**00:42:33**](http://www.smalltowndicks.com/episode/all-due-respect/#00:42:33)**]** I imagine there somewhere you read the report, look at who wrote it and say, “We’re in for a fight right here, because I’m familiar with this person’s work.”

**Lissa: [**[**00:42:42**](http://www.smalltowndicks.com/episode/all-due-respect/#00:42:42)**]** Yes, there are certain times where I’m reading and I see the name at the bottom and I go, “Well, it’s not just going to be the report. There’s more evidence coming. They’re going to be doing follow up, they’re going to be doing their job.” And that’s okay. Defense attorneys are members of the community where they defend in. We don’t want bad law enforcement in our own communities. We’re parents and we’re married to spouses with jobs in the community. We don’t want law enforcement to not do their job. It benefits our clients when law enforcement does their job right. It stops false convictions, it stops false charges, it stops cases from going into the system that could have been handled in the field.

**[**[**00:43:27**](http://www.smalltowndicks.com/episode/all-due-respect/#00:43:27)**]** We don’t want mayhem and lawlessness either. [laughs] We’re just there as quality control because the cops weren’t there when a lot of crimes happened anyway. They’re there collecting the evidence after it happened. And so, sometimes, because they’re human, they’re going to get it wrong. They’re out there to make a call, to make an arrest, not to prove it beyond a reasonable doubt and that is so different. Sometimes, they make a call and they’re trying to do the right thing and it’s not the right call. Well, then the community should be happy that I’m there to step in, if the cops are trying to do their job, but they make the wrong call. The system has to have everyone to work. So, I don’t blame it on the cop necessarily, if they make the wrong call. There are some cops that make a lot of wrong calls, and then it’s a problem.

**Yeardley: [**[**00:44:35**](http://www.smalltowndicks.com/episode/all-due-respect/#00:44:35)**]** I was thinking about when you sit down with your client that you’re going to defend and you need to get to know them, when you were in school, did you take a psychology course?

**Lissa: [**[**00:44:46**](http://www.smalltowndicks.com/episode/all-due-respect/#00:44:46)**]** I didn’t.

**Yeardley: [**[**00:44:47**](http://www.smalltowndicks.com/episode/all-due-respect/#00:44:47)**]** You’re assessing a lot of nuance in those interviews and throughout the course of whatever the case is, you’re sort of this de facto counselor.

**Lissa: [**[**00:44:57**](http://www.smalltowndicks.com/episode/all-due-respect/#00:44:57)**]** Yes. I’m the one person that they can talk to candidly. The system is built that way, so that you can be honest with your lawyer. But as a human, and you’re sitting in the cell, and someone you’ve just met walks in and they say, “Okay, tell me about the worst day of your life. I’m betting it’s this you’re sitting in jail. Nice to meet you.” They’re not going to tell you anything right then, if that’s how you approach it. And so, I’m just assessing whether or not when they trust me enough to tell me certain things. And so, that’s different for every person and every client. It’s just sitting down. I try to think, “Okay, what would I want if one of my kids were in trouble? What would I want this lawyer to do for them?” “Okay, I’m going to go in and just try to talk with them like a person and figure it out.”

**[**[**00:45:51**](http://www.smalltowndicks.com/episode/all-due-respect/#00:45:51)**]** Maybe that’s figuring out that they’re going to go to prison. Maybe that’s figuring out that they’re innocent. I don’t know what I’m walking into, but I know that I’m just going to sit with them and be with them in that situation, and then just see where it takes us. I don’t have a system outside of just figuring out what they need from me in that moment and then I work with them throughout. Maybe I should have taken a psychology class.

**Yeardley: [**[**00:46:15**](http://www.smalltowndicks.com/episode/all-due-respect/#00:46:15)**]** No, I was just curious. Dan and Dave, when they describe what it’s like to interview a suspect or a victim, there are so many micro-assessments of what the body language is, what the inflection is, what the lack of inflection is. All of these cues that you get that are unspoken, that you, Dan and Dave is detectives, and now you as well, Lissa, need to read in order to put together a picture that then you can say, “This is the picture I got. Is that in fact, what–?” Is that an accurate representation of what you think happened?

**Lissa: [**[**00:46:54**](http://www.smalltowndicks.com/episode/all-due-respect/#00:46:54)**]** As far as assessments are going, I’m just looking for when they let their guard down and they trust me. That’s going to be a comment that they make of, “Wow, I’m really glad that you’re here and I really feel like I can talk with you.” Okay. Rapport is getting built to where they feel like maybe they can confide in me what happened. Maybe it’s different than what the police have in their reports, but they’re afraid to tell me, because they don’t know me from Adam. So, if they can start relaxing, I try to crack some jokes, see if I can get them laughing, and then I say, “See, you laughed, even though you’re in jail, because this is not the end of your life.”

**[**[**00:47:35**](http://www.smalltowndicks.com/episode/all-due-respect/#00:47:35)**]** You can laugh, you can crack jokes with me, I’m a person, and that’s okay. We’re just talking person to person right now. You’re allowed to have some dark humor in the situation, you’re allowed to talk with me, just open and candidly whenever you are ready to do that. And that’s disarming to a lot of people, anyway. A lot of people, I think, are afraid that you’re going to judge them and I tell them, “In these situations, it’s just not my job to judge you. It’s my job to sit with you and help you make decisions. That’s my job. And so, we just have to figure out what decisions we have to make together.” That usually calms people down and hopefully gets them to trust me, and then eventually, they talk when they’re ready. Every attorney-client relationship is different.

**Dave: [**[**00:48:20**](http://www.smalltowndicks.com/episode/all-due-respect/#00:48:20)**]** See a theme there though? People talk when they’re ready.

**Yeardley and Lissa: [**[**00:48:23**](http://www.smalltowndicks.com/episode/all-due-respect/#00:48:23)**]** Yes,-

**Yeardley: [**[**00:48:23**](http://www.smalltowndicks.com/episode/all-due-respect/#00:48:23)**]** -actually.

**Lissa: [**[**00:48:23**](http://www.smalltowndicks.com/episode/all-due-respect/#00:48:23)**]** -they do.

**Yeardley: [**[**00:48:24**](http://www.smalltowndicks.com/episode/all-due-respect/#00:48:24)**]** Dave has said that a lot.

**Dave: [**[**00:48:25**](http://www.smalltowndicks.com/episode/all-due-respect/#00:48:25)**]** Disclosures and victims and even suspects, when they trust you, when they feel safe, that’s when they will talk.

**Lissa: [**[**00:48:34**](http://www.smalltowndicks.com/episode/all-due-respect/#00:48:34)**]** I totally agree with that from the disclosure side too, because I represent people who are trying to get protective orders against other people, and those aren’t easy meetings for them to have with me, but they talk when they’re ready, and that’s okay.

**Dave: [**[**00:48:49**](http://www.smalltowndicks.com/episode/all-due-respect/#00:48:49)**]** You and I had discussed the other night when I approached you about coming on that we could also discuss some of your most proud moments as a defense attorney. I imagine you’ve got some victories out there. We don’t have to be specific about who’s involved, but for me, getting a conviction or not arresting someone that I thought I was going to arrest and then finding out, “Hey, you would have made a mistake if you had arrested him.” Those are the biggest moments of my career. I never want to convict somebody that was innocent. I imagine on a defense attorney side getting someone acquitted or charges dropped is a very, very righteous and rewarding feeling.

**Lissa: [**[**00:49:32**](http://www.smalltowndicks.com/episode/all-due-respect/#00:49:32)**]** Yes. There’s a local rule in our courts where you cannot visually react to a verdict, if you’re in the gallery or if you are an attorney. I have a really difficult time following that one.

**Yeardley: [**[**00:49:49**](http://www.smalltowndicks.com/episode/all-due-respect/#00:49:49)**]** [laughs] Literally, is it on the books, like a code of conduct, no reactions to any verdict?

**Lissa: [**[**00:49:57**](http://www.smalltowndicks.com/episode/all-due-respect/#00:49:57)**]** Yes. And you’ll be instructed before a verdict comes down, the judge’s clerk will say, “No one in this gallery is to react. The parties are not to react.” That’s it. It is a really tough rule to follow, because everyone is invested by the time you’ve done battle like that. I’ve cried. [laughs] I’ve made gestures, small ones, because I really don’t want to get held in contempt. But by the time you’re there, it is really hard not to do that.

**[**[**00:50:31**](http://www.smalltowndicks.com/episode/all-due-respect/#00:50:31)**]** What has surprised me about defense work, and something that I did not have any perspective on when I was a prosecutor, was that some of my biggest victories and proudest moments where I have truly, I think changed the course of someone’s life, because they have not been convicted of something or even had charges filed nobody ever knows about. Sometimes, it’s just me and the DA that know, and the detective, and that’s it. They don’t make the papers. They aren’t the flashy victories.

**[**[**00:51:05**](http://www.smalltowndicks.com/episode/all-due-respect/#00:51:05)**]** When I think about what are the ones that really impact me the most, it’s people that are out just moving through society and not having this conviction on their record for something that they didn’t do, and I was able to step in and hopefully be working with a cop like Dave who might listen to me, because I know that Dave is the person that I could go to if I were representing a client that he was investigating and I could say, “Dave, I really have something here and I’d really like you to see it.” I know that he would at least sit down and listen.

**[**[**00:51:38**](http://www.smalltowndicks.com/episode/all-due-respect/#00:51:38)**]** He may not agree with what I’m saying. He may have a totally different perspective on the case. But if you have good law enforcement on the other side who isn’t so invested in what they think is the truth and they’re willing to let a case unfold, then that’s how justice gets done. There aren’t many people who know about it except the people in the room when the detective decides not to arrest or the DA decides not to file.

**Yeardley: [**[**00:52:03**](http://www.smalltowndicks.com/episode/all-due-respect/#00:52:03)**]** You’re like Superman catching the piano in midair before it smashes into the crowd of people on the ground.

**Lissa: [**[**00:52:11**](http://www.smalltowndicks.com/episode/all-due-respect/#00:52:11)**]** I love that image. That’s exactly who I am, Yeardley. That’s why I’m going to tell everyone I am from now on.

**Yeardley: [**[**00:52:16**](http://www.smalltowndicks.com/episode/all-due-respect/#00:52:16)**]** As well you should. [laughs]

**Lissa: [**[**00:52:19**](http://www.smalltowndicks.com/episode/all-due-respect/#00:52:19)**]** I’m good with that.

[music]

**Dave: [**[**00:52:23**](http://www.smalltowndicks.com/episode/all-due-respect/#00:52:23)**]** Lissa, I want to ask, if you’ll come back next week and talk with us a little more.

**Lissa: [**[**00:52:27**](http://www.smalltowndicks.com/episode/all-due-respect/#00:52:27)**]** Absolutely.

**Dave: [**[**00:52:29**](http://www.smalltowndicks.com/episode/all-due-respect/#00:52:29)**]** I know our audience will find this fascinating, and I know there are plenty of folks in law enforcement who should really listen. It’s all about respect, for yourself, for the law, for the suspect, the victim, the court, the process. That’s how you catch pianos in midair. So, until next week.

[music]

**Yeardley: [**[**00:52:50**](http://www.smalltowndicks.com/episode/all-due-respect/#00:52:50)**]** The Briefing Room is produced by Gary Scott and me, Yeardley, Smith and coproduced by detectives Dan and Dave. This episode was edited by Logan Heftel, Soren Begin, Christina Bracamontes, Gary Scott, and me. Our associate producers are Erin Gaynor and the Real Nick Smitty. Our social media is run by the one and only Monika Scott. Our researcher is Delaney Britt Brewer. Our music is composed by Logan Heftel and our books are cooked and cats wrangled by Ben Cornwell. If you like what you hear and want to stay up to date with the podcast, please visit us on our website *smalltowndicks.com/thebriefingroom*. Thank you to SpeechDocs for providing transcripts and thank you to you, the best fans in the pod universe for listening. Honestly, nobody’s better than you.

[Transcript provided by SpeechDocs Podcast Transcription]