# Small Town Dicks

# People of Conscience

# Season 1, Episode 5

In today’s briefing, Defense Attorney Lissa returns for another civilized, yet provocative, discussion about the inner workings of the justice system. How does a defense attorney prepare the jury? What does she tell her client when the prosecutor offers a deal? And why does it take ‘people of conscience’ to make the wheels of justice turn? Detective Dave, Detective Dan, and Yeardley Smith invite you into The Briefing Room for another insightful conversation.

**Dan: [**[**00:00:04**](http://www.smalltowndicks.com/episode/people-of-conscience/#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/people-of-conscience/#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/people-of-conscience/#00:00:17)**]**We think it’s time to invite you in.

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

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

[Briefing Room theme playing]

**Dave: [**[**00:00:36**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:00:36)**]** Welcome to The Briefing Room and the rest of our discussion with Lissa, criminal defense attorney and former prosecutor. I’m joined by Emmy Award winning actress, Yeardley Smith.

**Yeardley: [**[**00:00:46**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:00:46)**]** Ooh, fancy intro. Thank you, Dav, as I like to call you.

**Dave: [**[**00:00:51**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:00:51)**]** And, of course, we’ve got the Gold Glove winning shortstop from the 2007’s Candy Softball Tournament, my twin brother, Detective Dan. Welcome.

**Dan: [**[**00:01:00**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:01:00)**]** I don’t know what to say.

[laughter]

**Yeardley: [**[**00:01:04**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:01:04)**]** Hello.

**Dan: [**[**00:01:05**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:01:05)**]** I don’t get compliments from Dave. So, I’m a little shook right now, but thank you, Dave. Dave was a wonderful left-handed pitcher also.

[laughter]

**Yeardley: [**[**00:01:15**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:01:15)**]** See how the twins can get along. Okay, Dave. Sorry. Carry on.

**Dave: [**[**00:01:22**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:01:22)**]** In today’s Briefing, your civilized conversation between cop and defense attorney continues. When we recorded the conversation with Lissa, we originally thought this would be an episode of Small Town Dicks, but it doesn’t really fit there. And in many ways, this discussion was the inspiration for us creating The Briefing Room. A place where law enforcement can talk with the communities they serve. We invited Lissa back in order to talk more about the vital role she plays in the justice system. A role many see as the antithesis to law enforcement, but a role, when done with respect and integrity, is as vital to the balance of justice as any other component. And on that highfalutin note, let’s start with a wildcard for everyone in the courtroom. You, the jury. Let’s talk about what’s the quickest acquittal you’ve ever achieved in your defense attorney career?

**Lissa: [**[**00:02:15**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:02:15)**]** Oh, who’s counting? 27 minutes?

**Yeardley: [**[**00:02:18**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:02:18)**]** Ah.

**Lissa: [**[**00:02:19**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:02:19)**]** [laughs]

**Dave: [**[**00:02:20**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:02:20)**]** From time to recess and everyone walks out to the time that you’re back and the verdict is read. 27 minutes.

**Lissa: [**[**00:02:27**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:02:27)**]** Yes.

**Dave: [**[**00:02:28**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:02:28)**]** Which means about 15 of that was spent with a little break, everyone gets a drink, everyone goes to the restroom, wash their hands, comes back reconvenes, and votes probably twice, and then you’re back in the courtroom.

**Dan: [**[**00:02:40**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:02:40)**]** Well, and you got to fill out the paperwork even. That’s what probably takes the longest in there. I’ve been on a jury in a criminal jury trial, and that’s what takes the longest.

**Lissa: [**[**00:02:51**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:02:51)**]** They kept you?

**Dan: [**[**00:02:53**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:02:53)**]** Ah, before I was in law enforcement.

**Lissa: [**[**00:02:55**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:02:55)**]** Oh, okay.

**Yeardley: [**[**00:02:57**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:02:57)**]** [laughs]

**Lissa: [**[**00:02:57**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:02:57)**]** Detective Dan, just on a jury, being a detective? [laughs]

**Yeardley: [**[**00:03:02**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:03:02)**]** Can you imagine?

**Dan: [**[**00:03:03**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:03:03)**]** I’ve been in the box twice since I was in law enforcement. One was with two officers that I worked in the same agency with.

**Yeardley: [**[**00:03:11**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:03:11)**]** Oh, they were also on the jury?

**Dan: [**[**00:03:13**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:03:13)**]** No, they were the investigating officers for the case. I had worked graveyard the night before, and I worked graveyard the next night, and here I am at jury duty doing my civic duty. We don’t get special treatment. You can’t just write on the form when you get jury duty, “Hey, I’m a cop. There’s no way I’m going to be selected for jury duty,” because they have civil trials that are going on that need juries also. You’re not just excused, because you’re in law enforcement. So, I got actually called into the jury box and had to undergo voir dire. I’m like, “This is a joke. There’s no way I’m going to be on this jury.” I’d been there since 08:00 in the morning, and finally at 03:30 PM, they finally excused me and I went home and I slept for a couple hours and right back to work.

**Lissa: [**[**00:04:04**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:04:04)**]** I was on jury duty recently too. It’s the same thing, because they assume that there’s civil trials going on too. I was one person away from getting in the box and I was like, “No way. This is not going to happen.” But I talked. I answered questions. I was surprised that the attorneys would even want to hear from me, because they assumed I probably had some pretty strong views on things.

**Dave: [**[**00:04:25**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:04:25)**]** The defense attorney is like, “Let’s get her on there.”

[laughter]

**Lissa: [**[**00:04:28**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:04:28)**]** [laughs] I don’t know who kicked me, because you can’t see it from the process, but I do know I was kicked. But I was very close to not being kicked and I was surprised. I had to stay the whole day too. They asked me opinions about law enforcement and I was like, “Really?” [laughs] Well, I have some of those. [laughs]

**Yeardley: [**[**00:04:48**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:04:48)**]** [laughs]

**Dave: [**[**00:04:49**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:04:49)**]** Local defense attorney here.

**Lissa: [**[**00:04:51**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:04:51)**]** Yeah, [laughs] exactly.

**Dan: [**[**00:04:54**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:04:54)**]** I remember they started asking me questions and they said, “Are you familiar with anybody who’s involved in this case?” And I was looking over at the council tables and the two case agents, I’m like, “Well, where do I begin?”

[laughter]

**Dan: [**[**00:05:07**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:05:07)**]** I’ve done several cases with the prosecutor. I’ve been up against the defense attorney before. I work with both the case agents. And then they ask the follow up question, which I don’t know how ethical this was, but the follow up question was, “Do you have an opinion on the work of your two coworkers?”

**Lissa: [**[**00:05:27**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:05:27)**]** Oh, no.

**Yeardley: [**[**00:05:28**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:05:28)**]** Oh, boy.

**Dan: [**[**00:05:29**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:05:29)**]** And I’m like–

**Lissa: [**[**00:05:30**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:05:30)**]** Did the defense attorney ask that?

**Dan: [**[**00:05:32**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:05:32)**]** Yes. I knew the judge. When they asked me the question, I looked over at the judge like, “Do you really want me to answer that?”

**Lissa: [**[**00:05:39**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:05:39)**]** [laughs]

**Dan: [**[**00:05:41**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:05:41)**]** And gave the pause like, “I’m going to give you a chance right here.” He just looked at me and nodded and I was like, “All right, that’s a green light.” If this doesn’t reek of a mistrial before we even started trial and I’m like, “My opinion is that they do complete and thorough work.” That was my answer.

**Lissa: [**[**00:05:59**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:05:59)**]** This was the fear that I had when I was in the box. I didn’t want to poison the jury pool with a strong opinion either way. If I said something about the prosecutor, if I said something about the defense attorney, they were going to go, “Well, she’s a lawyer. She must know.” And that doesn’t give anybody a fair trial. I was afraid to speak, which is an unfamiliar feeling for me, but I had it. I didn’t know what to say and I tried to just be honest and forthright, but not go into, “I could wax poetic on this stuff all day, obviously, but I didn’t want to influence anyone because these are supposed to be members of your community that are just coming in and making a decision based on their life experiences, not yours.”

**Dave: [**[**00:06:42**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:06:42)**]** So, how does a defense attorney go about the voir dire process of selecting a jury?

**Lissa: [**[**00:06:47**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:06:47)**]** It’s such a weird situation to put people in.

**Yeardley: [**[**00:06:51**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:06:51)**]** You mean the practice of gathering together this group of strangers, calling them a jury and then asking them to decide another stranger’s guilt or innocence.

**Lissa: [**[**00:07:01**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:07:01)**]** Yes. It’s almost like meeting with a new client, but they don’t know you, and “Oh, can we talk about some of your deepest held beliefs and some of the most formative experiences in your life, and can you just tell everyone in the room real quick about it?” It’s awkward and artificial. For that reason, I will spend a day or two on jury selection in general, because you’re meeting new people and it’s going to take them a while to get warmed up and want to even talk with you.

**[**[**00:07:31**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:07:31)**]** So, some attorneys will do half a day of jury selection or things like that. I’m one to two days on almost all of them, because I really want to get down to, “You have this opinion, but why? If I talk with you about it, how do you respond to that and will you give my client and the state a fair shot?” I really just want 12 people who are going to listen. I know that may sound like bullshit, but it’s not. I really just want 12 people who are going to come in and listen to me and listen to the state and try to figure this thing out with us.

**[**[**00:08:07**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:08:07)**]** You’re not going to figure that out and talking to 50 people, because sometimes we call in 50, 60 people, especially for sex cases, because so many people have such strong views about that issue that it takes that many people to find 12 people who can just listen. Listen to what Dave has to say, listen to what I have to say, maybe what my client has to say and just go, “Okay, let’s figure this thing out.” That’s a really hard balance to strike and you really have to get to know people to get a sense of if they’re actually going to do that.

**Yeardley: [**[**00:08:35**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:08:35)**]** I have a question for you, Lissa.

**Lissa: [**[**00:08:37**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:08:37)**]** Yes, Yeardley.

**Yeardley: [**[**00:08:38**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:08:38)**]** This could be fun if you can answer it. What’s the number one excuse you hear or tactic you see of people trying to get out of being chosen to be on a jury?

**Lissa: [**[**00:08:51**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:08:51)**]** You can always tell the people that have asked someone they know, “Hey, man, I got jury duty. How do I get out of jury duty?” You just come in and you say, “Oh, well, I just can’t be fair.” “Okay, well, you’re not the first person to tell me that, sir. So, okay, why can’t you be fair?” “Well, I just don’t think I can sit in judgment of another person ever.” “Okay, great. So, your friend told you to say that. That’s fine.”

**[**[**00:09:15**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:09:15)**]** Now let’s actually dig in and get to know you. “Do you want to be here?” I’ll just straight up ask people that. “Do you want to be here?” And they’ll be honest with you and say, “No.” [laughs] “Okay, well, I don’t want you here either then, because you’re not going to give anybody a fair shot if you don’t want to be here.” I’ve seen people say, “I have childcare issues, which I totally empathize with and are valid. I care for a family member. I can’t be on the jury because of that. There’s nobody else to care for. I have to work.” Well, everyone has a job, so that’s not going to fly.

**[**[**00:09:50**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:09:50)**]** But people will try certain things, and you watch a lot of panels where someone will try an excuse, and everybody will be tuning in like, “Is this going to fly? Can I use this one too?” And they’re sitting attention, seeing how this will go, the first person to ask the judge this. And eventually, people just settle in and realize, “Look, it really needs to be a major thing, because we have to have enough people here to make this fair.”

**Dave: [**[**00:10:16**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:10:16)**]** I’m just jogging my memory on one of these “oh, shit” moments, and you don’t have to give a verbal response?

**Lissa: [**[**00:10:23**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:10:23)**]** Every time I walk into a courtroom, it’s an “oh, shit” moment for you, Dave. You know it. You’re like, “Oh, shit.”

[laughter]

**Dave: [**[**00:10:31**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:10:31)**]** I remember jury selection, and I think it was a defense team you were associated with, where someone was updating their Twitter feed during jury selection and talking about how they didn’t want to be on the jury.

**Lissa: [**[**00:10:47**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:10:47)**]** Yeah, that’s a big no-no.

**Dan: [**[**00:10:49**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:10:49)**]** I think for a lot of people, this is their first look up the skirt of what actual criminal justice looks like in the United States.

**Yeardley: [**[**00:10:58**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:10:58)**]** Well, sure. How else would you get to see that?

**Dan: [**[**00:11:01**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:11:01)**]** Yeah. This is your first time seeing the wheels turn. And to me before, I was always interested in law enforcement, but when I got chosen to serve on that jury, I was actually looking forward to, “Hey, this is really interesting to me and I want to get this right.”

**Lissa: [**[**00:11:17**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:11:17)**]** You really do want to get it right. Once the decision has been placed on your shoulders, then you feel the responsibility of it.

**Dan: [**[**00:11:38**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:11:38)**]** So, you being an officer of the court.

**Lissa: [**[**00:11:41**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:11:41)**]** Mm-hmm.

**Dan: [**[**00:11:42**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:11:42)**]** One of my main criticisms of defense attorneys over the years has been these hypothetical scenarios and these imaginary suspects that sometimes get brought into murder cases.

**Lissa: [**[**00:11:56**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:11:56)**]** Bushy haired stranger defense.

**Dan: [**[**00:11:58**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:11:58)**]** Yes, exactly. You guys have a name for it. The bushy haired stranger defense is, it’s an alibi for the defendant.

**Lissa: [**[**00:12:08**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:12:08)**]** That’s right.

**Dan: [**[**00:12:09**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:12:09)**]** Essentially what it is, is this random person, this bushy haired stranger, so it’s like a white male with unkempt hair appears out of nowhere. He’s unknown to the victim, and he is the person who is responsible for committing the crime, not the actual defendant. Of course, the bushy hair stranger is probably America’s most prolific criminal, but nobody’s ever caught him.

**Yeardley: [**[**00:12:35**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:12:35)**]** [laughs]

**Dan: [**[**00:12:36**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:12:36)**]** So, where does that sit with you that? If I’m on the prosecution side, which I was as a case agent, I have to be able to prove my case. I think that that’s largely not true. When defense attorneys bring up these hypotheticals or these imaginary suspects and just throw them in there to see if the spaghetti sticks on the wall.

**Lissa: [**[**00:12:59**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:12:59)**]** I know that there are defense attorneys who do that style. I don’t find that effective even to benefit my client and I don’t feel good about that. That’s not why I do this job. If I’m there to make sure that I can hold the state to its burden and that’s an important function of the system and part of being the state. My philosophy is systematic and surgical. It’s, “Okay, what are the weaknesses in the state’s case or what did they miss here? What is my client saying about what happened? What can I corroborate and try to bring in witnesses for that and what experts may educate the jury on what the state did or didn’t do?” That’s how I build a case. That’s how I think good defense attorneys build a case is they try to figure out, if your client has a defense.

**[**[**00:13:54**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:13:54)**]** It’s not a big mystery. It’s, “Do you have a defense and can I assert it?” I look juries right in the eye when I argue to them. I don’t think of myself as some like charlatan that’s just in there trying to confuse people. I really try to draw their attention to details or exhibits that the state missed that I had to go then bring in. I think that if you’re in court and you’re lying, or you’re lying to a judge, or you’re fabricating things, you’re not doing a service to anyone, and you’re certainly not doing your job, and you shouldn’t be a member of the bar.

**[**[**00:14:33**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:14:33)**]** I take my role as an officer of the court really seriously because of my own personal integrity. But even if you don’t want to believe that, I got something else for you. No, it’s my own integrity, but also I’m part of a system that I really believe in and that I think is the best that we have. It’s the best system in the world, in my opinion and it’s got faults, but it works. I can only make that work if I meet my duties as an officer of the court and bring things before the judge that are in good faith on my part.

**Dave: [**[**00:15:05**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:15:05)**]** Given your experience on both sides of the fence here, just from an objective point of view, are we doing what’s right in the sense of justice?

**Lissa: [**[**00:15:15**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:15:15)**]** Are you meaning as far as like reform prosecutors and the reform prosecutor movement?

**Dave: [**[**00:15:20**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:15:20)**]** I guess the reform, but like dropping gang enhancements on charging documents for what are clearly gang involved shootings and murders. It’s a big deal to victims and their families. I’m sure it’s a big deal to the defendants who are getting lighter sentences.

**Lissa: [**[**00:15:38**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:15:38)**]** Well, I think that goes to colliding philosophies, because if I’m understanding some reform prosecutors in the state where I practice, they’re making decisions that are really politically unpopular. But I probably take a different view than you do on that, Dave. Not probably, much to your surprise. A lot of these enhancements and prosecutors drawing them back are from defense attorneys running for and becoming DA and trying to enact the reforms that they wished they could have achieved for their clients. A lot of those center around mandatory minimums, which I do have really strong feelings about. Mandatory minimums provide prosecutors leverage in plea negotiations that impact whether or not people who are truly innocent go to trial.

**[**[**00:16:36**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:16:36)**]** I don’t think you could find a defense attorney who really works their cases who could tell you that they have not had an innocent person consider pleading guilty to something that they didn’t do because of the exposure, because if you have mandatory minimums and you go to trial and you could get a decade, but you’re offered probation where you can stay home and support your family, you take probation every day of the week. It does not matter if you did it. I’m not saying that happens a lot in my practice, but I do practice the state with mandatory minimums and I have to have conversations with clients about that. Every defense attorney does.

**[**[**00:17:18**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:17:18)**]** Like Dan says, when you go into a jury trial you first look up the skirt, basically, to use his phrasing of how the system works, but there is a whole system working before those jurors ever walk in, and there’s people caught up in that system making decisions about whether or not they’re going to go be in a cage. Sometimes, that’s not ultimately because you did it. It’s because of what could happen to you if the jury believes you did it.

**Dave: [**[**00:17:46**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:17:46)**]** Right. Say you’re offered 45 years, and then the day of trial, they reduce it to 20 years, and you’re like, “Well, if I lose today, I’m going for 45 years. I’ll take the 20 even though you didn’t do it?”

**Lissa: [**[**00:18:02**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:18:02)**]** Yes. When these reform prosecutors are coming out saying, “I want to take away these gang enhancements or I want to have more justice and sentencing,” it’s not because they think that what these people did is acceptable. I think society thinks that means that we’re “soft on crime,” and we just don’t care that this person did this, and it’s looked at as, how could you justify this conduct? But the people asserting that philosophy are a lot of times, people who’ve sat with clients making these decisions that really come down to risk as opposed to whether or not they did it. I think if you’ve never been part of the system, you think, I would never plead guilty to something I didn’t do, why the hell would I ever do that? Why the hell would I ever confess to something I didn’t do?

**[**[**00:18:50**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:18:50)**]** If you look at the Innocence Project, a lot of the cases that come out of that were confession cases. And so, you just don’t know how you’re going to react when you’re in the situation and what decisions you’re going to be tasked with. Mandatory minimums and enhancements force conversations between lawyers and their clients and force leverage from DAs to have these other charges in the background. And sometimes, it happens where people plead and they didn’t do it or they confess and they didn’t do it. If you had a system that didn’t force those decisions, then would you maybe have guilty people going to court to assert their right to trial? Sure. Do you have that now? Sure. But you would have innocent people not having to make these decisions on risk assessment and feeling like, “Yeah, I can assert my right to trial and see what the jury thinks about this without other things looming in there. I’ll step off my soapbox now.” But I think when you ask about that issue, it’s really a different issue and a different philosophy that the prosecutors are trying to bring forward.

**Dan: [**[**00:19:54**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:19:54)**]** I think it’s an important conversation to have about racial disparities in sentencing and mandatory minimums.

**Dave: [**[**00:20:01**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:20:01)**]** The pendulum always swings. And Dan and I and Yeardley, we had a discussion the other night about the pendulum swings, and right now, it’s on a certain side. It’s going to swing back. It’s inevitable. But in the 1990s, they went really hard on drug crime. And I’m asked about these things fairly often. What do you think about all these inner-city black men that were sentenced to 20 plus years for dealing marijuana? I’m like, “Of course, I think that’s bullshit.”

**Lissa: [**[**00:20:28**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:20:28)**]** Right. But if you talk to a weed cop in the 1990s work in drug cases, he wouldn’t tell you, “That’s bullshit.”

**Dave: [**[**00:20:34**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:20:34)**]** Exactly. So, you know me, I’m fairly conservative.

**Lissa: [**[**00:20:39**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:20:39)**]** No.

**Yeardley: [**[**00:20:40**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:20:40)**]** [laughs]

**Dave: [**[**00:20:41**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:20:41)**]** I do believe in making it right, some of these things that were so horribly criminalized back in the 90s. Nowadays, pot is legal, and a majority of the United States, I think, is certainly legal in my state, including some hard drugs are legal in my state. Should we have the ability to go back and revisit based on today’s standards?

**Lissa: [**[**00:21:05**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:21:05)**]** I think for the war on drugs? Yes. Other crimes, I don’t know. The competing philosophies there are there needs to be finality. If we’re going to have a system in a tribunal that resolves conflict, then people need to have faith in that system that once the conflict is resolved, it’s resolved.

**Dave: [**[**00:21:22**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:21:22)**]** Right. That you don’t say, “Hey, this is the decision for seven years. In seven years, we’re going to revisit your punishment.” And you’re like, “Well, I mean, you did murder six people.”

**Lissa: [**[**00:21:31**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:21:31)**]** I think that’s a really good observation for why it’s so important to just have really good, thoughtful, measured, courageous prosecutors. Communities are better off with that, because if you impose an avenue to punish somebody, the prosecutor is the one who is going to control how that’s doled out. You need people who are not going to be afraid of the community saying, “Why would you do that? You’re soft on crime.” You need a prosecutor who can explain to the community why they used their discretion, so that when they use their discretion to put somebody away for a really, really long time. The community trusts that decision because it’s not just so they can throw the book at someone. It’s that they’ve really thought through whether or not this is the appropriate way to deal with the case.

**[**[**00:22:23**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:22:23)**]** But the problem is not all prosecutors are like that. You’re going to have ones that are really power hungry and want to access these avenues and they can use that power in a way that helps no one. It doesn’t achieve justice. How does it provide closure to a victim if the wrong person gets convicted? It provides temporary closure and a good headline, that case closed, but who benefits from that?

**Dan: [**[**00:22:48**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:22:48)**]** Yeah, it raises doubt. It shocks the conscience and the confidence that our citizens have in law enforcement and the justice system.

**Lissa: [**[**00:22:57**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:22:57)**]** Which the good cops want them to have.

**Yeardley: [**[**00:22:59**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:22:59)**]** The good cops want the community to have confidence in law enforcement and the justice system.

**Lissa: [**[**00:23:06**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:23:06)**]** Yes.

**Dave: [**[**00:23:07**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:23:07)**]** Right. It’s the procedural justice and police legitimacy that we talk about that the further extension is to prosecutors, is to judges in sentencing and fairness in prosecution, that it’s not just the cops out there. We’re just a piece of the wheel that is turning and it’s a big machine that is really difficult to steer.

**Lissa: [**[**00:23:34**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:23:34)**]** I think some of the hardest decisions prosecutors have to make are not to file or to reduce a charge. Sometimes defense attorneys have to take really unpopular positions on how a case should be resolved and hope that the prosecutor is going to be able to explain that to the community on why that too is justice. That takes some political courage to go to the press or to the community and say, “I didn’t file this.” It could be in cases where people have died or been really injured in some way, but prosecution is not the way that they can deal with it or that the law is set up to deal with that particular circumstance. And not every community is lucky enough to have prosecutors that do that.

**[**[**00:24:30**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:24:30)**]** I will say that I’m lucky in my community that I have several prosecutors that I work with that I thank them after certain cases, even that aren’t mine, just to say, “Thank you for doing that, because that was really hard,” and you’re probably going to take a hit in the paper for it. But that’s your job is to get justice. And sometimes, that’s not what is intuitive. It’s really easy to go to the community and say, “Yep, I threw the book at him. He got 25 years.” Everybody thinks, “Well, he must have done it. Good thing he got 25 years and throw away the key. Hopefully, he doesn’t make it that long.” That’s an easy thing for a prosecutor to do, but it’s really hard to say, “You know what? We couldn’t prove certain things, and we really took a hard look at it, and we talked with the victims about it. We decided that was justice.” I think that is the hardest, but probably the most important part of their job. Anybody can throw the book at somebody.

**Dan: [**[**00:25:23**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:25:23)**]** I think my mind goes straight to Curtis Flowers. To give you some context, Curtis Flowers was tried six times by a Mississippi prosecutor for the murder of four people. Flowers was convicted four times, but every one of those convictions was overturned for either prosecutorial misconduct or racial bias. The other two trials ended in mistrials. After the US Supreme Court finally intervened, the state Attorney General eventually dropped the charges, but Flowers spent 23 years in prison while all of this was happening. There’s a good podcast about this case, and I think it’s called In the Dark, and you should check it out. But six prosecutions. If that’s not reasonable doubt.

**Yeardley: [**[**00:26:08**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:26:08)**]** By the same prosecutor?

**Dan: [**[**00:26:10**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:26:10)**]** I know. After the second trial, maybe you go to someone else and say, “Will you put eyes on this and give me your opinion?” Because he’s obviously, and you talk about being a little too invested in the outcome of a case. I think this is a prime example of, “Dude, take a step back and evaluate this.”

**Dave: [**[**00:26:30**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:26:30)**]** I’d rather get an acquittal or charges dropped than a wrongful conviction. I don’t want a false confession. I used to be very hypersensitive to where I’d felt like someone was over confessing, because I’m like, “Hey, man, pull it back a little bit. Even now, I’m starting to question whether or not you’re being honest with me, even though I can corroborate a lot of what you’re saying.” My conscience is fairly overactive. I would not be able to live with that. Some of these officers or detectives that I see where they’re so invested and they refuse to see certain pieces of evidence and they refuse to hear alibi type stuff, you’re like, “Why? Don’t you just want to get it right?” I don’t want to just make an arrest.

**Lissa: [**[**00:27:20**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:27:20)**]** But some people do.

**Dave: [**[**00:27:22**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:27:22)**]** I want to put the right person in prison.

**Lissa: [**[**00:27:23**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:27:23)**]** And that’s the problem. You need people of conscience on all sides. You need people of conscience with a badge, you need people of conscience in the prosecutor’s office, you need people of conscience on the defense side.

**Dave: [**[**00:27:34**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:27:34)**]** When do we get that?

**Lissa: [**[**00:27:35**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:27:35)**]** With me. Hello, I’m right here.

[laughter]

**Yeardley: [**[**00:27:40**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:27:40)**]** So, Lissa, me as a layperson, and I’m sure all of our listeners are wondering, do you ever ask your clients, “Did you do it?” Do you literally ever ask them, “Did you do it?”

**Lissa: [**[**00:27:52**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:27:52)**]** Yes.

**Yeardley: [**[**00:27:53**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:27:53)**]** You do?

**Lissa: [**[**00:27:54**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:27:54)**]** Mm.

**Yeardley: [**[**00:27:55**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:27:55)**]** Do you ask the question to see how they answer? Do you ask the question also to see what they answer?

**Lissa: [**[**00:28:01**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:28:01)**]** I have to lawyer you and say, it depends.

**Yeardley: [**[**00:28:03**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:28:03)**]** [laughs]

**Lissa: [**[**00:28:04**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:28:04)**]** It depends on the case. But yes, we talk about it.

**Yeardley: [**[**00:28:07**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:28:07)**]** It just goes all into the bucket of information as to how you’re going to build the case?

**Lissa: [**[**00:28:12**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:28:12)**]** Yes. If somebody tells me they did it, I don’t run to the DA and say, “Well, he did it. Case closed. Give me a deal.” It doesn’t change whether or not they have a right to a trial. It doesn’t change whether or not they have a right to make the state prove it. It doesn’t change whether or not the state did its job. So, therefore, I can’t let it change my perspective on if I’m going to fight for them, if the state doesn’t have it. This may sound flippant. In our system, it doesn’t matter if they did it, it matters if the state can prove it. If the state proves it, then the system has worked. I would rather have guilty people go free than an innocent person go to prison. And I think that’s how the system is built and I think that’s the only way it can work.

**Dan: [**[**00:29:17**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:29:17)**]** I’ve always said, just being in athletics my whole life is you learn a lot more from losing than you do from winning. Me getting my ass handed to me on the witness stand by a defense attorney who was really well prepared solved my preparedness problem going into court.

[laughter]

**Lissa: [**[**00:29:34**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:29:34)**]** Well, then you get better at it.

**Dan: [**[**00:29:36**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:29:36)**]** I’m never going to let that happen again. I know it happened to Dave too.

**Dave: [**[**00:29:40**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:29:40)**]** My first time in trial, and it happened, and I was like, “Oh.”

**Lissa: [**[**00:29:43**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:29:43)**]** Oh, that’s what that feels like. I don’t like that. [laughs]

**Dave: [**[**00:29:45**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:29:45)**]** Yeah, I’d like you to get your, “Can you uncrawl out of my ass right now?”

**Yeardley: [**[**00:29:50**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:29:50)**]** [laughs]

**Lissa: [**[**00:29:52**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:29:52)**]** Nope, because I’m winning.

**Dave: [**[**00:29:54**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:29:54)**]** It was so embarrassing, [Lissa laughs] and it was one of those where I was just like, “Okay, you just got to sit here and wear it, because it is what it is.” And I said like, Dan, it’s the best lesson I ever learned.

**Lissa: [**[**00:30:07**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:30:07)**]** And your investigations get better.

**Dave: [**[**00:30:09**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:30:09)**]** Right. I left some clear holes. This defense was bullshit, and the jury saw right through it, but clearly, it pointed out some large gaps in my report writing and investigative skill, and I said, “I will correct that.”

**Dan: [**[**00:30:27**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:30:27)**]** Side note, they should put an ejection button on the witness chair.

**Yeardley: [**[**00:30:33**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:30:33)**]** [laughs]

**Dan: [**[**00:30:32**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:30:32)**]** Where it’s like, it’s got a safety cover, but when you’re getting your ass handed to, you just hit the button and see you later, you’re gone.

**Lissa: [**[**00:30:39**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:30:39)**]** So, I have to ask for a mistrial because cop ejected?

**Dan and Dave: [**[**00:30:42**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:30:42)**]** Yeah. He’s out.

**Dan: [**[**00:30:44**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:30:44)**]** I guess so. I guess, we’re done here.

**Dave: [**[**00:30:45**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:30:45)**]** We’re not going to need you.

**Lissa: [**[**00:30:45**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:30:45)**]** We don’t have to see you then. [crosstalk]

**Dan: [**[**00:30:48**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:30:48)**]** Yeah.

**Lissa: [**[**00:30:48**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:30:48)**]** I think that’s how I know if a cop has been trial tested. If I have them on the stand and they’re just not married to the facts and telling me what’s going on and they’re not taking my cross personally, it’s because they’re using it as an opportunity to get better. And that’s okay. If I go into courts in communities, where defense attorneys don’t go to trial very often and in retained work, you get called to different jurisdictions, because they want an out-of-town attorney and I can tell if the cops are trial tested or not within about 10 seconds of me crossing them. The number one signal to me is they’re pissed. “How dare I question them? Do I not know that they’re the law?”

**[**[**00:31:30**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:31:30)**]** Well, yeah, I do, but I also know you didn’t do your fucking job. So, now we got to talk about it. If they come up and shake my hand afterwards, I know they’re going to just better and they’re going to put together better cases, which benefits everyone anyway. So, that’s fine. Go put together a better case next time. I want that because if you’re going to launch an accusation and I have to defend against it, I would like there to be evidence. So, go find it. The good ones say, “Yeah, okay, I didn’t do that. I’m going to do that the next time.” It just makes everyone better.

**[**[**00:32:00**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:32:00)**]** If you use it as an opportunity to grow, you’re going to rise to the ranks and be a really, really good cop, because you’re going to know the tricks and you’re going to be able to anticipate it, which is, put another way, meeting your burden, which is really good.

**Dave: [**[**00:32:15**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:32:15)**]** I used to write reports thinking, “If a defense attorney read this paragraph, how would they dissect it?” And I’d say, “Well, it can’t really dissect that. Okay, let’s go to the next one.”

**Lissa: [**[**00:32:29**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:32:29)**]** That prevents confirmation bias. That’s really good.

**Dave: [**[**00:32:32**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:32:32)**]** Yeah. We have some cops that tend to put commentary and opinion and conclusion in reports, and it’s a bad look. It’s a really bad look, I think, on the officer, because it shows that they can’t be objective. Our job is to report facts, so I can refresh my recollection, and completely and accurately portray what this victim or what this crime or what this situation was. I’m not supposed to come to any political conclusion about somebody that it doesn’t even matter.

**Lissa: [**[**00:33:08**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:33:08)**]** It doesn’t because ultimately, you’re investigating. You’re just supposed to be investigating. You’re not the prosecutor. You don’t have anything to prove. You shouldn’t want to prove something. You should want to collect evidence, see where the evidence leads you. And then if you have enough evidence, then go forward. And so, when cops get offended, I’m like, “It’s just your job to investigate it. Go investigate. You’re not the state. That’s the prosecutor with the burden. You’re a witness and you’re here to testify about your investigation. So, tell me how you investigated.”

**Dave: [**[**00:33:42**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:33:42)**]** It shows to me a lack of professionalism and maturity, like professional maturity. If you are on the stand being cagey, defensive, and just pouty or stand off-ish, you’re being short, I shouldn’t be able to tell the difference between you answering questions between Lissa or the prosecutor. It should look the same. If it doesn’t, then you’re doing it wrong.

**Lissa: [**[**00:34:07**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:34:07)**]** And trust me, we’re not having a good day in court if you’re doing that, because if you’re super nice, “Yes, ma’am, no, ma’am,” looking at the jury, being friendly, guess what you look like, trustworthy and like a professional and someone that they should believe despite my cross? So, you’re doing a better job at meeting your goal anyway. [laughs] But it’s hard to see that.

**Dave: [**[**00:34:29**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:34:29)**]** You’re probably going to have to answer 50 fewer questions that day than if you’re being an ass.

**Yeardley: [**[**00:34:36**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:34:36)**]** I have a question for you, Lissa. Do you have a recurring lawyer nightmare? Because Dan and Dave have shared some of their law enforcement nightmares on the podcast. Like, let’s say, Dan is in a life and death situation in his dream. And when he fires his gun, the bullet doesn’t fire. It just dribbles out of the gun barrel, which sounds terrible. So, are there attorney nightmares that keep you up at night?

**Lissa: [**[**00:35:03**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:35:03)**]** There’s a lawyer nightmare that I have. It’s recurring. I probably have it twice a month. It’s that I went all the way through, got my law degree, was practicing, and discovered that my undergrad messed up my degree and didn’t give me a bachelor’s, and because I don’t have a bachelor’s, I don’t qualify for law school. Then I worry that I can’t be a barred lawyer. So, I have to lawyer during the day and take undergrad bachelor’s classes at night to try to get my degree back and keep practicing. I didn’t say it would make sense, but that’s what happens to me about twice a month.

**Yeardley: [**[**00:35:42**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:35:42)**]** That sounds like a nightmare that Lisa Simpson would have.

**Lissa: [**[**00:35:46**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:35:46)**]** It really does. [Yeardley laughs] And depending on the month I’ve had, I yell at my undergrad guidance counselor like, “How could you fuck this up so badly? I can’t fucking believe you did this. Now I can’t be a lawyer.” In some of them, I have to stay in the dorms again. It’s all fucked up.

**Dave: [**[**00:36:02**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:36:02)**]** All your acquittals get overturned?

**Yeardley: [**[**00:36:04**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:36:04)**]** That’s what I was going to say.

[laughter]

**Lissa: [**[**00:36:07**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:36:07)**]** God. Now, I’m going to have that dream. If I have that dream, I blame you.

**Dan: [**[**00:36:17**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:36:17)**]** So, Lissa, before we wrap this up, I have one last question for you.

**Lissa: [**[**00:36:22**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:36:22)**]** Okay.

**Dan: [**[**00:36:23**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:36:23)**]** As a defense attorney who’s long listened to our podcast, obviously us being on the law enforcement side, sometimes, the stories we tell are a little one sided. What is your overall impression of the Small Town Dicks Podcast in the cases you’ve heard?

**Lissa: [**[**00:36:40**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:36:40)**]** Well, first, I’d like to say I’m a long time listener first time guest. I’m a big fan.

**Yeardley: [**[**00:36:44**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:36:44)**]** [laughs]

**Dave: [**[**00:36:45**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:36:45)**]** She told me she wasn’t going to say that.

**Lissa: [**[**00:36:46**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:36:46)**]** I promised Dave I wasn’t going to say that, but-

[laughter]

**Lissa: [**[**00:36:49**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:36:49)**]** -the opportunity presented itself. You just kick the door open. I think you guys do a good job of going behind what the community sees about a case and trying to just get your perspective of people working through it. And cops are people at a job making decisions, trying to investigate a case. And that comes with a whole host of emotions, and stressors, and aspects of the job that a lot of people would have no idea about unless you were in the trenches, either as a prosecutor or a defense attorney that this is part of having a badge. Storytelling is a really powerful art and a way to convey experiences. And you guys don’t go super high level philosophical when it’s not needed. You’re telling a story and you’re explaining to people what this life is, and what these cases do to you, and what they do to the people involved.

**[**[**00:37:58**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:37:58)**]** I don’t think that’s one sided. I think that’s you sharing your experience, which is powerful in itself. We’re all storytellers in a way. You’re telling a story when you’re writing a report. You’re putting together something called a narrative. You’re putting evidence together and you’re telling a story that better be backed up by evidence or I’m coming after you. But you’re telling a story. Defense attorneys do the same thing. We get up and we are our clients’ mouthpiece. We’re telling a story. If you’re not in there telling a story, you’re not doing your job. You can’t just go in and say, “These things happened. Therefore, this.” This is about people and their experiences that they’re going through, and that’s what you guys are sharing.

**[**[**00:38:40**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:38:40)**]** So, I think that a podcast is a really powerful vehicle to bring people behind the curtain in a way that they wouldn’t otherwise get. So, I think it’s really helpful. I think that it’s not toot my own horn from my own episode, but I think it says a lot about what you guys are trying to accomplish that you would bring somebody in whose literal job it is to cross examine you on a stand and try to listen to that perspective too, because I think that by bringing me on and having me tell stories as much as I could, I’m letting people into the experience of this job, and that’s helpful.

**Yeardley: [**[**00:39:15**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:39:15)**]** I totally agree. I think it’s really helpful. It’s also fascinating to hear how you do what you do. And that no matter who you’re defending, your job is the same, and that is to put on the best possible defense. That’s everything. I have a similar phrase in acting where whether I land a job that’s five lines or I’m the star of the show, my job is the same, and that is to deliver excellence to the best of my ability. When I decide that the job that’s five lines is worth less than the job where I star in it, then I’m an asshole and now I’ve dropped the ball and nobody wins.

**Lissa: [**[**00:39:58**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:39:58)**]** That’s right. That’s what I find in a lot of my lower-level cases where I’m trying misdemeanors. The cops will get on the stand sometimes and say things like, “Well, I was just done with my investigation.” I’m like, “What would you have been done if it was a murder, because it’s the same burden in the courtroom? So, go do your job.” That is where if they think, “Oh, it’s just good enough,” that’s when things fall through the cracks. That’s when people get falsely convicted. That’s when defense attorneys get really stressed out, because we’re sitting on a case where someone didn’t do this, and now we have to prove it against the state that has a ton more resources than little old me. I fight, but I’m outgunned by the very nature of the system. If you can be vigilant and deliver excellence on all sides, then the system works, and it’s a really, really good one, one that I’m happy to be a part of as long as there’s cops like Dave and Dan who want to do this right, and that’s required for the system to work well.

**Dan: [**[**00:41:00**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:41:00)**]** Thank you.

**Lissa: [**[**00:41:01**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:41:01)**]** You’re welcome. I have a lot of respect for you guys.

**Dave: [**[**00:41:04**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:41:04)**]** Likewise.

**Lissa: [**[**00:41:04**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:41:04)**]** Thanks, Dave. I really appreciate you guys trusting me to come on. I know that I’m the first defense attorney that you’ve had on. So, I took that very seriously, and I’m grateful that you guys let me do it.

**Yeardley: [**[**00:41:14**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:41:14)**]** I loved this conversation, Lissa. I loved it. Thank you for your candor and your humor. You’re so funny. This was great.

**Lissa: [**[**00:41:24**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:41:24)**]** That’s really nice to say. Thank you.

**Yeardley: [**[**00:41:25**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:41:25)**]** Thank you.

**Dave: [**[**00:41:26**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:41:26)**]** Absolutely. It was a pleasure.

Next week in The Briefing Room, Dan, Yeardley, and I are joined by Paul Holes, to talk about interview techniques. We’ll separate fact from Hollywood fiction as we discuss, what works when you’re trying to get to the bottom of what happened?

[music]

**Yeardley: [**[**00:41:45**](http://www.smalltowndicks.com/episode/people-of-conscience/#00:41:45)**]** 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 at *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.

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