



**Candidate Briefing Book 2018**  
**Meaningful Criminal Justice Reform**  
Redefining the role of the district attorney in Oregon

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March 2018

**From:** David Rogers  
Executive Director, ACLU of Oregon

Daniel Lewkow  
Campaign Manager, They Report to You / ACLU of Oregon

Dear Candidate,

The role of the district attorney is being redefined all around the country. In Oregon, confidence in district attorneys is in freefall, plummeting 15 percentage points in just one year, according to an independent DHM research poll. In Texas, [half of all sitting district attorneys in contested primaries just lost their seats](#). All across the media, people are calling out for change. What is going on?

Public opinion provides some answers. As you'll see in this packet, a growing majority of voters in Oregon and across the US are increasingly dissatisfied with the status quo. They understand that so-called "tough on crime" strategies have failed. They want our criminal justice system to be more effective, fair, transparent and accountable. In short, district attorneys increasingly need to earn the support and confidence of voters.

However, many district attorneys are disconnected from public opinion and modern policy approaches. This disconnect in Oregon is large. A growing majority of voters from across the political spectrum are eager for reform. They want updated approaches to criminal justice. And DAs have an opportunity to respond. Instead of perpetuating policies from the 1990s that are increasingly at odds with Oregon values, Oregon DAs can step up to lead, making our system more in line with best practices. Indeed, DAs [across the country are beginning to lead reform efforts](#), and are being rewarded by media and voters. DAs can —and should— champion reforms here in Oregon too.

This packet, which is being offered to all DA candidates in Oregon, is designed to give you a better understanding of:

- The work the ACLU of Oregon is doing in regard to criminal justice and DAs.
- How Oregonians feel about our criminal justice system.

- How news coverage of district attorneys is changing.
- Our analysis of some key issues and a range of options DAs have to improve our criminal justice system.

We do not support or oppose candidates or engage in electioneering. Our campaign advocates for improving our justice system. We conduct policy research, analyze data, engage with impacted communities, advocate for policy change, and track criminal justice developments in Oregon and across the nation. If you get elected, we hope we can serve as a resource for you. We are a well-resourced organization, and we are well connected to other organizations that do criminal justice work here in Oregon and around the country.

Please do not hesitate to contact us with questions. Being a DA is a difficult job, and we sincerely want to work with you to improve our system. On behalf of our team on the *They Report to You* campaign, thank you for taking the time to read this and please keep in touch.

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# Campaign Description

## Who we are

*They Report to You* is a criminal justice reform campaign led by the ACLU of Oregon. We are working to improve our criminal justice system by redefining the role of district attorneys, increasing voter engagement with these important elected leaders, and advocating for reforms that appropriately balance the enormous power and discretion of prosecutors.

## Our vision: A better criminal justice system

We believe Oregon should have a criminal justice system that is more effective, fair, transparent, accountable and just.

Ineffective, “tough on crime” strategies like the War on Drugs need to be shifted to smart on crime strategies, with more emphasis on prevention, treatment, and access to mental health services. And we need a system that treats everyone fairly, no matter what their identities are.

We also need more transparency. Roughly 95 percent of cases don’t get resolved in court but instead get resolved through plea agreements, behind closed doors where prosecutors have enormous power.

Let’s build a system that holds people accountable while also helping people to rebuild their lives. We know a focus on building and filling prisons won’t make us safer. We believe in a more fiscally-responsible approach that is grounded in the research of what works, not a focus on harsher punishments.

We want our criminal justice system to better reflect Oregon values.

## Why focus on DAs?

DAs have a difficult and important job, and have a great deal of responsibility for the current state of our justice system. DAs, for example, have the power to:

- stop treating youths as adults.
- educate police officers on acceptable behavior and hold police accountable for misconduct
- put a check on racial disparities in arrests, charging, sentencing and other areas.
- place more emphasis on treatment, rehabilitation and re-entry support make the plea deal negotiation process more fair, transparent and accountable
- adopt policies that are in line with evidence-based best practices

Unfortunately, too many DAs seem to measure their success based on convictions and cases processed, but we need a different set of metrics for what success looks like from DA offices.

DAs have tremendous power. And if they decide to use that power to promote better approaches, we could dramatically improve our criminal justice system. Our campaign is dedicated to providing DAs with the resources and the understanding to help identify and implement better practices that bring about reform.

# Public opinion: A state and national analysis

## Overview: Oregon is ready for reform

Some DAs have argued that they have a mandate to maintain the status quo because they are often re-elected. Public opinion research tells a different story.

The data show DAs have flown under the radar. Voters simply do not know what their DA does, who their DA is, what their DA stands for or how their DA interacts with the criminal justice system. Most voters do not even know that their DA is elected, and voters rarely have a choice of candidates, which largely explains why so many voters skip DA elections altogether. But this absence of participation should not be misconstrued as support for current approaches.

Instead, many Oregon DAs are in office despite their policies, not because of them. Oregon voters are rejecting the “tough on crime” rhetoric of the 1990s. They want a different approach to how state and local governments engage in criminal justice, and Oregonians are overwhelmingly more likely to vote for candidates who will advocate for criminal justice reform over the status quo. National public opinion research bolsters these results, showing, for example, that crime victims want similar if not identical reforms and that voters want prosecutors to aggressively address issues like racial bias within the system. Voters are also getting fed up. They’re starting to pay more attention, and confidence in Oregon DAs is in freefall.

Enclosed are polling memos from five Oregon-specific polls. We chose these polls because they are the most authoritative, relevant, thorough and recent public pieces of voter opinion research on criminal justice reform in Oregon that we are aware of. Combined, these Oregon-specific surveys have a sample size of more than 3,902 people.

Those polls, presented in chronological order, are:

- **The Pew Center Public Opinion Strategies-Mellman Group survey**, conducted in January 2012, with 600 likely Oregon voters, by live phone interviews, with a margin of error of  $\pm 4$  percent.
- **The GBA Strategies survey**, conducted in March of 2017 of 600 Oregon registered voters, by live telephone interview, with a margin of error that is less than  $\pm 4$  percentage points.

- **The Mason-Dixon Polling & Research Inc survey**, conducted in April 2017, of 625 Oregon voters, by live telephone interview, with a margin of error that is less than  $\pm 4$  percentage points.
- **The ACLU-Bus Project Canvass survey**, conducted in August 2017, of 1,489 likely voters in Washington County and Marion County, by professional door-to-door canvassers. The face-to-face conversations in this survey allowed for in-depth conversations, and the survey had a much higher response rate than traditional phone surveys.
- **The DHM Research Survey**, conducted in late January and early February of 2018, of 602 Oregonians, by online survey, with a margin of error that is less than  $\pm 4$  percentage points.

We also include three national polls. These were chosen because they are authoritative, recent, and salient. Those polls are:

- **The Crime Survivors Speak poll**, conducted in August 2016, by David Binder Research, which contacted a nationally representative sample of 3,165 people across the country, and, from that pool, identified and interviewed more than 800 crime victims.
- **The David Binder Research poll**, conducted in October 2017, of 1,600 likely US voters, by live telephone interview, with a margin error less than  $\pm 2.5$  percentage points.
- **The Public Opinion Strategies poll**, conducted in January 2018, of 800 registered US voters, by live telephone interview, with a margin of error less than  $\pm 3.5$  percentage points.



# Public Attitudes on Crime and Punishment in Oregon

When asked about crime and punishment, voters strongly support policies that get results. They want evidence of the public safety impact of state policies and they want a solid taxpayer return-on-investment.

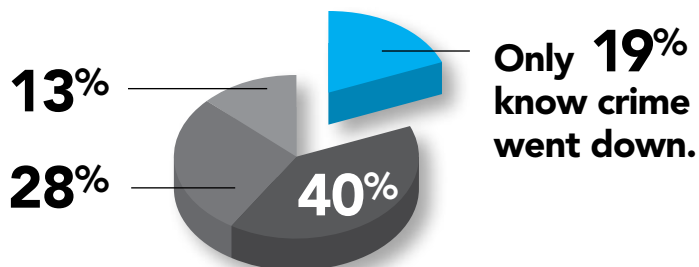
This preference for results-oriented policy was broadly voiced by Republicans, Democrats, Independents, crime victims, and law enforcement households.

## KEY TAKEAWAYS

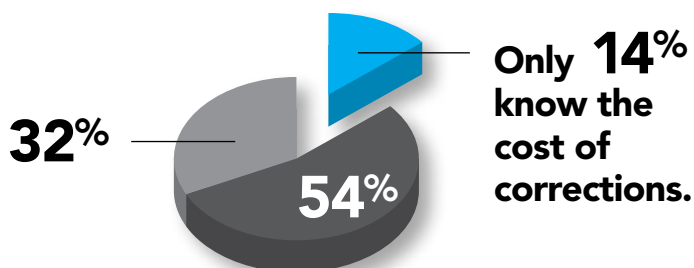
1. Oregon voters have little awareness of the state's crime decline or the size of the corrections budget.
2. Voters want corrections dollars to produce public safety results.
3. Voters prefer prison spending cuts to cutting funding for other programs or tax increases.
4. Voters demonstrate broad support for specific policies that reduce prison populations and spending.

## 1. OREGON VOTERS HAVE LITTLE AWARENESS OF THE STATE'S CRIME DECLINE OR THE SIZE OF THE CORRECTIONS BUDGET

Fewer than one in five voters (19%) know that Oregon's crime rate declined during the past decade. More than two-thirds said it increased (40%) or stayed the same (28%). The rest (13%) said they don't know.



A small minority of voters (14%) knows that the State of Oregon spends more than half a billion dollars annually on corrections, with a majority (54%) believing that the state spends less than that amount. Nearly one third (32%) said they don't know.

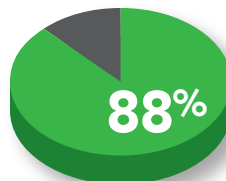


## 2. VOTERS WANT CORRECTIONS DOLLARS TO PRODUCE PUBLIC SAFETY RESULTS

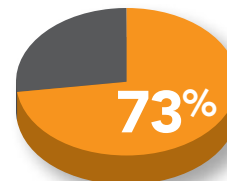
Voters strongly support results-oriented policy statements.

"Prisons are a government spending program, and just like any other government spending program they need to be put to the cost-benefit test to make sure taxpayers are getting the best bang for the buck."

% Total Agree

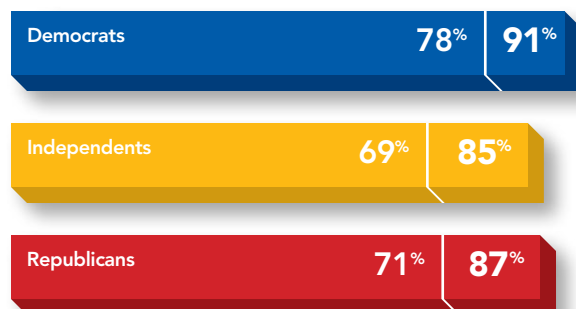


% Strongly Agree



Strongly Agree

Total Agree



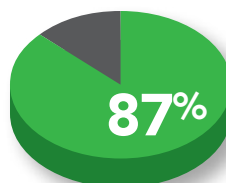
Strongly Agree

Total Agree

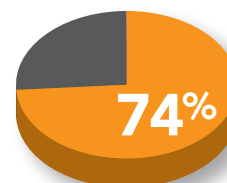


"It does not matter whether an offender is in prison for 10 or 15 or 21 months. What really matters is that the system does a better job of making sure that when an offender does get out, he is less likely to commit another crime."

% Total Agree

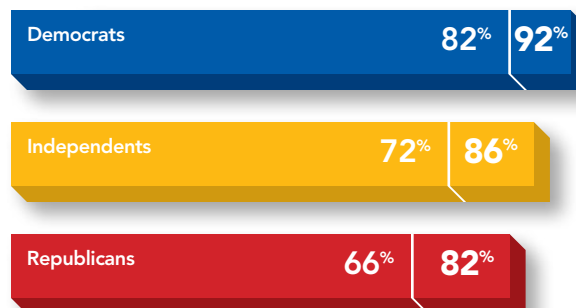


% Strongly Agree



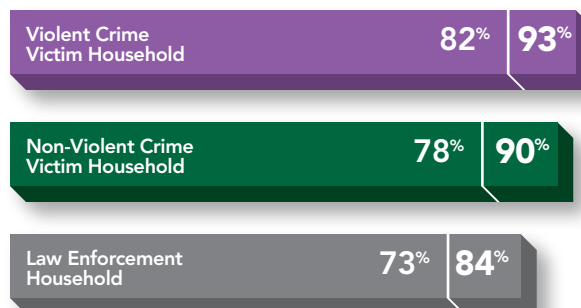
Strongly Agree

Total Agree



Strongly Agree

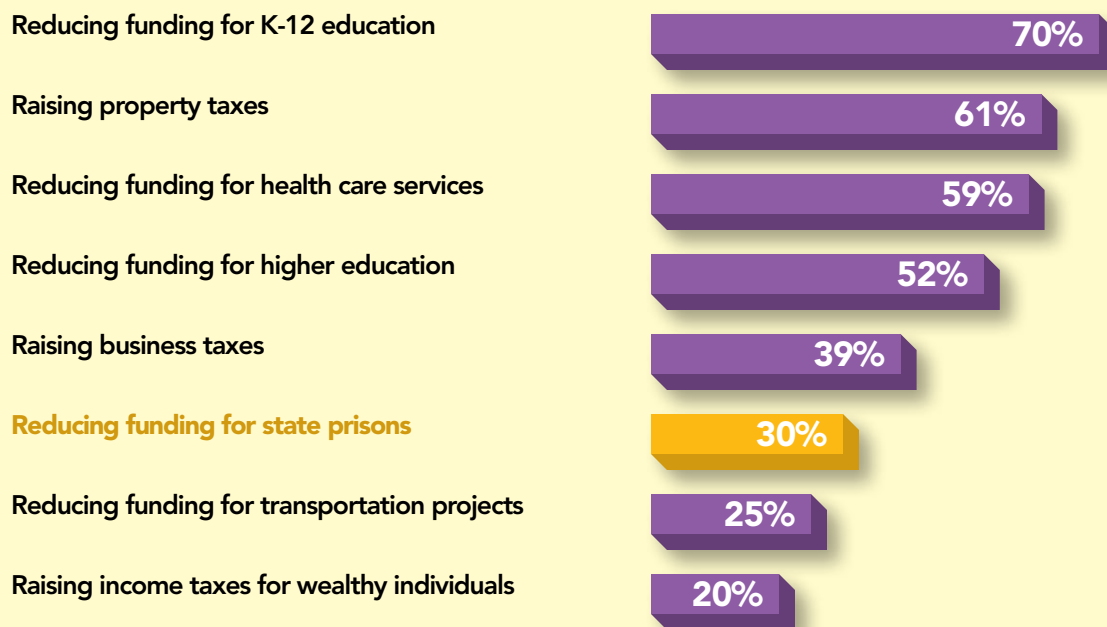
Total Agree



### 3. VOTERS PREFER PRISON SPENDING CUTS TO CUTTING FUNDING FOR OTHER PROGRAMS OR TAX INCREASES

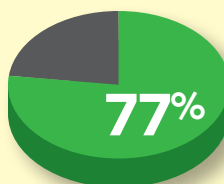
With Oregon facing a budget shortfall, voters would prefer to cut prison spending than cut K-12 education, health care services or higher education, or raise property or business taxes.

Percentage of Respondents Who Find the Following Statements to Be Strongly Unacceptable:

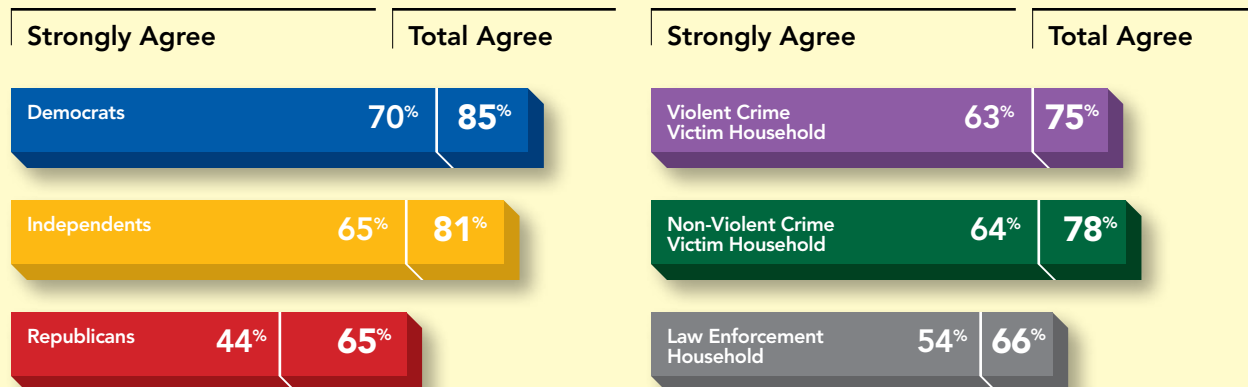
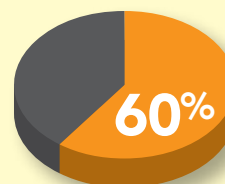


"Some of the money that Oregon is spending on locking up lower-risk inmates should be shifted to strengthening mandatory community supervision programs like probation and parole."

% Total Agree



% Strongly Agree



#### 4. VOTERS DEMONSTRATE BROAD SUPPORT FOR SPECIFIC POLICIES THAT REDUCE PRISON POPULATIONS AND SPENDING

"I would support shorter prison sentences for offenders if that permitted the state to pay for a stronger probation and parole system, including swifter penalties for breaking the rules of supervision and more substance abuse and mental health treatment."

Strongly Agree	Total Agree	Democrats	Independents	Republicans	Violent Crime Victim Household	Non-Violent Crime Victim Household	Law Enforcement Household
62%	82%	89%	82%	75%	83%	85%	87%

"Oregon law currently requires a prison sentence of a specific length of time for all who are convicted of certain crimes. Do you favor or oppose giving judges more say in deciding sentences?"

Strongly Favor	Total Favor	Democrats	Independents	Republicans	Violent Crime Victim Household	Non-Violent Crime Victim Household	Law Enforcement Household
59%	77%	82%	79%	69%	81%	77%	74%

"Give the parole board authority to keep dangerous offenders in prison longer and accelerate the release of lower risk prisoners."

Strongly Agree	Total Agree	Democrats	Independents	Republicans	Violent Crime Victim Household	Non-Violent Crime Victim Household	Law Enforcement Household
66%	86%	89%	86%	82%	83%	85%	80%

"Send fewer low-risk offenders to prison and reinvest some of the savings to create a stronger probation and parole system that holds offenders accountable for their crimes."

Strongly Agree	Total Agree	Democrats	Independents	Republicans	Violent Crime Victim Household	Non-Violent Crime Victim Household	Law Enforcement Household
61%	81	89%	80%	74%	78%	81%	69%

"Allow prison inmates convicted of non-violent crimes to earn more time off their prison terms for completing programs like literacy training and substance abuse treatment that are designed to increase their chances for success when they are released."

Strongly Agree	Total Agree	Democrats	Independents	Republicans	Violent Crime Victim Household	Non-Violent Crime Victim Household	Law Enforcement Household
67%	85%	91%	84%	78%	86%	88%	77%

## Shorter Prison Stays with Supervision Preferred to Longer Prison Stays

Voters strongly prefer that inmates be subject to a shorter period of incarceration followed by mandatory supervision, rather than be held until their sentences expire and released without any supervision, regardless of offense type.

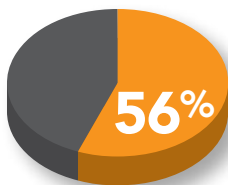
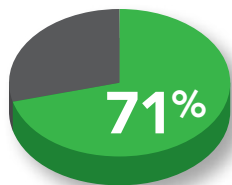
### Violent Offenders

When given a choice between violent offenders serving a full 5-year prison sentence or 4 years of a 5-year sentence plus 1 year of mandatory supervision, voters prefer the mandatory supervision option.

#### Shorter sentence, plus supervision

% Total Prefer

% Strongly Prefer



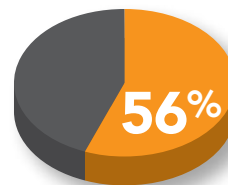
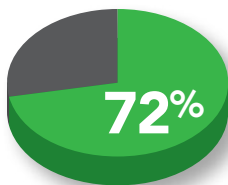
### Non-Violent Offenders

When given a choice between non-violent offenders serving a full 3-year prison sentence or 2 years of a 3-year sentence plus 1 year of mandatory supervision, voters prefer the mandatory supervision option.

#### Shorter sentence, plus supervision

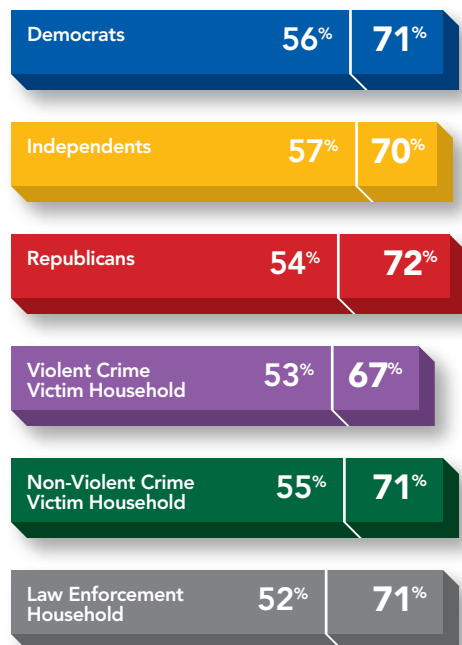
% Total Prefer

% Strongly Prefer



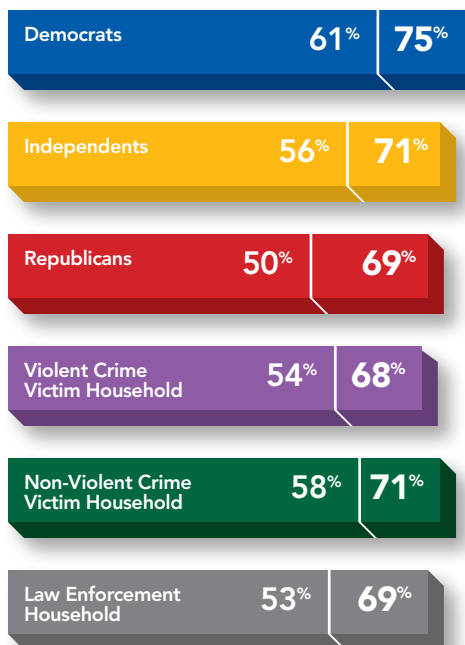
#### Strongly Prefer

#### Total Prefer



#### Strongly Prefer

#### Total Prefer



## METHODOLOGY

On behalf of the Pew Center on the States, Public Opinion Strategies and the Mellman Group conducted phone interviews with 600 likely Oregon voters on January 19-22, 2012. The survey has a margin of error of  $\pm 4$  percent. The margin of error is higher for subgroups.

The full survey is available at [www.pewcenteronthestates.org/publicsafety](http://www.pewcenteronthestates.org/publicsafety).

### Poll Respondent Demographics

- 36 percent identified as conservative
- 33 percent identified as liberal
- 33 percent identified as a Republican or leaning Republican
- 23 percent identified as Independent
- 38 percent identified as a Democrat or leaning Democratic
- 16 percent identified as a violent crime victim household
- 47 percent identified as a non-violent crime victim household
- 11 percent identified as a law enforcement household



Public Opinion Strategies is a leading national political, public policy, and public affairs research firm. Public Opinion Strategies is widely recognized as the nation's leading Republican polling firm, listing 19 U.S. Senators, 6 Governors, and over 70 Members of Congress as clients. Public Opinion Strategies also works for some of America's largest corporations and associations in the public affairs realm.



The Mellman Group has provided sophisticated opinion research and strategic advice to political leaders, public interest organizations, Fortune 500 companies, and government agencies for over thirty years. Current clients include the majority leader of the U.S. Senate and the Democratic whip in the U.S. House.

To: Interested Parties

From: GBA Strategies

Date: March 1, 2017

## Oregon Drug De-Felonization Poll Results

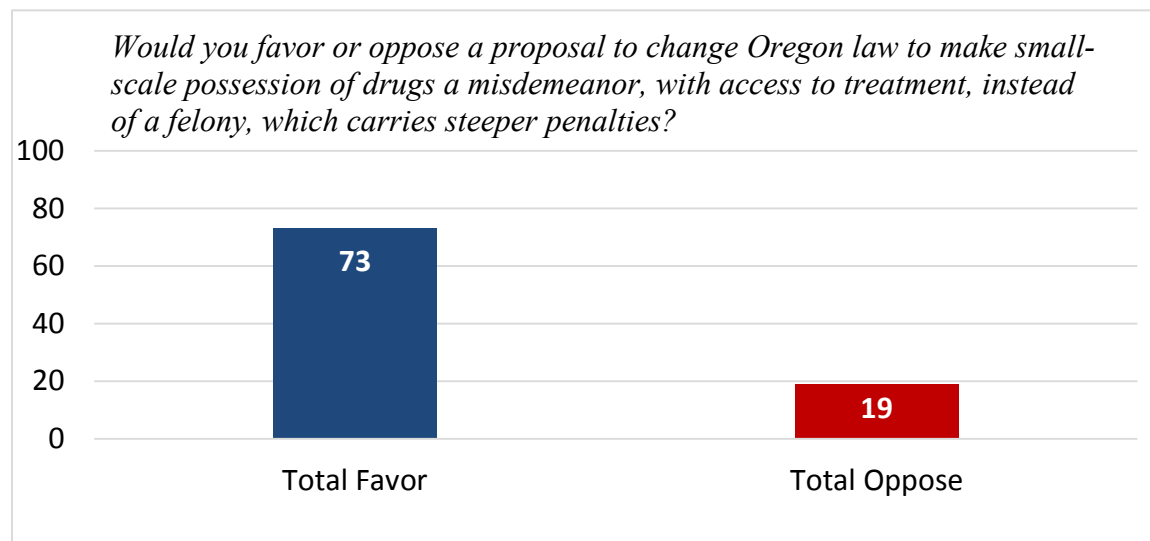
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A new poll shows that Oregon voters overwhelmingly favor changing Oregon law to make small-scale possession of drugs a misdemeanor instead of a felony, which carries steeper penalties. Oregonians' support for this proposal is rooted in a belief that the best way to handle people who misuse drugs is through treatment, education, and rehabilitation, rather than tough penalties. In fact, Oregonians would prefer District Attorneys and Sheriffs who think drug problems should be treated through prevention and treatment rather than through arrests and punishment.

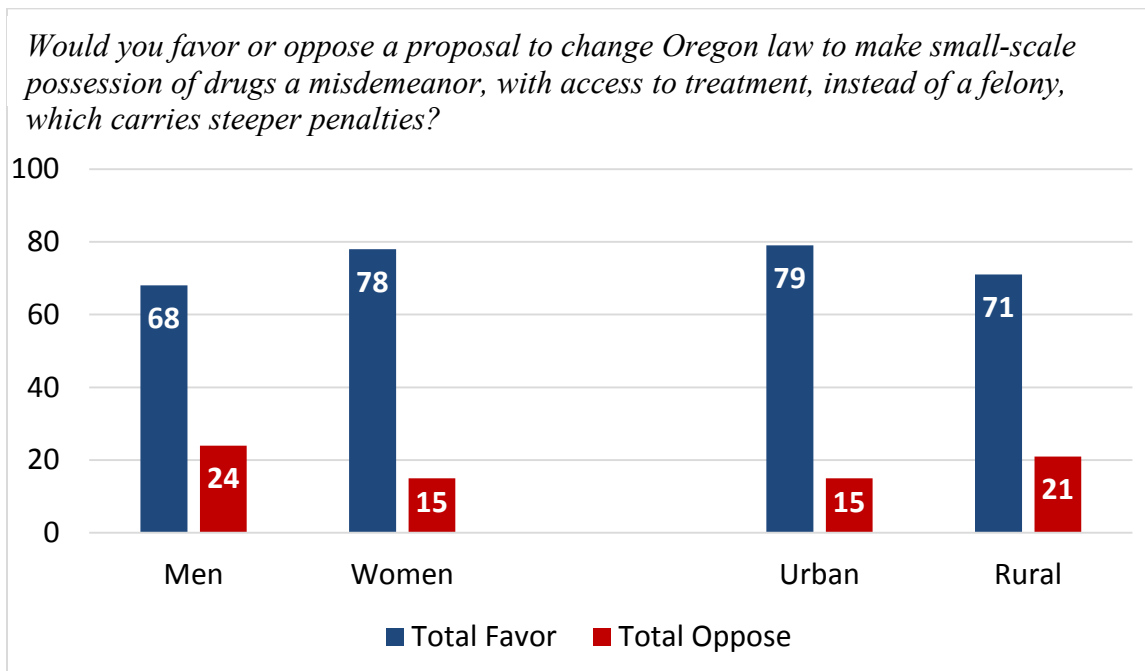
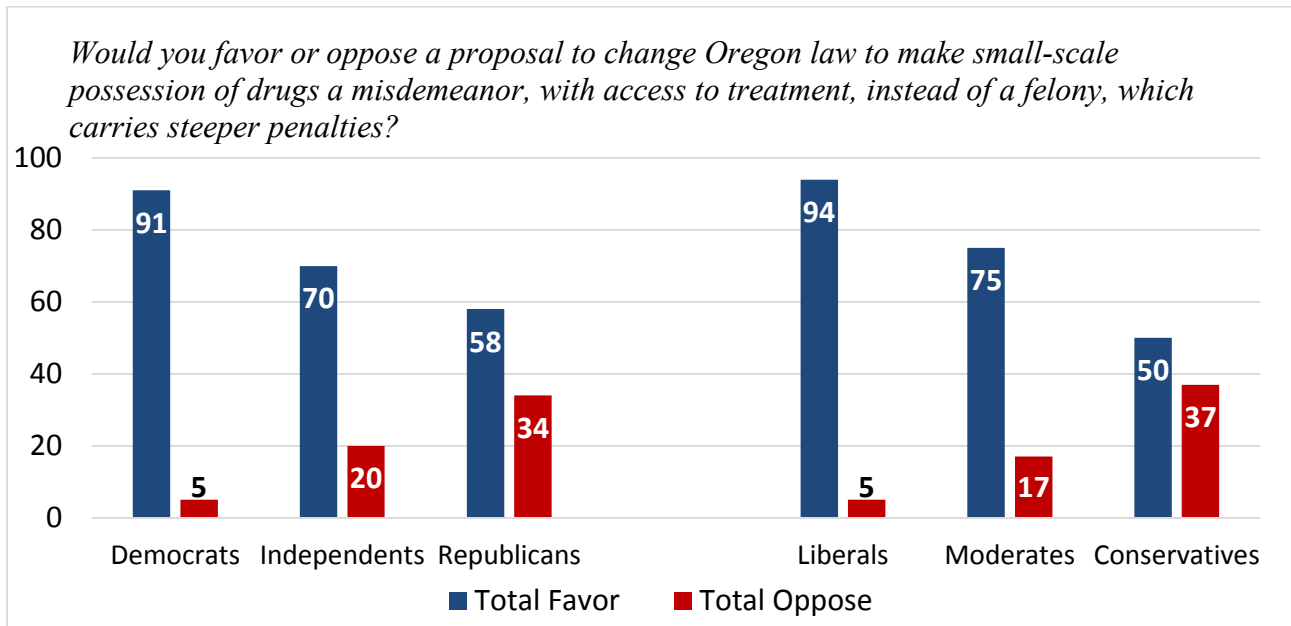
This memo highlights key findings and recommendations from a survey of 600 Oregon registered voters. The survey was conducted by GBA Strategies, by live interview, on phones and landlines, using a probability sample of registered Oregon voters, between January 26-29, 2017 and is subject to a +/- 4.0 percentage point margin of error.

### Key Findings

- **A broad cross-section of Oregonians overwhelmingly favors making small-scale possession of drugs a misdemeanor with access to treatment, instead of a felony, which carries steeper penalties.** Overall, 73 percent of Oregon voters favor this proposal, compared to just 19 percent who oppose it. Support for de-felonization is broad:

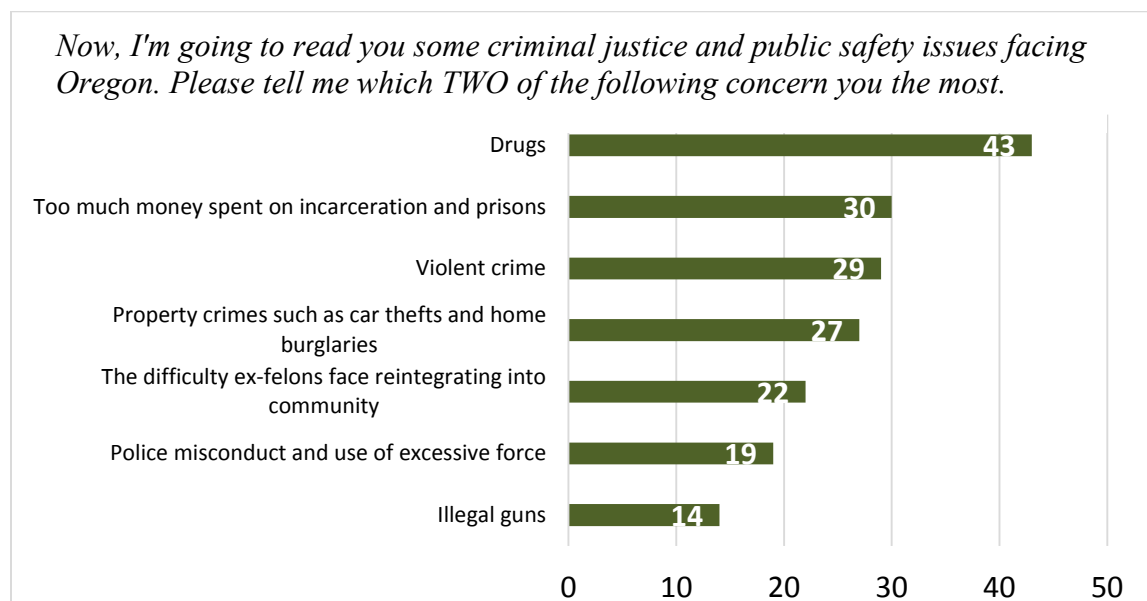


- Majorities of Democrats (91 percent), Independents (70 percent) and Republicans (58 percent) favor this proposal.
- Women (78 percent) and men (68 percent) back this proposal, as well as 79 percent in urban areas and 71 percent in rural areas.

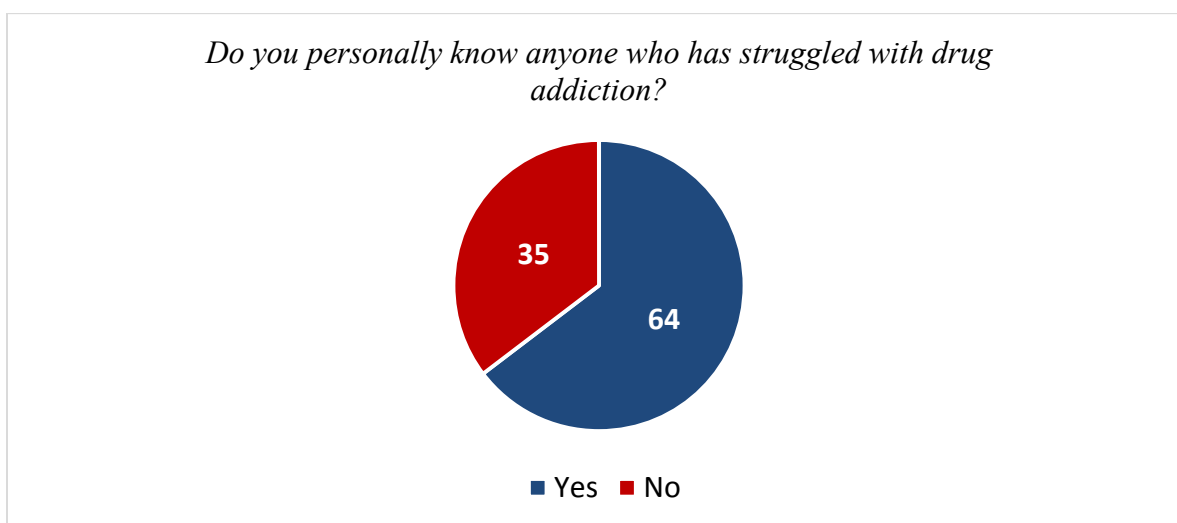




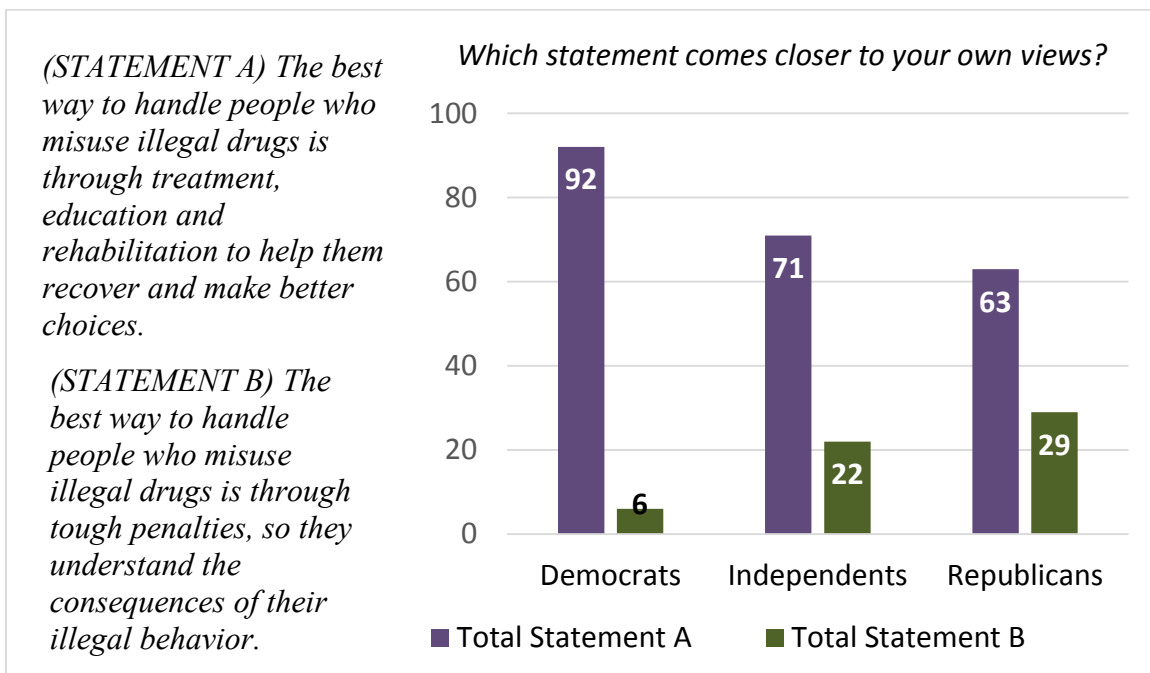
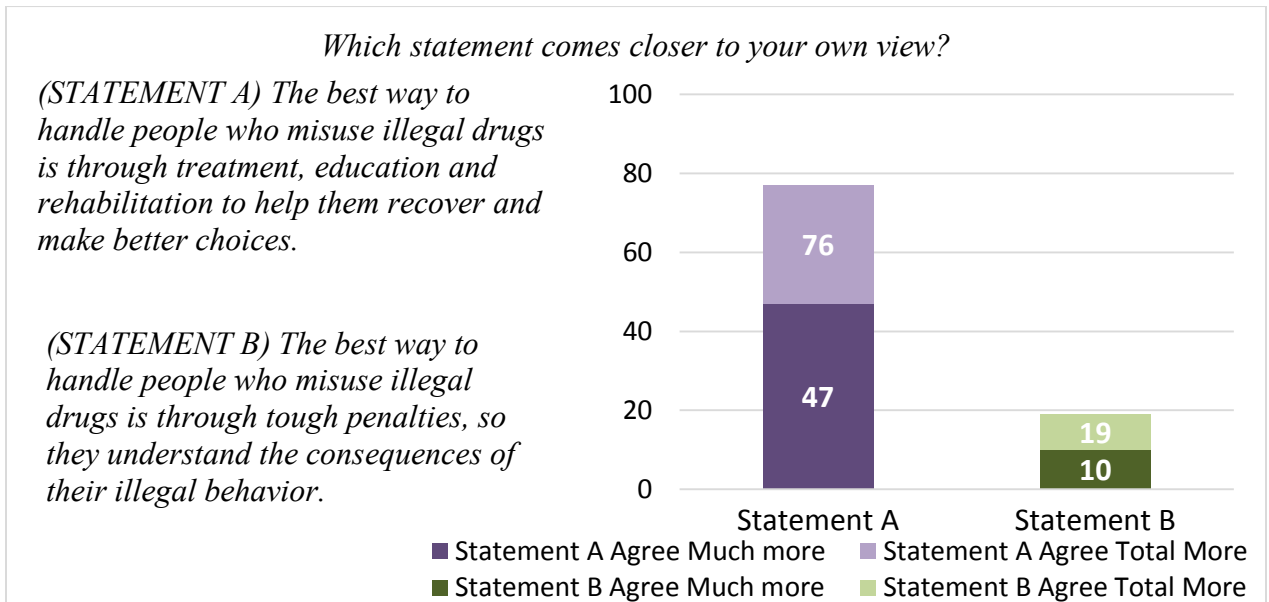
- **Drugs are overwhelmingly the top concern among criminal justice and public safety issues for voters.** Spending too much on prisons and incarceration, violent crime, and property crimes are the remainder of the top four concerns. When considering criminal justice and public safety, voters are least concerned about illegal guns.



- **Drug addiction is a widespread problem that touches the lives of many Oregonians.** Nearly 2-in-3 Oregon voters (64 percent) personally know someone who has struggled with drug addiction. Men and women, Democrats, Independents, and Republicans are all equally likely to personally know someone who has struggled with addiction.

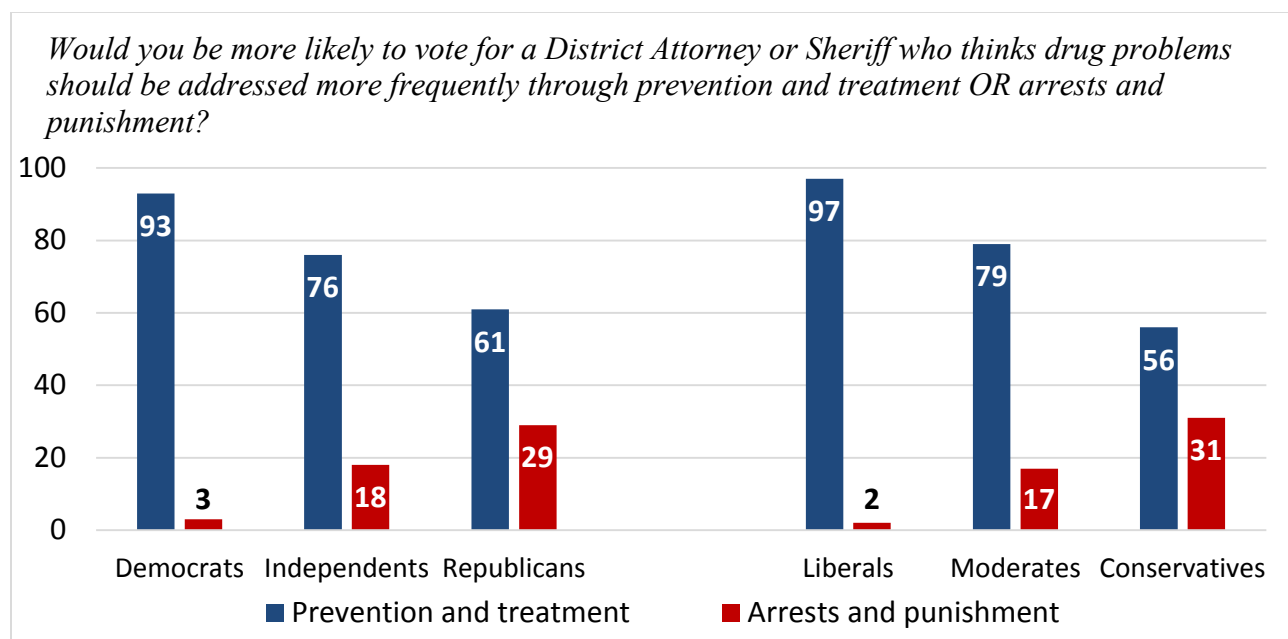


- By a 76 – 19 percent margin, Oregonians believe the best way to handle people who misuse drugs is “through treatment, education and rehabilitation to help them recover and make better choices” rather than “through tough penalties so they understand the consequences of their illegal behavior.” This position is held by 92 percent of Democrats, 71 percent of Independents, and 63 percent of Republicans.



- **Across partisan lines, Oregon voters are more likely to support a District Attorney or Sheriff that believes drug problems should be addressed through prevention and treatment, rather than arrests and punishment.** In total, 78 percent prefer a DA or Sheriff who thinks drug problems should be addressed more through prevention and treatment, while just 16 percent say arrests and punishment. This preference is exhibited by 93 percent of Democrats, 76 percent of Independents, and 61 percent of Republicans.

*Would you be more likely to vote for a District Attorney or Sheriff who thinks drug problems should be addressed more frequently through prevention and treatment OR arrests and punishment?*





## **MASON-DIXON POLLING & RESEARCH**

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### **HOW THE POLL WAS CONDUCTED**

**This poll was conducted by Mason-Dixon Polling & Research, Inc. of Jacksonville, Florida from April 11 through April 13, 2017. A total of 625 registered Oregon voters were interviewed statewide by telephone.**

**Those interviewed on land-lines were selected by the random variation of the last four digits of telephone numbers. A cross-section of exchanges was utilized in order to ensure an accurate reflection of the state. Those interviewed on cell phones were selected from a list of working cell phone numbers. Quotas were assigned to reflect voter registration by county.**

**The margin for error, according to standards customarily used by statisticians, is no more than  $\pm 4$  percentage points. This means that there is a 95 percent probability that the "true" figure would fall within that range if all voters were surveyed. The margin for error is higher for any subgroup, such as a gender or regional grouping.**

**QUESTION: Do you know who your county district attorney is?**

	<u><b>YES</b></u>	<u><b>NO</b></u>	<u><b>THINK SO/NOT 100% SURE</b></u>
<b>STATE</b>	<b>23%</b>	<b>62%</b>	<b>15%</b>

<u><b>REGION</b></u>	<u><b>YES</b></u>	<u><b>NO</b></u>	<u><b>THINK SO/NOT 100% SURE</b></u>
<b>Portland Metro</b>	<b>21%</b>	<b>64%</b>	<b>15%</b>
<b>Willamette Valley</b>	<b>24%</b>	<b>62%</b>	<b>14%</b>
<b>Rural Oregon</b>	<b>26%</b>	<b>58%</b>	<b>16%</b>

<u><b>SEX</b></u>	<u><b>YES</b></u>	<u><b>NO</b></u>	<u><b>THINK SO/NOT 100% SURE</b></u>
<b>Men</b>	<b>21%</b>	<b>65%</b>	<b>14%</b>
<b>Women</b>	<b>25%</b>	<b>60%</b>	<b>15%</b>

<u><b>AGE</b></u>	<u><b>YES</b></u>	<u><b>NO</b></u>	<u><b>THINK SO/NOT 100% SURE</b></u>
<b>18-34</b>	<b>7%</b>	<b>81%</b>	<b>12%</b>
<b>35-49</b>	<b>17%</b>	<b>68%</b>	<b>15%</b>
<b>50-64</b>	<b>27%</b>	<b>59%</b>	<b>14%</b>
<b>65+</b>	<b>36%</b>	<b>46%</b>	<b>18%</b>

<u><b>PARTY REGISTRATION</b></u>	<u><b>YES</b></u>	<u><b>NO</b></u>	<u><b>THINK SO/NOT 100% SURE</b></u>
<b>Democrat</b>	<b>19%</b>	<b>64%</b>	<b>17%</b>
<b>Republican</b>	<b>36%</b>	<b>53%</b>	<b>11%</b>
<b>Independent</b>	<b>16%</b>	<b>69%</b>	<b>15%</b>

## DEMOGRAPHICS

### **PARTY REGISTRATION:**

<b>Democrat</b>	<b>242 (39%)</b>
<b>Republican</b>	<b>180 (29%)</b>
<b>Independent or Other</b>	<b>203 (32%)</b>

### **AGE:**

<b>18-34</b>	<b>124 (20%)</b>
<b>35-49</b>	<b>151 (24%)</b>
<b>50-64</b>	<b>177 (28%)</b>
<b>65+</b>	<b>166 (27%)</b>
<b>Refused</b>	<b>7 (1%)</b>

### **SEX:**

<b>Male</b>	<b>305 (49%)</b>
<b>Female</b>	<b>320 (51%)</b>

### **REGION:**

<b>Portland Metro</b>	<b>287 (46%)</b>
<b>Willamette Valley</b>	<b>174 (28%)</b>
<b>Rural Oregon</b>	<b>164 (26%)</b>



## Oregon Criminal Justice Survey Results

January 15, 2018

**Findings overview:** A survey overseen by ACLU of Oregon in Marion and Washington counties found that residents are largely misinformed about whether district attorneys are elected or appointed.

The survey also found that residents are overwhelmingly more likely to vote for candidates who will advocate for criminal justice reform over the status quo. This support is rooted in the belief that the criminal justice system should treat youth and adults differently, that prosecution strategies should be brought up to date using research-based practices, and that the best way to handle people who misuse illegal drugs is through increasing access to treatment, education, and rehabilitation.

**Methodology:** This memo highlights key findings from a survey overseen by the ACLU of Oregon, in collaboration with the Bus Project, between June 28, 2017 and August 24th 2017. For the survey, non-partisan, professional door-to-door canvassers conducted live interviews with 1,489 likely voters in Washington County and Marion County. These face-to-face conversations allowed for in-depth conversations, and the survey had a much higher response rate than traditional phone surveys. The sample of likely voters was designed to reflect the makeup of the electorate: canvassing was conducted in rural, suburban and urban communities, among voters across the political spectrum. Marion County and Washington County were targeted because they represent different sides of the partisan landscape: Marion County has a strong presence of registered Republicans; Washington County is increasingly becoming a Democratic stronghold. Combined, the electorate of these two counties almost exactly reflects how Oregon voted during the 2016 presidential election, encapsulating the ideological diversity of Oregon voters.

**Additional polling:** The results of this door-to-door survey are similar to findings from two other recent Oregon statewide polls that we also note in this memo. The first statewide poll was conducted by GBA Strategies in March of 2017 of 600 Oregon registered voters; the second poll conducted was by Mason-Dixon Polling & Research Inc., in April 2017 of 625 Oregon voters. Both the GBA and Mason Dixon polls were done by live telephone interview, including cell phone numbers, using a probability sample. They both have a margin of error that is less than  $\pm 4$  percentage points.

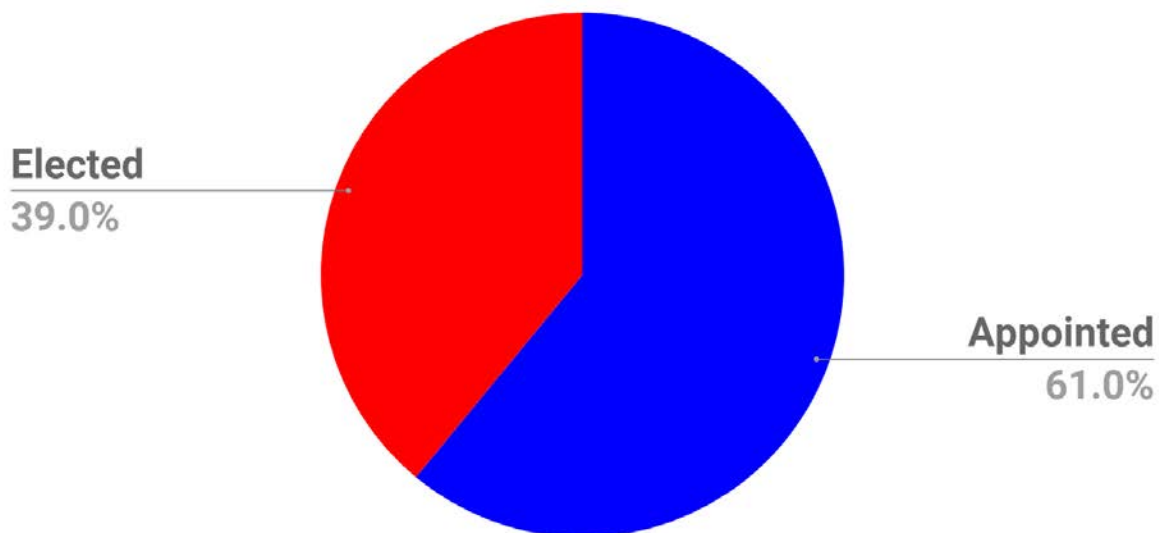
## Notable Results

*What do voters know about their district attorneys?*

**Key finding: Residents are overwhelmingly misinformed about how district attorneys get their jobs.**

Overall, of the 1,489 voters we surveyed, 39 percent correctly believe district attorneys are elected; 61 percent incorrectly believed DAs are appointed.

### **Do you think district attorneys are elected or appointed officials?**



**Analysis:** Other, related data indicates voters are also unaware and unengaged with district attorney elections:

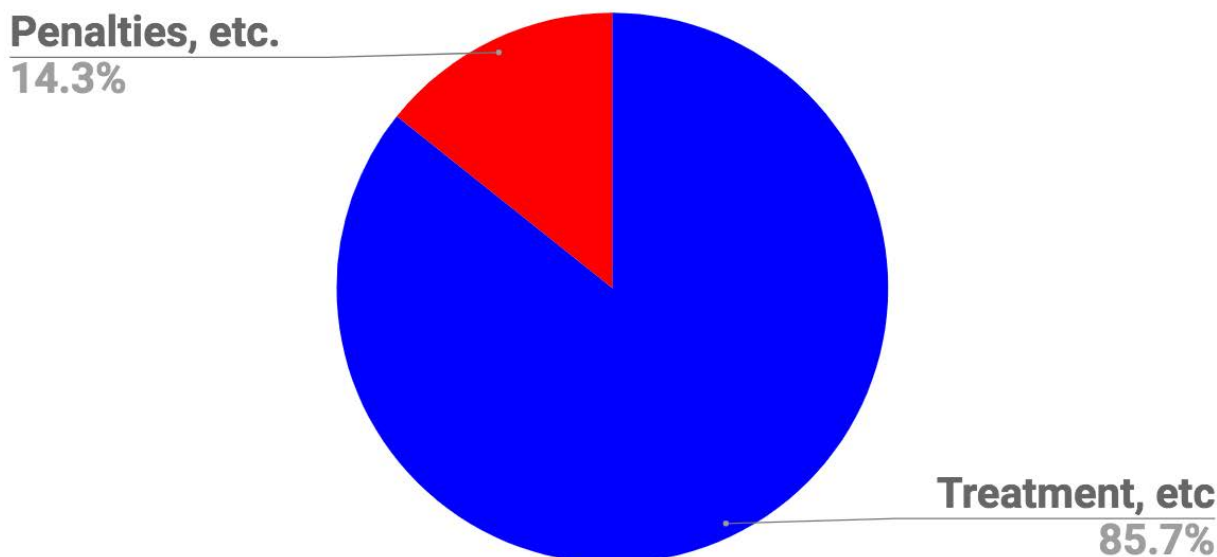
- **Voters are unaware of who their DA is:** Fewer than one in four (23 percent) of Oregon voters say they can name their DA, according to the 2017 Mason-Dixon poll.
- **Voters check out from DA races:** Oregon had a massive undervote in DA elections. Of the 2.8 million people who cast votes during the six county election cycles when DAs were on the ballot from 2004 to 2014, only 1.8 million actually decided to vote for a DA candidate, according to our *Roadblocks to Reform* analysis.
- **Uncontested elections:** About four out of five DA races are uncontested. Of the 111 DA races in that ten year period, 2004 to 2014, only 24 of them had more than one candidate running. This reinforces the lack of attention voters have on DAs, until now.



## *How do voters want to change Oregon's approach to prosecuting drug crimes?*

**Key finding:** Oregon voters strongly reject harsh sentences for people who misuse illegal drugs. Only 14 percent believe “the best way to handle people who misuse illegal drugs is through tough penalties and criminal sentences, so they understand the consequences of their illegal behavior”; 85 percent believe “the best way to handle people who misuse illegal drugs is through increasing access to treatment, education, and rehabilitation to help them recover and make better choices.” We asked this question to 1,423 people.

### **Which do you think is the best way to handle people who misuse illegal drugs?**



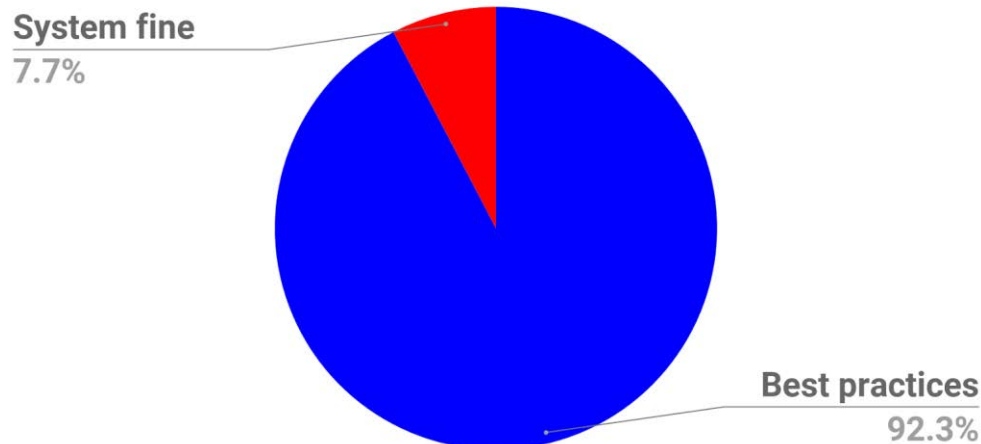
**Analysis:** Oregonians are ready for a more holistic approach.

- **Addiction is a personal, familiar problem to most Oregonians:** Nearly two out of three Oregonians (64 percent) “personally know someone who has struggled with drug addiction,” according to the GBA poll.
- **Growing statewide support for a new approach:** The 2017 GBA poll posed an identical question as the one posed by canvassers. The GBA poll found an overwhelming margin (76 to 19) favor an emphasis on treatment, education and rehabilitation. Other Oregon polls show a growing majority of Oregonians also feel that marijuana legalization is working effectively.

## *What do voters look for in a DA candidate?*

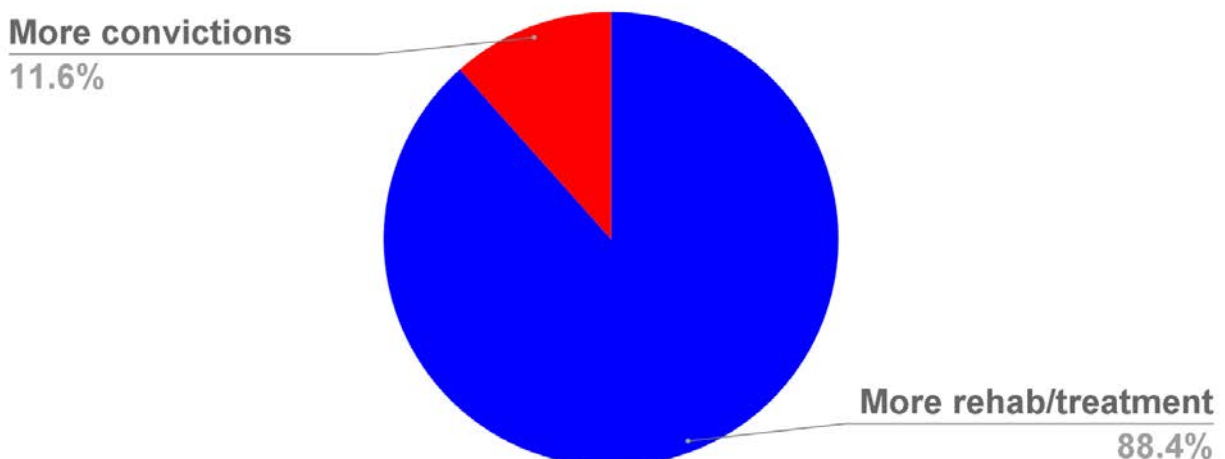
**Key finding:** Voters overwhelmingly want to support criminal justice candidates who will update and reform our system based on the best research and practices available. Canvassers asked: “If you were voting for your district attorney tomorrow, which candidate would you be more likely to support?” Overall, 92 percent would prefer “a candidate who believes that research about best practices should influence public safety and prosecution strategies and that our system should be brought up to date”; 7 percent would prefer “a candidate who believes we shouldn’t be so quick to make reforms and who thinks the criminal justice system is generally working just fine.” We asked this question to 417 Washington County voters.

### **Preferred candidate: Best practices should guide vs. current system is fine as is**



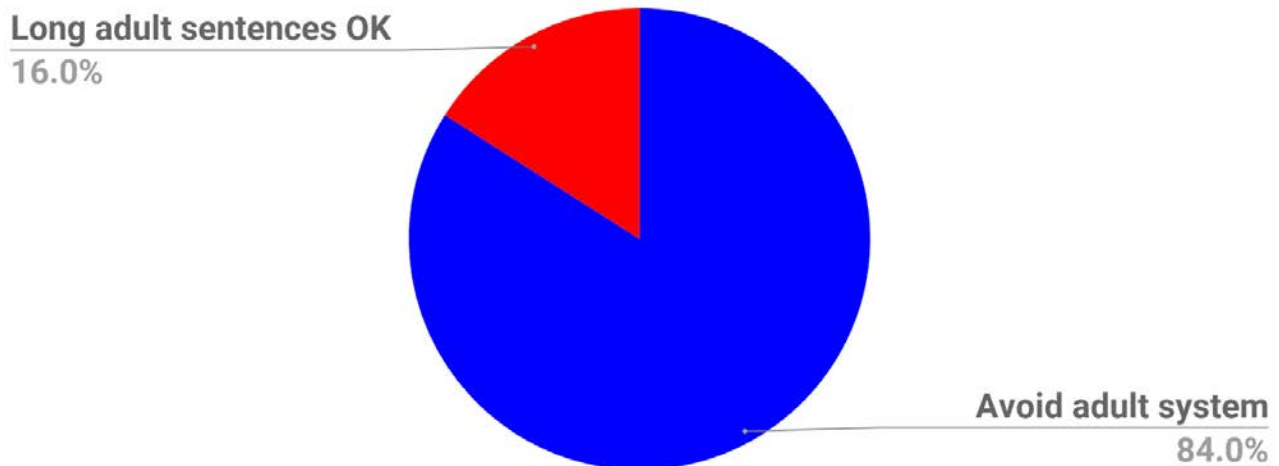
**Key finding:** Voters overwhelmingly want to support candidates who put a greater emphasis on rehab and treatment. Overall, 88 percent would prefer “a candidate who knows that sometimes rehabilitation and treatment is a better way to keep communities safe rather than prison”; 11 percent would prefer “a candidate who believes safety comes from seeking as many criminal convictions as possible.”

### **Preferred candidate: Best way to keep communities safe**



**Key finding:** Voters overwhelmingly want to support a candidate who believes youth and adults should be treated differently in our criminal justice system. Overall, 84 percent said they would prefer a candidate “who believes youth are different than adults. They should be held accountable, but not put in the adult criminal system so they have an opportunity to rebuild their lives”; 16 percent prefer “a candidate who believes that when youth commit crimes it is a clear indication where they are headed in life and long adult criminal sentences are the right punishment.” We asked this question to 313 people, mostly in Washington County.

## Preferred Candidate: How to treat youth in the justice system



## Concluding Analysis

Some DAs have argued that they have a mandate to maintain the status quo because they are often re-elected. However, the data tells a different story.

The data shows many DAs have flown under the radar. Many DAs have stayed in office despite their policies, not because of them. Voters simply do not know what their DA does, who their DA is, what their DA stands for or how their DA interacts with the criminal justice system. Most voters do not even know that their DA is elected, and voters rarely have a choice of candidates, which largely explains why so many voters skip DA elections altogether. But this absence of participation should not be misconstrued as support for current approaches.

A growing majority of Oregon voters want a different approach to how state and local governments engage in criminal justice, with more focus on prevention, treatment, and rehabilitation and less emphasis on harsh penalties and criminal convictions. And they are beginning to look for candidates who support those values.

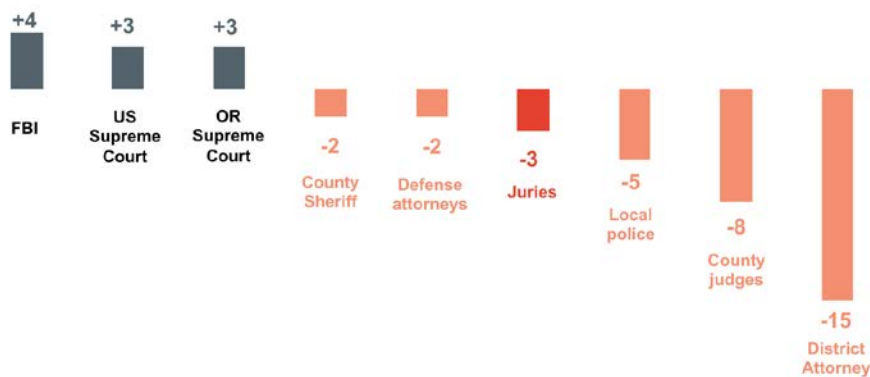
Oregon is ready for criminal justice reform. Now is the time to lead.



## The DHM Panel Survey

A new, independent poll conducted by DHM Research found that confidence in Oregon district attorneys is collapsing.

### Confidence in the Legal System: 2017-2018



DHM Research | Oregon State Bar | March 2018

Respondents were asked to "Please rate your overall confidence in the following people and organizations in the public safety and justice system" and given a scale of "very confident," "somewhat confident," "not too confident," "not at all confident," and "don't know."

The poll found the following levels of confidence: "your local police department" (82 percent); "your county sheriff" (70 percent); "United States Supreme Court" (69 percent); "Federal Bureau of Investigation or FBI" (64 percent); "county judges in your community" (62 percent); "Oregon Supreme Court" (60 percent); "district attorneys in your community" (55 percent); and "defense attorneys" (53 percent).

As shown in the graphic above, this is a dramatic change for district attorneys. Confidence for DAs in early-2017 was at 70 percent, but it has plummeted 15 points over the last year, a larger change than any other player within the justice system. In addition, DHM found that confidence for district attorneys has become especially soft: Of the 55 percent who do express confidence in their DAs, only 10 percent are "very confident" in district attorneys; 45 percent are just "somewhat confident." With numbers so weak, it is very possible that more people will change

their minds. Those who do not have confidence in district attorneys are not nearly as soft in their opinions. The public is evenly split between the “not too confident” and “not confident at all” categories. The poll, in line with other public opinion research, also suggested district attorneys have flown under the radar, with more people choosing “don’t know” than with any other group asked about, suggesting existing DAs who fly under the radar are especially vulnerable.

Here is how DHM described the research methodology of their poll:

**Research Methodology:** The online survey consisted of 602 Oregonians. This is a sufficient sample size to assess resident opinions generally and to review findings by multiple subgroups, including age, gender, education, and area of the state.

Respondents were invited to the survey via email. In gathering responses, a variety of quality control measures were employed, including questionnaire pre-testing and validation. Responses were weighted by age, gender, area of the state, race/ethnicity, and education to match US Census data.

**Statement of Limitations:** Any sampling of opinions or attitudes is subject to a margin of error. The margin of error is a standard statistical calculation that represents differences between the sample and total population at a confidence interval, or probability, calculated to be 95%. This means that there is a 95% probability that the sample taken for this study would fall within the stated margin of error if compared with the results achieved from surveying the entire population. The margin of error for this survey is  $\pm 4.0\%$ .

**DHM Research Background:** DHM Research has been providing opinion research and consultation throughout the Pacific Northwest and other regions of the United States for over three decades. The firm is nonpartisan and independent and specializes in research projects to support public policy making.

The poll was conducted for the Oregon State Bar.

# CRIME SURVIVORS **SPEAK**



THE FIRST-EVER NATIONAL SURVEY  
OF VICTIMS' **SAFETY AND JUSTICE**  
VIEWS ON

**ALLIANCE** FOR  
**SAFETY** AND **JUSTICE**





# INTRODUCTION AND BACKGROUND



Advancing safety and justice for crime victims involves holding individuals who commit crimes accountable, as well as stopping cycles of crime and repeat victimization. Victims also need pathways to recovery, including support to overcome the physical, emotional and financial consequences of crime.

Currently, the most comprehensive information available about crime victims is the National Crime Victimization Survey (NCVS) conducted by the U.S. Census Bureau and the U.S. Department of Justice's Bureau of Justice Statistics.

The NCVS is an annual data collection from a nationally representative sample of more than 90,000 U.S. households and nearly 160,000 people age 12 and older. The annual NCVS report is invaluable for understanding many facets of victimization, including unreported crime.

The April 2016 National Survey of Victims' Views helps fill some of the gaps in knowledge that remain, in particular, victims' views on safety and justice policy and the ways in which victims experience the criminal justice system.

We also hope this survey contributes to a greater understanding of crime victim issues and perspectives. None of the nation's 50 states regularly conduct state-level analyses of victimization or victims' experiences and perspectives. This is a profound gap, particularly considering that the majority of criminal justice policy-making occurs at the state level.<sup>1</sup>

The National Survey of Victims' Views was conducted by David Binder Research<sup>2</sup>, which contacted a nationally representative sample of 3,165 people across the country, and, from that pool, identified and interviewed over 800 victims. Unless otherwise cited, the data contained in this report reflect findings from the survey and the responses of this broad cross section of crime survivors from around the country.



# EXECUTIVE SUMMARY

There is no more important function of our safety and justice systems than protecting crime victims and those who are at-risk of becoming a victim of crime.

Despite this foundational goal, few safety and justice policy debates are informed by a comprehensive examination of the experiences and views of the nation's diverse crime survivors.

The United States is in the midst of a significant shift in criminal justice policy. For the first time in decades, criminal justice practitioners, lawmakers, and the general public are rethinking sentencing laws, prison spending, and the best ways to address crime and violence.

There has never been a more important time to investigate and elevate the perspectives of those most commonly victimized by violence and crime. If new approaches to safety and justice do not incorporate the voices of crime survivors, this new era of reform risks failing to deliver on the breakthrough the country needs.

This changing landscape presents an important opportunity to correct misperceptions that have driven public policy in the past, and gather new information that can help shape smarter approaches to safety and justice.

To begin filling the gap in available and representative data on who crime victims are and their policy priorities, in April of 2016, Alliance for Safety and Justice commissioned the first-of-its-kind National Survey of Victims' Views. This report describes the findings from this survey and points to opportunities for further research and reform to advance policies that align with the needs and perspectives of victims.

Perhaps to the surprise of some, victims overwhelmingly prefer criminal justice approaches that prioritize rehabilitation over punishment and strongly prefer investments in crime prevention and treatment to more spending on prisons and jails. These views are not always accurately reflected in the media or in state capitols and should be considered in policy debates.

## KEY FINDINGS

### VICTIMS' EXPERIENCES



**One in four people have been a victim of crime in the past 10 years**, and roughly half of those have been the victim of a violent crime



Victims of crime are more likely to be: low-income, young, people of color



Violent crime victims are four times as likely to be repeat crime victims of four or more crimes



Victims of crime experience significant challenges in recovery and healing — eight in 10 report experiencing at least one symptom of trauma



More than four in 10 victims have worried for their safety due to witnessing violence or another crime



**Two out of three victims did not receive help following the incident**, and those who did were far more likely to receive it from family and friends than the criminal justice system



## VICTIMS' VIEWS ON PUBLIC POLICY

REHAB



PUNISH



By a 2 to 1 margin, victims prefer that the criminal justice system focus more on rehabilitating people who commit crimes than punishing them

✓ By a margin of nearly 3 to 1, victims believe that prison makes people more likely to commit crimes than to rehabilitate them

✓ By a margin of 7 to 1, victims prefer increased investments in crime prevention and programs for at-risk youth over more investments in prisons and jails

BY A MARGIN OF

**3 TO 1**

victims prefer holding people accountable through options beyond prison, such as rehabilitation, mental health treatment, drug treatment, community supervision, or community service

✓ By a margin of 15 to 1, victims prefer increased investments in schools and education over more investments in prisons and jails

✓ By a margin of 10 to 1, victims prefer increased investments in job creation over more investments in prisons and jails

✓ By a margin of 7 to 1, victims prefer increased investments in mental health treatment over more investments in prisons and jails



**6 IN 10**

victims prefer shorter prison sentences and more spending on prevention and rehabilitation to prison sentences that keep people incarcerated for as long as possible

✓ By a margin of 4 to 1, victims prefer increased investments in drug treatment over more investments in prisons and jails

✓ By a margin of 2 to 1, victims prefer increased investments in community supervision, such as probation and parole, over more investments in prisons and jails

## VICTIMS' VIEWS ON THE ROLE OF PROSECUTORS



Seven in 10 victims prefer that prosecutors focus on solving neighborhood problems and stopping repeat crimes through rehabilitation, even if it means fewer convictions and prison sentences

✓ Six in 10 victims prefer that prosecutors consider victims' opinions on what would help them recover from the crime, even when victims do not want long prison sentences

## VICTIMS' VIEWS CONSISTENT ACROSS DEMOGRAPHICS

✓ For each of the questions above, there is majority or plurality support across demographic groups, including age, gender, race and ethnicity, and political party affiliation

YES!

FOR SURE



YES!

For each of the questions above, there is majority or plurality support among both crime victims overall and victims of violent crimes, including the most serious crimes such as rape or murder of a family member

The following report includes more findings and supplemental data from national sources to illuminate who is impacted by crime, how they are experiencing the criminal justice system, and what their views are on safety and justice policy.



# CONCLUSION AND RECOMMENDATIONS:

**NEW SAFETY  
PRIORITIES  
TO SUPPORT**

# CRIME SURVIVORS AND STOP THE CYCLE OF CRIME

The National Survey of Victims' Views is an important step forward in understanding who victims are and what they need to recover from the crimes committed against them.

These results paint a different picture than some common assumptions about victims, their views and what they want from the criminal justice system.

One in four people have been a victim of crime in the past 10 years. While crime impacts people from all walks of life, the impact of crime is not evenly felt across demographic groups. Young, low-income people of color are more likely to experience victimization. Victims of violent crime are nearly always also victims of property crime and experience much higher rates of repeat victimization.

Crime is a traumatic experience for most crime victims, yet few are supported by the criminal justice system. Two out of three victims received no help following

the incident and those who did were far more likely to receive it from family and friends than law enforcement or prosecutor offices.

Victims believe we send too many people to prison, for too long, and that our current incarceration policies make people more — not less — likely to commit another crime. Instead of more spending on prisons and jails, victims prefer a wide range of investments and new safety priorities including more spending on education, job creation programs, and mental health treatment. Importantly, victims support reducing sentence lengths to pay for these investments.

These beliefs cut across demographic groups, with a majority of Republicans and Democrats supporting reform regardless of how the question is asked. Perhaps to the surprise of some, victims of violent crime also share these views and demonstrate strong support for shifting the focus of the criminal justice system from punishment to rehabilitation.



Collectively, these findings point to several policy recommendations:

1

## **CONDUCT ANNUAL VICTIMIZATION STUDIES AT THE STATE LEVEL.**

Use this information to inform justice policy and develop solutions to crime that are responsive to victims' experiences and reflect their safety priorities. More research and data are critical to identify the policies and practices that best protect victims, stop the cycle of crime and help victims recover. States should invest in collecting more information on who crime victims are and their experiences with the justice system, crime reporting, the impact of repeat victimization and trauma, and access to services and treatment for victims.

2

## **TARGET VICTIM SERVICES FUNDING FOR THE COMMUNITIES THAT HAVE BEEN MOST HARMED BY REPEAT CRIME AND LEAST SUPPORTED BY THE CRIMINAL JUSTICE SYSTEM.**

Last year, the U.S. Congress increased the funding cap of the 1984 Victims of Crime Act (VOCA) from \$745 million to \$2.3 billion.<sup>23</sup> The funding increase of over 200% provides an unprecedented opportunity for states to provide services to vulnerable victims and communities experiencing concentrated crime and violence.<sup>24</sup>

3

## **INVEST IN EVIDENCE-BASED SERVICES THAT PROTECT CRIME SURVIVORS AND STOP THE CYCLE OF VICTIMIZATION, SUCH AS THOSE PROVIDED BY TRAUMA RECOVERY CENTERS.**

One of the key elements to improving public safety and community health is helping victims recover from the long-lasting impacts of crime. A growing body of research demonstrates that untreated trauma, especially among those who experience repeat victimization, can contribute to substance abuse, mental health issues, housing instability, or other problems that increase the risk of being a victim again in the future or even engaging in crime.<sup>25</sup> Model programs to help survivors access trauma recovery support are developing across the country and should be brought to scale.

4

## **SUPPORT INNOVATIONS IN PROSECUTION.**

Despite strong support among crime survivors for prosecution approaches that focus on neighborhood problem solving, rehabilitation and alternatives to incarceration, too few prosecutor offices focus on these strategies or have support to innovate and end the practice of over-incarceration. Prosecutor offices should expand new problem-solving approaches to stop the cycle of crime, and states should expand support for innovations in prosecution and elevate best practices and models to be replicated and brought to scale.



## ADVANCE SENTENCING AND CORRECTIONS POLICIES THAT MORE CLOSELY ALIGN WITH SURVIVORS' PRIORITIES.

The “tough on crime era” was bolstered by a perception that mandatory sentencing and tough incarceration policies were both popular with the public and supported by crime victims. Across the country, prisons budgets have exploded and incarceration rates have skyrocketed. Now is the time for bold new approaches to sentencing and investments in new safety priorities. A diverse group of states from California to Georgia to Maryland have advanced sentencing reforms that have started to reduce incarceration rates and expand options beyond prison, including rehabilitation, restorative justice, community supervision, mental health and drug treatment and more. Victims support these types of reform. This report points to a strong new vision for safety. States should take action to rethink tough mandatory sentencing, reduce over-incarceration, and reallocate from costly prisons to crime prevention, education, job creation, treatment and alternatives, community health, and trauma recovery. Crime survivors across demographic groups widely support these approaches to stop the cycle of crime and protect future generations from falling through the cracks.



### MICHELLE, CALIFORNIA

In my early 20s, someone I knew and trusted sexually assaulted me. To make matters worse, afterward, I was blamed and shamed on social media. The trauma was so overwhelming that I thought I would end up hospitalized. I had panic

attacks, had trouble focusing and concentrating and didn't go out in public. I ended up quitting college and losing my job.

I didn't know how to ask for support, what I even needed, and who I could trust. I felt like I had to support myself. So, I sought out classes on sexual violence and trauma, and found others who went through similar experiences. I found teachers who understood my situation and could help explain what I felt. And I found validation from others who suffered from PTSD and panic attacks.

But I needed more — I needed comfort. I didn't want to go anywhere, and, yet, I had to go search for help in all these different places. I wanted somewhere centralized where I could get the support I needed all in one place and also have an advocate who could help me work through the process. My mom, who works for the city, told me about Trauma Recovery Center in San Francisco, which provides wrap-around care to adult survivors of trauma and violence. They provided me with regular therapy, referred me to a peer support group and helped with transportation costs. I not only found support for myself, but I also got involved in educating others about sexual violence and sexual health. It was life changing. My involvement in this community and hearing others' stories of hope and healing helped with my own trauma.

So many victims suffer in silence, and it impacts everything from our health to our ability to hold jobs — trauma is like suffocating. If we can invest in trauma recovery, we can stop the cycle. I will always be in the process of healing, but I'm thankful to be where I am today. I'm optimistic that more people will grow aware of trauma and mental health issues, and that there will be more places to turn for women who go through similarly traumatic experiences.



# DATA **AND** METHODOLOGY

Alliance for Safety and Justice commissioned the National Survey of Victims' Views to fill in gaps in knowledge about who crime victims are, what their experiences are with the criminal justice system, and their views on public policy.

Some of the questions were informed by the largest and most comprehensive source of data on victimization — the annual National Crime Victimization Survey, administered by the U.S. Census Bureau and the Department of Justice's Bureau of Justice Statistics. This survey expands on questions related to the prevalence of victimization by deeply exploring victims' experience with the criminal justice system, their views on sentencing and corrections policy, and their preferences related to law enforcement, prosecution, and incarceration.

David Binder Research conducted the survey in English and Spanish in April 2016. The poll was administered both by telephone — landlines and mobile phones — and online. This research methodology was designed to ensure the inclusion of harder-to-reach demographic groups, such as young people and people with less housing stability.

Furthermore, David Binder Research oversampled people who identify as black or Latino to ensure that their voices would be adequately represented in the survey. As a

result, these findings reflect the opinions of a broad and diverse America: All ages 18+, all racial and ethnic groups, and all geographic locations are represented.

A common challenge in victimization research is the reluctance of people to discuss their victimization with a researcher. For reasons relating to the social stigma of being a crime victim and associated data collection challenges, it can be difficult to identify sufficient respondents in victimization research. For this reason, the National Survey of Victims' Views used a 10-year reference period. However, just as many crimes are not reported to the police, some crime is not reported to researchers. Like NCVS and other victim surveys, the National Survey of Victims Views likely does not capture the total number of crimes experienced by those surveyed. While David Binder Research informed people that their personal information is kept confidential and used for research purposes only, we anticipate that respondents may have under-reported their victimization in this survey.

The overall margin of error for the National Survey of Victims' Views is 1.7 percent, while the margin of error for crime victims is 3.5 percent.



**To:** Interested Parties  
**From:** David Binder Research  
**Date:** December 12<sup>th</sup>, 2017  
**Re:** Prosecutorial Reform



David Binder Research

**Methodology:** David Binder Research conducted 1600 telephone interviews between October 24<sup>th</sup> and October 30<sup>th</sup>, 2017 by cell phone (46%) and landline (54%). Interviews were conducted in English and Spanish, with 14% of interviews among Latino voters conducted in Spanish. Margin of sampling error is  $\pm 2.5\%$ , and the margin of error is higher for segments of the overall electorate, such as party registration or ethnicity.

**Vote Select:** Interviews were conducted among likely November 2018 voters nationwide. A conservative turnout model was used, with a model leading to a slight Republican advantage in turnout, with Republicans at 42%, Democrats at 41% and Independents at 17%. Voters were pre-selected to have either registered after their state's primary in 2016 and voted in November 2016 OR voted in November 2016 and at least one of: primary in 2016, general in 2014, or primary in 2014.

## Key Findings

Voters nationwide express strong support for prosecutors who will support criminal justice reforms and work actively to reduce systemic racial bias and mass incarceration.

Not only do voters express support for policies and values that are very different than the views held by most current prosecutors, voters are willing to back up this support by supporting candidates in elections who share these views. Voters clearly demonstrate that they are more likely to support a candidate for prosecutor who will seek to reform the criminal justice system, increase accountability and transparency, and who believes in activating working to reduce unequal treatment by race in the criminal justice system.

Contrary to widely held ideas, there is substantial bipartisan appeal for many of the prosecutorial reforms, as well as geographic support throughout the country. While it may be expected that Democrats are more supportive, majorities of Republicans and voters in the South also support reform minded values and practices for their prosecutor.

After decades of "tough on crime" messaging, reinforced by prosecutors nationwide from across the political spectrum, it is striking to find such large majorities in support of prosecutorial reform. Voters' are clear in supporting a shift in the culture in the office of the prosecutor, and are willing to elect new candidates who share their views.

There are three overarching, consistencies in voters' nationwide expressing support for a reform-minded prosecutor:

### ***1. Message to Prosecutors: Reduce Mass Incarceration***

Voters feel it very important to reduce our reliance on incarceration, and, when given the choice, strongly prefer alternatives to prison over putting people who commit crimes in prison.

An overwhelming majority (89%) of voters say it very important for their prosecutor to prioritize reducing our reliance on incarceration by using alternatives to prison, with a majority (53%) saying it is

*very important*. The importance placed on this has striking bipartisan appeal, with the vast majorities of Republicans (83%), Democrats (94%) and Independents (92%) saying that reducing our reliance on incarceration is important. And across the country, in every region, no fewer than 86% of voters place an importance of this priority.

A majority of voters (51%) support holding people who commit crimes accountable by considering alternatives to prison such as requiring people to pay restitution to the victim for the harm caused, participate in mental health or drug treatment, or do community service. Only one-quarter (24%) support putting people who commit crimes in prison to deter repeat offenders and removing people who commit crimes from our community. (The remainder say both, neither or unsure.)

## **2. Message To Prosecutors: Reduce Unequal Treatment By Race**

Voters will reward a prosecutor or a candidate for prosecutor who commits to reducing racial bias in the criminal justice system.

88% of voters are more likely to support the election of a person as prosecutor who believes in actively working to reduce unequal treatment by race in the criminal justice system, and 70% overall say they are *much more* likely to support this person. Over 80% of voters across the political spectrum, region and age grouping are more likely to support this person.

Further, voters' support for this is pragmatic, in that 89% support a candidate for prosecutor who feels they have the responsibility to work towards eliminating racial bias in the criminal justice system. Once again, strong majorities across political party, region, ethnicity and other major subgroups will support this candidate.

Not surprisingly, given voters' desire to support a person who commits to reducing racial bias, 91% of voters also feel it is important for a prosecutor to prioritize reducing instances where people are treated unequally in the criminal justice system because of their race. This includes 90% of White voters, 90% of Latino voters, and 95% of African American voters.

## **3. Message To Prosecutors: Improve Transparency and Accountability**

Voters overwhelmingly want their prosecutor to be more transparent to the community and to hold accountable police officers who break the law and prosecutors who engage in misconduct

85% of voters are *much more* likely to support a prosecutor who believes in making a prosecutors' decisions transparent by sharing data, information and policies with the public. Overwhelming majorities agree across every subgroup, such as party registration, region, ethnicity, age, and gender.

79% of voters nationwide are *much more* likely to support a prosecutor who believes they have the responsibility to hold police officers accountable if they break the law, with 96% of voters in total supporting this person as their prosecutor. Across party registration and geography, strong majorities support a prosecutor who will hold law-breaking police officers accountable, a view held by 95% of Republicans, 96% of Democrats, 98% of Independents, and in the Northeast (95%), Mid-Atlantic (94%), Midwest (97%), South (94%), Mountain/Plains (97%) and Pacific (97%).

Not only do voters want more accountability for law enforcement officers, but the vast majority of voters would also be more likely to support a prosecutor who will hold prosecutors accountable. 66% are *much more* likely – and 88% are more likely in total – to support someone who believes that a

prosecutor who engages in misconduct should be held accountable. As with holding police officers accountable, vast majorities across all major subgroups share similar views in being *much more* likely to support a person who holds prosecutors accountable who engage in misconduct.





## MEMORANDUM

**TO:** INTERESTED PARTIES  
**FROM:** ROBERT BLIZZARD – PUBLIC OPINION STRATEGIES  
**DATE:** JANUARY 25, 2018  
**RE:** NATIONAL POLL RESULTS

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*On behalf of the Justice Action Network, Public Opinion Strategies conducted a national survey of 800 registered voters (moe  $\pm$  3.5%), January 11-14, 2018. Fully 40% of interviews were conducted via cell phone. This memo is to review the key findings from the survey.*

## KEY FINDINGS

- **Fully three-quarters of Americans believe the country's criminal justice system needs significant improvements.**
  - By a 76%-21% margin, voters believe the country's criminal justice system needs significant improvements versus it's working pretty well as it is. Fully two-thirds of Republicans (68%), and substantial majorities of both Independents (78%) and Democrats (80%) believe the system needs significant improvements. An overwhelming number of women (80%) want changes to the system.
  - And, 87% of Americans agree that some of the money we are spending on locking up nonviolent offenders should be shifted to alternatives like electronic monitoring, community service, and probation. Agreement on this issue extends across party lines, as 80% of Republicans, 90% of Independents and 90% of Democrats agree with this reform. Further, 87% of Women voters agree that some of the money should be shifted to alternatives.
- **Americans strongly support prison reforms that rehabilitate incarcerated individuals, and agree we should break down barriers for the formerly incarcerated through policies such as fair chance hiring and expungement.**
  - By an 85%-13% margin, voters agree that the main goal of our criminal justice system should be rehabilitating people to become productive, law-abiding citizens. Significant majorities of Republicans (79%), Independents (83%), and Democrats (92%) agree with this approach.
  - Fully 90% of Americans agree that we should break down barriers for people coming out of prison so they can get jobs, support their families, and stop being so dependent on government services – including 91% of Republicans, 90% of Independents and 89% of Democrats.

- Fully two-thirds of voters (65%-33%) support fair chance hiring -- allowing job applicants to explain their qualifications for a job before they are asked about their criminal histories.
- And, by a 79%-18% margin, Americans strongly support providing first-time, low-level, nonviolent offenders under the age of twenty-five the ability to expunge that conviction after successful completion of court-imposed probation. Voters across party lines support this proposal, including 71% of Republicans, 80% of Independents and 84% of Democrats.
- ***Mandatory Minimums for non-violent offenders are toxic with voters across the political spectrum.***
  - An overwhelming majority of voters (87%-11%) strongly support replacing mandatory minimum sentences for non-violent offenders with a system that allows judges more discretion. Support is strong from the right to the left among Republicans (83%-16%), Independents (88%-10%) and Democrats (89%-10%).
- ***It's nearly unanimous that voters support reforms specific to incarcerated women, the fastest growing segment of the prison population.***
  - By a 90%-9% margin, voters support providing basic feminine hygiene products free of charge to women serving time in prison. Support is strong across party lines, as Republicans (85%-15%), Independents (91%-8%), and Democrats (94%-6%) favor this change.
  - And, fully 86% of Americans believe that pregnant women serving time behind bars should NOT be shackled or handcuffed while they are in labor and in the process of delivering their baby.

## BOTTOM LINE

This data is crystal clear – voters strongly believe the country's criminal justice system needs significant improvements and are very supportive of these reforms. Importantly, criminal justice reform is NOT a partisan issue, as significant majorities of both Republicans and Democrats favor these reforms.

Further, key 2018 target constituencies like Independent voters and Women voters are especially supportive, suggesting legislators in Washington can be helped at the ballot box in November by voting to pass legislation incorporating these changes to the criminal justice system.

# News

## Overview: Changing coverage

Media coverage of DAs has historically been soft., but that's changing in Oregon and around the US. A new movement is sweeping the country. District attorneys' policies are now getting more attention than ever, and there is more political organizing and grassroots response to DAs than ever before. For instance, national media organizations such as *The Atlantic* have [dedicated extensive coverage to the role that prosecutors have in the criminal justice system.](#)

This coverage is having an impact. In California, 19 DA seats are being contested. In Texas, half of all sitting DAs in contested primaries lost their seats. In Oregon, our criminal justice system is increasingly in the spotlight, and local newspapers like the Pamplin news network are launching major investigations into unfairness in our justice system and [the power of the prosecutor.](#)

Since the *They Report to You* campaign began tracking media coverage 32 weeks ago, it has generated:

- 38 local news stories
- 11 op-eds
- 9 letters to the editor
- 4 radio interviews that we published online, and many others that weren't
- 6 blog posts

That's one story every three to four days. The campaign has also been running ads and done presentations before numerous community groups. **Below you'll find selected national and local stories about DAs, as well as some quotes to give an overview about what's being said in the media about DAs.**

# Want to end mass incarceration? Stop blindly reelecting your local prosecutor.

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 [vox.com/2015/5/27/8661045/prosecutors-mass-incarceration](https://www.vox.com/2015/5/27/8661045/prosecutors-mass-incarceration)

May 27, 2015

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Florida State Attorney Angela Corey lost her reelection bid after a history of "tough on crime" enforcement.

*Win McNamee/Getty Images*

The "tough on crime" prosecutor's days may be numbered.

Over the past few days, news has trickled out that liberal billionaire George Soros has poured millions of dollars into local election campaigns against "tough on crime" prosecutors, helping defeat one such prosecutor in Illinois earlier this year and dropping money into races ranging from Mississippi to New Mexico. And Angela Corey, the "tough" state's attorney for the Fourth Judicial Circuit in Florida, handily lost her reelection bid 64-26 to fellow Republican Melissa Nelson.

At first glance, the decision to spend so much money and attention on these local elections may seem odd. These aren't the elections that typically draw a lot of mainstream media or public attention.

But the effort is the result of a steady build-up of attention toward prosecutors over the past few years, as progressive reformers like Soros — who wants to end mass incarceration — have realized just how much of a role these prosecutors play in the justice system while receiving almost no accountability from voters.

Related [How America became the world's leader in incarceration, explained in 22 maps and charts](#)

Until now, the political system and voters haven't really held prosecutors accountable. About 95 percent of incumbent prosecutors won reelection, and 85 percent ran unopposed in general elections, according to data from nearly 1,000 elections between 1996 and 2006 analyzed by Ronald Wright of Wake Forest University School of Law.

But prosecutors are enormously powerful in the criminal justice system. They decide which laws will actually be enforced, with almost no checks on that power outside of elections. For instance, in 2014 Brooklyn District Attorney Kenneth Thompson announced that he will no longer enforce low-level marijuana arrests. Think about how this works: Pot is still very much illegal in New York, but the district attorney flat-out said that he will ignore an aspect of the law — and it's completely within his discretion to do so.

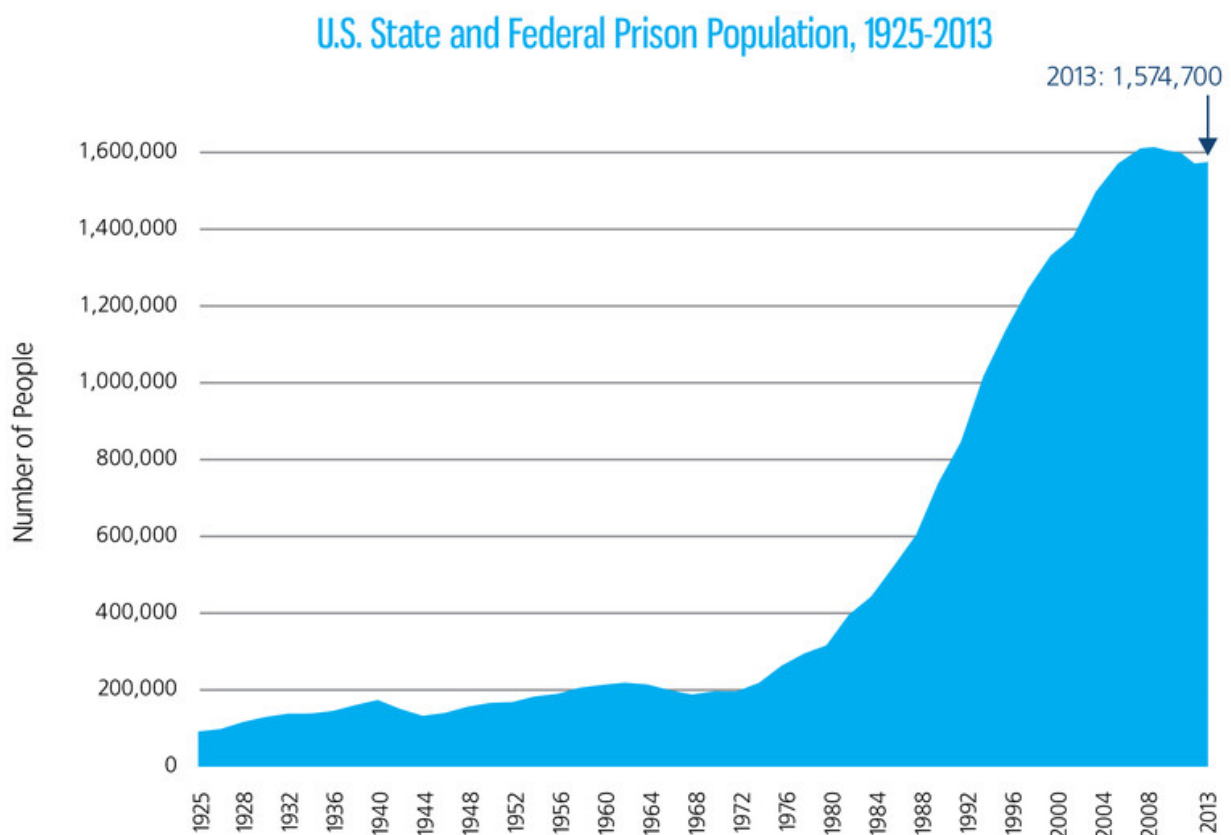
A prosecutor is also often the only public official standing between a defendant and prison time. More than 90 percent of criminal convictions are resolved through a plea agreement, so

by and large prosecutors and defendants — not judges and juries — have almost all the say in a great majority of cases that result in incarceration or some other punishment.

Prosecutors have also been at the center of police killing investigations over the past year following the deaths of Freddie Gray in Baltimore, Eric Garner in New York City, and Michael Brown in Ferguson, Missouri, among others. It was a prosecutor — Baltimore City State's Attorney Marilyn Mosby — who decided to file (unsuccessful) charges against the six officers involved in Gray's death. It was two prosecutors who guided the grand juries that decided not to file charges against the officers involved in Brown and Garner's deaths, with *no one* else able to dictate how prosecutors should run the hearings.

Despite all of these powers, voters and lawmakers very rarely force prosecutors to answer for their records — even as they play a key role in perpetuating the kind of mass incarceration that criminal justice reformers now want to end.

## Prosecutors helped perpetuate mass incarceration



Source: Bureau of Justice Statistics Prisoners Series.



### Sentencing Project

One of the most baffling aspects of the US criminal justice system is that incarceration rates continued to rise even after crime began dropping in the 1990s. If crime was dropping, it stands to reason that there should have been fewer criminals to lock up. But that's not what

happened — and America continues to lead the world in incarceration, with more than four times the incarceration rate of countries like the United Kingdom, Canada, France, and Germany, and a higher rate than authoritarian countries like China and Russia.

When John Pfaff, a professor at the Fordham University School of Law, looked into this, he found something a bit surprising: His study concluded that prosecutors filed more charges in the 1990s and 2000s even as arrests dropped. So when someone was arrested by police, the prosecutor was generally more likely to file charges against that person in the 2000s than she was in the 1980s. And that led to more people in prison.

What explains prosecutors' actions? Pfaff uncovered data that showed prosecutors were more likely to go after people with longer criminal records, who now existed in greater numbers because of the war on drugs and other "tough on crime" policies enacted in the 1980s and '90s that pushed more people into the corrections system.

It's also possible that "tough on crime" laws have given prosecutors the ability to more confidently file charges. Prosecutors very often get plea deals by pointing to the possibility of much longer sentences — such as mandatory minimum sentences that can add up to decades in prison — to convince a defendant that it would be much safer to take the guarantee of a shorter prison sentence as long as they plead guilty. But prosecutors only have this ability now because of "tough on crime" laws passed in the 1980s and '90s extended prison sentences for all sorts of previously less punished and minor offenses.

"Prosecutors have always had the discretion of who to charge with a crime and the charges to file," Brian Elderbroom, a researcher at the Alliance for Safety and Justice, said. "The difference now is they have this tremendous leverage through longer sentences."

Politics may play a role, as well. Although prosecutors are rarely threatened in their own reelections, they may feel compelled to look tough on crime in case they run for other offices. It's not unheard of, after all, for a district attorney to climb from that position to representative, senator, mayor, attorney general, or even governor.

"They're political actors in that they're not just concerned about remaining [district attorney]. They might want that next job," Pfaff said. "So perhaps they remain tough on crime not because they need to remain tough on crime to win the [district attorney] election, but they need to remain tough on crime to have a shot at attorney general, governor, or congressman."



Should the Department of Justice, which Attorney General Loretta Lynch heads, collect data on what prosecutors do?

### There's little data on what prosecutors actually do

One reason it might be difficult for the public or lawmakers to hold prosecutors accountable is because there's simply no good data on what they're doing.

"We have no data, nationally, on the number of people that prosecutors are putting in prison versus the number that they're keeping in the community by either placing them on probation or some other alternative to incarceration," Elderbroome said. "So it'd be really helpful if we had some sort of national prosecutors reporting program the way we do around corrections."

""We don't really know why prosecutors do what they do""

This applies at the state level, too, Pfaff explained. Some jurisdictions — like New York City — may have good data on what prosecutors are doing. But that's not the case in much of the country, where prosecutors don't file records that would explain why, for example, they pursued prison time instead of probation for a defendant. "We don't really know why prosecutors do what they do," Pfaff said.

Part of the reason for that may be costs. Good data collection takes time and money. New York City's district attorneys may already have the staff and resources to do it, but other prosecutors, particularly in rural areas, are going to require more funding — perhaps support from the state — to do it. "They don't all have large staffs," Pfaff said. "It would be a huge investment on the part of the state to figure out how to fund that."



This is in many ways symptomatic of the criminal justice system. We still don't have, for example, good data on police shootings or how many police are killed on the job. And criminologists widely acknowledge that the federal government's crime statistics likely underreport crime. But while those gaps in data have gotten attention from mainstream media outlets and former Attorney General Eric Holder, there's little movement on improving data collection from prosecutors' offices.

## States could limit prosecutors' powers

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Brooklyn District Attorney Kenneth Thompson wants to focus less on low-level marijuana charges. But New York could make all district attorneys focus less on marijuana by legalizing the drug.

*Charles Norfleet/Getty Images*

If states don't want prosecutors to continue filing charges for certain crimes, one thing they could do is simply decriminalize or remove felony penalties from those offenses — therefore eliminating prosecutors' ability to file charges at all.

This is partly what California did in 2014 through Proposition 47, which changed a host of minor drug and property crimes into non-felonies. That means, for example, that prosecutors can no longer file a felony charge just because someone possesses cocaine. But it also means prosecutors can no longer threaten people with a big felony charge for cocaine possession to scare them into settling for a plea deal with less prison time or probation.



"Limiting prosecutors' powers will need to be a part of criminal justice reform"

Pfaff explained this is why it's important for legislators to expand criminal justice reform so it doesn't just let prisoners get out of prison early, but actually changes what's a criminal charge and the sentence for those crimes — both to reduce prosecutors' ability to charge people and the leverage they have during negotiations for plea deals.

"Tough on crime" advocates argue that prosecutors need the long sentences to secure settlements from dangerous criminals and to avoid the costs and uncertainties that could come from a long trial and appeals process.

But as public officials — even the conservative governor of Georgia — look to reduce the US prison population to save money and move away from a justice system that many view as draconian, the data uncovered by Pfaff suggests that limiting prosecutors' powers will need to be a part of the solution.

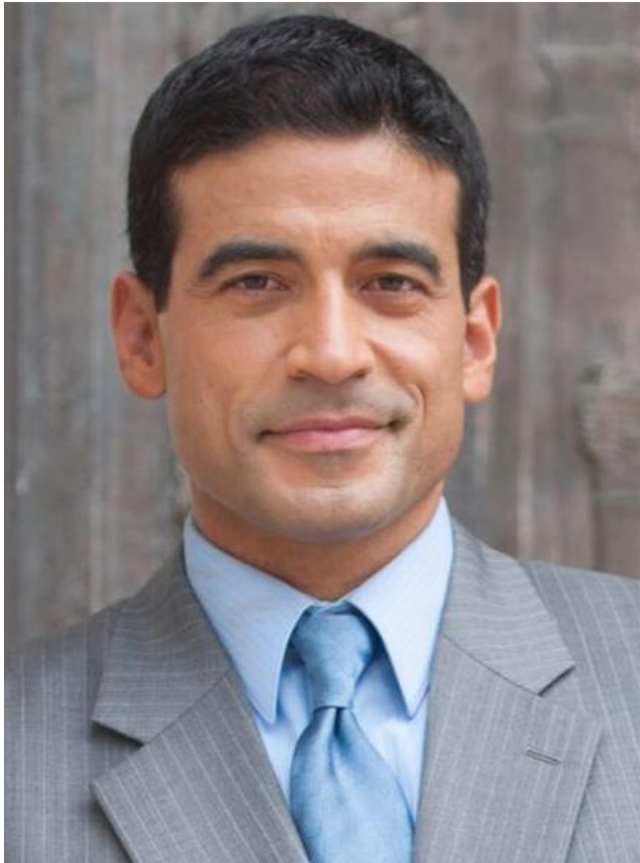
"Absent those kinds of changes," Pfaff said, "there's very little we can do to keep a [prosecutor] from sending people to prison."

# Half of Texas' sitting district attorneys in contested primaries lost. What does that mean?

★ [texastribune.org/2018/03/12/half-texas-sitting-district-attorneys-contested-primaries-lost-what-do](https://texastribune.org/2018/03/12/half-texas-sitting-district-attorneys-contested-primaries-lost-what-do)

by Jolie McCullough March 12, 2018 12 AM

March 11, 2018



\*Editor's note: This story has been updated to include the race in Cass County, where the incumbent district attorney lost.

In San Antonio, Bexar County's Nico LaHood was voted out as district attorney Tuesday after one volatile term plagued by controversies over anti-Islamic remarks, public declarations that vaccines cause autism and alleged hostility toward colleagues and the press. His race ended with nearly \$1 million of a liberal billionaire's money funneled to his opponent.

McLennan County's top prosecutor, Abel Reyna, was also ousted after eight years in office, largely over his lock-them-all-up approach to the 2015 fatal Twin Peaks biker shooting in Waco.

While their races faced unique circumstances, LaHood and Reyna weren't alone in their disappointment after Texas' primary elections. Seven of 13 sitting district attorneys who faced primary challengers lost their re-election bids last week, according to the Texas District and County Attorneys Association.

Analysts disagree on whether this is a sign of criminal justice reform taking center stage in down-ballot races or just normal turnover. The 13 incumbents challenged in their primaries 50

were a relatively small portion of about 50 Texas district attorney seats up for election this year. But several experts said that even the smaller number is indicative of a trend that district attorneys, who often would stay in office for decades, are no longer safe as incumbents.

“Incumbency does not have the shield that it once did,” said Josh Marquis, a district attorney in Oregon since 1994 and a board member of the National District Attorneys Association.

Marquis said part of that shield's weakening is due to voters nationwide becoming more informed about the power and choices of their local prosecutors. On top of that is the relatively new threat of big money pouring into these races to fund more progressive, reform-minded candidates.

Most notably, liberal billionaire George Soros has set his sights on transforming the American criminal justice system one local prosecutor at a time. His money largely funds candidates running on reformist issues, like reducing mass incarceration by diverting low-level drug offenders into treatment programs and addressing racial inequality.

In 2016, while political megadonors threw money at presidential and congressional campaigns, political action committees funded by Soros spent millions in district attorney races throughout the country, including in Harris County. (At first, a Soros-backed PAC supported now-District Attorney Kim Ogg's opponent in the primary. Ogg got the the PAC's backing in the general election after winning the primary.)

This year, Soros targeted Bexar County.

A PAC tied to Soros gave almost \$1 million to LaHood's largely unknown opponent in the Democratic primary, Joe Gonzales. Gonzales has likened his opponent to President Donald Trump, according to the San Antonio Express-News. He beat LaHood by nearly 20 percentage points and will now face Republican Tylden Shaeffer in November.

LaHood — who defeated a 16-year incumbent in 2014 — said he lost primarily because of the negative campaign that came from the influx of Soros money. He thinks he was targeted because of his outspoken Christian faith and opposition to illegal immigration. Gov. Greg Abbott and Lt. Gov. Dan Patrick, both Republicans, also criticized Soros' involvement in the race last week.

“He's trying to change the fabric of this country,” LaHood said. “If there's a DA that does not have the agenda that he does, then he wants to get them out.”

Some reform advocates didn't think money was the only factor in LaHood's loss, though. Rob Smith, executive director of the Fair Punishment Project, said a flood of cash can move the needle in tight races but that people in San Antonio were already upset with LaHood and were engaging in the political process.

“Twenty percent isn't something that money can buy,” Smith said. “People are starting to understand ... the DA to them is more important in many ways to their daily life than who's the governor of Texas or who's the president of the United States.”

On the Republican side, McLennan County's Reyna — who unseated a 20-year incumbent in 2010 — was ousted after two terms by a large margin after drawing harsh criticism for his handling of a fatal biker shooting at Twin Peaks. His office sought indictments for more than 150 bikers, and Reyna has so far dismissed or refused about a third of them, according to the Waco Tribune-Herald. He was defeated by Barry Johnson, who faces an independent challenger in the fall (the lone Democrat in the race suspended his campaign last month).

In Victoria County, three-term Republican District Attorney Steve Tyler — who tagged himself as “a prosecutor, not a politician” — lost to criminal defense lawyer Constance Filley Johnson, who faces no November opponent. Johnson campaigned largely on repealing Tyler’s policy requiring trials for all first DWI offenses.

On the other hand, the Republican incumbent in Galveston County kept his seat even though his primary opponent accused him of being too “soft on crime.”

“What I take away from the results in the Republican district attorney primaries [Tuesday] evening is that voters want a district attorney who will define success by improving public safety and reducing recidivism, which in many cases involving nonviolent offenders means alternatives like a drug court rather than prison,” said Marc Levin, vice president of criminal justice policy for the Texas Public Policy Foundation, a conservative think tank.

Levin said the recent election results are the continuation of a trend of voters electing reform-minded candidates, pointing to 2016 races in Williamson and Midland counties.

But not all the incumbents who were unseated Tuesday lost to reformists. In Wichita County, the two-term Republican incumbent lost after her primary opponent said she was too reluctant to pursue the death penalty. And criminal justice reform didn’t appear to play a major role in Gregg, Harrison or Cass counties, where the other incumbents lost.

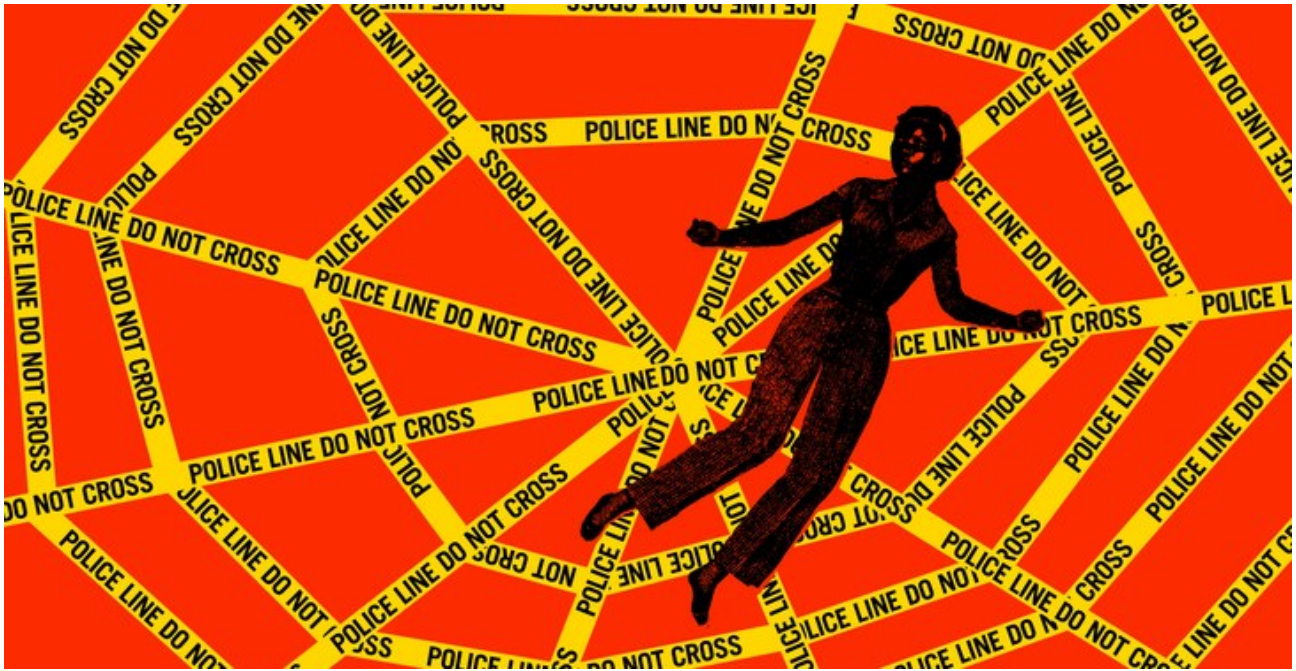
The Texas District and County Attorneys Association doesn’t have historic data on losing incumbents, but its director of governmental relations, Shannon Edmonds, noted that despite reformist claims of momentum, turnover for district attorneys is constant.

He said some more incumbents may lose in November, and if this election cycle resembles others, Texas should end up with about 12 to 15 new top prosecutors next year. Nick Hudson, a criminal justice policy analyst for the American Civil Liberties Union of Texas, said a trend toward less long-term officeholders and increased competition in either the primary or general is better for citizens.

“When DA races go uncontested, it means there’s an entire generation who’ve never even had the opportunity to weigh in on who their next DA will be,” he said.

# Why Are Prosecutors Putting Innocent Witnesses in Jail?

 [newyorker.com/news/news-desk/why-are-prosecutors-putting-innocent-witnesses-in-jail](https://www.nytimes.com/news/news-desk/why-are-prosecutors-putting-innocent-witnesses-in-jail)



One night in May, 2015, an accountant named Renata Singleton arrived home from work and changed into lounge pants. Singleton, a polite, bespectacled woman in her mid-thirties, who kept the books for a local New Orleans charter school, intended to have a quiet evening with her three children. She was surprised when two uniformed police officers knocked on the door. “Can we speak to you away from your kids?” one of the cops asked. Singleton stepped outside to join the officers and recalls one of them explaining, “The district attorney’s office called us to come and pick you up tonight.” The officers had a warrant to arrest Singleton and take her to the Orleans Parish Prison. Singleton had not committed—nor even been accused of—a crime. But, six months earlier, she’d called the cops after her then boyfriend, in a jealous fit, grabbed her cell phone and smashed it; she’d feared for her safety. The cops had arrived and arrested the boyfriend. Later, Singleton told the district attorney’s office that she wasn’t interested in pursuing charges. (She’d left the relationship in the meantime.) Still, the D.A.’s office pressed ahead. Her ex faced charges of “simple battery and criminal damage to property less than 500 dollars,” and prosecutors wanted Singleton to testify against him in court.

Now, the cops had a warrant to arrest Singleton because, according to the D.A.’s office, she had dodged the office’s attempts to serve her a subpoena or contact her by phone; according to Singleton, a prosecutor wanted to interview her about the alleged crime in private and had deemed her an uncoöperative victim. (Singleton told me that she had planned to appear in court; she’d ignored two previous subpoenas left in her door, which were improperly served.) The D.A.’s office was using an arcane tool of the law—a little-known but highly consequential instrument called a “material witness” statute—to jail Singleton until she testified in court about the cell-phone incident.

While the officers were at Singleton's home, a friend who worked in law enforcement arrived and told the officers, "Don't do this! The kids are in the house—you're going too far!" She promised to escort Singleton to the D.A.'s office in the morning, after arrangements could be made for the children.

The next day, as promised, Singleton met with an assistant district attorney, Arthur Mitchell, who questioned her about her evasiveness and pressed for details on the domestic-violence incident. (His office, he claimed, had visited her house and place of employment on numerous occasions, hoping that she would talk.)

"I need a lawyer," Singleton said.

"You're the victim," Mitchell replied, according to Singleton. "You don't get a lawyer."

"Well, right now I don't feel like the victim," Singleton responded. As an officer came to arrest her, putting her in handcuffs and escorting her to a police car, Singleton thought about her son and daughter—ages ten and fifteen—who were expecting to see their mom after school.

"Please," Singleton said to the officer. "How will I explain this to my kids?"

Across America, some prosecutors—arguably with the authority of state and federal laws—are jailing innocent crime victims and witnesses, in hopes of insuring their testimony in court. In Washington State, a sexual-assault victim was arrested and jailed to secure her testimony against the alleged perpetrator. (He was found guilty of kidnapping, attempted rape, and assault with sexual motivation.) In Hillsboro, Oregon, a Mexican immigrant was jailed for more than two years—nine hundred and five days—to obtain his testimony in a murder case. (The case was being brought against his son.) And in Harris County, Texas, a rape survivor suffered a mental breakdown in court while testifying against her assailant. Afraid that the woman would disappear before finishing her testimony, the court jailed her for a month. She has since filed a federal lawsuit against the county and several individuals involved, alleging that she was "abused, neglected, and mentally tortured" while in detention.

The right to jail these so-called material witnesses has deep roots in America. (A material witness is an individual considered vital to a case, often because he or she saw a crime unfold or was its victim.) As early as 1789, the Judiciary Act codified the duty of witnesses to appear before the court and testify. From a public-safety perspective, the statute has a clear purpose: the perpetrator of a crime should not escape punishment because of a witness's reluctance to testify. "The duty to disclose knowledge of crime rests upon all citizens," a 1953 U.S. Supreme Court opinion, in the case *Stein v. New York*, reads. "It is so vital that one known to be innocent may be detained, in the absence of bail, as a material witness." In 1984, Congress reaffirmed the right to jail material witnesses, but also noted that their testimony should be secured by deposition, rather than imprisonment, "whenever possible." Jailing crime survivors and innocent witnesses, in other words, was legal but undesirable.



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After the attacks of September 11, 2001, Attorney General John Ashcroft identified the material-witness statute as a convenient weapon for the war on terror. Federal agents could use it to detain individuals of interest, even without sufficient evidence to arrest them as criminal defendants, by deeming them “witnesses” to terrorism-related crimes. In late 2001, the Department of Justice used material-witness laws to target Muslims, often arresting them at gunpoint and later placing some in solitary confinement. According to Human Rights Watch, the U.S. government eventually apologized to at least thirteen people for wrongful detention as material witnesses, and released dozens more without charges. “Holding as ‘witnesses’ people who are in fact suspects sets a disturbing precedent for future use of this extraordinary government power to deprive citizens and others of their liberty,” Human Rights Watch argued. In the face of lawsuits and public scrutiny, the practice slowed.

Recently, however, controversy over the use of material-witness statutes has resurfaced—this time at the state and local level. In parts of the country, prosecutors are using these orders to put crime victims—especially poor victims, and, in cities like New Orleans, victims of color—in jail in order to get swift victories in court, sometimes, puzzlingly, in minor cases. A lawsuit filed today in federal court by the American Civil Liberties Union and Civil Rights Corps, a legal nonprofit based in Washington, D.C., seeks to challenge what it calls “the Orleans Parish District Attorney Office’s unconstitutional policy of using extrajudicial and unlawful means to coerce, arrest, and imprison crime victims and witnesses.” The suit alleges that the office’s practices “ensure these victims and witnesses are trapped in jail.”

Despite the public attention given to prosecutorial misconduct in recent years, this form of alleged abuse has gone mostly unnoticed. Last spring, a watchdog group called Court Watch *NOLA* released a report documenting attempts by the office of the Orleans Parish D.A., Leon Cannizzaro, Jr., to coerce testimony from crime survivors. The lawsuit filed today, on behalf of Singleton and other plaintiffs, questions the justifications that prosecutors have used to put victims and innocent witnesses in jail. According to the complaint, prosecutors sought more than a hundred and fifty material-witness warrants over the past five years in Orleans Parish; approximately ninety per cent of the victims and witnesses, in cases where the A.C.L.U. could determine race, were people of color. Poverty, homelessness, precarious immigration status, and mental-health issues were all invoked by the D.A.’s office as reasons to jail crime victims, who included survivors of sexual assault, domestic violence, and child sex trafficking.

“We believe we’ve only scratched the surface of this trend,” Katie Chamblee-Ryan, an attorney for Civil Rights Corps, told me. “The pattern of behavior is so brazen, but it wouldn’t naturally come to light without dogged investigation”—in part, she alleged, because prosecutors often don’t file the relevant documents. (Both the A.C.L.U. and Civil Rights Corps are launching national initiatives to seek prosecutorial accountability.)

Starting last spring, I began reviewing the cases of more than a dozen material witnesses who had been detained in New Orleans. Near the city's Garden District, I sat down with a sixty-year-old homeless man who was arrested largely because he didn't want to have a private meeting with prosecutors about his assault; he was jailed for eight days, on a hundred-thousand-dollar bond. More recently, I reviewed the case of an alleged incest victim, "M. C.," whom prosecutors sought to jail because they feared she might not show up in court. Their reasons included the claim that, "as the victim of this heinous crime" involving sexual abuse by her father, the victim "has routinely changed residences, and does not have a stable address."

"This isn't something we celebrate doing—it's a last resort," Christopher Bowman, an assistant district attorney and spokesperson for Cannizzaro's office, told me. "But the people who want to criticize us for doing it don't have a solution for how not to do it, unless it's to just dismiss the case, which we are not willing to do." Public safety, Bowman argued, demands that these cases be prosecuted successfully. And the fear of snitching in New Orleans runs deep; the D.A.'s office, he said, needs tools to combat this fear, and budget cuts have left prosecutors with few options. The threat of jail time, Bowman concluded, had proved effective—but crime survivors in the city told me otherwise.

This past April, Marc Mitchell, a soft-spoken forty-one-year-old, told me about his experience being jailed as a crime victim in Orleans Parish. In the summer of 2014, Mitchell was playing basketball with a few family members in Central City, New Orleans, when a younger man—a complete stranger—walked up and demanded a turn on the court. Mitchell dismissed the stranger, not realizing that, according to later reports, he belonged to a local gang. A few minutes afterward, another man came up to the basketball court with a gun, and fired bullets into Mitchell's leg and chest, and into his cousin's neck. "I had nowhere to go, so I just lay down," Mitchell recalled. He nearly died. A neighborhood boy happened upon the scene, called 911, and cradled Mitchell and his cousin in his arms, repeating, "I love y'all. I love y'all." (The boy was also a stranger—"heaven-sent," Mitchell said.)

Mitchell tried to cooperate with law enforcement. Hours after the attack, still in a hospital bed, he identified the mug shot of the man who'd confronted him on the basketball court. Eventually, the alleged shooter was also identified and charged with attempted murder. Mitchell testified for the prosecution, even though he knew that it could put his life at risk. Prosecutors got a swift conviction. "I just wanted to be safe," Mitchell told me.

As the trial for the second defendant neared, however, Mitchell's relationship with the D.A.'s office soured. Mitchell, according to the A.C.L.U. and Civil Rights Corps lawsuit, felt that prosecutors "seemed more intent on telling him what had happened than actually listening to Mr. Mitchell's account of the shooting." Equally troubling, he told me, was that the D.A.'s office had made—but not kept—certain promises intended to allay his fears about his safety. "They claimed that they would have people watching us and helping us," Mitchell said. "They promised a lot, but, when it came down to it, they said, 'We can't do it,' or they wouldn't answer the phone." (The D.A.'s office told me that it followed through on its promises to Mitchell.)



In April, 2016, Mitchell told an assistant district attorney that he wanted no further private contact with prosecutors—though he also signed a subpoena pledging to appear in court. Two days later, the prosecutor submitted a motion to jail Mitchell as a material witness. The next day, Mitchell was in the lobby of a hotel where he worked in housekeeping, wearing his white dinner jacket, black tuxedo pants, and bow tie, when police arrived; they took him away as hotel guests gawked. (Mitchell told me that his arresting officers were kind. “They told me to get a lawyer,” Mitchell said. “They wished me good luck.”) Mitchell’s family convinced the head of a local advocacy organization to fight for Mitchell’s release, and he was let out the next morning. Mitchell felt that the prosecutors hadn’t taken into account how being arrested and jailed would affect him, or others like him. “They were looking for awards and promotions,” he told me. “We’ve still got to go on and live, even afterward.”

Mitchell began researching the practice of jailing victims in New Orleans and learned that, in some ways, he’d been lucky. He’d spent one night in jail, whereas some crime victims—including an alleged child-sex-trafficking victim—had spent months locked up. And the subpoena that Mitchell had signed appeared to be a legitimate legal document; some of his fellow-plaintiffs in the lawsuit, including Renata Singleton, discovered that the “subpoenas” they’d received from the D.A.’s office might not be lawful in the first place. “This district attorney’s office has a policy of employing illegal tactics to coerce witnesses,” Chamblee-Ryan said. These tactics included “the use of fraudulent subpoenas in serious cases and minor cases, too, to deceive people into thinking that they are required to report to the D.A.’s office for interrogation.”

Singleton was crying when she arrived at the Orleans Parish Prison. Officials ordered her to strip, and handed her an orange jumpsuit, white underwear, and a sports bra. In her cell, Singleton found an empty top bunk. “I couldn’t sleep,” she said. “A million things were going through my mind.” She found the food in the jail “inedible.” She feared that the other inmates might attack her, until she noticed that many of the women received steady doses of medication and slept almost constantly. A cellmate eventually explained, “You’re in the psych ward.”

One anxiety supplanted another. “The fear that someone was going to hurt me got replaced by my worries about my kids and my job,” Singleton said. She was afraid that she’d be fired for missing work. She called home. “I could hear my daughter on the phone,” Singleton recalled. “She just held the phone and cried, never said a word.” When Singleton finally saw a judge, she entered the courtroom in handcuffs and chains. She spotted her mom, a tax accountant, in the audience, crying. “I just felt so embarrassed,” Singleton said. As a victim, Singleton was not entitled to a public defender, so her mother had hired a private attorney.

Singleton’s bond was set at a hundred thousand dollars. She was shocked; there was no way her family could afford such a sum, and it was more than ten times higher than the bond of her ex-boyfriend, the alleged perpetrator. Her private lawyer wrote, “Defendant has three small kids, ties to the community, and a job that she is in danger of losing.” The judge agreed to let Singleton out, provided that she wear an electronic ankle monitor, abide by an 8 P.M. curfew, and come to court the next day to testify. Singleton had already been locked up for nearly a

week.

On the way home, Singleton told her mother, “Let’s stop at King’s Chicken.” She’d lost eight pounds while in jail. “I was so hungry,” she told me. But when her chicken fingers arrived, she stared at them: “My appetite wasn’t there—my body had gotten used to not eating.” At home, she found bellbottom jeans to hide her ankle monitor and wrapped a blanket around her legs at the kitchen table. Still, one of her sons asked, “Where’d you go? Why’d you leave and not tell me?”

Only much later, after Singleton began speaking with attorneys from Civil Rights Corps and the A.C.L.U., did she discover that the subpoenas used to justify her jailing were apparently fraudulent. This past April, the Lens, a New Orleans news site, reported that the district attorney’s office had been issuing fraudulent subpoenas to “order” attendance at private meetings with prosecutors, alongside a warning: “*A FINE AND IMPRISONMENT MAY BE IMPOSED FOR FAILURE TO OBEY THIS NOTICE.*” The “subpoenas” were, in fact, improvised documents created by the D.A.’s office; they lacked full legal authority. The D.A.’s office told the press that they would stop using the fraudulent subpoenas, which they call D.A. “notices.” Bowman repeated this claim to me, adding that the use of such documents stretched back decades, across many jurisdictions. “This was not limited to Orleans Parish,” he said. Just last month, Cannizzaro claimed at a city-council hearing that the D.A. notices hadn’t actually been used to jail people: “Show me one person who was ever arrested and convicted with one of those D.A. notices!”

Renata Singleton, the lawsuit alleges, received one of these fraudulent subpoenas—and she did, indeed, end up in jail. Singleton told me that “the craziest part” of the whole experience turned out to be her ex-boyfriend’s hearing. She arrived at court early, ready to testify, only to learn that he had already pleaded guilty, avoiding jail time altogether. Her testimony wasn’t needed after all. He’d agreed to a six-month suspended sentence, with one year of inactive probation. “I was so violated, so upset and hurt that I had to sit in jail,” Singleton told me. “So, when I found out he took a plea and didn’t have to do anything, I was, like, ‘Are you serious?’ ” She gave a wry laugh. “I wish I could have had that deal.”

When I asked Singleton about the residual effects of her detention, she replied, “I probably won’t call the police again, as long as it wasn’t life-threatening.” She tried to imagine what she’d do if she ended up in another physically dangerous situation. “Even if I get choked, I’ll hope they don’t kill me,” she said. “I’d rather get choked and survive than go back to jail.”

Nick Budnick **Oregon ACLU Puts Heat on Elected Prosecutors**

## **District attorneys push back as advocacy organization presses for more liberal criminal justice policies**

With district attorney elections coming up in Washington and Marion counties, the American Civil Liberties Union of Oregon has knocked on more than 15,000 doors in those areas, encouraging people to support prosecutors who shun "tough on crime" policies.

But the new campaign, called They Report to You, is running into a problem: While the ACLU contends Oregonians support liberal criminal justice policies, the group concedes they often don't know much about how the system actually works. That ignorance includes the central role of district attorneys, each county's top prosecutor, who are the focus of the ACLU campaign.



"Some of what we found out is that the overwhelming majority of voters have no idea that district attorneys are elected," said David Rogers, executive director of the group. People "actually have very little sense of what it is they do."

The ACLU aims to fill that knowledge gap — and is raising hackles among prosecutors with its aggressive message. The campaign relies on a new website that links to newspaper articles highlighting racial disparities in charging, sentencing and other issues. The site offers brief

videos that feature an opinionated take on the criminal justice system, for instance depicting a white, suit-wearing prosecutor taking a folder marked "evidence of innocence" and throwing it in the trash.

"Too many elected district attorneys are unwilling to change," said the voice-over. "It's time we hold them accountable."

Clatsop County District Attorney Josh Marquis calls the campaign a misleading effort aided by "out of state special interests" in both the left and the right. He noted that the ACLU announcement name-drops President Donald Trump, who has no connection to Oregon district attorneys, calling it a "sleazy tactic."

The multi-year ACLU campaign, conducted in partnership with the liberal advocacy group The Bus Project, is part of a larger national effort spearheaded by the Open Philanthropy Project, a group funded in part by Dustin Moskovitz, a Facebook co-founder. The project aims to encourage liberal candidates to run for district attorney while "reducing the degree of deference that legislators and media outlets give to prosecutors' positions on criminal justice reform issues."

A similar campaign was recently unveiled in California, called Meet Your DA.

The ACLU of Oregon received \$145,000 in seed money from the Open Philanthropy Project in March to support its local efforts. The campaign has hired director Daniel Lewkow, formerly a political director for Common Cause Oregon, to staff it.

The association is "the primary roadblock to moving criminal justice reform at the Legislature and also at the local level," Rogers said. "We've got this powerful set of elected leaders who have been flying under the radar of the general public. So, they have high levels of job security and low levels of accountability. That's a bad combination for justice."

Clackamas District Attorney John Foote spearheaded the district attorneys' research into the justice system. He said criminal justice data shows Oregon has embraced a "middle-of-the-road approach."

"This is not the ACLU we grew up with," Foote added. "This is a political action committee masquerading as a nonprofit."

Marquis, for his part, says recent reforms go too far in moving away from accountability for criminals, while prosecutors remain accountable. "I report to voters. I have seven times since 1994. Who does the ACLU 'report to?'" Marquis said.

Of course, even certified nonprofits can engage in voter education without crossing a line of legal propriety by getting active in partisan or candidate elections. District Attorney elections are nonpartisan by definition.

Former Multnomah County deputy prosecutor Chuck French says of the new ACLU campaign, "I think it's fine. I don't agree with their policies that they might recommend. But a lot of prosecutors are somehow suggesting that there's something unseemly about an organization running a political campaign in a democracy. They're entitled to do that."



## ACLU talk draws crowd in Astoria



The American Civil Liberties Union of Oregon visited Astoria for the first time in years Thursday as part of a wider effort to reconnect, face-to-face, with communities across Oregon after the contentious presidential election last November.

The organization held a community forum at the Performing Arts Center, drawing an audience of more than 60 people to discuss legislation the group is working on in Oregon, as well as concerns particular to Clatsop County.

The ACLU is a nonpartisan organization “dedicated to the preservation and enhancement of civil liberties and civil rights” — a mission statement that takes the form of lobbying to support the passage of certain laws and prevent the passage of others at local, state and national levels, and providing educational outreach and legal assistance, among other actions. Thursday’s audience was a mix of longtime “card-carrying” ACLU members, non-members and people who signed up for the first time after the election.



Mary MacDonald-Garner and her husband were among the latter group. MacDonald-Garner, a bookkeeper at Gimre's Shoe Store in Astoria, said she worked on Robert Kennedy's Democratic presidential campaign; his assassination in 1968 devastated her.

"I just let politics go," she said. "But now that I'm older I feel it's something we have to do: We have to be involved. Our country is our country and I don't recognize what's going on."

She attended Thursday night's event with a friend. Both women work and are trying to find ways to be involved in local and state political and social issues in their free time. They are not alone.

The ACLU of Oregon has seen its membership almost quadruple since November while the number of cases and issues seem to expand weekly.

David Rogers, executive director of ACLU of Oregon, said he feels like he's "aged a decade" in the last six months, but he also feels hopeful.

"There are so many collective acts of resistance and kindness that give me hope," he said.

This January, people in Astoria organized a local Women's March in solidarity with the Women's March on Washington, D.C. An estimated half a million people joined the East Coast march, while millions more marched in solidarity around the world. Organizers in Astoria were ready to call it a success if 100 people attended the local march. They were astounded when an estimated 1,300 showed up instead.





Since then, several local activist groups have formed, including Indivisible North Coast Oregon, which now has groups based in Manzanita, Cannon Beach, Seaside and Gearhart, Warrenton, Astoria and on Washington’s Long Beach Peninsula.

#### District attorney accountability

At the forum Thursday, Rogers announced ACLU of Oregon will be starting a campaign on “district attorney accountability.”

Rogers said Clatsop County might be one of the few counties where residents know the name of the district attorney, Josh Marquis, who has been a vocal proponent of the death penalty, a measure the ACLU believes is a “failed policy.”

“Most people don’t know who they are,” Rogers said. “Eight out of every 10 DA races for election in the state are uncontested. DAs tend to feel like they can do whatever they want to do. They have the ultimate job security. Few people know who they are so they’re not being held accountable.”

Rogers also discussed other pieces of legislation moving forward in the state Legislature, including one that would push against legislation passed by Congress and signed by President Donald Trump allowing internet service providers to share or sell browsing history without the consent of consumers. Oregon’s legislation, HB 2813, would increase consumer privacy protections in the state, Rogers said.

It is an issue that is particularly pertinent to rural areas where people may be limited in their choice of internet service provider, he said.

Nancy Ross, an Astoria resident, board member for ACLU of Oregon and a former plaintiff with the ACLU, hoped people left the forum with a better sense of the resources the group offers, and “not feeling like the ACLU is a Portland organization that just works on Salem legislation.”

## Media excerpts

“Once we describe what the DA does, people instantly get how powerful they are.” — McClatchy, March 6, 2018.

“Overall confidence in district attorneys dropped 15 points since last year's survey.” — Portland Tribune, Feb. 22, 2018

“‘They Report to You’ is a major initiative to make Oregon's criminal justice system more effective, fair and accountable by electing district attorneys who promise to reform the system. The campaign gives voters the tools to demand a better criminal justice system, and to evaluate whether their DAs deserve re-election.” — Lake Oswego Review, Jan. 4, 2018.

“In a healthy democracy, nobody should be guaranteed re-election. If more Oregonians knew that DAs, for example, have the power to charge a police officer with misconduct or to not pursue the death penalty, we could demand that they adopt the policies and practices that we want. The decisions DAs make could reflect our values.” — Clackamas Review, Oct. 25, 2017

“District attorneys exercise a great deal of power in our criminal justice system, and there are few effective constraints on the way they carry out their duties. The courts and the state bar don't exercise a great deal of oversight over the district attorneys. And the legislature has traditionally been reluctant to place any limits on their power, though that has finally begun to change. The most effective tool for voter oversight of elected officials is the ballot box.” — The Oregonian, Sept. 21, 2017

“Instead of fighting the American Civil Liberties Union of Oregon's ‘They Report to You’ district attorney accountability campaign, district attorneys like Marquis should embrace it. They can use it as a way to connect better with constituents, to find out what voters want, and to create a criminal justice system that reflects our shared values.” — The Daily Astorian, Sept. 8, 2018

“District attorneys have collectively been the largest roadblock to modernizing and reforming our justice system. This is one of the reasons the ACLU of Oregon just launched a major, multi-year campaign for district attorney reform, called They Report to You.” — The (Gresham) Outlook, Oct. 17, 2017.

“If we're going to take a significant step forward in modernizing and reforming our criminal justice system – making it fairer and more effective – we're going to need much higher levels of voter engagement with district attorneys.” — The Scanner, Aug. 31, 2017.

“District attorneys need to understand that there is more to accountability than building and filling prisons ... Accountability includes doing what is fair and effective such as using more smart-on-crime strategies like prevention, treatment, education, and re-entry support.” — The Portland Observer, Aug. 29, 2017



# Policy Overview and Pathways to Reform

## Re-envisioning the Role of District Attorneys

The world is changing. Not only are a growing majority of Oregonians eager to see a change in how our justice system operates, but a growing body of research suggests our state's system is in some ways out of step with best practices. We need something different from the status quo. We need cultural change.

District attorneys who will be successful in the future have to understand the limits of the criminal justice system in supporting the development of safe and healthy communities. Many DAs put too much emphasis on convictions. That measurement is too narrow. DAs need a broader vision of what “public safety” means. DAs need to craft measurements of success that put more emphasis on the system's fairness, effectiveness, transparency, and connection to the communities they serve.

DAs should also commit to making active efforts to attract new staff from the communities most impacted by the office's mission, and to creating a “learning organization” where staff have incentives for doing the right thing and implementing best practices, not just for obtaining a conviction. Candidates should indicate that they will be prepared to [let prosecutors go](#) who do not embrace the new mission.

This is an exciting time because it is an opportunity to re-envision the work of district attorneys and develop new metrics for what success looks like. Our criminal justice system is nearing a tipping point. DAs have a rare opportunity to become leaders who bring about transformative change. By re-envisioning the work the DA office does, DAs can earn a new level of respect within their communities and make their communities safer and healthier.

## Helpful Resources:

[\*\*Choosing Performance Indicators for Your Community Prosecution Initiative,\*\*](#)  
Association of Prosecuting Attorneys *(includes additional recommendations)*

[\*\*Building Community Trust: Procedural Justice: Enhancing the Legitimacy of the Justice System,\*\*](#) an issue brief by Fair and Just Prosecution *(includes additional recommendations)*

## Pathways to Reform:

- Adopt recruitment, hiring, and training practices that ensure staff are using research-driven best practices, increasingly diverse, and more representative of the local community, including people formerly involved in the criminal justice system.
- Adopt robust training requirements that ensure staff stay up to date on issues like implicit bias, trauma-informed care, and harm reduction strategies.
- Create internal incentives and holistic metrics that reward staff for seeking a just outcome in every case, including dismissing cases. DAs should advocate not only for convictions, but also diversions.
- Create a “learning culture” in the office that is fully committed to examining bad outcomes, remedying mistakes, promoting accountability for errors and misconduct, changing practices to avoid repeated harm in the future, and ending racial disparities.
- Develop written criteria that consider, before deciding on a charge, the range of potential collateral consequences of a conviction to immigration status, current or potential employment, and family status, among other things.
- Create a Case Integrity Unit charged with investigating any issues of case integrity—including, but not limited to, wrongful convictions. This Case Integrity Unit should move aggressively to remedy errors for individual defendants and fix systemic problems that lead to the bad outcome in the first place. Many localities have already established Case Integrity Units, and there are working models to replicate across the nation.

# Prosecuting Youth

Research proves that treating youth as adults in the criminal justice system is a bad approach. That's because young people are not making decisions in the same way that adults are. Their brain structures haven't fully developed and they "are particularly susceptible to risky behaviors and peer pressure, but also possess a unique capacity for change and growth," according to a new report by the Oregon Council on Civil Rights.

Youth are strongly influenced by their peers, and they are much less likely to reoffend if they stay in the juvenile system compared to the adult system. Meanwhile, when putting young people in the adult system we are saddling them with an adult conviction history that limits their future access to employment, housing, and educational opportunities regardless of the hard work they do to turn their lives around. Charging youth as adults does not help keep communities safe, and is out of step with best practices and Oregon values of having a fair and effective criminal justice system.

## Why are Oregon DAs still charging young people as adults?

Some DAs might simply say that they are just following the law, but it is much more complicated because DAs have tremendous discretion in how they can charge young people.

[Rod Underhill, the Multnomah County DA, has made some modest changes.](#) Underhill developed a diversion program for a limited number of youth who could be charged with a Measure 11 crime. But the program has only deemed 21 youth eligible and a study has found that the racial disparities in youth convicted of eligible crimes remains consistent. So there is clearly much more work to do. Nonetheless, DA Underhill's attempt at change demonstrates that district attorneys have the agency and power to do things differently if they choose.

**Beyond shifts in charging youth as adults, district attorneys should recognize that youth are more likely to reoffend the deeper they penetrate the justice system. In this context, there should be very intentional work to limit youth engagement with the justice system whenever possible.**

## Helpful Resources:

[\*Youth and Measure 11 in Oregon: Impacts of Mandatory Minimums\*](#) released in February 2018 by the Oregon Council on Civil Rights. *(includes additional recommendations)*

[\*Misguided Measures: The Outcomes and Impacts of Measure 11 on Oregon's Youth\*](#), released by Campaign for Youth Justice and Partnership for Safety and Justice. Although this report is a little more dated it is still one of the most comprehensive examinations of youth and Measure 11.

## Pathways to Reform:

- Under no circumstances should charging youth as adults be routine. Youth should only be charged as adults under extraordinary circumstance. DAs should adopt a policy where staff prosecutors should not be able to charge youth as adults on their own, and where the goal is to seriously limit the practice of charging youth as adults.
- Create a policy that eliminates plea deals that pressure young people to bargain away access to *second look hearings*. Second Look incentivizes rehabilitation and is exactly the type of program that should be encouraged not limited.
- Commit to ongoing training on developmental sciences and practices proven effective at reducing reoffending and promoting positive youth development.
- Honor the differences between youth and adults, including reduced culpability and increased capacity for change and growth, and treat youth appropriately for their level of development. This concept should be explicitly infused into charging policies and practices.
- Decline to prosecute school discipline-related offenses and divert resources to restorative and transformative practices tailored to the needs of youth, including education and after-school programming.
- Implement policies and support local efforts that reduce the number of children unnecessarily involved with the criminal justice system, such as pre-filing diversion programs tailored to the needs of youth, and referrals to mentors and after school programs.
- Commit to diverting youth arrested for misdemeanors to community-based alternatives away from the criminal justice system.
- Commit to significantly reducing juvenile felony case filings.

# Support for Crime Victims and Survivors

District attorneys often describe themselves as victim advocates. That is a good thing. People who have been harmed by crime deserve support from our system, and there are ways Oregon can do better to help crime survivors get what they need.

8 out of 10 crime survivors experience some form of trauma. Trauma can be debilitating, have a profound impact on people's lives, and limit people's ability to rebuild their lives in healthy and successful ways. Trauma has been a major priority for public health advocates because of how profound an impact it can have on individuals, families, and whole communities.

Because staff in DA offices have high levels of contact with crime victims, there should be a very serious value in ensuring that all staff are well trained on trauma and trauma-informed care. Is the DA office in your county a trauma-informed organization? And if you don't know what that entails, the answer is probably not. The work of DA offices can actually exacerbate trauma triggers if not properly trained, committed, and competent.

Victims of violent crime are 4 times as likely to experience repeat victimization. Ensuring victims get access to services that help them stay safe should be a top priority. This requires an examination and audit of whether victim services that are housed within DA offices are the most effective approach. Sometimes accessing services in DA offices creates increased barriers for victims for whom prosecution is not the top priority, or for people who have had negative experiences with DA offices in their past. Is your DA office committed to keeping victim services within the office or is it open to ensuring there are robust community-based resources?

There has been increased attention and conversation in the past several years about crime victims who are ignored. Low income communities and communities of color experience the highest rates of crime and victimization but often don't get access to critical help. And policies that reinforce the false dichotomy that people are either a victim or offender but not both ignore the reality people live with, and can withhold services that would have actually broken the cycle of harm. Policies that prevent people from receiving victim services because of past criminal records are uncaring and destructive. And victims are not a homogenous group who all need the same thing. Providing more options for helping crime victims is an intense need. Over half of victims don't report crimes, which suggests that they would rather have nothing compared to whatever our system has to offer. This is an indictment of the status quo. We need to do better.

## Helpful Resources:

[\*Creating a Trauma-informed Criminal Justice System for Women\*](#), from Substances Abuse and Mental Health Services Administration

[\*Trauma and Violence\*](#), from Substances Abuse and Mental Health Services Administration

[Building trust through trauma-informed policing](#), Vera Institute of Justice

[Building Community Trust: Restorative Justice Strategies](#), Principles and Promising Practices, an issue brief from Fair and Just Prosecution (includes additional recommendations)

[Victims of Crime Act and the Need for Advocacy](#): A toolkit for advocates and victim service providers to ensure Victims of Crime Act (VOCA) funds reach underserved crime victims.

## Pathways to Reform:

- Commit to funding supportive services for victims and survivors that focus on safety and healing from harm, and ensure that their voices will be heard in the criminal justice process.
- Commit to restorative prosecutorial practices focused on accountability and the restoration of victims and offenders. Victims don't necessarily want a focus on punishment, and deserve more options and choices.
- Refuse to request bench warrants or subpoenas for survivors and victims who choose not to participate in prosecution. For example, victims being detained as a material witness is a traumatic event, and would only serve to compound the trauma that has occurred as a result of a crime.
- Create a long-term educational program for attorneys and staff that includes survivor-centered justice practices, the impact of trauma, and the limited effectiveness of punitive responses in reducing violence.
- Work with outside organizations to develop an objective survey to gather feedback from crime victims who engage your office.
- Engage in demographic analysis of people who receive victim assistance from the DA office and compare it to the overall universe of victims who engage the office. Make that information public.
- Recognize the particular needs of immigrant victims and survivors, including culture, language and prior experiences with crime and law enforcement officials.



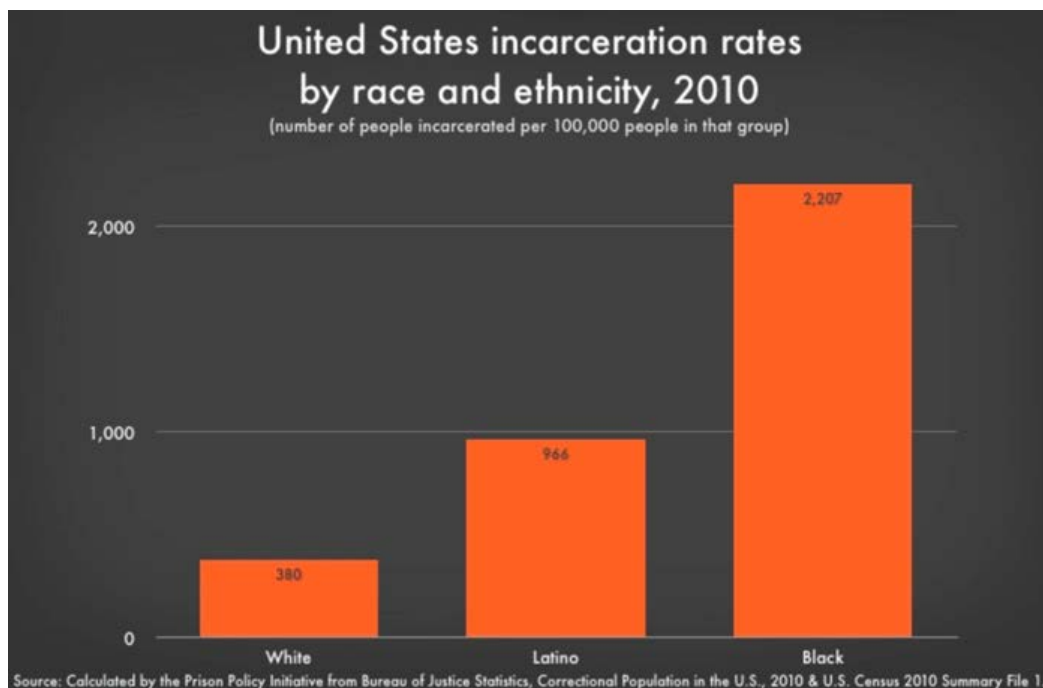
- Create a liaison to help make regular referrals to community-based organizations that can help victims and survivors navigate the immigration legal system.
- Implement clear procedures to support immigrant victims of crime. These include written guidelines to ensure all staff properly and expeditiously process U visa certification requests, which enable victims of crimes to secure a nonimmigrant visa.
- Advocate for prohibitions on ICE in our courthouses, which deters survivors and victims from participating in the justice system.
- Mandate meaningful language access for all victims, survivors and witnesses.

# District Attorneys and Racial Disparities

People of color are disproportionately and negatively impacted by the criminal justice system. The racial disparities are staggering and well-documented nationwide and in Oregon.

## A national problem

- **People of color are more likely to be arrested.** As [analysis by USA Today](#) using FBI statistics frames it, people of color are “more likely than others to be arrested in almost every city for almost every type of crime. Nationwide, black people are arrested at higher rates for crimes as serious as murder and assault, and as minor as loitering and marijuana possession.”
- **People of color are charged more harshly:** Black men are more than twice as likely to be charged with an offense that carries a mandatory minimum sentence as white men facing similar circumstances, [according to a study in the Yale Law Journal](#). Another study, published in Criminology, found that [prosecutors are more likely to level “habitual offender” charges](#) against people of color.
- **People of color are more likely to be incarcerated:** People of color are more than five times as likely to be incarcerated in state prisons, according to research from the [Research from the Sentencing Project](#).



## An Oregon Problem

Unfortunately, these disparities are not just a national problem. We see them in Oregon too. Oregon's criminal justice system is plagued by practices that treat people of color unfairly.

- [The Sentencing Project's research ranks Oregon in the top 10 of states with the highest incarceration rate of Black males.](#)
- InvestigateWest and the Pamplin Media Group did an investigative series on racial disparity in Oregon's criminal justice system in 2016 and 2017 which showed that [Oregon prosecutors charge people of color more harshly.](#)
- In Multnomah County, Latinos and Black Oregonians pay higher fines.
- [Native Americans are convicted in Oregon of felony drug possession at five times the rate of whites.](#) the highest of any racial or ethnic group.
- [African Americans in Oregon are more than twice as likely to be convicted of felony drug possession,](#) despite no disparity in use, according to the Oregon Criminal Justice Commission and The Oregonian. And [African American defendants are more than 100 times more likely to be convicted for cocaine possession in Multnomah County.](#)

## Dispelling myths

Some law enforcement leaders will try and avoid responsibility by advancing the myth that people of color commit crimes at higher rates. The Oregon Criminal Justice Commission (CJC) did an excellent job dispelling that argument when examining the racial disparity of drug convictions in Oregon. The CJC looked at the disparate conviction rates for possession of controlled substance broken down by race. [Then they looked at the national data on drug use broken down by race.](#) What they found is that there is very little difference in drug use by race and whatever differences exist can't explain the huge disparities in arrests and prosecution.

## Some district attorneys deny the problem

As the most powerful people in the criminal justice system, district attorneys need to acknowledge that our system is racially biased, and that these disparities exist. The problem doesn't get solved without a real commitment from leaders and stakeholders in the justice system. But unfortunately, some DAs have a history of ignoring the evidence, and responding with denial, shock, confusion, and finger pointing. DAs that acknowledge the issue and commit to working on it will be received with much more trust and respect than those who deny institutional bias exists.

## Helpful Resources:

[\*Prosecution and Racial Justice: Using Data to Advance Fairness in Criminal Prosecution\*](#), Vera Institute for Justice

[\*A Prosecutor's Guide for Advancing Racial Equity\*](#), Vera Institute for Justice

[\*Reducing Racial and Ethnic Disparities in Jails: Recommendations for Local Practice\*](#), Brennan Center for Justice

[\*The Milwaukee Experiment: What can one prosecutor do about the mass incarceration of African Americans?\*](#) 2015 The New Yorker

## Pathways to Reform:

- Acknowledge that traditional prosecutorial practices and culture have been contributors to racial disparities in case outcomes and incarceration rates.
- Conduct thorough research to better examine the disparities within your county's justice system. Multnomah County has been doing critical data collection and analysis that allows the county to identify the degree of racial disparity broken down through all phases of the justice system and by offense type. This information gathering and analysis is key to helping to identify solutions. Lobby the legislature for additional funding in order to be able to do this analysis.
- Don't make assumptions about the racial and ethnic breakdown of your county or assume that diversity and disparity are urban issues. To be clear, Oregon is an increasingly diverse state and people of color will continue to be a larger and larger part of the state population. The counties with the largest populations of people of color are not strictly urban. They are Jefferson, Malheur, Morrow, Hood River, Marion, Umatilla, Washington, Multnomah, Wasco, and Yamhill.
- Engage in proactive relationship building with community leaders and organizations that represent the various demographic groups in your county.
- Collect and report on the race demographics of all cases considered and their final resolution. This kind of data collection can help identify where problems exist.
- Require staff to go through implicit bias training.
- Stop prosecuting minor offenses that provide little public safety value in prosecuting, especially when there is clear evidence of biased police arrests. [Prosecutors in New York recently decided to dismiss over 600,000 warrants for minor offenses that were, in part, the result of biased stop and frisk practices of the police.](#)

- Train line prosecutors to actively work to ensure robust representation of Black, Brown, immigrant, systems-impacted, and other marginalized communities in jury selection.
- Decline to prosecute individuals who were racially profiled by police.

# Transparency and Community Engagement

The public knows very little about the role of district attorneys. This dynamic is sustained and exacerbated by the lack of extensive reporting, transparency, and community engagement of many DAs and the staff in their offices. And it is very possible that the lack of transparency and engagement is also contributing to the declining public confidence in Oregon's criminal justice system and many of its stakeholders including DAs. (See *DHM poll earlier in this briefing book*)

Although some increased data reporting may require the development of new systems and might not be immediately available, there is much that district attorneys can do to alter the declining trust and confidence.

DAs need to be more open with their policy positions. Voters have a right to know what their elected officials stand for, and DAs should not have anything to hide from the people they represent and work for. DAs should answer routine questionnaires, like the one sent by the ACLU. In late 2017, the ACLU of Oregon requested DAs complete a basic [survey of policy positions](#) and thinking. These were the type of questions that any candidate running for office should expect to respond to and the survey allowed for open-ended responses. As elected leaders whose association heavily lobbies the legislature, your policies and positions shouldn't be a mystery.

## Helpful Resources:

[Chicago's Top Prosecutor Walks the Walk on Transparency](#), ACLU National Blog

[Building Community Trust: Key Principles and Promising Practices in Community Prosecution and Engagement](#), and issue brief from Fair and Just Prosecution (*includes additional recommendations*)

[Building Community Trust: Procedural Justice: Enhancing the Legitimacy of the Justice System](#), an issue brief by Fair and Just Prosecution (*includes additional recommendations*)

## Pathways to Reform:

- DAs should provide easy public access to the office policies and charging policies and guidelines.
- DAs should track and annually publish fully anonymized data disclosure for every case, including those not prosecuted. This data should include, but is not limited to, race and ethnicity of defendant, age of defendant, zip code/neighborhood of arrest, race of police officers involved, declared gender of defendant, the charge being pursued, plea deal information, and reason of suspicion, if bail was requested, and the bail amount.



- DAs should plan for regular open dialogue with communities impacted by mass incarceration and crime.
- DAs should create working relationships with organizations with experience addressing harm in our communities through practices of healing and accountability.
- DAs should commit to holding quarterly meetings with local coalitions and organizations to report their progress on policy priorities, share data, take vital community input, and strategize for the future.
- DAs should commit to regular public forums that include updates on data and processes.

# Reducing Our Overreliance on Incarceration

We all want to live in safe and healthy communities, and our criminal justice policies should be focused on the most effective approaches to achieving that vision. In the past two decades, our society has learned a tremendous amount about what works in addressing crime and public safety. Research from across the country and here in Oregon clearly demonstrates the problems and costs of an over-reliance on incarceration.

- The concept of the *diminishing returns of incarceration* is incredibly well documented. This research measures the returns on spending on incarceration against the benefits of reduced crime. The value of a focus on incarceration has been trending down for well over 20 years, and by 2006 Oregon was receiving only \$0.96 of public safety benefits for every dollar invested in incarceration.
- Criminal justice cost benefit analysis has become standardized and demonstrates the tremendous value and impact on investing in programs and approaches better designed to break the cycle of crime and recidivism and help people rebuild their lives. Investing in treatment, community supervision paired with treatment, reentry programs, and victim services have a profound benefit. Unfortunately, the spending on the programs that work has been overshadowed by the growth of state's prison spending.
- States that have decreased their reliance on incarceration the most have experienced larger declines in crime than states with the biggest growth in imprisonment. These findings further demonstrate that we can successfully reduce our prison population while improving public safety outcomes.
- An important note of caution about the need to focus simultaneously on reducing racial disparities. Research shows that states can successfully reduce its incarceration rates and population while actually exacerbating racial disparities. New Jersey is the classic example. Between 1999 and 2015 it experienced a 35% decline in its prison population (the greatest decline in the country during that period), while it now has among the worst racial disparities in the country.

## Helpful Resources:

[More Imprisonment Does Not Reduce State Drug Problems: Data show no relationship between prison terms and drug use](#), 2018 research report from Pew Public Safety Performance Project

[National Prison Rate Continues to Decline Amid Sentencing, Re-entry Reforms: More than two-thirds of states cut crime and imprisonment from 2008-16](#), 2018 research report from Pew Public Safety Performance Project

[New Jersey Leads the Nation in Reducing Its Prison Population while also Having the Worst Racial Disparities in the Country](#), 2017 Huffington Post

## Pathways to Reform:

- Implement office policy mandating a presumption of pre-trial release unless there is substantial risk to the community or high flight risk.
- Utilize individualized risk assessment tools to assess public safety or flight risk, and ensure that any risk assessment tool applied does not rely on racially biased data.
- Don't use electronic monitoring and other for-profit programs that enrich corporations while creating open-air incarceration and instead support less restrictive means of getting people to their appearances, including call reminders or regular check-ins.
- Recognition that substance use disorders and related crimes are public health issues rather than as problems remedied through incarceration, and that the threat of incarceration is a poor incentive to direct individuals to treatment programs.
- Significantly expand pre-filing and pre-plea diversion and alternative sentencing programs for both misdemeanor and felony cases to divert people away from incarceration and into critical social services that address the root causes of crime.
- Ensure all diversion and alternative sentencing programs are open and accessible to people with prior convictions.
- Direct police officers to issue citations or summons in lieu of custodial arrests for nonviolent offenses.
- Create guidelines for line prosecutors to make charging and plea bargaining decisions that reduce the ongoing and devastating consequences a criminal conviction can pose by pursuing the least punitive options required to ensure accountability and public safety.
- Decline to prosecute "quality of life" offenses that do not genuinely threaten our communities, including drinking in public spaces, graffiti, camping, littering, sleeping in cars and unlicensed street vending. If these offenses present a serious threat or nuisance to the community, the DA should advocate for non-criminal justice system interventions to be employed.
- Stop using sentence enhancements to add years onto already lengthy sentences and support legislative efforts to repeal enhancements and restore judicial discretion to make individualized assessments in each case.

- Proactively oppose legislation that creates new crimes, new sentencing enhancements or increases sentences.
- Prioritize diverting people to substance abuse and mental health treatment, as well as providing opportunities to obtain basic and higher-level education and job training.
- Advocate for and support local and statewide programs and legislation to provide reentry support for people returning to their families and to their communities, including housing support, job placement, and more.
- Advocate and support local and statewide reinvestment policies that have a preventative approach, including investing in youth programs, addiction treatment, victim services, mental health care, and employment and educational opportunities for populations and communities most historically impacted by incarceration.

# Addressing Police Accountability and Misconduct

DAs can have a lot of influence on and oversight of the police. How district attorneys address police accountability issues is a question of leadership and values. DAs can help create solutions or advance real problems within the system. Here are some areas Oregon DAs can take a more active role in holding police accountable. As noted earlier in this briefing book, public trust and confidence in the criminal justice system is on the decline. This is an area where DAs can help restore public trust.

## Oversight of arrests

Because district attorneys decide whether or not to charge someone, district attorneys have the ability to define what an appropriate arrest is and how police should behave. When district attorneys pursue unfounded or inappropriate charges, they encourage the continuation of police misconduct and the abuse of police power. When district attorneys charge people who have been victims of police abuse, profiling or misconduct, prosecutors send a message to law enforcement that this kind of conduct is acceptable. But when district attorneys refuse to make pursue those charges, they send a clear message to police that their office will not stand behind abusive or discriminatory arrests. DAs can be a check on police bias.

## Oversight of police training

District attorneys have the ability to ensure their office properly communicates to the police about what constitutes a crime, what kinds of crimes merit an arrest, how arrests ought to be done, and who ought to be arrested.

## Police priorities

District Attorneys shape policing priorities in a variety of ways. If they disagree with where police are focusing their efforts, how they are conducting themselves and whom they are arresting, DA's can simply refuse to charge the people who are arrested. District Attorneys can also urge police to focus on solutions that are not just focused on arrests. Similarly, DA's can also do more than simply processing cases that law enforcement brings them; they can use other approaches, besides just prosecution, to build safe and healthy communities.

## Helpful Resources:

[Promoting Independent Police Accountability Mechanisms](#), an issue brief by Fair and Just Prosecution (*includes additional recommendations*)

## Pathways to Reform:

- Decline to prosecute cases based on unconstitutional policing, including racial profiling.
- Submit written notification to the police department when declining to prosecute based on unconstitutional policing or police misconduct. These instances should be stored in a database that is available to defense attorneys as well as a civilian oversight committee.
- Prioritize the swift, thorough and transparent investigation of officer-involved shootings and police brutality. If the DA believes they cannot conduct such an investigation, they must call on or establish an independent entity to do so.
- If an investigation into police misconduct or use of force finds that an officer committed a crime, and if filing criminal charges is most appropriate action, the DA should do so. If the investigation shows no crime was committed or the DA decides charges are unwarranted, the DA must be fully transparent with the community and explain the rationale for their decision.
- Create and fund an independent Civil Rights Unit that will investigate and prosecute law enforcement officers (police, sheriff, prosecutors, etc.) who have demonstrated misconduct in the line of duty or in their personal lives.<sup>1</sup> In partnership with the Civil Rights Unit, DAs should establish a community oversight board that informs the DA's office of cases and trends involving police violence in the community.
- Support strong civilian oversight of law enforcement and promote transparency in responding to allegations of police misconduct.

<sup>1</sup> For a model Civil Rights Unit, see "Civil Rights Bureau & Hate Crimes Unit," *The Brooklyn District Attorney's Office* <http://brooklynda.org/civil-rights-bureau/>.