



FIRST 100 DAYS Broward County, Florida

Like most Florida jurisdictions, Broward County's State Attorney office has entrenched tough-on-crime metrics as the status quo, if not as indicators of successful prosecution. The vast discretionary power that prosecutors wield has allowed stacking charges, withholding discovery, and rushed plea bargaining to become commonplace in our justice system. Prosecutors have allowed this tough-on-crime ethos to flourish, even as it sidesteps true justice.

Yet, prosecutorial discretion also allows state attorneys to reject such standards, and to push for reforms that advance a new vision for public safety. Ending mass incarceration requires transforming the very systems that have been central to facilitating rising prison and jail populations. Prosecutors can be on the frontlines of decriminalizing mental health and substance abuse, ensuring that diversion is the standard, addressing systemic bias, and ultimately reinforcing healthy communities. In fact, prosecutors are uniquely positioned to set the tone for local criminal justice reform and decarceration efforts.

All of our 100-day recommendations establish principles for a reform administration focused on creating realistic and appropriate policies for future public safety.

PRETRIAL REFORM

Pretrial reform should embrace the constitutional presumption of innocence and the right to due process to eliminate wealth-based detention and address the pervasive racism of the system itself.

1. Issue an initial list of offenses for which Broward County prosecutors will decline to prosecute, including "quality of life" and cannabis offenses; develop corresponding policy directives for all line prosecutors.
2. Issue an initial list of charges for which Broward County prosecutors will recommend for release (ROR) without cash bail or additional pretrial conditions; develop corresponding police directives for line prosecutors.
3. Issue an initial list of offenses for which Broward County prosecutors will recommend for release (ROR) with non-invasive pretrial release conditions, such as scheduled text reminders; develop corresponding police directives for line prosecutors.

ALTERNATIVES TO INCARCERATION

There is growing consensus that prisons and jails should not be used as a social safety net when society fails to address poverty, health disparities, and the lack of access to care. Rather, there is



room for prosecutors to participate in creating robust, community-based systems of incarceration, including comprehensive diversion programs.¹

1. Chart and publish a list of existing community-based wellness programs and active diversion programs.
2. Alongside the Broward County Commission, develop a task force to assess the efficacy of existing programs, identify gaps, and provide recommendations for expanding community-based alternatives that mitigate arrests, charges, and sentencing.
3. Publish initial findings in July 2021.

SENTENCING

Reform prosecutors can champion the power of discretion to decline to stack charges, add enhancements, and seek the maximum penalty. Rather, the office can focus efforts on seeking prison as a last resort and applying a standard that seeks diversion or minimum prison time as default.

1. Issue policy that requires all prosecutors to provide written rationale for recommending prison time when community-based options are available and when their recommended sentence exceeds the minimum.

YOUTH JUSTICE

Children should be treated like children. Florida leads the nation in direct filing, and is just one of three states that allow prosecutors to do so without the permission of a judge.² The system disproportionately harms Black and Brown children and families. In Broward County, more than 75 percent of the children direct filed were Black or Brown.³ This practice must end.

1. Within one month, issue a policy directing all prosecutors to end the practice of voluntary direct filing of children.
2. Require prosecutors to oppose mandatory waivers under §.985.556 by written comment in all cases involving youth under the age of 17.⁴

CRIMINALIZATION OF POVERTY

There should be no price tag on justice. However, each year millions are subject to fines and fees, too often with not only unfair or disruptive effects, but truly devastating human consequences.

¹ See the “[Sequential Intercept Model](#),” *Policy Research Associates*, 2018.

² “[Fact Sheet: Direct File](#),” *Campaign for Youth Justice*, 2018.

³ “[Broward Public Defenders Accuse Head Prosecutors of ‘Institutional Failures’ of Justice](#),” *Miami New Times*, 8 August 2019.

⁴ “[Voluntary Waiver Statute](#),” *Florida State Legislature*, 2020.



In Broward County, 77 percent of suspended licenses are a result of a failure to pay attached fines and fees.⁵ People without the ability to pay these fines and fees are often subject to incarceration, leading to a loss of employment, housing, and even voting rights. The role of the reform prosecutor should be in eliminating these unjust fines and fees.

1. Issue policy to all prosecutors on decline to prosecute for nonpayment of fines and fees.

PUBLIC DATA

Data without transparency does not constitute information in the true sense of the word, and information is necessary to enact effective change.

Developing data that is transparent and readily accessible to the public is critical to healing past distrust and creating new trust between the State Attorney's office and the public, revealing systemic disparities, and innovating solutions. In addition, data collection and analysis would allow the public as well as the State Attorney's office to identify the drivers of racial disparities and disproportionate sentencing.

1. Begin to develop a public-facing dashboard on pretrial, charging, and sentencing data to be released to the public July 1, 2021.
2. Track and release data on policies, including the impact of a "decline to prosecute" list and no cash bail policies on the pretrial population as well as demographic data. Include as part of a public-facing 100-day report.
3. Set and publish a county-wide goal for reducing the number of felonies pursued.
4. Track and release data on initial impact of decline to prosecute fines and fees. Include as part of a public-facing 100-day report.
5. Review and release the number of cases where enhancements were used to seek longer sentences; and, where prosecutors sought more than the minimum sentence. Publish numbers on the dashboard on July 1, 2021.

CONCLUSION

Enacting systemic change takes bold action; it also requires time and collaboration. We see this platform as a chance for your office to set benchmarks, track progress, and develop sustainable policy measures that will begin to reform one of the most powerful positions in the criminal justice system. For advocates, we also see this as a tool to shore up accountability moving forward. Prosecutors have an opportunity to make real change to the system. That begins now.

⁵ "[Suspended in the Sunshine State.](#)" *Fines and Fees Justice Center*, 2020.