



FIRST 100 DAYS New Orleans, Louisiana

Like most jurisdictions, New Orleans' District 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 encouraged this tough-on-crime ethos to flourish, even as it sidesteps true justice. And in Louisiana, these practices have led to the highest rate of incarceration in the country.¹

Yet, prosecutorial discretion also allows district 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 and should be on the frontlines of decriminalizing mental health and substance use, 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 as intrinsic to eliminating wealth-based detention and addressing the pervasive racism of the system.

With the jail population nearly back to pre-pandemic levels, these reforms need to be enacted swiftly and decisively.²

1. Issue policy that requires line prosecutors to issue charges within five days of arrest.³
2. Issue an initial list of offenses for which Orleans Parish prosecutors will decline to prosecute, including "quality of life" and marijuana offenses; develop corresponding policy directives for all line prosecutors.

¹ ["Despite reforms, Louisiana's Incarceration rate leads the nation,"](#) *wsdu*, 26 October 2020.

² ["Jail Population Snapshot,"](#) *New Orleans*, 26 December 2020.

³ In Louisiana, prosecutors have 60 days to file felony charges and any subsequent dismissal requires the arrested person to file in court for release (Louisiana CCRP 701). In Orleans Parish, counsel does not attach until the bail hearing; so without charges, this discretion allows prosecutors to hold someone in custody indefinitely. ["Louisiana Criminal Codes,"](#) *Louisiana State Legislature*, n.d.



3. Issue an initial list of charges for which Orleans Parish prosecutors will recommend for release (ROR) without cash bail or additional pretrial conditions; develop corresponding police directives for line prosecutors.
4. Issue an initial list of offenses for which Orleans Parish prosecutors will recommend for release with non-invasive pretrial release conditions, such as scheduled text reminders; develop corresponding police directives for line prosecutors.
5. Give Orleans Parish prosecutors the authority to resolve cases early (i.e. refuse charges, offer diversion, and negotiate final plea agreements).

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 care, including comprehensive diversion programs.

1. Chart and publish a list of existing community-based wellness programs and active diversion programs.
2. Alongside social service providers and community-based advocates, 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 the minimum sentence as default.

1. Issue policy to not to seek sentence enhancements through the habitual offender statute (§529.1)⁴, including as leverage in plea bargaining.
2. 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.

⁴ [“Habitual Offender Law.”](#) Louisiana State Legislature, 2019.



YOUTH JUSTICE

Children should be treated like children. Louisiana is just one of three states that allow prosecutors to direct file children to adult court without the permission or challenge of a judge.⁵ In 2016, Orleans Parish direct filed 80 percent of youth who maintained the eligibility to be prosecuted in juvenile court.⁶ The system disproportionately harms Black families by targeting Black youth. This practice must end.

1. Issue a policy directing all prosecutors to end the practice of voluntary direct file (La. Children's Code, Tit. III, Ch. 4, Art. 30) or discretionary waiver (La. Children's Code, Tit. III, Ch. 4, Arts. 857, 862) of children.

SURVIVORS AND VICTIMS' FAMILIES

The voices of crime survivors and homicide victims' families are often ignored and silenced by prosecutors. Healing for survivors of harm must be centered as much as is possible in the criminal legal process. To stop cycles of violence and build safer communities, survivors of crime and victims' families, including those accused of crimes, should be made aware of support and victim advocate services. These resources should not be housed in or funded by the District Attorney's office.

1. Require ADAs to notify survivors or victims' families before every court date, document this and all correspondence in the case file, and give notice and explanation in writing to the survivor or victim-survivors when making decisions against their wishes
2. Provide an accessible process by which a survivor can file a grievance during or after the course of their case which will be reviewed regularly by supervisors.

CRIMINALIZATION OF POVERTY

There should be no price tag on justice. This was recognized by the recent City Council resolution (R-20-192) to end "user-funded" court systems.⁷ Resolution 20-192 responded to an audit that found that more than \$1.95 million is extracted from families, mostly Black families, to fund court operations each year.⁸ 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.

⁵ "[Fact Sheet: Direct File](#)," *Campaign for Youth Justice*, 2018.

⁶ "[More Harm Than Good: How Children Are Unjustly Tried as Adults in New Orleans](#)," *Southern Poverty Law Center*, 2016.

⁷ "[Resolution 20-192](#)," *New Orleans City Council*, 2020.

⁸ "[Resolution 20-192](#)," *New Orleans City Council*, 2020.



1. Issue policy that declines to prosecute for nonpayment of fines and fees to all line prosecutors.

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 District Attorney's office and the public. It can reveal systemic disparities, and innovate solutions. Under the 2012 consent decree, the New Orleans City Council established a public-facing dashboard on misconduct, bail, jail population, and crime.⁹ These dashboards should be strengthened to provide detailed information on reforms.

1. 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.
2. Track and release data on initial impact of decline to prosecute fines and fees. Include as part of a public-facing 100 day report.
3. 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.
4. Publish all policies of the District Attorney's office on its website within the first 100 days, and as policies are updated.

CONVICTION INTEGRITY UNIT

The Orleans Parish District Attorney's office has a legacy of racist and notoriously draconian prosecution by any means necessary. This must be addressed in order to restore integrity and goodwill to the office.

1. Develop a Brady list of police that will not be called to the stand because of their record of misconduct, and make this list publically available.
2. Compile and release a list of cases decided by "Jim Crow" or non-unanimous juries reversed during the first 100 days, and identify the resolution of those cases, including which cases remain pending re-trial.^{10,11}

⁹ "[New Orleans Dashboard](#)," *New Orleans City Council*, 2020.

¹⁰ "[Orleans DA Candidates Say They Will Review All Old Non-Unanimous Verdicts regardless of upcoming Supreme Court ruling](#)," *The Lens*, 2 December 2020.

¹¹ "[Orleans DA Candidates Say They Will Review All Old Non-Unanimous Verdicts regardless of upcoming Supreme Court ruling](#)," *The Lens*, 2 December 2020.



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.