

American University Washington College of Law

Digital Commons @ American University Washington College of Law

Articles in Law Reviews & Other Academic Journals

Scholarship & Research

Summer 2021

Keynote Prosecutors and Race: Responsibility and Accountability

Angela J. Davis

Follow this and additional works at: https://digitalcommons.wcl.american.edu/facsch_lawrev



Part of the [Criminal Law Commons](#), and the [Criminal Procedure Commons](#)

KEYNOTE

PROSECUTORS AND RACE: RESPONSIBILITY AND ACCOUNTABILITY

Angela J. Davis[†]

Thank you so much, Madeline. I want to thank the *Rutgers University Law Review* and the Rutgers Center on Criminal Justice, Youth Rights, and Race for inviting me to participate in this very important symposium on Prosecutors, Power, and Racial Justice: Building an Anti-Racist Prosecutorial System. I want to give a special thanks to Professor Cohen and Gisselly, and all of the students who worked so hard to put the symposium together. It's such an important topic. I appreciate your interest, and [I] am particularly thankful to all of you [who] are here on this Friday afternoon to talk about these issues with us.

The topic of my talk is Prosecutors and Race: Responsibility and Accountability. By the end of the talk, I hope you'll know why I chose this title. I believe that prosecutors should be held responsible and accountable for the current situation in the criminal legal system—and that is a crisis. I truly believe that we are at a point of crisis in our criminal legal system. We have 2.2 million people in prisons and jails, with 7 million or so people on probation or parole and with extraordinary unwarranted racial disparities at every step of the process.¹ Black and Brown people are more likely than white people to be arrested.² Once

[†] Professor Davis is currently a Distinguished Professor of Law at American University Washington College of Law. She received her J.D. from Harvard Law School and B.A. in political science from Howard University. She is the author of *ARBITRARY JUSTICE: THE POWER OF THE AMERICAN PROSECUTOR* (2007). Ms. Davis won the Pauline Ruyle Moore award for *Arbitrary Justice: The Power of the American Prosecutor* (New York: Oxford University Press, 2007) in 2009 and for her Fordham Law Review article, *Prosecution and Race: The Power and Privilege of Discretion*, 67 *FORDHAM L. REV.* 13 (1998) in 2000. She is also the editor of *POLICING THE BLACK MAN: ARREST, PROSECUTION, AND IMPRISONMENT* (Angela Davis, ed., 2017).

1. See Wendy Sawyer and Peter Wagner, *Mass Incarceration: The Whole Pie 2020*, PRISON POL'Y INITIATIVE (Mar. 24, 2020), <https://www.prisonpolicy.org/reports/pie2020.html>.

2. Anagha Srikanth, *Black People 5 Times More Likely To Be Arrested Than Whites, According to New Analysis*, HILL (Jun. 11, 2020), <https://thehill.com/changing->

arrested, they're more likely to be convicted.³ Once convicted, they're more likely to face stiff[er] and long[er] sentences.⁴ African American men are six times more likely to be incarcerated than white men and 2.5 times more likely than Latino men.⁵ If current trends continue, one in every three Black men today can expect to go to prison in his lifetime, as can one in six Latino men compared to one in seventeen white men. The racial and ethnic disparities among women, although less substantial, are also very prevalent. So, we're in a state of crisis—not only with regard to mass incarceration, but also with unwarranted racial disparities.

Black and Brown people are treated worse than their similarly-situated white counterparts at every step of the process. And that's whether we're talking about people charged with crimes or people who are victims of crimes. When we're talking about the arrest stage, because of racial profiling, Black and Brown people are treated worse.⁶ This is also true at the prosecutorial stage, which I'm going to spend a good bit of my time talking about today, as well as sentencing laws that have a disparate effect.⁷ And when I say similarly-situated, I mean whites who are engaged in the same behavior as African Americans or Latinos are treated better than their Black and Brown counterparts — people who have the same criminal records or lack thereof and who are alleged to have engaged in the same behavior.⁸ And with victims who have had the same experiences, Black and Brown people are simply treated worse.⁹

america/respect/equality/502277-black-people-5-times-more-likely-to-be-arrested-than-whites.

3. See Barbara O'Brien and Kristen Parker, *African-Americans More Likely To Be Wrongfully Convicted*, RESEARCH@MSU, <https://research.msu.edu/innocent-african-americans-more-likely-to-be-wrongfully-convicted/> (last visited Aug. 22, 2021).

4. *Same Crime, More Time*, GA. STATE UNIV. RSCH. MAG. (Spring 2020), <https://news.gsu.edu/research-magazine/spring2020/incarceration>.

5. Thomas P. Bonczar and Allen J. Beck, *Lifetime Likelihood of Going to State or Federal Prison*, U.S. DEP'T OF JUST. (Mar. 1997), <https://bjs.ojp.gov/content/pub/pdf/Llgsfp.pdf>.

6. See, e.g., Alan Feuer, *Black New Yorkers Are Twice as Likely To Be Stopped by the Police, Data Shows*, N.Y. TIMES (updated Nov. 30, 2020), <https://www.nytimes.com/2020/09/23/nyregion/nypd-arrests-race.html>.

7. See generally REPORT OF THE SENTENCING PROJECT TO THE UNITED NATIONS SPECIAL RAPPORTEUR ON CONTEMPORARY FORMS OF RACISM, RACIAL DISCRIMINATION, XENOPHOBIA, AND RELATED INTOLERANCE: REGARDING RACIAL DISPARITIES IN THE UNITED STATES CRIMINAL JUSTICE SYSTEM, SENT'G PROJECT (Mar. 2018), [file:///Users/jackfburnes/Downloads/UN-Report-on-Racial-Disparities.pdf](https://Users/jackfburnes/Downloads/UN-Report-on-Racial-Disparities.pdf).

8. See generally *id.*

9. See Drew DeSilver et al., *10 Things We Know About Race and Policing in the U.S.*, PEW RSCH. CTR. (Jun. 3, 2020), <https://www.pewresearch.org/fact-tank/2020/06/03/10-things-we-know-about-race-and-policing-in-the-u-s/>.

Why is that? Well, the reasons are complex. There are socioeconomic reasons – the socioeconomic reasons that cause people to find themselves in the criminal legal system. We all know the connection between poverty and crime, trauma and crime, lack of healthcare and education and crime.¹⁰ But there [are] discretionary decisions that are made in the criminal legal system that also produce these disparities – discretionary decisions by officials in the legal system. Everyone is familiar with racial profiling. When cops stop and frisk Black and Brown people but bypass whites who are doing the same things or doing nothing, as is often the case, they create a racial disparity.¹¹ And when prosecutors decide to charge Black and Brown people and don't charge whites who are engaged in the same behavior and have the same criminal record, or lack of criminal record, they are creating a racial disparity—an unwarranted, unfair racial disparity in the system.¹²

I hold prosecutors more responsible than other officials because they are the most powerful officials in our criminal legal system. They, in essence, control the system through their charging and plea-bargaining decisions, as Professor [Laura] Cohen pointed out earlier.¹³ It is the prosecutor who decides whether an individual is going to be charged and what they're going to be charged with.¹⁴ It is the prosecutor who decides whether a person gets a plea bargain and what that plea bargain is going to be.¹⁵ Prosecutors alone make th[ose] decision[s].¹⁶ And it's very easy for prosecutors to bring charges against people. You might not think that based on how they've been treating these police officers and not charging them when we've seen overwhelming proof of police officers murdering Black and Brown men, women, and boys. We see it on videotape, yet charges aren't brought. You might think, "Well, maybe it must be difficult to bring charges." Actually, it's very easy. And why is that? Because the standard is really low. It's a standard called probable cause – more

10. See, e.g., Magnus Lofstrom and Steven Raphael, *Crime, the Criminal Justice System, and Socioeconomic Inequality*, 30 J. OF ECON. PERSP. 103, 108 (Spring 2016), <https://gspp.berkeley.edu/assets/uploads/research/pdf/jep.30.2.103.pdf>.

11. See David A. Harris, *Racial Profiling: Past, Present, and Future?*, AM. BAR ASS'N. (Jan. 21, 2020), https://www.americanbar.org/groups/criminal_justice/publications/criminal-justice-magazine/2020/winter/racial-profiling-past-present-and-future/.

12. See Angela J. Davis, *In Search of Racial Justice: The Role of the Prosecutor*, 16 LEG. AND PUB. POL'Y 821, 827-31 (2013), <https://www.nyuylpp.org/wp-content/uploads/2014/01/Davis-In-Search-of-Racial-Justice-16nyujlpp821.pdf>.

13. *Id.* at 832.

14. *Id.*

15. *Id.* at 833.

16. See *id.*

probable than not.¹⁷ It's a much lower standard than the proof beyond a reasonable doubt needed to convict the person at trial, and because of that, many prosecutors engage in overcharging.¹⁸ By overcharging I mean piling on charges simply because they have probable cause, even when they know they can't prove the charges at the time of trial.¹⁹ Even though they know they can't prove it beyond a reasonable doubt, they pile those charges on.

Why do they do that? Because it gives them an advantage at the plea bargaining stage. If I'm a person facing ten counts of distribution of cocaine, and each count carries a five-year mandatory minimum sentence, I'm facing fifty years in prison. If the prosecutor offers me a deal – a plea to one count – even if I'm innocent, and one count means I end up in jail for five years, which is a long time—I might take the deal, even if I'm innocent. Why? Because going to trial is risky business. You don't know what a jury might do, and if I go to trial and I'm facing fifty years and I get convicted on every charge, I'll go to prison for the rest of my life. So I might take a deal even if I'm innocent or even if I have a strong defense. This happens in courtrooms across the country every single day. This is what is passing as justice in courtrooms across the country every single day. Prosecutors control those decisions,—whether you get charged and whether you get a deal. It's totally up to them. They make those decisions behind closed doors, and they are accountable to no one other than their supervisor, the chief prosecutor in that office, which I am going to talk about a bit later in my talk.

When you consider the fact that ninety-five to ninety-seven percent of all criminal cases are resolved with a guilty plea,²⁰ you can see why I say prosecutors are controlling this criminal legal system. People watch these TV shows, like, *Law & Order*, 1, 2, 3, 4, and 5—I don't know how many *Law & Order* shows there are. I can't watch that show – it drives me crazy. But if you watch these TV shows you may think there are all these trials going on, but there are not a lot of trials going on. There are a lot of guilty pleas going on in courtrooms across the country, and prosecutors are controlling that process.²¹

17. See *Prosecution Function*, AM. BAR ASS'N., https://www.americanbar.org/groups/criminal_justice/standards/ProsecutionFunctionFourthEdition/ (last visited Aug. 22, 2021).

18. See, e.g., H. Mitchell Caldwell, *Coercive Plea Bargaining: The Unrecognized Scourge of the Justice System*, 61 *Catholic Univ. L. Rev.* 66, 83-85 (Fall 2011).

19. See *id.* at 84.

20. Innocence Staff, *Report: Guilty Pleas on the Rise, Criminal Trials on the Decline*, Innocence Project (Aug. 7, 2018), <https://innocenceproject.org/guilty-pleas-on-the-rise-criminal-trials-on-the-decline/>.

21. See *id.*; Davis, *supra* note 12, at 827-31.

So, you see why I say they're the most powerful. Well, why do I say they also create and perpetuate racial disparities? I think they do. I don't think they do so intentionally. I don't think there are prosecutors sitting at their desks saying, "oh, here's a Black person arrested for distribution of cocaine and here's a white person. I'm going to let the white person go and I'm going to charge the Black person." I don't think that's going on. I do not think that's happening. Maybe it is. I hope not. It could be, but I don't think that's what going on. I think it's a lot more complicated than that.

I think one of the reasons why there are racial disparities is implicit bias, which some of you may have heard of. We all suffer from implicit biases²² – the unconscious views that we have about other people based on their race, their ethnicity, their gender, their sexual orientation, their skin color, their body size – it could be anything.²³ But it's an unconscious thing. We're not even aware we are judging other people; it's unconscious. Implicit bias is that thing that causes a white woman on an elevator to pull her purse a little closer when a Black man gets on the elevator, and to move away. She's not even aware that she's doing it. That's implicit bias. And we all suffer from some form of it as human beings, no matter your race or ethnicity. I suffer from it; you suffer from it; we all do; and we're not even aware of it. But when you are in a position of power like a prosecutor [is], and that implicit bias that you hold is causing you to make decisions that impact a person's liberty or life—sometimes we're talking about the death penalty—it is a huge problem that must be dealt with.

Let me give an example of what I'm talking about. Let's say a prosecutor does have a case in which Jamal, an African American man, has been arrested for distribution of cocaine. His overworked public defender comes to the prosecutor and says: "Jamal doesn't have any prior convictions, and he actually has a drug problem. He was just selling to feed his habit. He dropped out of school and doesn't have that many opportunities. He really needs a drug program." The prosecutor looks at Jamal and he's says, "Well, where's the drug program? I don't have a drug program to offer him, so, sorry, but I'm going ahead with the charges." Another case might come before that same prosecutor. Todd, a white kid, is arrested for distribution of cocaine. You know this is a hypothetical because Todd never would have been arrested, but bear with me. Todd is arrested for distribution of cocaine in his high school. He comes in with his lawyer who his family hired, who possibly previously worked in the

22. See Keith Payne et al., *How to Think About 'Implicit Bias'*, SCI. AM. (Mar. 27, 2018), <https://www.scientificamerican.com/article/how-to-think-about-implicit-bias/>.

23. See *id.*

prosecutor's office and is now in private practice. He might even know some people in the office. This lawyer comes in and he says: "Please drop the charges against Todd. He has a drug problem, and he was just selling to feed his habit. His parents found a residential drug program for him and he is ready to participate. Todd has been accepted to college. This will ruin his life. He doesn't have any prior convictions." The prosecutor looks at him and remembers that he used to do drugs himself when he was in high school, and he's thinks, "Wow somebody gave me a chance," and he can relate to Todd. He doesn't want to ruin Todd's life. Todd has a future, and he doesn't want to be responsible for ruining it, so he gives Todd a break and says, "Okay, finish the drug program. I'll dismiss the case, and we can expunge your record."

Is that wrong? I don't think it's wrong for him to give Todd a break, but Jamal deserved a break, too. Would I call this prosecutor racist? No, I wouldn't. But his unconscious views caused him to make a decision which created an unfair and unwarranted racial disparity. It's not just implicit bias. It gets even more complicated than that because there are some legitimate factors – race-neutral factors – that prosecutors take into account when they're making charging and plea-bargaining decisions that have a racial impact.

What do I mean by that? Well, the American Bar Association has what are called Criminal Justice Standards²⁴ for the prosecution function. They also have standards for the defense function and standards for the judicial function.²⁵ These are guidelines that the American Bar Association believes that prosecutors should follow as they are making these all-important decisions about charging, whether to dismiss a case, and so on. They list a number of factors that prosecutors should take into account in deciding whether to charge or dismiss. Factors like, for example, the strength of the case. Well, we want the prosecutor to take that into account because if it's a weak case we don't want them bringing charges, putting the defendant or the victim through that process and wasting resources if the case is weak and can't be proven beyond a reasonable doubt. But how does a prosecutor determine the strength of the case? One of the factors prosecutors take into account when determining the strength of the case is: Do I have good witnesses? Do I have a good witness who can convince the jury? So, if I have a case with a victim who is articulate, well-spoken, tells a good story and is

24. AM. BAR ASS'N., CRIMINAL JUSTICE STANDARDS: PROSECUTION FUNCTION (4th ed., 2017).

25. See AM. BAR ASS'N., CRIMINAL JUSTICE STANDARDS: DEFENSE FUNCTION (4th ed., 2017); AM. BAR ASS'N., CRIMINAL JUSTICE STANDARDS: JUDICIAL STANDARDS (4th ed., 2017).

going to be convincing on the witness stand, then I might have a strong case and I may go forward.

So, let's say I'm the prosecutor, and I have a case where there's a lawyer who was robbed of her briefcase (a white woman). I send her a notice to come to my office for a witness conference. She shows up on time, we have a good talk and we go over her testimony. She's articulate, she's dressed well, she speaks the queen's English, and I'm thinking, "This is going to be a good witness. The jury's going to believe her, and I'm going to get a conviction. It's a strong case." That victim's case is going to be given a lot of attention, and the defendant in that case is going to face a lot of time. I'm not giving a plea bargain here because I think I'm going to win at trial with this one.

Maybe there's another victim—a Black woman—whose apartment was burglarized. The burglar stole cash from her home, some stereo equipment, and her TV. They arrest someone, and the prosecutor sends a notice to the victim to show up for the witness conference. She shows up but she's not well-dressed, she's not very articulate, and she doesn't really communicate that well, and the prosecutor is thinking, "She doesn't really make a good witness, and I don't know if the jury is going to believe her, so I'm just going to dismiss her case". Her case doesn't get attention and the defendant in that case gets a break. Or, in another likely scenario, this witness doesn't show up for the witness conference because she has the type of job where if she misses work for one day, she loses her job, or maybe she doesn't show up because she realizes, "Hey, this is the same prosecutor's office that prosecuted my son, and I don't really want to be bothered. I'm kind of scared of those people, I'm not going to go down there." So, she doesn't show up, and the prosecutors thinks "Well, since she didn't show up, I guess she doesn't care anything about the case, so I'm just going to dismiss it." And that's another factor that the ABA says that prosecutors should take into account — the interest of the victim in prosecution. So, if the victim is not interested in prosecution that's something they should take into account. They don't have to do what the victim says. They don't represent the victim. But if the victim is not interested in prosecution, they can take that into account in making a decision.

These are all legitimate factors, but you can see how they can and do have a racial impact—not because the prosecution is being racist or trying to treat Black victims different from white victims or trying to lock up more Black defendants. That's not even in their consciousness, but they are causing those disparities. But I don't give prosecutors a break just because it's not their fault. I really don't, because they are causing the harm, and if they are aware that they are causing this harm, this awful scourge on our criminal legal system, they have a responsibility to

fix it. They have all that power and discretion, and they can fix it with that power and discretion.

I'm not particularly religious, but there's a Bible verse that says, "To whom much is given, much is required."²⁶ That's the prosecutor. They're given all this power, and they are required to use it to do justice. The United States Supreme Court says just that. There's a case called *Berger v. United States*²⁷ in which the Supreme Court, and I'm paraphrasing, but basically what the Court says is: "It's not the duty of the prosecutor to seek convictions; it is the duty of the prosecutor to do justice."²⁸ And what does "doing justice" mean? Doing justice sometimes may mean seeking a conviction, but doing justice also sometimes means dismissing a case or not bringing the case at all. The prosecutor represents, not the victim, but the community, the whole community. The victim is part of the community, all the rest of us in that prosecutor's jurisdiction are part of the community, and so is the defendant. The defendant is part of the community, too, and so the prosecutor must do justice for all. It's a hard job, but that's the duty of the prosecutor.

I believe that prosecutors have the responsibility to end mass incarceration and to end these awful racial disparities. It's a big task, but they have the responsibility, in my view, to do everything in their power to fix all of this harm that they have partially caused. I'm not saying prosecutors are the only people who cause harm—they're not—but they are a significant part of the problem. I also believe, and I wrote an article about this some years ago, that prosecutors have an ethical duty to end mass incarceration.²⁹ There are ethical rules that apply to all lawyers. Most states have ethical rules based on the Model Rules of Professional Conduct. Rule 3.8³⁰ is the rule that specifically applies to prosecutors. The comments to Rule 3.8 impart the same sentiment as the Supreme Court in *Berger v. United States*.³¹ The comment says, "A prosecutor has a responsibility of a minister of justice and not simply that of an advocate."³² In the Standards for the Prosecution Function, Standard 3-1.2(b) says that, "The primary duty of the prosecutor is to seek justice within the bounds of the law, not merely to convict."³³ It's just really

26. *Luke* 12:48.

27. *Berger v. United States*, 295 U.S. 78, 88 (1935).

28. *See id.*

29. Angela J. Davis, *The Prosecutor's Ethical Duty to End Mass Incarceration*, 44 HOFSTRA L. REV. 1063 (Jun. 1, 2016).

30. MODEL RULES OF PRO. CONDUCT r. 3.8 (Am. Bar Ass'n 2019).

31. 295 U.S. 78 (1935).

32. MODEL RULES OF PRO. CONDUCT r. 3.8 cmt. 1. (Am. Bar. Ass'n 2019).

33. AM. BAR ASS'N., CRIMINAL JUSTICE STANDARDS: PROSECUTION FUNCTION standard 3-1.2(b) (2017).

reflecting the language of the United States Supreme Court in *Berger*. It goes on to say, “The prosecutor serves the public interest and should act with integrity and balanced judgment to increase public safety both by pursuing appropriate criminal charges [of appropriate severity], and by exercising discretion to not pursue criminal charges in appropriate [circumstances].”³⁴ There’s more language and in the interest of time, I won’t go through it all, but they have an ethical responsibility to fix the criminal justice system. I’ll just read one more passage from the standard: “The prosecutor should seek to reform and improve the administration of criminal justice, and when inadequacies or injustices in the substantive or procedural law come to the prosecutor’s attention, the prosecutors should stimulate and support efforts for remedial action.”³⁵ I can think of no greater inadequacy or injustice than mass incarceration and unwarranted racial disparities.

So, let me just close by saying a bit about accountability. I’ve talked a lot about their responsibility, and I’ll talk a little bit about their accountability. What can prosecutors do? We need to hold them accountable, and how do we hold them accountable? Let me give you a couple of ways. One is they should be referred to bar counsel when they engage in prosecutorial misconduct, and I know Professor Ellen Yaroshefsky is going to talk about that, and so I’m going to leave that to her, but they should be referred to bar counsel, and they rarely are when they violate the ethical rules. But they should also be held accountable at the ballot box. Ninety percent of all criminal cases are handled in state and local courts, and only about ten percent are in federal court.³⁶ State and local prosecutors are elected officials in all but four jurisdictions.³⁷ There are about twenty-three, twenty-four-hundred elected district attorneys or state’s attorneys (they’re called different things in different jurisdictions). They run for office every four years. People rarely pay attention to DA races. You need to pay attention to DA races, folks. Vote them out of office if they are perpetuating racial disparities and perpetuating mass incarceration, and don’t wait until election day. Contact your DA and ask her what is she doing to end this scourge of mass incarceration. Let your voices be heard.

I’m happy to say that there is a movement, a small but growing movement, of progressive prosecutors. These are people who have run for

34. *Id.*

35. *Id.*

36. Anisha Singh and Billy Corriher, *State or Federal Court?*, CTR. FOR AM. PROGRESS (Aug. 8, 2016), <https://www.americanprogress.org/issues/courts/reports/2016/08/08/142438/fact-sheet-state-or-federal-court/>.

37. Carissa Byrne Hessick and Michael Morse, *Picking Prosecutors*, 105 IOWA L. REV. 1537, 1550 (2020).

district attorney on the platform of ending mass incarceration and ending racial disparities, and they are winning. Many of them are winning: Larry Krasner in Philadelphia,³⁸ Kim Foxx in Cook County,³⁹ Kim Gardner in Saint Louis,⁴⁰ Chesa Boudin in San Francisco,⁴¹ George Gascon in Los Angeles.⁴² I could go on and on. These are people who ran for office saying, “I’m going to do everything in my power and discretion to end mass incarceration; I’m going to oppose cash bail; I’m going to set up a meaningful wrongful conviction unit, not just one for show, but a meaningful one; I’m going to set up a sentencing review unit where I go back and look at whether people are serving too much time and I’ll fight to get them out; I’m not going to charge juveniles as adults; I’m not going seek the death penalty; and I’m going to take affirmative action to try to reduce racial disparities.”

There’s a program at the Vera Institute of Justice⁴³ run by a woman named Jamila Hodge,⁴⁴ called “Reshaping Prosecution,”⁴⁵ and she has an initiative called “Motion for Justice.”⁴⁶ I urge you to Google—not now, not during our talk, but later—I urge you to Google “Motion for Justice” and “Vera Institute” and look at the outstanding work that they’re doing to help prosecutors who truly care about this issue and truly want to use their power and discretion to end mass incarceration and to end racial disparities in the criminal justice system. I’ll stop there, thank you.

38. Anna Boots, *The Fascinating Experiment Captured in “Philly D.A.”*, New Yorker (Aug. 6, 2021), <https://www.newyorker.com/culture/cultural-comment/the-fascinating-experiment-captured-in-philly-da>.

39. Kelly Bauer et al., *Kim Foxx Claims Victory in Cook County State’s Attorney Race, Defeating Pat O’Brien*, InjusticeWatch (Nov. 4, 2020), <https://www.injusticewatch.org/news/2020/kim-foxx-re-election-2020/>.

40. Danny Wicentowski, *St. Louis Re-Elects Kim Gardner in Landslide*, RIVERFRONT TIMES (Aug. 4, 2020), 1537.

41. Elizabeth Weill-Greenberg, *Public Defender Chesa Boudin Wins San Francisco D.A. Race in Major Victory for Progressive Prosecutor Movement*, APPEAL (Nov. 9, 2019), <https://theappeal.org/public-defender-chesa-boudin-wins-san-francisco-da-race-in-major-victory-progressive-prosecutor-movement/>.

42. James Queally, *George Gascon Will Be L.A. County’s Next District Attorney, Promises Swift Changes*, L.A. TIMES (Nov. 6, 2020), <https://www.latimes.com/california/story/2020-11-06/george-gascon-la-district-attorney-race-jackie-lacey-concede>.

43. VERA INST. OF JUST., <https://www.vera.org/> (last visited Mar. 29, 2021).

44. Jamila Hodge, VERA INST. OF JUST., <https://www.vera.org/people/jamila-hodge> (last visited Mar. 29, 2021); *Prosecutors, Power, and Racial Injustice: Building an Anti-Racist Prosecutorial System (2/26/2021)*, RUTGERS L. REV. (Mar. 1, 2021), <https://www.youtube.com/watch?v=JAnX0xM5GAE>.

45. *Reshaping Prosecution*, VERA INST. OF JUST., <https://www.vera.org/projects/reshaping-prosecution-program> (last visited Mar. 29, 2021).

46. *Motion for Justice*, VERA INST. OF JUST., <https://motionforjustice.vera.org/> (last visited Mar. 29, 2021).