

ABOLITIONIST PRINCIPLES FOR PROSECUTOR ORGANIZING: ORIGINS AND NEXT STEPS

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INTRODUCTION	496
I. HISTORY & RECENT ROOTS OF “PROGRESSIVE PROSECUTION”	506
II. ABOLITION, NOT REFORM	517
III. WHAT DO WE BELIEVE?	518
A. Abolitionist Principles for Prosecutor Organizing	519
IV. ABOLITIONIST ORGANIZING STRATEGIES FOCUSED ON THE PROSECUTING OFFICE	520
A. Baseline tactics	521
B. Strategies focused on the prosecuting office	523
C. Strategies focused on shrinking systems of harm & boosting resources for community	529
V. CONCLUSION	535

INTRODUCTION

Critics of the criminal punishment system and proponents of the carceral state almost uniformly agree: prosecutors hold a lot of power. This is true for

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organizers who champion prison industrial complex (PIC) abolition¹ as their theory of change, as well as for organizers with a theory of change focused on reforming or fixing a “broken” criminal legal² system.³ Most of the former (“PIC

1. “[Prison Industrial Complex] abolition is a political vision with the goal of eliminating imprisonment, policing, and surveillance and creating last alternatives to punishment and imprisonment.” *What is the PIC? What is Abolition?*, CRITICAL RESISTANCE, criticalresistance.org/about/not-so-common-language/; see also CRITICAL RESISTANCE, WHAT IS ABOLITION?, criticalresistance.org/wp-content/uploads/2012/06/What-is-Abolition.pdf.

2. Typically people, media, and institutions refer to the “criminal justice system” when discussing the government actors charged with policing, prosecution, and punishment, including incarceration, for violations of criminal law. Like many others pursuing abolition of the prison industrial complex, throughout this piece we instead generally use the term “criminal punishment system.” See, e.g., Dean Spade, *Their Laws Will Never Make Us Safer*, in *AGAINST EQUALITY: PRISONS WILL NOT PROTECT YOU 1, 2* (Ryan Conrad ed., 2012), www.deanspade.net/wp-content/uploads/2013/02/againstequality.pdf (“[G]iven the severe anti-black racism of the criminal punishment system, what does it mean to call on that system for justice and accountability? Many people working to dismantle racism identify the criminal punishment system as one of the primary apparatuses of racist violence and probably the most significant threat to black people in the U.S.”); Mariame Kaba on *Moving Past Punishment*, FOR THE WILD (Dec. 27, 2019), forthewild.world/listen/mariame-kaba-on-moving-past-punishment-151; Marlon Peterson, *The Criminal Justice System Is Too Big. It’s Time To Downsize.*, TALK POVERTY (Jan. 16, 2020), talkpoverty.org/2020/01/16/criminal-justice-downsizing (using the phrase “criminal punishment system” repeatedly in text even though the headline, written by editors, uses the phrase “criminal justice system”). Some instead use phrases like “criminal injustice system” to capture the same idea. See, e.g., Alice Sperti, *The Criminal Justice System Is Not Broken. It’s Doing What It Was Designed To Do.*, INTERCEPT (Nov. 9, 2019, 10:32 AM), theintercept.com/2019/11/09/criminal-justice-mass-incarceration-book (“[T]he book is an unusually blunt takedown of a system the author never once refers to as a criminal ‘justice’ system.”). Others may use “criminal legal system,” which similarly describes the mechanism of the system (passage and enforcement of criminal laws) without imbuing it with an undeserved positive connotation that distracts from its real-world objectives and consequences. See, e.g., THE LEADERSHIP CONFERENCE & CIVIL RIGHTS CORPS, *VISION FOR JUSTICE 2020 AND BEYOND: A NEW PARADIGM FOR PUBLIC SAFETY 7* (2019), civilrightsdocs.info/pdf/reports/Vision-For-Justice-2020-SHORT.pdf (“Our current criminal-legal system and policing practices rely on a criminalization model that reproduces racial inequity while widening the divide between police and the communities that they are supposed to serve. A new paradigm for public safety emphasizes noncarceral interventions and programs, not jails and prisons, to keep communities safe.”); Ram Sundares, Youngmin Yi, Brita Roy, Carley Riley, Christopher Wildeman & Emily A. Wang, *Exposure to the US Criminal Legal System and Well-Being: A 2018 Cross-Sectional Study*, 110 AM. J. PUB. HEALTH S116 (2020), ajph.aphapublications.org/doi/pdf/10.2105/AJPH.2019.305414. All of these terminology choices recognize that the phrase “criminal justice” cloaks the system with false legitimacy by framing it as “just” or “justice oriented.” See, e.g., Joe Watson, *Five Tips for Talking About Criminal Punishment to Help End Mass Incarceration*, AM. FRIENDS SERV. COMM. (May 31, 2018), www.afsc.org/blogs/media-uncovered/five-tips-talking-about-criminal-punishment-to-help-end-mass-incarceration. For further reading on this question of language, see, for example, Sara Mayeux, *The Idea of “The Criminal Justice System”*, 45 AM. J. CRIM. L. 55, 56 (2018).

3. For a discussion of how prosecutors fit into this reformist paradigm, see, e.g., Juleyka Lantigua-Williams, *Are Prosecutors the Key to Justice Reform?*, ATLANTIC (May 18, 2016), www.theatlantic.com/politics/archive/2016/05/are-prosecutors-the-key-to-justice-reform/483252/. See also Paige St. John & Abbie Vansickle, *Prosecutor Elections Now a Front*

abolitionists” or “abolitionists”) believe that prosecutors hold too much power, and that organizers must work to disrupt, reduce, and ultimately eliminate the power of prosecutors and dismantle the prosecuting office entirely.⁴ On the other hand, the latter group (“reformers”) tend to believe that prosecutors’ substantial power need only be re-directed—that “progressive” or “decarceral” prosecutors can and should use their power for reformist ends.⁵

The authors of this article are intergenerational abolitionist organizers. We are not experts because of our institutional affiliations or graduate degrees, and you likely do not know all of our names; we are each active members of horizontal movements in U.S. cities—New York, Boston, Chicago—where we have joined with others to demand the elimination of policing, prosecution, punishment, and incarceration and investments instead in healing, housing, healthcare, education, employment, and what people need to be safe, live well, and engage in community-led processes to redress harm. As abolitionist organizers, we understand PIC abolition as a long-term vision of a restructured society and as a practical organizing strategy. Within the last six years, each of us has worked on campaigns in our cities and states demanding that prosecutors wield their discretion to *do less*—fewer prosecutions, fewer charges, fewer convictions, less incarceration, smaller budgets—on the road to *doing nothing*: an end to prosecution altogether. An abolitionist organizing strategy reduces the reach of the PIC; it shrinks the power, size, and scope of the prosecuting office without increasing its legitimacy.

Throughout this piece, we use quotations around “progressive prosecution”

Line in the Justice Wars, MARSHALL PROJ. (May 23, 2018, 6:00 AM), www.themarshallproject.org/2018/05/23/prosecutor-elections-now-a-front-line-in-the-justice-wars.

4. See, e.g., Gyasi Lake, *There’s No Such Thing as a “Progressive Prosecutor” in a System Designed to Criminalize Blackness*, BLACK YOUTH PROJ. (July 10, 2019), blackyouthproject.com/theres-no-such-thing-as-a-progressive-prosecutor-in-a-system-designed-to-criminalize-blackness; Ephrat Livni, *The Problem With Tiffany Cabán and the New Cult of “Progressive Prosecutors”*, QUARTZ (June 28, 2019), qz.com/1654431/the-problem-with-tiffany-caban-and-the-progressive-prosecutor (“Progressive prosecutors are merely delaying a pressing conversation about real radical reform and legitimizing a rotten system, according to critics who say progressive prosecution is an oxymoron. Working from within a fundamentally racist and classist institution on incremental reform is dangerous because, critics say, it legitimizes the status quo.”).

5. See, e.g., Arisha Hatch & Terri Gerstein, *Re-Envisioning the Roles of Prosecutors and Attorneys General to Make the Justice System Work for Everyone*, STAN. SOC. INNOVATION REV. Winter 2020, at 13, 14, ssir.org/articles/entry/re-envisioning-the-roles-of-prosecutors-and-attorneys-general-to-make-the-justice-system-work-for-everyone (“Along with criminal justice reform, a progressive law enforcement office would use its powers to fight abuses in which the powerful prey on people from working-class or marginalized communities.”); cf. Benjamin Levin, *Imagining the Progressive Prosecutor*, 105 MINN. L. REV. 1415, 1449 (2021) (“But it is also fundamentally at odds with a broader decarceral or abolitionist project, not just because it treats the criminal system as fundamentally legitimate, but also because it is inherently rooted in a belief that prosecutors need to prosecute more. If progress means changing who is in prison, this approach has little to say to the growing body of scholars, advocates, and activists talking about how to get people out of prison and move beyond using ‘criminalization and cages as catchall solutions to social problems.’”).

and “progressive prosecutors” for three key reasons. First, prosecutors are law enforcement and prosecution is a systemic component of the criminal punishment system, a death-making system of racialized social control; no matter the personal politics of an individual candidate or officeholder, abolitionists believe that *prosecution*—as an integral element of the criminal punishment system—cannot be progressive. The quotes serve to question the rationality and accuracy of the phrase, which we see as an inherent contradiction in terms.⁶ Second, “progressive prosecutors” are often self-titled “progressives,” and increasingly the mantle of “progressive prosecution” is claimed without consistent adherence to any specific set of policies, practices, or goals.⁷ These are titles that politicians, backed by moneyed interests, have largely bestowed on themselves—or that criminal punishment bureaucrats and politicians levy like jeering epithets at challengers to protect incumbents and to maintain the power of the carceral state.⁸ Finally, as Benjamin Levin argues in a recently published essay in the *Minnesota Law Review*, even among those who use the term with sincerity and admiration,

6. See, e.g., Adeshina Emmanuel, *Electing Progressive Prosecutors Isn't Enough. Now, Activists Are Holding Them Accountable.*, IN THESE TIMES (Mar. 26, 2018), [inthe-times.com/article/21014/kim-foxx-larry-krasner-chicago-philadelphia-prosecutors-progressive](https://www.inthetimes.com/article/21014/kim-foxx-larry-krasner-chicago-philadelphia-prosecutors-progressive) (“‘I think that [progressive prosecutor] is a bit of an oxymoron,’ Aguilera says. ‘The job in and of itself is to convict people and send people to jails and prisons. It will continue to be that for the foreseeable future.’”).

7. See Michael Barajas, *Reform Candidates Are Trying to Change the Definition of a ‘Progressive Prosecutor’ in Texas*, TEX. OBSERVER (Feb. 7, 2020, 4:27 PM), www.texasobserver.org/kim-ogg-progressive-prosecutor-harris-county; see also Zach Despart & Samantha Ketterer, *Saying Ogg Not Progressive Enough, TOP Endorses Dem Challenger Audia Jones*, HOUS. CHRON. (Jan. 20, 2020, 8:12 PM), www.houstonchronicle.com/news/houston-texas/houston/article/Saying-Ogg-not-progressive-enough-TOP-endorses-14990286.php; Joshua Vaughn, *In Louisiana, a Messenger of Change Disregards His Message*, APPEAL (June 21, 2019), theappeal.org/in-louisiana-a-messenger-of-change-disregards-his-message; Hannah Giorgis, *Kamala Harris’s Political Memoir Is an Uneasy Fit for the Digital Era*, ATLANTIC (Jan. 11, 2019), www.theatlantic.com/entertainment/archive/2019/01/kamala-harris-truths-we-hold-review/579430 (describing Kamala Harris’s view of herself as an adherent to “progressive prosecution”); Josie Duffy Rice, Opinion, *Cyrus Vance and the Myth of the Progressive Prosecutor*, N.Y. TIMES (Oct. 16, 2017), www.nytimes.com/2017/10/16/opinion/cy-vance-progressive-prosecutor.html; Josmar Trujillo, *Commentary: Ripping Off Cy Vance’s Mask*, APPEAL (Oct. 31, 2017), theappeal.org/ripping-off-cy-vances-mask-still-prosecuting-farebeaters-cfaf488b8fa8. Professor Rachel Barkow proposes a list of policies and reforms prosecutors could adopt to limit their own power over defendants, which could become a checklist or litmus test “to evaluate prosecutors who claim to be progressive.” Rachel E. Barkow, *Can Prosecutors Help To End Mass Incarceration?*, 119 MICH. L. REV. 1365, 1367 (2021) (reviewing EMILY BAZELON, CHARGED: THE NEW MOVEMENT TO TRANSFORM AMERICAN PROSECUTION AND END MASS INCARCERATION (2019)).

8. Compare Liane Jackson, *Change Agents: A New Wave of Reform Prosecutors Upends the Status Quo*, ABA J. (June 1, 2019, 12:00 AM), www.abajournal.com/magazine/article/change-agents-reform-prosecutors (“The conservative Koch brothers and liberal George Soros may make strange bedfellows, but the billionaires share a common philanthropic goal: dialing back America’s carceral state and instituting real criminal justice reform.”), with Samantha Michaels, *Attorney General William Barr Slams Progressive Prosecutors as “Dangerous”*, MOTHER JONES (Aug. 12, 2019), www.motherjones.com/politics/2019/08/attorney-general-william-barr-slams-progressive-prosecutors-as-dangerous.

there is no generally accepted definition of a “progressive prosecutor.”⁹ We acknowledge that candidates and elected officials seeking to steer prosecuting offices may differ dramatically in their ideologies, policies, and practices, but we believe that labeling any prosecutor candidate or officeholder as “progressive” masks the overlapping oppressions endemic to the criminal punishment system, *see infra* Part II, and may undermine efforts to decrease the size, scope, and power of the prosecuting office,¹⁰ which is the ultimate goal of abolitionist organizing around prosecution.

While both abolitionists and reformers see prosecutors as a lever to push for change, their differing theories of change present distinct, often compatible but sometimes competing, organizing strategies. Across complex and constantly evolving movements, sometimes these organizing strategies can be in tension with each other and become confused by outside observers and organizers alike—for example, the authors have observed self-identified abolitionist organizers endorse increased funding for a prosecuting office, which is *not* abolitionist because it expands the power and footprint of the criminal punishment system and thus directly undermines the goal and politics of abolition. Untangling and underscoring these important differences can help illuminate the path toward real change, and toward liberation. Especially for those outside of grassroots movements, understanding the convergences and divergences is essential to understanding how and why abolitionists and reformers differ.¹¹

Since we first drafted this article, the public has been newly introduced to the movement to abolish policing and the prison industrial complex.¹² After police murdered George Floyd in Minneapolis and Breonna Taylor in Louisville

9. Levin, *supra* note 5 (detailing four possible archetypes of a “progressive prosecutor”).

10. This project intentionally used the phrase “prosecuting office” to refer to this government structure in order to keep the focus on the act of prosecuting (and its inherent, attendant harm) and to quiet cults of personality around specific officeholders.

11. Too often, journalists caricature abolitionists as unrealistic, unserious, or unstudied, reflecting a failure to engage deeply with the differing theories, practices, and methodologies behind abolitionist and reformist organizing. Compare Bill Keller, *What Do Abolitionists Really Want?*, MARSHALL PROJ. (June 13, 2019, 6:00 AM), www.themarshallproject.org/2019/06/13/what-do-abolitionists-really-want (“To reformists who work in or with the system, the abolitionists can be exasperating—a case of the ideal being the enemy of the good.”), with Ruth Wilson Gilmore & James Kilgore, *The Case for Abolition*, MARSHALL PROJ. (June 19, 2019, 6:00 AM), www.themarshallproject.org/2019/06/19/the-case-for-abolition (“We were prompted to write by reading Bill Keller’s essay last week in The Marshall Project asking “What Do Abolitionists Really Want?” We took issue with many of his points and felt, by not quoting abolitionists, he echoed historical precedents of white people asking what Black people want, or men debating *Roe v. Wade*. But he got one thing right: Abolition is thriving, something he can’t quite figure out.”). See also Noah Berlatsky, *Abolishing the Police and Prisons Is a Lot More Practical Than Critics Claim*, NBC NEWS (Feb. 23, 2021, 6:43 PM), www.nbcnews.com/think/opinion/abolishing-police-prisons-lot-more-practical-critics-claim-ncna1258659.

12. See, e.g., Philip V. McHarris & Thenjiwe McHarris, *No More Money for the Police*, N.Y. TIMES (May 30, 2020), www.nytimes.com/2020/05/30/opinion/george-floyd-police-funding.html; Jack Evans & Romy Ellenbogen, *How ‘Defund the Police’ Went Mainstream*,

and Tony McDade in Tallahassee over the span of a few days, uprisings for Black liberation and against the racism endemic to U.S. policing erupted around the country on a scale unseen in decades.¹³ One primary demand has risen—at the top of the lungs of organizers in the streets, in city council chambers, and on the pages of major newspapers: defund the police.¹⁴ This abolitionist demand has been carried forward by generations of thinkers and organizers,¹⁵ and due to tireless work by already-active formations in cities like Minneapolis, Los Angeles, Chicago, Nashville, Boston, Atlanta, Durham, Louisville, and New York City,¹⁶ it is starting to move politicians and force conversations and legislative action to shift public resources away from the infrastructure of racist state violence.¹⁷

Organizers, scholars, and activists have continued to articulate that the demand to defund the police cannot be isolated from broader demands to abolish

and *What That Means*, TAMPA BAY TIMES (June 19, 2020), www.tampabay.com/news/2020/06/19/how-defund-the-police-went-mainstream-and-what-that-means; Marcia Brown, *How Police Abolitionists Are Seizing the Moment*, AM. PROSPECT (June 19, 2020), prospect.org/civil-rights/how-police-abolitionists-are-seizing-the-moment; Zak Cheney-Rice, *Why Police Abolition Is a Useful Framework—Even for Skeptics*, N.Y. MAG.: INTELLIGENCER (June 15, 2020), nymag.com/intelligencer/2020/06/police-abolitionist-lessons-for-america.html.

13. See *Uprising & Abolition: Angela Davis on Movement Building, “Defund the Police” & Where We Go from Here*, DEMOCRACY NOW! (June 12, 2020), www.democracynow.org/2020/6/12/angela-davis-historic-moment; Jen Kirby, “Black Lives Matter” Has Become a Global Rallying Cry Against Racism and Police Brutality, VOX (June 12, 2020, 7:30 AM), www.vox.com/2020/6/12/21285244/black-lives-matter-global-protests-george-floyd-uk-belgium; Keisha N. Blain, *Violence in Minneapolis Is Rooted in the History of Racist Policing in America*, WASH. POST (May 30, 2020, 6:00 AM), www.washingtonpost.com/outlook/2020/05/30/violence-minneapolis-is-rooted-history-racist-policing-america; Tonya Mosley & Allison Hagan, ‘An Extraordinary Moment’: Angela Davis Says Protests Recognize Long Overdue Anti-Racist Work, WBUR (June 19, 2020), www.wbur.org/hereandnow/2020/06/19/angela-davis-protests-anti-racism.

14. Mariame Kaba, *Yes, We Mean Literally Abolish the Police*, N.Y. TIMES (June 12, 2020), www.nytimes.com/2020/06/12/opinion/sunday/floyd-abolish-defund-police.html.

15. Garrett Felber, *The Struggle to Abolish the Police Is Not New*, BOS. REV. (June 9, 2020), bostonreview.net/race/garrett-felber-struggle-abolish-police-not-new.

16. See, e.g., Jocelyn Simonson, *Power Over Policing*, BOS. REV. (June 8, 2020), bostonreview.net/law-justice/jocelyn-simonson-power-over-policing.

17. INTERRUPTING CRIMINALIZATION, THE DEMAND IS STILL #DEFUNDTHEPOLICE: LESSONS FROM 2020 (2021), static1.squarespace.com/static/5ee39ec764dbd7179cf1243c/t/600f6d25490d377ae207e407/1611623735064/%23DefundThePolice+Update.pdf; Amna A. Akbar, *How Defund and Disband Became the Demands*, N.Y. REV. BOOKS (June 15, 2020, 7:00 AM), www.nybooks.com/daily/2020/06/15/how-defund-and-disband-became-the-demands; see also Giovanni Russonello, *Have Americans Warmed to Calls to ‘Defund the Police’?*, N.Y. TIMES (July 3, 2020), www.nytimes.com/2020/07/03/us/politics/polling-defund-the-police.html (noting a range of legislative and executive responses, ranging from outright rejection to superficial embrace to more significant acceptance, to the demand to defund the police); Mon Mohapatra & Rachel Foran, *Abolitionists Want You to Imagine a Better World Beyond the Ballot Box*, HARPER’S BAZAAR (Nov. 11, 2020, 3:03 PM), www.harpersbazaar.com/culture/politics/a34589742/abolition-joe-biden-election.

the entire prison industrial complex¹⁸ and contend with policing and systemic racism in all their forms:¹⁹ to build new infrastructure of care; to meet human needs; to end entrenched policies, practices, and institutions of violence and discrimination; and to resource community-based endeavors to prevent and redress harm without criminalization, surveillance, and incarceration.²⁰ As some call for prosecutors to bring charges against murderous police officers as a core demand,²¹ it is especially crucial for abolitionists to reiterate that prosecution is a systemic component of the criminal punishment system. Of course we understand and do not judge the calls for accountability and the reach for what has been sold as justice as it exists now from families suffering from the pain and loss of a loved one killed by police.²² But at a systems level, we see a real danger

18. See, e.g., K. Agbebiyi, *What We Mean When We Say Abolish Prisons*, REWIRE NEWS (June 15, 2020, 1:55 PM), rewire.news/article/2020/06/15/what-we-mean-when-we-say-abolish-prisons.

19. See, e.g., Monica Bell, *The Many Forms of Police Violence*, LAW & POL. ECON. PROJ.: LPE BLOG (June 8, 2020), lpeblog.org/2020/06/08/the-many-forms-of-police-violence.

20. See Nnennaya Amuchie, Mon Mohapatra & Leila Raven, *Op-Ed: Reforms Won't Save Us. Abolishing the Police Will*, THEM. (June 19, 2020), www.them.us/story/reforms-wont-save-us-abolishing-the-police-will; Keeanga-Yamahtta Taylor, *How Do We Change America?*, NEW YORKER (June 8, 2020), www.newyorker.com/news/our-columnists/how-do-we-change-america; Dorothy Roberts, *Abolishing Policing Also Means Abolishing Family Regulation*, CHRON. OF SOC. CHANGE (June 16, 2020), chronicleofsocialchange.org/child-welfare-2/abolishing-policing-also-means-abolishing-family-regulation/44480; Gabriella Paiella, *How Would Prison Abolition Actually Work?*, GQ MAG. (June 11, 2020), www.gq.com/story/what-is-prison-abolition.

21. Adam Gabbatt, *George Floyd Killing: Pressure Grows for Other Three Officers to Face Charges*, GUARDIAN (June 1, 2020), www.theguardian.com/us-news/2020/jun/01/george-floyd-killing-three-officers-charges; Laurin-Whitney Gottbrath, *George Floyd Protesters: No Justice Unless All Four Cops Charged*, AL JAZEERA (May 30, 2020), www.aljazeera.com/news/2020/05/george-floyd-protesters-justice-cops-charged-200530011327659.html; Madison Feller, Savannah Walsh & Hilary Weaver, *Breonna Taylor Was Killed by Police in Her Home in March. The Officers Have Yet to Be Arrested*, ELLE (June 20, 2020), www.elle.com/culture/career-politics/a32477844/breonna-taylor-police-shooting-kentucky.

22. See Mariame Kaba, *Whether Darren Wilson Is Indicted or Not, the Entire System Is Guilty*, IN THESE TIMES (Nov. 17, 2014), inthesetimes.com/article/17370/darren-wilson-indicted-guilty (“It feels blasphemous to suggest that one is disinvested from the outcome of the grand jury deliberations. ‘Don’t you care about accountability for harm caused?’ some will ask. ‘What about justice?’ others will accuse. My response is always the same: I am not against indicting killer cops. I just know that indictments won’t and can’t end oppressive policing which is rooted in anti-blackness, social control and containment. Policing is derivative of a broader social justice. It’s impossible for non-oppressive policing to exist in a fundamentally oppressive and unjust society. The truth is that as the authors of *Struggle for Justice* wrote in 1971 ‘without a radical change in our values and a drastic restructuring of our social and economic institutions’ we can only achieve modest reforms of the criminal punishment system (including policing.)”); see also Kali Holloway, *I’m for Abolition. And Yet I Want the Capitol Rioters in Prison.*, NATION (Feb. 4, 2021), www.thenation.com/article/society/prison-abolition-capitol-riot (“The only truly immutable law of this land is that Black life has no value to white America, an estimation that denies Black folks justice as both victims and offenders. Again and again, Black folks witness how a biased criminal system—from its cops to its courts—delivers systematically unfair outcomes. What results is a kind of desperation for any

in prosecutors positioning themselves as having “blueprints” for “police reform,”²³ and in those who advocate for more “progressive prosecutors” to be elected to charge and imprison killer cops and to decline to prosecute protestors; as part of their core function, prosecutors rely on police, protect the power of police, and insulate police from consequences, transparency, or accountability.²⁴ As abolitionists, we know that “the whole damn system is guilty as hell.”²⁵ Focusing on electing more Black prosecutors who some claim may charge more

semblance of fairness or justice. Michelle Alexander, pointing out how the state presents imprisonment as the one and only response to crime, writes that ‘when we ask victims “Do you want incarceration?” what we’re really asking is “Do you want something or nothing?” And when any of us are hurt, and when our families and communities are hurting, we want something rather than nothing . . . The only thing on offer is prisons, prosecutors and police.’ Black folks are rarely given even that binary choice. And so the conflict between my ideals and my rage is the desperate want to see America’s white-supremacist criminal system—which is, by design, unequipped to punish white supremacy for its harms—finally work for Black folks. That is, I want something rather than nothing, just this once.’).

23. For an example of how some prosecutors understand their position vis-à-vis police reform, see FAIR AND JUST PROSECUTION, BLUEPRINT FOR POLICE ACCOUNTABILITY AND REFORM: A NEW VISION FOR POLICING AND THE JUSTICE SYSTEM (2020), fairandjustprosecution.org/wp-content/uploads/2020/06/Policing-Roadmap-FINAL.pdf. For a critique and discussion of the limitations of prosecutorial interventions vis-à-vis policing, see Elias Rodrigues, Melonie Griffiths & Ralowe Ampu, *Prosecutors Have No Place in Truth, Justice and Reconciliation Commissions*, TRUTHOUT (Aug. 22, 2020), truthout.org/articles/prosecutors-have-no-place-in-truth-justice-and-reconciliation-commissions.

24. See, e.g., David Harris, *The Interaction and Relationship Between Prosecutors and Police Officers in the U.S., and How This Affects Police Reform Efforts*, in THE PROSECUTOR IN TRANSNATIONAL PERSPECTIVE (Erik Luna & Marianne Wade eds., 2011) (examining the relationships between prosecutors, police, and police misconduct); Erwin Chemerinsky, *The Role of Prosecutors in Dealing with Police Abuse: The Lessons of Los Angeles*, 8 VA. J. SOC. POL’Y & L. 305, 310–13 (2001); Steven Zeidman, *Policing the Police: The Role of the Courts and the Prosecution*, 32 FORDHAM URB. L.J. 315, 348–53 (2005); Judith A.M. Scully, *Rotten Apple or Rotten Barrel?: The Role of Civil Rights Lawyers in Ending the Culture of Police Violence*, 21 NAT’L BLACK L.J. 137, 142 (2009); Kate Levine, *Who Shouldn’t Prosecute the Police*, 101 IOWA L. REV. 1447 (2015-2016); Steven Zeidman, *From Dropsy to Testifying: Prosecutorial Apathy, Ennui, or Complicity?*, 16 OHIO ST. J. CRIM. L. 423, 423–24, 424 n.6 (2019). For recent examples of prosecutors—including self-styled “progressive prosecutors”—insulating police from accountability, see, for example, Daniel Nichanian, *“Police and D.A.s Work Hand in Hand”: How Black Lives Matter Is Shaping New York’s D.A. Elections*, APPEAL (June 18, 2020), theappeal.org/politicalreport/new-york-police-district-attorneys-westchester-tompkins; Elizabeth Weill-Greenberg, *Boston Law Enforcement Has Been Fighting a Court Order to Release Data on Who Police Target on Snapchat*, APPEAL (Dec. 13, 2019), theappeal.org/boston-police-snapchat-court-order; George Joseph, *The Mount Vernon Police Tapes: In Secretly Recorded Phone Calls, Officers Say Innocent People Were Framed*, GOTHAMIST (June 3, 2020, 11:00 PM), gothamist.com/news/mount-vernon-police-tapes-innocent-people-were-framed.

25. Yiran Liu (@yiraneliu), TWITTER (June 12, 2020, 3:29 PM), twitter.com/yiraneliu/status/1271525134730289152 (“Mariame Kaba: ‘If the whole damn system is guilty as hell, how the hell are we going to indict and convict and send the killer cop to jail? The system will NOT indict itself.’”); Mariame Kaba & Andrea J. Ritchie, *We Want More Justice For Breonna Taylor Than The System That Killed Her Can Deliver*, ESSENCE (July 16, 2020), www.essence.com/feature/breonna-taylor-justice-abolition (“As the popular chant goes, ‘indict, convict, send the killer cops to jail, the whole damn system is guilty as hell.’ The answer

killer cops²⁶ may ultimately undermine the broader cause for Black liberation,²⁷

to why calls for arrests and prosecutions are unlikely to bear fruit, or bring about fundamental change to prevent future killings, is in the second half of the chant—which highlights the fundamental flaw in the demand reflected in the first half. We want to direct our energies toward collective strategies that are more likely to be successful in delivering healing and transformation, and to prevent future harms.”).

26. See, e.g., Justin Glawe, *The Strange Relationship Between Politics, Prosecutors, and Police Shootings*, VICE (Sept. 2, 2015, 12:00 AM), www.vice.com/en_us/article/xd7g3q/the-strange-relationship-between-politics-prosecutors-and-police-shootings-902; Rashad Robinson, *The People Who Undermine Progressive Prosecutors*, N.Y. TIMES (June 11, 2020), www.nytimes.com/2020/06/11/opinion/george-floyd-prosecutors.html (“All this should be a spur for those who care about reform to vote for progressive prosecutors, sheriffs and judges in November. Despite the video evidence, we might not have seen charges made against all of the Minneapolis police officers involved in the killing of George Floyd if voters hadn’t elected Keith Ellison, a progressive attorney general.”); Samuel Sinyangwe (@samswey), TWITTER (June 17, 2020, 8:06 PM), twitter.com/samswey/status/1273406790223396865; Samuel Sinyangwe (@samswey), TWITTER (June 13, 2020, 11:16 AM), twitter.com/samswey/status/1271823831158657026. Suffolk County District Attorney Rachael Rollins has taken this claim a step further, situating Black women prosecutors—who deprive people of their liberty daily—as “freedom fighters” in a modern civil rights movement. Jeneé Osterheldt, *The Questions Featuring Rachael Rollins: The Beautiful Resistance of Suffolk District Attorney Rachael Rollins*, BOS. GLOBE (Feb. 18, 2021, 1:44 PM), www.bostonglobe.com/2021/02/18/metro/questions-featuring-rachael-rollins (“Black women are leading the fight for criminal legal reform. We are attempting to change a system that has traditionally rejected our input and devalued or ignored our stories. I stand with my sisters in justice—from St. Louis to Baltimore, Cook County to Portsmouth—to take on a system that adversely impacts people who look like us and is nearly void of any Black women in leadership positions. This is our civil rights movement and we are an integral part of this generation’s freedom fighter movement.”).

27. Alex Woodward, ‘*We Are the Ones Who Keep Us Safe*’: How Abolitionists See an America Without Police and Prisons, INDEPENDENT (June 19, 2020), www.independent.co.uk/news/world/americas/abolish-police-us-prison-reform-defund-13th-amendment-a9571816.html (“But abolitionists argue that incremental efforts ultimately do nothing to stop police violence and merely reinforce the institutions they have sought to disband, pointing to a history of investigations about police misconduct that all led to similar outcomes, while police killings and abuse persisted.”); see also ANGELA Y. DAVIS, FREEDOM IS A CONSTANT STRUGGLE 137–38 (2016) (“Neoliberal ideology drives us to focus on individuals, ourselves, individual victims, individual perpetrators. But how is it possible to solve the massive problem of racist state violence by calling upon individual police officers to bear the burden of that history and to assume that by prosecuting them, by exacting our revenge on them, we would have somehow made progress in eradicating racism? If one imagines these vast expressions of solidarity all over the world as being focused only on the fact that individual police officers were not prosecuted, it makes very little sense. I’m not suggesting that individuals should not be held accountable. Every individual who engages in such a violent act of racism, of terror, should be held accountable. But what I am saying is that we have to embrace projects that address the sociohistorical conditions that enable these acts.”); Jeannie Suk Gersen, *How the Charges Against Derek Chauvin Fit Into a Vision of Criminal-Justice Reform*, NEW YORKER (June 17, 2020), www.newyorker.com/news/our-columnists/how-the-charges-against-derek-chauvin-fit-into-a-vision-of-criminal-justice-reform (“[Y]ears of widespread reform measures—including implicit-bias and de-escalation training, diversity initiatives, bans on choke holds, limiting stop-and-frisk, and the use of body cameras—have not worked to change the racism of law enforcement. Hence, the drive for much deeper accountability, which now looks to sweep away the mechanisms and institutions that we have taken as a given in the legal

offering legitimacy to a system designed to terrorize, exploit, and cage Black people and other marginalized people in order to protect white property and capital and promote white supremacy and other ideologies of oppression.²⁸ Organizers and activists in the Black freedom movement and radical tradition have long created other forms of accountability, healing, and redress for unprosecuted police violence against Black people.²⁹

system—including when we urge the arrest, charging, prosecution, and punishment of police officers for crimes.”).

28. See Kate Levine, *We Cannot Prosecute Our Way to Making Black Lives Matter*, LAW & POL. ECON. PROJ.: LPE BLOG (June 10, 2020), lpeblog.org/2020/06/10/prosecuting-police-wont-make-black-lives-matter (“If an actual reduction in police brutality and racism in the criminal legal system is our goal, prosecuting individual ‘bad apples’ is not the solution. In fact, these prosecutions may exacerbate the problem, because they allow the mainstream, white public, and the politicians who represent them to rest easy believing that problem police officers have gotten their due.”).

29. A long Black radical tradition exists in the U.S. of contending with policing killings of Black people with community-driven methods of justice, like wanted posters, documentary and memorial projects, truth commissions, and mock trials, to expose and heal from racist police brutality. See Stuart Schrader, *Wanted: An End to Police Terror*, VIEWPOINT MAG. (June 9, 2020), www.viewpointmag.com/2020/06/09/wanted-an-end-to-police-terror (describing community wanted posters created about killer cops dating back to the 1960s). When a police officer murdered a young Black man named Franklin Lynch at City Hospital in Boston in 1970, organizers with the Black United Front staged a public mock trial attended by 800 people, and then community members hung 10,000 posters in their windows for weeks to announce that the police officer had been tried and convicted of murder by the Black community. See Carly Carioli (@carlycarioli), TWITTER (June 3, 2020, 10:54 AM), twitter.com/carlycarioli/status/1268194234391281664; see also Carly Carioli & Eli “Paperboy” Reed, *The Police Shooting that Boston Forgot*, BOS. MAG. (Sept. 2020), www.bostonmaga-zine.com/news/frank-lynch-death. The Black Panther Party later named the Franklin Lynch People’s Free Health Center after him, an act of commemoration connected to a broader struggle for Black self-determination, community care, and liberation. PROGRAM FOR SURVIVAL, THE BLACK PANTHER (Mar. 24, 1973), www.itsabouttimebpp.com/Survival_Programs/pdf/Survival_Programs.pdf#page=2 (“[T]he Boston Chapter of the Black Panther Party has opened the People’s Free Health Center. The Health Center is located at Ruggles and Tremont, on part of the land to be used for the new super highway. As part of Operation Stop, sponsored by the Boston Black United Front, [the] Health Center shows that this land truly belongs to the people; therefore, it should be used in the interests of the people. A highway cutting through the Black community will mean air pollution, increased accidents, housing shortages, and excessive noise. The Free Health Center occupies this land illegally according to the law, but we feel that the people’s authorization is the only authorization necessary.”); see also Mary T. Bassett, *Beyond Berets: The Black Panthers as Health Activists*, 106 AM. J. PUB. HEALTH 1741, 1741 (2016), www.ncbi.nlm.nih.gov/pmc/articles/PMC5024403/ (“I volunteered at the Party’s Boston Franklin Lynch Peoples’ Free Health Center in Roxbury, Massachusetts—sited to block construction of a proposed highway. It took its name from a young man who died at the hands of police, reportedly shot dead while hospitalized.”). The Greensboro Truth and Reconciliation Commission, convened in 2004, which issued its final report in 2006, determined that the Greensboro, North Carolina police department had colluded with the Ku Klux Klan and Nazis in sanctioning violence including the killing of five people during the Greensboro Massacre of November 3, 1979. See GREENSBORO TRUTH AND RECONCILIATION COMMISSION REPORT: EXECUTIVE SUMMARY (2006), greensboro-trc.org/exec_summary.pdf. The survivors of police torture committed by Chicago police commander Jon Burge have successfully pushed for a “sweeping reparations package” including

Part I of this article traces the historical and recent events that provide necessary context for the phenomenon of “progressive prosecutors”: how they came to be, which organizers and organizations drove their development, and how those actors relate to one another. We then introduce our general overview of an abolitionist organizing framework as it relates to the prosecuting office in Part II. The idea of clearly articulating this framework in a way that would be useful to organizers developed at a national conference about prosecutor accountability in June 2019, which convened many of the key organizations and actors who had championed the idea of “progressive prosecution” over the last decade. The muddled use during that conference of the idea of PIC abolition in the context of prosecution demanded exploration and reckoning with what our language means and how we operationalize it in the world. That summer, we joined a loose coalition of abolitionist thinkers and organizers already engaged in campaigns targeting prosecutors to carve out shared principles and strategies for abolitionist organizing around prosecutors. In September 2019, the organizations we represent as well as our sister organizations published a document entitled *Abolitionist Principles & Campaign Strategies for Prosecutor Organizing*, designed to stake out the clarity that had been missing at the June convening.

The latter half of this article borrows from and expands upon that original document. In Part III, we build on the general conceptualization of how abolitionist organizers view the prosecuting office with six principles to hold abolitionist organizers accountable to one another, so that there is shared agreement for what abolition means in organizing around prosecutors. In Part IV, we look specifically at abolitionist organizing strategies and tactics focused on the prosecuting office: baseline tactics which involve building power and relationships as abolitionist praxis, strategies focused on the prosecuting office, and strategies focusing on shrinking structural power. We conclude in Part V with some brief thoughts on why divesting power from the prosecuting office is essential to pursuing liberation for communities most directly impacted by surveillance, criminalization, and incarceration.

I. HISTORY & RECENT ROOTS OF “PROGRESSIVE PROSECUTION”

a mental health clinic for survivors and a public memorial, though more remains to be done to fulfill and fully support those endeavors. Natalie Moore, *Burge Torture Survivors Seek Support For Counseling, Public Memorial*, WBEZ (Jan. 27, 2020, 7:00 AM), www.wbez.org/stories/burge-torture-survivors-seek-support-for-counseling-public-memorial/24399765-07c4-4a09-a94a-2745f582f7; see also generally G. Flint Taylor, *The Chicago Police Torture Scandal: A Legal and Political History*, 17 CUNY L. REV. 329; Andrew S. Baer, *Dignity Restoration and the Chicago Police Torture Reparations Ordinance*, 92 CHI.-KENT L. REV. 769 (2017).

With thousands of hits on Google, too many articles to count by authors representing a range of viewpoints and partisan ideologies,³⁰ a feature on *Last Week Tonight with John Oliver* in an episode with more than six million views on YouTube,³¹ and multiple law review symposia devoted to the concept of “progressive prosecution,”³² the current fixation on “progressive prosecutors” within

30. See, e.g., Daniel Nichanian, *The Politics of Prosecutors*, APPEAL (Mar. 2020), theappeal.org/political-report/the-politics-of-prosecutors; Allison Young, *The Facts on Progressive Prosecutors*, CTR. FOR AM. PROGRESS (Mar. 19, 2020, 9:01 AM), www.americanprogress.org/issues/criminal-justice/reports/2020/03/19/481939/progressive-prosecutors-reforming-criminal-justice; Andrew McCarthy, *The Progressive Prosecutor Project*, COMMENTARY MAG. (Mar. 2020), www.commentarymagazine.com/articles/andrew-mccarthy/the-progressive-prosecutor-project; Richard A. Oppel, Jr., *These Prosecutors Promised Change. Their Power Is Being Stripped Away.*, N.Y. TIMES (Nov. 25, 2019), www.nytimes.com/2019/11/25/us/prosecutors-criminal-justice.html; Allan Smith, *Progressive DAs Are Shaking Up the Criminal Justice System. Pro-Police Groups Aren't Happy.*, NBC NEWS (Aug. 19, 2019, 4:47 AM), www.nbcnews.com/politics/justice-department/these-reform-prosecutors-are-shaking-system-pro-police-groups-aren-n1033286; David Garland, *The Road to Ending Mass Incarceration Goes Through the DA's Office*, AM. PROSPECT (Apr. 8, 2019), prospect.org/justice/road-ending-mass-incarceration-goes-da-s-office; Ben Austen, *In Philadelphia, A Progressive D.A. Tests the Power—And Learns the Limits—Of His Office*, N.Y. TIMES MAG. (Oct. 30, 2018), www.nytimes.com/2018/10/30/magazine/larry-krasner-philadelphia-district-attorney-progressive.html; Josie Duffy Rice & Clint Smith, *Justice in America Episode 7: The New Progressive Prosecutors?*, APPEAL (Sept. 5, 2018), theappeal.org/justice-in-america-episode-7-the-new-progressive-prosecutors; Henry Gass, *Meet a New Breed of Prosecutor*, CHRISTIAN SCI. MONITOR (July 17, 2017), www.csmonitor.com/USA/Justice/2017/0717/Meet-a-new-breed-of-prosecutor; Editorial, *A Wiser Generation of Prosecutors*, N.Y. TIMES (Feb. 6, 2017), www.nytimes.com/2017/02/06/opinion/a-wiser-generation-of-prosecutors.html.

31. See *Last Week Tonight with John Oliver: Prosecutors* (HBO Aug. 2018) at 18:11–25, youtu.be/ET_b78GSBUst=1091 (“Clearly, we need more reform-minded D.A.s to run because, thanks to the extreme breadth of power they have, that could actually be a backdoor way to effect change on a whole host of issues, from bail, to the misuse of forensic science, to the enforcement of marijuana laws.”).

32. In addition to the volume in which this article appears, see, for example, Symposium: Progressive Prosecution and the Carceral State, HASTINGS J. OF CRIME & PUNISHMENT & HASTINGS RACE & POVERTY L.J. (Jan. 12, 2020), www.uchastings.edu/2020/01/12/progressive-prosecution; Symposium: Progressive Prosecution: Legal, Empirical, and Theoretical Perspectives, NW. J. OF CRIM. LAW & CRIMINOLOGY (Feb. 28, 2020), jclc.law.northwestern.edu/symposium. In 2018, the *Fordham Law Review* printed a symposium revisiting Abbe Smith’s 2001 article, *Can a Good Person Be a Good Prosecutor?* through the lens of “progressive” or “reform” prosecutors, with contributions from Angela J. Davis, Bruce A. Green, Vida B. Johnson, David E. Patton, Rebecca Roiphe, Jessica A. Roth, Abbe Smith, and Ellen Yaroshesky. *Can a Good Person Be a Good Prosecutor in 2018?*, 87 FORDHAM L. REV. ONLINE, no. 1, 2018, ir.lawnet.fordham.edu/flro/vol87/iss1. For additional legal academic writing on the subject, see, for example, Madison McWithey, Note, *Taking a Deeper Dive into Progressive Prosecution: Evaluating the Trend Through the Lens of Geography: Part One: Internal Constraints*, 61 B.C. L. REV. SUPP. I.-32 (2020), www.bc.edu/bc-web/schools/law/academics-faculty/law-reviews/bclr/e-supp-online/taking-a-deeper-dive-into-progressive-prosecution-evaluating-the-trend-through-the-lens-of-geography-part-one-internal-constraints; Madison McWithey, Note, *Taking A Deeper Dive into Progressive Prosecution: Evaluating the Trend Through the Lens of Geography: Part Two: External Constraints*, 61 B.C. L. REV. SUPP. I.-49 (2020), www.bc.edu/bc-web/schools/law/academics-faculty/law-reviews/bclr/e

and beyond the legal profession is hard to deny. “Progressive prosecution” is a prime example of the ways in which theories of change of the criminal system can become muddled. The phenomenon of prosecutors claiming progressivism evolved out of several different, but often conflated, organizing approaches: one being pro-candidate electoral organizing, and another being explicitly abolitionist, negative electoral organizing.³³ These approaches happened concurrently, championed by coalitions that seemed to be working toward similar ends from a birds-eye view, but the underlying theories of change were distinct—and the strategies diverged in significant respects.

In this section, we provide an abbreviated and incomplete history of the “progressive prosecutor” phenomenon, which goes back at least a decade.³⁴ From 2010 to 2015, three primary threads developed new or renewed interest in prosecutors: (1) grassroots abolitionist and Black Lives Matter organizers, (2) candidate-focused electoral reformers, and (3) non-partisan interest groups engaged in political education and policy reform.

In 2010, as part of their work to end the death penalty in California, the ACLU of California³⁵ began to look at how the state District Attorney Association and individual district attorneys were obstructing reforms on the local and

[supp-online/taking-a-deeper-dive-into-progressive-prosecution-evaluating-the-trend-through-the-lens-of-geography-part-two-external-constraints](#); Seema Gajwani & Max G. Lesser, *The Hard Truths of Progressive Prosecution and a Path to Realizing the Movement’s Promise*, 64 N.Y.L. SCH. L. REV. 70 (2020), [digitalcommons.nyls.edu/nyls_law_review/vol64/iss1/3](#); Angela J. Davis, *Reimagining Prosecution: A Growing Progressive Movement*, 3 UCLA CRIM. JUST. L. REV. 1 (2019), [escholarship.org/content/qt2rq8t137/qt2rq8t137.pdf](#); Note, *The Paradox of “Progressive Prosecution,”* 132 HARV. L. REV. 748 (2018), [harvardlawreview.org/2018/12/the-paradox-of-progressive-prosecution](#); David Alan Sklansky, *The Progressive Prosecutor’s Handbook*, 50 U.C. DAVIS L. REV. 25 (2017), [lawreview.law.ucdavis.edu/online/vol50/Sklansky.pdf](#).

33. Negative electoral organizing campaigns focus on removing specific politicians from office and do not advocate for any one candidate. See, e.g., Page May & B. Loewe, *When It Comes to Elections, There Are More Options Than Endorsing a Candidate*, TRUTHOUT (Jan. 29, 2018), [truthout.org/articles/when-it-comes-to-elections-there-are-more-options-than-endorsing-a-candidate](#) (“We ran negative campaigns that refused to endorse an alternative candidate. Instead, we wanted to hold accountable the people who were using their elected offices to directly inflict harm on the communities they were expected to represent.”).

34. Many abolitionists understand these recent developments as the next step in a long history of “progressive” carceral policies, including, for example, the creation of the penitentiary itself. See, e.g., Dylan Rodríguez, *Abolition as Praxis of Human Being: A Foreword*, 132 HARV. L. REV. 1575, 1580, 1601 (2019).

35. The ACLU, within the above schematic, falls within the third group: non-partisan interest group engaged in political education and policy reform. See generally *It’s Time to Transform What It Means to Be a Prosecutor*, ACLU (Feb. 18, 2020), [www.aclu.org/news/smart-justice/our-vision-to-transform-what-it-means-to-be-a-prosecutor](#). Other national groups bringing non-partisan attention to prosecution as a mechanism of reform include Color of Change, Fair and Just Prosecution, Prosecutor Impact, the Brennan Center for Justice, and the Justice Collaborative, to name a few.

legislative level.³⁶ On the other side of the country, both reformers and abolitionists began to experiment with pressuring elected prosecutors to enact policy change,³⁷ as national media focused renewed attention on prosecutorial power and misconduct.³⁸ In August 2013, for example, grassroots groups like VOCAL-NY and the Drug Policy Alliance urged district attorney candidates in Brooklyn to change the harsh prosecutorial approach that fueled the war on drugs, which then-candidate Ken Thompson limitedly adopted once in office.³⁹

In 2012, the murder of Trayvon Martin sparked #BlackLivesMatter and

36. Jon Wainwright, *The Many Roles of Your District Attorney*, CAP IMPACT (Apr. 11, 2018), www.capimpactca.com/2018/04/many-roles-district-attorney/ (transcript available at www.capimpactca.com/wp-content/uploads/sites/408/2018/04/Policy-Change-in-Practice-with-Ana-Zamora.pdf).

37. Hannah K. Gold, *How Grassroots Power Is Shaping New York's Marijuana Decriminalization Debate*, WAGING NONVIOLENCE (July 25, 2014), wagingnonviolence.org/2014/07/grassroots-power-shaping-new-yorks-marijuana-decriminalization-debate; Alan Greenblatt, *Law and the New Order: A Fresh Wave of District Attorneys Is Redefining Justice*, GOVERNING (Apr. 2017), www.governing.com/topics/public-justice-safety/gov-district-attorneys-houston-criminal-justice-reform.html (“The first swell of the current reform wave may have hit shore in Brooklyn in 2013, when Kenneth Thompson unseated a longtime incumbent by campaigning against prosecutorial misconduct and racial discrimination by police.”); Press Release, Elected Officials, Community Groups Rally in Support of Brooklyn DA Ken Thompson’s Proposal to Stop Prosecuting Low-Level Marijuana Possession Cases, DRUG POL’Y ALLIANCE (Apr. 24, 2014), www.drugpolicy.org/news/2014/04/elected-officials-community-groups-rally-support-brooklyn-da-ken-thompsons-proposal-sto.

38. See, e.g., Joaquín Sapien, *For Brooklyn Prosecutor, a Troubled Last Term, and a Trail of Lingering Questions*, PROPUBLICA (Dec. 30, 2013, 11:16 AM), www.propublica.org/article/for-brooklyn-prosecutor-a-troubled-last-term-and-a-trail-of-lingering-quest; Joaquín Sapien, *For Prosecutor Under Fire, A Verdict at the Polls*, PROPUBLICA (Sept. 6, 2013, 11:40 AM), www.propublica.org/article/for-prosecutor-under-fire-a-verdict-at-the-polls.

39. CTR. FOR POPULAR DEMOCRACY & POLICYLINK, BUILDING MOMENTUM FROM THE GROUND UP: A TOOLKIT FOR PROMOTING JUSTICE IN POLICING 6 (2015), populardemocracy.org/sites/default/files/Justice-In-Policing-Toolkit-sm.pdf#page=10 (“Organizations such as VOCAL NY and the Drug Policy Alliance have waged an advocacy, public education, and grassroots organizing campaign. In 2013, a coalition of grassroots organizations hosted a forum for the Brooklyn District Attorney candidates to discuss the connections between the failed war on drugs and mass incarceration and encouraged candidates to consider different approaches to dealing with drug addiction. . . . Most recently, Brooklyn’s District Attorney said that his office would not prosecute low-level marijuana possessions. However, without legislation, there is no way to enforce non-prosecution or departmental de-prioritization.”). Though Thompson adopted some minor policy changes while in office as Brooklyn District Attorney, communities of color most directly and disproportionately targeted by policing, prosecution, and incarceration continued to push the office throughout his term. See, e.g., Josmar Trujillo, *NYT: Protesters and Prosecutor Should Be Friends*, FAIRNESS & ACCURACY IN REPORTING (May 24, 2016), fair.org/home/nyt-protesters-and-prosecutor-should-be-friends (“[M]any of the activists who’ve been pushing the #ByeKen message could have explained—if they had been asked. Shannon Jones is an organizer with Why Accountability, a community and police watchdog group. She has protested Thompson and wasn’t happy with the editorial defending him, either.”); Alan Feuer, *Liberal Brooklyn Prosecutor Faces Unlikely Foes: Liberal Activists*, N.Y. TIMES (May 16, 2016), www.nytimes.com/2016/05/17/nyregion/ken-thompson-liberal-brooklyn-prosecutor-faces-unlikely-foes-liberal-activists.html.

launched widespread protests as well as a generation of Black organizers who would lead wide-ranging campaigns and institutions for Black liberation.⁴⁰ By 2014, the unprosecuted police murder of Michael Brown in Ferguson ignited the spark of Black Lives Matter into a sustained uprising in Ferguson and a global movement, alerting a much larger public to the power and discretion prosecutors hold in who they do, or do not, choose to prosecute.⁴¹ Organizing around racism and policing naturally grew into organizing around prosecutors. In November 2014, twelve-year-old Tamir Rice was killed by police in Cleveland. In the wake of the decision not to prosecute the police officers who killed Tamir Rice, Black Lives Matter protestors vociferously opposed the re-election of Cuyahoga County prosecutor Timothy McGinty in 2016.⁴²

During this same period, and in the years that followed, electoral organizing and non-partisan organizing around district attorney elections ramped up.⁴³ These efforts were animated by the above, but also by a 2015 study showing 95%

40. Patrisse Cullors, Opinion, *Black Lives Matter Began After Trayvon Martin's Death. Ferguson Showed its Staying Power.*, NBC NEWS (Jan. 1, 2020, 4:37 AM), www.nbcnews.com/think/opinion/black-lives-matter-began-after-trayvon-martin-s-death-ferguson-ncna1106651.

41. See *Herstory*, BLACK LIVES MATTER, blacklivesmatter.com/herstory; Elizabeth Day, *#BlackLivesMatter: the Birth of a New Civil Rights Movement*, GUARDIAN (July 19, 2015, 5:00 AM), www.theguardian.com/world/2015/jul/19/blacklivesmatter-birth-civil-rights-movement; see also Amna Akbar, *The Movement for Black Lives Offers an Abolitionist Approach to Police Reform*, LAW & POL. ECON. PROJ.: LPE BLOG (Jan. 23, 2018), lpeblog.org/2018/01/23/the-movement-for-black-lives-offers-an-abolitionist-approach-to-police-reform. Although the Black Lives Matter movement grew up in part around the non-prosecution of police officers who killed Black people, the movement came to demand “[a]bolition grounded not just in theory but in a practice that believes human beings deserve a culture of transformation and compassionate accountability.” Cullors, *supra* note 40.

42. Afi Scruggs, *Tamir Rice Protesters Picket House of Cleveland Prosecutor Timothy McGinty*, GUARDIAN (Jan. 1, 2016, 5:44 PM), www.theguardian.com/us-news/2016/jan/01/tamir-rice-protest-cleveland-prosecutor-timothy-mcginty; Erica Hellerstein, *Hundreds Demand Prosecutor in Tamir Rice Case Resign*, THINK PROGRESS (Jan. 2, 2016, 5:23 PM), thinkprogress.org/hundreds-demand-prosecutor-in-tamir-rice-case-resign-585dfe3ee6bc/.

43. Academics also brought new focus to the role of district attorneys in expanding the carceral state as well as the changing political landscape around prosecutor elections. See, e.g., ANGELA J. DAVIS, *ARBITRARY JUSTICE: THE POWER OF THE AMERICAN PROSECUTOR* (2007); JOHN PFAFF, *LOCKED IN: THE TRUE CAUSES OF MASS INCARCERATION AND HOW TO ACHIEVE REAL REFORM* (2017); David Alan Sklansky, *The Changing Political Landscape for Elected Prosecutors*, 14 OHIO ST. J. CRIM. L. 647 (2017); Lissa Griffin & Ellen Yaroshefsky, *Ministers of Justice and Mass Incarceration*, 30 GEO. J. LEGAL ETHICS 301 (2017). Certain reformist nonprofits were also already exploring the power of prosecutors and how to influence prosecutor decision making. See, e.g., Jeffrey Toobin, *The Milwaukee Experiment*, NEW YORKER (May 4, 2015), www.newyorker.com/magazine/2015/05/11/the-milwaukee-experiment (describing a partnership between the Vera Institute of Justice and Milwaukee District Attorney John Chisholm aimed at reducing racial disparities in prosecutions); BESIKI KUTATELADZE, WHITNEY TYMAS & MARY CROWLEY, *VERA INST. JUST., RACE AND PROSECUTION IN MANHATTAN* (2014), www.atlanticphilanthropies.org/wp-content/uploads/2015/10/dany_final_7_7_2014_policy_brief.pdf (noting that Vera began working with district attorneys in 2005).

of prosecutors in the country were white – and 79% were white men – who mostly ran unopposed;⁴⁴ by research and increasing public awareness of certain prosecutors' roles in aggressively seeking the death penalty;⁴⁵ as well as by a dramatic increase in funding for reform-minded candidates from George Soros and others.⁴⁶ The strategy of this pro-candidate electoral organizing was clear: to enact criminal legal reform, elect more diverse and reform-minded prosecutors.⁴⁷ The first two elections funded by Soros's political action committee in 2015 resulted in victories for two Black challengers to incumbents: Scott Colom in Mississippi's District 16 and James E. Stewart Sr. in Caddo Parish, Louisiana.⁴⁸

44. Nicholas Fandos, *A Study Documents the Paucity of Black Elected Prosecutors: Zero in Most States*, N.Y. TIMES (July 7, 2015), www.nytimes.com/2015/07/07/us/a-study-documents-the-paucity-of-black-elected-prosecutors-zero-in-most-states.html; see also Kate Stohr & Deirdra Funcheon, *America's Prosecutor Problem*, FUSION (2015), interactive.fusion.net/how-to-rig-an-election/district-attorney-race.html; Liz Posner, *Nearly All District Attorneys Are White—And That's a Huge Obstacle to Fighting Mass Incarceration*, SALON (Jan. 30, 2018, 9:00 AM), www.salon.com/2018/01/30/nearly-all-district-attorneys-are-white-and-that-is-a-huge-obstacle-to-fighting-mass-incarceration_partner.

45. See, e.g., Robert J. Smith, *America's Deadliest Prosecutors*, SLATE (May 14, 2015, 3:54 PM), slate.com/news-and-politics/2015/05/americas-deadliest-prosecutors-death-penalty-sentences-in-louisiana-florida-oklahoma.html; Campbell Robertson, *The Prosecutor Who Says Louisiana Should 'Kill More People'*, N.Y. TIMES (July 7, 2015), www.nytimes.com/2015/07/08/us/louisiana-prosecutor-becomes-blunt-spokesman-for-death-penalty.html (citing this research and noting U.S. Supreme Court Justice Stephen Breyer's citation of this research); FAIR PUNISHMENT PROJ., *AMERICA'S TOP FIVE DEADLIEST PROSECUTORS: HOW OVERZEALOUS PERSONALITIES DRIVE THE DEATH PENALTY* (2016), fairpunishment.org/wp-content/uploads/2016/06/FPP-Top5Report_FINAL.pdf; FAIR PUNISHMENT PROJ., *TOO BROKEN TO FIX: PART 1 3* (2016), mediad.publicbroadcasting.net/p/wjct/files/201608/FPP-TooBroken.pdf (“Since 1976, the year capital punishment resumed in America, a tiny handful of prosecutors account for a wildly disproportionate number of death sentences.”).

46. Scott Bland, *George Soros' Quiet Overhaul of the U.S. Justice System*, POLITICO (Aug. 30, 2016), www.politico.com/story/2016/08/george-soros-criminal-justice-reform-227519; see also Andrew Hazzard, *Dollars, Tensions Rise in D.A. Race*, DISPATCH (Columbus, Miss.) (Oct. 17, 2015, 11:08 PM), www.cdispatch.com/news/article.asp?aid=45551.

47. See, e.g., Davis, *supra* note 32; see also Robert J. Smith & Whitney Tymas, *Election Night Saw Victories in Local Criminal-Justice Reform—This Should Be the Beginning*, NATION (Nov. 12, 2016), www.thenation.com/article/archive/election-night-saw-victories-in-local-criminal-justice-reform-this-should-be-the-beginning.

48. See, e.g., Alexandra Burris, *Stewart Wins Caddo DA Race*, SHREVEPORT TIMES (Nov. 21, 2015, 6:19 PM), www.shreveporttimes.com/story/news/election/2015/11/21/caddo-da-election-runoff-results/75899240/; *Caddo Parish Elects First Black District Attorney As Spotlight Shines on Death Penalty and Jury Selection Controversies*, DEATH PENALTY INFO. CTR. (Nov. 23, 2015), deathpenaltyinfo.org/news/caddo-parish-elects-first-black-district-attorney-as-spotlight-shines-on-death-penalty-and-jury-selection-controversies; Jimmie E. Gates, *Scott Colom Ousts Longtime DA Forrest Allgood*, CLARION LEDGER (Nov. 6, 2015, 3:56 PM), www.clarionledger.com/story/news/2015/11/06/colom-ousted-da-forrest-allgood/75220072; Yamiche Alcindor, *After High-Profile Shootings, Blacks Seek Prosecutor Seats*, N.Y. TIMES (Nov. 5, 2016), www.nytimes.com/2016/11/06/us/politics/black-prosecutors.html; Nick Tabor, *What If Prosecutors Wanted to Keep People Out of Prison?*, N.Y. MAG.: INTELLIGENCER (Mar. 27, 2018), nymag.com/intelligencer/2018/03/what-if-prosecutors-wanted-to-keep-people-out-of-prison.html.

Stewart's election ousted Dale Cox in Caddo Parish,⁴⁹ one of the prosecutors highlighted by the Fair Punishment Project's report as among America's deadliest because of his widespread use of the death penalty—a mechanism of white supremacy in a parish that had flown the Confederate flag at its courthouse until 2011.⁵⁰ Meanwhile, in 2017 the ACLU launched campaigns across the country, starting with Northern California's "Meet Your DA,"⁵¹ to introduce voters to district attorney elections and increase voter fluency around this powerful, elected office.⁵²

For some abolitionist organizers in the social movement ecosystem⁵³ who

49. Robertson, *supra* note 45; see also Zach Beard, *Dale Cox Brings Bad Press to Caddo*, SHREVEPORT TIMES (July 15, 2015, 10:21 PM), www.shreveport-times.com/story/news/local/2015/07/15/dale-cox-brings-bad-press-caddo/30223399.

50. Charles Ogletree, Opinion, *Caddo D.A. Needs to Represent All Its Citizens*, SHREVEPORT TIMES (July 1, 2015, 2:28 PM), www.shreveporttimes.com/story/opinion/2015/07/01/caddo-da-needs-represent-citizens/29576709/.

51. Press Release, ACLU of California, ACLU of CA Launches Meet Your DA Campaign (Aug. 21, 2017), www.aclunc.org/news/aclu-ca-launches-meet-your-da-campaign.

52. The ACLU's Campaign for Smart Justice has launched similar campaigns in California (meetyourda.org), Massachusetts (www.dadifference.org), Minnesota (votejusticemn.org/), Missouri (www.pickyourpa.org), Oregon (theyreporttoyou.org/), and Pennsylvania (www.knowyourdainpa.org), among others. See Press Release, ACLU, ACLU Launches New Initiative to Overhaul Prosecutorial Practices (Apr. 26, 2017), www.aclu.org/press-releases/aclu-launches-new-initiative-overhaul-prosecutorial-practices; see also *Prosecutorial Reform*, ACLU, www.aclu.org/issues/smart-justice/prosecutorial-reform.

53. When we speak of the social movement ecosystem, we invoke the diversity of organizations, communities, institutions, political parties, and others working to make change in their own ways. As described by Mark and Paul Engler, "It takes a lot of different kinds of organizing and citizen engagement to create social change. Mass protests interact with more long-standing efforts to build progressive organizations. They interact with countercultural communities. They interact with political parties and people working inside the formal structures of politics." Mark Karlin, *How to Create an "Ecology of Change" by Combining Movement Uprisings With Long-Term Organizing*, TRUTHOUT (May 1, 2016), truthout.org/articles/how-to-create-an-ecology-of-change-by-combining-movement-uprisings-with-long-term-organizing; see also *Movement Ecology*, AYN I INST., ayni.institute/movementecology; Benjamin Case, *Social Movement Ecology and its Implications: Unpacking the Natural Metaphor*, BERKELEY J. SOC. (Jan. 17, 2018), berkeleyjournal.org/2018/01/social-movement-ecology-and-its-implications-unpacking-the-natural-metaphor; Paul B. Stretesky, Sheila Huss, Michael J. Lynch, Sammy Zahran & Bob Childs, *The Founding of Environmental Justice Organizations Across U.S. Counties during the 1990s and 2000s: Civil Rights and Environmental Cross-Movement Effects*, 58 SOC. PROBLEMS 330 (2011), www.jstor.org/stable/10.1525/sp.2011.58.3.330?seq=1. Increasingly reformist organizations and movement funders are adopting the language of social movements, including the idea of a movement ecosystem. See, e.g., JEREMY TRAVIS, CARTER STEWART & ALLISON GOLDBERG, INST. FOR INNOVATION IN PROSECUTION AT JOHN JAY COLLEGE, PROSECUTORS, DEMOCRACY, AND JUSTICE: HOLDING PROSECUTORS ACCOUNTABLE 2, 3 (2019), static1.squarespace.com/static/5c4fbee5697a9849dae88a23/t/5d6d8d224f45fb00014076d5/1567460643414/Prosecutors%2C+Democracy%2C+Justice+FORMATTED+9.2.19.pdf ("Today's criminal justice eco-system is energized by reform and driven by the urgency felt by the individuals and communities directly impacted by the justice system's overly-punitive nature."); Chloe Cockburn, *Philanthropists Must Invest in an Ecology of Change*, STAN. SOC.

wanted to target prosecutors⁵⁴ as a lever for change (but toward abolition, not reform), a pro-candidate electoral strategy did not make sense.⁵⁵ For example, in Chicago after it was revealed in late 2014 that Laquan McDonald, a Black 17-year-old, had been murdered by Chicago Police Officer Jason Van Dyke, and in 2015, that the murder was subsequently covered up by the police department, then-Mayor Rahm Emanuel, and then-State's Attorney Anita Alvarez,⁵⁶ a broad coalition of Chicago organizers came together, led primarily by young Black people, to launch the #ByeAnita campaign leading up to the 2016 state's attorney election.⁵⁷ While other groups worked on traditional electoral campaigns supporting candidates running against Alvarez, #ByeAnita was a negative electoral organizing campaign that was explicitly abolitionist and never endorsed any

INNOVATION REV. (June 25, 2018), ssir.org/articles/entry/philanthropists_must_invest_in_an_ecology_of_change. Abolitionist organizers have also used an ecology frame to analyze systems of oppression. See, e.g., Stop LAPD Spying Coalition & Free Radicals, *The Algorithmic Ecology: An Abolitionist Tool for Organizing Against Algorithms*, MEDIUM (Mar. 2, 2020), medium.com/@stoplapdspying/the-algorithmic-ecology-an-abolitionist-tool-for-organizing-against-algorithms-14fcbd0e64d0.

54. "Target" is a social movement organizing and social movement theory term used to describe the decision maker who has the power to meet and accede to the organizing demand—in other words, to give organizers what they want. Dana M. Moss, *Target(ing) Practice(s): Social Movements' Relations, Repertoires, and Consequences*, MOBILIZING IDEAS (June 10, 2015, 9:30 AM), mobilizingideas.wordpress.com/2015/06/10/targeting-practices-social-movements-relations-repertoires-and-consequences; Donatella della Porta, *Target Choices in Intense Times*, MOBILIZING IDEAS (June 10, 2015, 9:30 AM), mobilizingideas.wordpress.com/2015/06/10/target-choices-in-intense-times; William A. Gamson, *Protestors and Their Targets*, MOBILIZING IDEAS (July 3, 2015, 8:00 AM), mobilizingideas.wordpress.com/2015/07/03/protestors-and-their-targets-2.

55. See, e.g., Amanda Alexander, *Law, Protest, and Social Movements: A Syllabus*, HARVARD KENNEDY SCH. J. AFRICAN AM. PUB. POL'Y 22 (2017), hjaap.hkspublications.org/wp-content/uploads/sites/14/2018/02/HKSJAAPP-2017.pdf ("In Chicago and Cleveland, organizers succeeded in ousting prosecutors who declined to charge or indict police officers in the shooting deaths of seventeen-year-old Laquan McDonald and twelve-year-old Tamir Rice. Notably, these organizers worked to unseat incumbent prosecutors without promising support for their opponents; should their replacements fail to make changes, local communities will hold them accountable as well."); see also Derecka Purnell, Opinion, *The Killer Cop Who Took Eric Garner's Life Walks Free. How Do We Secure Justice?*, GUARDIAN (July 16, 2019), www.theguardian.com/commentisfree/2019/jul/16/killer-cop-eric-garner-life-justice ("Here lies a painful truth: we can't rely on these guilty systems for our liberation.").

56. Craig Futterman & Jamie Kalven, *Laquan McDonald*, INVISIBLE INST. (Dec. 8, 2014), invisible.institute/news/2014/laquan-mcdonald/; Curtis Black, *How Chicago Tried to Cover Up a Police Execution*, CHI. REPORTER (Nov. 24, 2015), www.chicagoreporter.com/how-chicago-tried-to-cover-up-a-police-execution/; Jamie Kalvin, *Sixteen Shots*, SLATE (Feb. 10, 2015, 8:07 PM), slate.com/news-and-politics/2015/02/laquan-mcdonald-shooting-a-recently-obtained-autopsy-report-on-the-dead-teen-complicates-the-chicago-police-departments-story.html.

57. ANITA ALVAREZ MUST GO, alvarezmustgo.wordpress.com. See, e.g., Miles Kampf-Lassin, *How Black Youth Helped Unseat Anita Alvarez and Transform the Face of Criminal Justice in Chicago*, IN THESE TIMES (Mar. 16, 2016), inthesetimes.com/article/18982/chicago-black-youth-anita-alvarez-kim-foxx-cook-county.

other candidate.⁵⁸ The campaign used direct action tactics of protests, bird-dogging Alvarez at reelection events,⁵⁹ and banner drops, as well as canvassing, political education events, and digital organizing on social media. And the campaign was successful in ensuring Alvarez's defeat and building power for local abolitionist movements.⁶⁰ This organizing against Alvarez developed amid blossoming abolitionist work across Chicago.⁶¹

Although organizers with the #ByeAnita campaign articulated and demonstrated what a negative electoral campaign could look like and how organizers

58. See, e.g., Mariame Kaba, #ByeAnita and #Justice4Laquan, PRISON CULTURE (Mar. 15, 2016), www.usprisonculture.com/blog/2016/03/15/byeanita-and-justice4laquan/ (“[A] variety of individuals and organizations have worked both autonomously and collectively to educate, incite and mobilize Cook County residents to oust her from office. Some of these individuals and groups are politicians, PACs and unions that have endorsed a particular candidate. But what’s been different about this State’s Attorney contest is that people and groups that don’t usually engage in electoral politics (for various reasons) have joined the effort to unseat Alvarez.”).

59. Bird-dogging, when used in an organizing or political context, refers to seeking out the candidate, official, or other decision maker, asking them specific questions, and obtaining their answers. See *Bird Dogging Guide*, FRIENDS COMM. ON NAT’L LEGIS., www.fcnl.org/updates/bird-dogging-guide-252. It can also look like disrupting their activity or event in order for organizers to share their demands with the decision maker. Kenrya Rankin, *WATCH: Young Activists Disrupt Anita Alvarez Fundraiser, Say #ByeAnita*, COLORLINES (Feb. 24, 2016, 10:47 AM), www.colorlines.com/articles/watch-young-activists-disrupt-anita-alvarez-fundraiser-say-byeanita; Rashad Robinson, #ByeAnita: Change the Prosecutor, Change How the Police Are Policed, THE ROOT (Mar. 18, 2016, 9:39 AM), www.theroot.com/byeanita-change-the-prosecutor-change-how-the-police-1790854656 (“The effort to unseat Alvarez was carried out through a diverse set of strategies. In addition to traditional voter-turnout operations, grassroots organizers used protests and online activism to communicate with voters. Young Chicago-based black organizers like Assata’s Daughters directly confronted Alvarez at her campaign events, drawing attention to the race using the hashtag #ByeAnita.”).

60. Kelly Hayes, *Can Young Black Organizers Bring Down Chicago’s Top Prosecutor?*, TRUTHOUT (Mar. 14, 2016), truthout.org/articles/can-young-black-organizers-bring-down-chicago-s-top-prosecutor/;

Micah Uetrict & Derrick Clifton, *Kim Foxx Trounces Anita Alvarez, But Activists Say They Want More*, CHI. READER (Mar. 16, 2016, 9:43 AM), www.chicagoreader.com/Bleader/archives/2016/03/16/kim-foxx-trounces-anita-alvarez-but-activists-say-they-want-more.

61. Maya Dukmasova, *Abolish the Police? Organizers Say It’s Less Crazy Than It Sounds.*, CHI. READER (Aug. 25, 2016), www.chicagoreader.com/chicago/police-abolitionist-movement-alternatives-cops-chicago/Content?oid=23289710. Earlier police killings of young Black people in Chicago, like 22-year-old Rekia Boyd in March 2012 and 23-year-old Dominique “Damo” Franklin in May 2014, galvanized a campaign called We Charge Genocide, “a grassroots, inter-generational, volunteer effort to center the voices and experiences of young people disproportionately targeted by police and impacted by police violence, in Chicago.” WE CHARGE GENOCIDE, report.wechargegenocide.org/. Eight youth organizers brought claims to the United Nations Committee Against Torture in 2014, charging the United States with violations of the right to be free from torture due to systematic police violence against youth of color. *We Charge Genocide Sends Delegation to United Nations*, WE CHARGE GENOCIDE (Dec. 15, 2014), wechargegenocide.org/summary-of-we-charge-genocide-trip-to-united-nations-committee-against-torture; Noah Berlatsky, *At the United Nations, Chicago Activists Protest Police Brutality*, ATLANTIC (Nov. 17, 2014), www.theatlantic.com/national/archive/2014/11/we-charge-genocide-movement-chicago-un/382843.

could successfully deploy an abolitionist organizing strategy targeted at the prosecuting office, it remains one of the few examples.⁶² In contrast, recent conversations around prosecutor organizing, even among groups and individuals committed to abolition in their broader work, center primarily on strategies for electing and supporting “progressive” or “decarceral” prosecutors.⁶³ As will be detailed further, these are generally not abolitionist strategies, although sometimes they are mischaracterized as such. In a moment where abolitionist movements are gaining popularity and mainstream credibility,⁶⁴ there is a growing tendency to describe reformist fights as abolitionist, when in fact those fights

62. Modeled after #ByeAnita, the #ByeBob campaign in St. Louis County to unseat Robert (Bob) McCulloch was a more complex coalition, including people actively supporting Wesley Bell as well as people only actively opposing McCulloch. See Kayla Reed, *Kayla Reed on the Unseen Work of Ousting Robert #ByeBob McCulloch*, ST. LOUIS AM. (Aug. 16, 2018), www.stlamerican.com/news/political_eye/kayla-reed-on-the-unseen-work-of-ousting-robert-byebob/article_f8ef6524-a0fd-11e8-baf0-4f4b68704ee1.html; Jacqui German, *How Brunch Helped Defeat a 7-Term Incumbent*, NATION (Aug. 24, 2018), www.thenation.com/article/archive/how-brunch-helped-defeat-a-7-term-incumbent. At least some oppositional organizing also helped defeat Thomas McGinty in Cuyahoga County. Carimah Townes, *Cleveland Gets Rid of Prosecutor Who Refused To Charge Tamir Rice Shooter*, THINK PROGRESS (Mar. 16, 2016, 1:58 PM), thinkprogress.org/cleveland-gets-rid-of-prosecutor-who-refused-to-charge-tamir-rice-shooter-b8872f28c42c. Though not in an election year, negative—but not abolitionist—organizing also targeted Brooklyn District Attorney Ken Thompson in 2016 with the #ByeKen campaign after Thompson declined to seek prison time for the police officer who killed Akai Gurley in 2014. See, e.g., Millions March NYC, *#ByeKen: Blood On Your Hands*, MEDIUM (Apr. 24, 2016), medium.com/@MillionsMarchNYC/bye-ken-blood-on-your-hands-a95e09fec57c (“We say #ByeKen because it is unacceptable for a District Attorney to advocate for a killer cop instead of advocating for the family of the victim. In a borough that routinely sends Black, Brown and poor people to jail for hopping a turnstile, Ken Thompson’s blatant hypocrisy has betrayed the life of Akai Gurley and reinforced NYPD impunity. The blood of Akai Gurley and the next victim of racist police murder is on Ken Thompson’s hands.”); Odochi Ibe, *Protesters Arrested Outside Of District Attorney Ken Thompson’s House In Clinton Hill*, BKLYNER (Apr. 22, 2016, 5:55 PM), bklyner.com/protesters-arrested-outside-district-attorney-ken-thompsons-house-fortgreene; Emily Saul, *Akai Gurley Supporters Arrested Outside Brooklyn DA’s Home Get Community Service*, N.Y. POST (May 16, 2016, 7:34 PM), nypost.com/2016/05/26/akai-gurley-supporters-arrested-outside-brooklyn-das-home-get-community-service.

63. Note, *The Paradox of “Progressive Prosecution,”* 132 HARV. L. REV. 748, 750–52 (2018), harvardlawreview.org/2018/12/the-paradox-of-progressive-prosecution.

64. See, e.g., Rachel Kushner, *Is Prison Necessary? Ruth Wilson Gilmore Might Change Your Mind*, N.Y. TIMES MAG. (Apr. 17, 2019), www.nytimes.com/2019/04/17/magazine/prison-abolition-ruth-wilson-gilmore.html; Ruth Wilson Gilmore & James Kilgore, *The Case for Abolition*, MARSHALL PROJ. (June 19, 2019, 6:00 AM), www.themarshallproject.org/2019/06/19/the-case-for-abolition; “Thinking about how to abolish prisons with Mariame Kaba: podcast & transcript,” *Why Is This Happening? with Chris Hayes*, NBC NEWS (Apr. 10, 2019, 12:58 PM) [hereinafter Kaba on WITH Pod], www.nbcnews.com/think/opinion/thinking-about-how-abolish-prisons-mariame-kaba-podcast-transcript-ncna992721; Kim Kelly, *What the Prison-Abolition Movement Wants*, TEEN VOGUE (Dec. 26, 2019), www.teen-vogue.com/story/what-is-prison-abolition-movement; Eli Day, *The New Abolitionists*, PLAYBOY (June 11, 2019), www.playboy.com/read/the-new-abolitionists; Symposium, *Prison Abolition*, 132 HARV. L. REV. (2019) harvardlawreview.org/topics/prison-abolition.

only further entrench the power of the prison industrial complex.⁶⁵

In 2015, Color Of Change held its first annual prosecutor accountability conference, at which ten organizations developed six core reform demands for prosecutors regarding transparency, “unnecessary” police violence and police “over-reaches,” declination of certain low-level crimes, the prosecution of children, bail, and partisanship.⁶⁶ “In the four years since hosting its first meeting on the subject, Color Of Change’s annual convenings have quadrupled in size and now serve as a congregating space for community groups seeking local reform.”⁶⁷ The Color Of Change convenings have become a hub for representatives from all three core groups newly awakened to prosecutor organizing in the last decade: (1) grassroots abolitionist and Black Lives Matter organizers, (2) candidate-focused electoral reformers, including funders, and (3) non-partisan interest groups engaged in political education and policy reform.

We attended the Color Of Change prosecutor accountability convening in June 2019, where the keynote speakers included two elected prosecutors and strategy discussions centered on organizers supporting and “co-governing” with local elected prosecutors while also invoking PIC abolition. Concerned by the centering of law enforcement figures in movement spaces and the muddying of abolition and reform, along with a group of other organizers, we set out to write *Abolitionist Principles & Campaign Strategies for Prosecutor Organizing* while at the convening, to guide future conversations on the difference between abolitionist and reformist efforts—those which aim to dismantle the role of the prosecutor within the criminal punishment system versus those which merely tinker with the mechanics or targets of prosecution but do not disrupt the footprint or power of the prosecuting office.⁶⁸ Inspired by the work of Critical Resistance to define reformist reforms and abolitionist steps—non-reformist reforms—on the

65. See, e.g., Maurice Chamamah, *Inside the Battle to Close Rikers*, MARSHALL PROJ. (Mar. 22, 2019), www.themarshallproject.org/2019/03/22/inside-the-battle-to-close-rikers (“Efforts in the past to build new jails have never been about a shrinking of the system,” [Dana Kaplan, a deputy director at the Mayor’s Office of Criminal Justice], explained. “This is a decarceration plan.”); Craig Hubert, *City Council Greenlights Closing Rikers Island, Expanding Borough-Based Jail System (Updated)*, BROWNSTONER (Oct. 18, 2019), www.brownstoner.com/development/rikers-island-jail-reform-brooklyn-house-detention-275-atlantic-avenue-city-council-votes-yes-2019 (“On Twitter, Levin was criticized for thanking No New Jails, an activist group that opposes the borough-based plan, and referencing organizer, educator and curator Mariame Kaba in his comments. ‘I reject the use of my name to support JAIL EXPANSION,’ Kaba wrote on Twitter. ‘It’s completely AGAINST what I stand for. Invoking me is gross and has nothing to do with me. It’s bullshit.’”).

66. Hatch & Gerstein, *supra* note 5, at 13. See generally *Our 6 Demands*, WINNING JUSTICE, www.winningjustice.org/about/our-six-demands.

67. Hatch & Gerstein, *supra* note 5, at 14.

68. See COMMUNITY JUSTICE EXCHANGE, ABOLITIONIST PRINCIPLES, www.communityjusticeexchange.org/abolitionist-principles. A webinar explaining the theories that informed the document, the organizing that brought it to life, and how the principles have been enacted in campaigns on the ground is available at www.communityjusticeexchange.org/abolitionist-principles-webinar.

road to abolishing policing,⁶⁹ we aimed to develop criteria to help organizers determine which strategies will help them achieve abolitionist goals and which strategies are reformist and risk enhancing the criminal punishment system's power or perceived legitimacy. The principles built from the larger legacy of abolitionist organizing around prosecutors detailed above and also grew out of the specific experiences of organizers who came together at the convening. The goal in writing *Abolitionist Principles & Campaign Strategies for Prosecutor Organizing* was to support both abolitionists and reform-minded organizers in developing and implementing strategies that align with their values.

With the input of many abolitionist thinkers and organizers, we drew out what abolitionist “prosecutor organizing” entails.⁷⁰ Intended to establish clarity and to foster alignment and inter-movement accountability for groups and individuals committed to abolition, we published the resulting framework in September 2019. In this essay, we explain the vision and scope of our principles and strategies, in an effort to provide clarity and direction for those interested in PIC abolition. Before delving into the specific principles and strategies, we begin with an abolitionist framework for engaging with the prosecuting office.

II. ABOLITION, NOT REFORM

As prison abolitionists, we are fighting for a world where the response to social problems does not include prisons, policing, prosecution, or any form of surveillance, supervision, or incarceration.⁷¹ These systems of punishment rely on, reinforce, and perpetuate structures of oppression: white supremacy, patriar-

69. CRITICAL RESISTANCE, REFORMIST REFORMS VS. ABOLITIONIST STEPS IN POLICING, criticalresistance.org/wp-content/uploads/2020/08/CR_NoCops_reform_vs_abolition_REV2020.pdf; see also CRITICAL RESISTANCE, REFORMIST REFORMS VS. ABOLITIONIST STEPS TO END IMPRISONMENT (2021), criticalresistance.org/wp-content/uploads/2021/02/CR_abolitioniststeps_antiexpansion_2021_eng.pdf.

70. The organizations that came together to develop the *Abolitionist Principles & Campaign Strategies for Prosecutor Organizing* were Community Justice Exchange, Court Watch MA, Families for Justice as Healing, Project NIA, and Survived and Punished NY. Fahd Ahmed, Amna Akbar, Erin Miles Cloud, Lily Fahsi-Haskell, Ruth Wilson Gilmore, Craig Gilmore, Joey Mogul, Andrea Ritchie, Lisa Sangoi, Dean Spade and others reviewed the document and provided critical feedback. COMMUNITY JUSTICE EXCHANGE, ABOLITIONIST PRINCIPLES, www.communityjusticeexchange.org/abolitionist-principles.

71. ANGELA Y. DAVIS, ARE PRISONS OBSOLETE? 106-07 (2003); CRITICAL RESISTANCE, ABOLITION NOW! TEN YEARS OF STRATEGY AND STRUGGLE AGAINST THE PRISON INDUSTRIAL COMPLEX xii (2008), criticalresistance.org/wp-content/uploads/2012/06/Critical-Resistance-Abolition-Now-Ten-Years-of-Strategy-and-Struggle-against-the-Prison-Industrial-Complex.pdf (“[W]e are not only struggling to tear down the cages of the PIC, but also to abolish the actions of policing, surveillance, and imprisonment that give the PIC its power. We are also reminded that abolition is the creation of possibilities for our dreams and demands for health and happiness-for what we want, not what we think we can get.”).

chy, capitalism, settler colonialism, xenophobia, ableism, transphobia, and heterosexism. We aim to abolish these systems, not reform them.⁷² As abolitionists, we see a future without prosecutors and prosecution. Simply put, that is our orientation to prosecutor organizing. We focus on structural and systemic changes that lessen the power, size, and scope of the prosecuting office, and on running campaigns that build the size and strength of abolitionist movements.⁷³

In most jurisdictions, prosecutors are elected officials tasked with distributing punishment within an unequal and violent society. Just like electing any elected official, electing a new prosecutor, even as part of a larger strategy, is never the end goal for abolitionists because it does not disrupt the existence of the prosecuting office nor does it end the violence of criminalization. We believe that organizations engaged in prosecutor-focused electoral politics must be committed to base-building and must be accountable to communities most impacted by prosecution and mass criminalization.

As abolitionists, our job does not end with the election of any prosecutor, no matter what they claim to represent. Therefore, we reject the tendency toward cults of personality which catapult specific officeholders to political stardom based on campaign rhetoric and a personal brand, shifting their audience from the local electorate that is actually positioned to demand accountability to the gauzy limelight of a national stage. Our theory of change demands delegitimizing the prosecuting office, no matter who holds it. We focus on what policies a prosecuting office enacts and supports others in enacting, what decisions a prosecuting office makes to release people from the grips of mass criminalization, and how a prosecuting office relates to, impedes, or advances our movements' demands. Our organizing focuses on how a prosecuting office's policies and practices result in decriminalization, decarceration, and shrinking the resources and power of the office of the prosecutor. Elected prosecutors are not co-strugglers, but targets we can push on the path to eliminating prosecution altogether.

III. WHAT DO WE BELIEVE?

72. CRITICAL RESISTANCE, THE CR ABOLITIONIST ORGANIZING TOOLKIT 32–33 (2003), criticalresistance.org/wp-content/uploads/2012/06/CR-Abolitionist-Toolkit-online.pdf; CRITICAL RESISTANCE, REFORMIST REFORMS VS. ABOLITIONIST STEPS IN POLICING, *supra* note 69; John Duda, *Towards the Horizon of Abolition: A Conversation with Mariame Kaba*, NEXT SYSTEM PROJ. (Nov. 9, 2017), thenextsystem.org/learn/stories/towards-horizon-abolition-conversation-mariame-kaba.

73. See Akbar, *supra* note 41; see also Amna Akbar, *Toward a Radical Imagination of Law*, 93 N.Y.U. L. REV. 405, 408–09 (2018); Raj Jayadev & Pilar Weiss, *Organizing Towards a New Vision of Community Justice*, LAW & POL. ECON. PROJ.: LPE BLOG (May 9, 2019), lpeblog.org/2019/05/09/organizing-towards-a-new-vision-of-community-justice.

A. Abolitionist Principles for Prosecutor Organizing

1. Prosecutors are law enforcement: they send people to prison and jail, parole and probation. A commitment to abolition includes the abolition of prosecutors, surveillance, and policing. This means that we seek the abolition of the role of prosecutor within the criminal punishment system.⁷⁴
2. Prosecution is a systemic and structural component of the criminal punishment system. Discussions of “good,” “bad,” “progressive,” or “regressive” prosecutors keep the focus on individuals and are a distraction that impedes the need for structural and systemic change.
3. Abolition is opposed to prosecution. A commitment to abolition requires that we think outside the criminal punishment system for what accountability and healing from harm could look like. This means we condemn the prosecution of anyone, including police officers, people in positions of power accused of financially-motivated crimes (“white collar crimes”), exploitative landlords, people accused of sexual or interpersonal harm, and so on.
4. Prosecutors are not social workers, therapists, housing advocates, or any other service-oriented role. They cannot and should not provide services to people who are in need. This is inherently in conflict with their pledge to serve and maintain the criminal punishment system. The best thing prosecutors can do for people who need services is get out of the way. Prosecuting offices should not receive more resources to provide social services or survivor/victim support, nor bolster other forms of confinement, stripping of rights, or institutions that use threat of punishment to force treatment or coerce services (such as drug courts and other forms of diversion court; mental health jailing). Resource shifting from carceral prosecution to carceral social services is not de-resourcing. Social services become another tool of the punishment system whether housed in or mandated by the prosecuting office.⁷⁵ Giving more resources to death-making institutions is not abolitionist. It only cements and increases power and also cloaks the system in legitimacy. Instead, prosecutors

74. Kate Levine & Joanna Schwartz, *Hold Prosecutors Accountable, Too*, BOS. REV. (June 22, 2020), bostonreview.net/law-justice/kate-levine-joanna-schwartz-hold-prosecutors-accountable-too (“But policing is only the most visible arm of a violent criminal legal system. We must pull back the lens still further, in recognition of the fact that violence attributed to the police is entangled in a much larger system of legal brutality. Police violence is not just the product of individual officers, and it is also not just a product of the departments that promote a culture that tolerates misconduct. It is tied as well to other agents in criminal law enforcement, including and especially prosecutors.”).

75. See, e.g., Ruth Wilson Gilmore, *When the Prison Industrial Complex Masquerades as Social Welfare*, 29 ABOLITIONIST, Summer 2018, at 21, abolitionistpaper.files.wordpress.com/2018/12/abby_issue_29_english-web.pdf.

should advocate for resources to be distributed to community organizations that already provide services and for policies that redistribute resources.

5. Prosecuting offices cannot be “co-governed” with/by community organizations. Given the inherent power imbalance,⁷⁶ there is no shared power relationship between elected prosecutors and community organizations. Instead, community organizations are constituency organizations and can and should demand change from these elected officials within that relationship. This means using the tools of community accountability, including phone calls, constituent meetings, protests, and the same demands we make of every and any elected official.
6. Prosecuting offices must be stripped of power and resources. Even as they restructure their offices and review prosecutions handled by their predecessor(s), prosecutors should not seek additional resources but work to redistribute resources internally to shrink the scale of current and future prosecutions as well as redress histories of aggressive prosecutions.

IV. ABOLITIONIST ORGANIZING STRATEGIES FOCUSED ON THE PROSECUTING OFFICE

There is not one path to abolishing prosecutors. But there certainly are identifiable strategies and tactics on the long road to making prosecutors obsolete. On the road to abolishing prosecutors, we identified three categories of tactics and strategies for local organizing campaigns: (1) base-line tactics of base-building, mutual aid, and narrative shift; (2) strategies focused on the prosecuting office; and (3) strategies focused on shrinking structural power. Some may be exercised concurrently, others sequentially. As we engage in abolitionist struggle and experimentation, we will identify new strategies and possibilities in the transformed landscape. The strategies and tactics best suited for local organizing campaigns depends on organizers’ capacity, how much power has already been built, and the local political context. For purposes of this essay, here we will primarily delve into strategies focused on the prosecuting office; however, you can access additional resources for base-line tactics and shrinking structural power at bit.ly/AbolitionistPrinciples.

76. See, e.g., Jocelyn Simonson, *What Is Community Justice?*, N+1 MAG. (July 19, 2017), nplusonemag.com/online-only/online-only/what-is-community-justice (“[T]he unequal distribution of political power means that the resulting criminal laws and enforcement are rarely responsive to the interests of the poor populations of color most likely to come into contact with the system. The mass incarceration and supervision of poor communities of color only exacerbate these political inequalities: many of the people affected by mass incarceration are barred from voting, and their neighborhoods experience a reduction in political participation and resources.”).

A. Baseline tactics

As Ruth Wilson Gilmore reminds us, PIC abolition is centrally about presence, not absence.⁷⁷ Yes, we need to dismantle the prison industrial complex and the oppressions that uphold it, like white supremacy, capitalism, and hetero-patriarchy. But we also need to build life-affirming institutions and support systems so people have what they need to thrive and to feel safe, such as healthcare, housing, employment, education, and so on—especially when we understand that the prison today serves as the one-size-fits-all solution to most social problems.⁷⁸ As one of our co-authors, Mariame Kaba, has said, we need to do the “work every single day to set the conditions for the possibility of that alternate vision of a world without prisons, policing, and surveillance.”⁷⁹ In this way, abolition is a practice.⁸⁰

77. Clément Petitjean, *Prisons and Class Warfare: An Interview with Ruth Wilson Gilmore*, VERSO BOOKS (Aug. 2, 2018), www.versobooks.com/blogs/3954-prisons-and-class-warfare-an-interview-with-ruth-wilson-gilmore; Micah Herskind, *Some Reflections on Prison Abolition*, MEDIUM (Dec. 7, 2019), medium.com/@micahherskind/some-reflections-on-prison-abolition-after-mumi-5197a4c3cf98; Kushner, *supra* note 64 (“Abolition means not just the closing of prisons but the presence, instead, of vital systems of support that many communities lack.”).

78. See generally ANGELA Y. DAVIS, ARE PRISONS OBSOLETE? 38–39 (2003); RUTH WILSON GILMORE, GOLDEN GULAG: PRISONS, SURPLUS, CRISIS, AND OPPOSITION IN GLOBALIZING CALIFORNIA 5 (2007) (“This book is about the phenomenal growth of California’s state prison system since 1982 and grassroots opposition to the expanding use of prisons as catchall solutions to social problems.”); see also Dorothy E. Roberts, *Democratizing Criminal Law As an Abolitionist Project*, 111 NW. U. L. REV. 1597, 1605 (2017) (“Approaching the democratization of criminal law as an abolitionist project means releasing the stranglehold of law enforcement on black communities that currently excludes residents from democratic participation so they have more freedom to develop their own democratic alternatives for addressing social harms.”); Eric Klinenberg, *The Other Side of “Broken Windows”*, NEW YORKER (Aug. 23, 2018), www.newyorker.com/books/page-turner/the-other-side-of-broken-windows (“To this day, most policies that aim to reduce crime focus on punishing people rather than improving places. The President has called for a national ‘stop and frisk’ police program; the Attorney General wants more severe sentencing; advocates of ‘law and order’ are resurgent. We invest little in housing and neighborhood amenities like libraries, senior centers, and community gardens, which draw people into the public realm and put more eyes on the street.”); Woodward, *supra* note 27 (“Gilmore has argued that prisons and police have served as a ‘catch-all’ response to address social and moral failures that would be better served by richer investments in social services that can prevent conditions that enable crime in the first place. Instead of cities spending a lion’s share of their budgets on their police departments, abolitionists argue that money should support affordable housing, healthcare, child care, mental health treatment and other services.”).

79. Kaba on WITH Pod, *supra* note 64.

80. Dan Berger, Mariame Kaba & Dan Stein, *What Abolitionists Do*, JACOBIN MAG. (Aug. 2017), www.jacobinmag.com/2017/08/prison-abolition-reform-mass-incarceration; see also Rachel Herzing, Erica R. Meiners & Nuri Nusrat, *Abolitionist Practices, Reformist Moments*, UPPING THE ANTI (Aug. 2, 2017), uppingtheanti.org/journal/article/19-abolitionist-practices-reformist-moments.

Following this vital precept, we suggest that central components of an organizing strategy to abolish the prosecuting office are tactics focused precisely on building, in particular base-building and mutual aid projects. Base-building can look like reaching out to people directly impacted by the PIC, developing relationships, facilitating leadership development, creating internal political education and analysis, and working intentionally in broad and deep coalitions.⁸¹ Through base-building, we increase the number of people who share the vision for abolition, who are ready to struggle and experiment together, and who are willing to do the work to move that vision forward and to show up for one another. Base-building is essential to build the power required to win the systemic and structural changes necessary to reduce the power of, and ultimately eliminate, the prosecuting office.

In parallel, through mutual aid we disrupt oppressive systems by building new ways of relating to and sustaining one another.⁸² According to Big Door Brigade, mutual aid is “a form of political participation in which people take responsibility for caring for one another and changing political conditions, not just through symbolic acts or putting pressure on their representatives in government, but by actually building new social relations that are more survivable.”⁸³ One example of this related to prosecutors and the criminal punishment system is a community organizing model called participatory defense, “for people facing charges, their families, and their communities to impact the outcomes of cases and transform the landscape of power in the court system.”⁸⁴ Together, they use their power as community to win freedom, make strong bail arguments for release and fight back against prosecutor requests, offer alternative diversion plans,

81. See, e.g., Mariame Kaba, *Learning Together How to Fight*, 29 ABOLITIONIST, Summer 2018, at 2, abolitionistpaper.files.wordpress.com/2018/12/abby_issue_29_english-web.pdf; see also Jocelyn Simonson, *Democratizing Criminal Justice Through Contestation and Resistance*, 111 NW. U. L. REV. 1609, 1617 (2017) (“Every day, marginalized groups living in the shadow of the carceral state engage in acts of resistance, large and small, that go beyond mass protest or social media campaigns. The value of these moments of communal intervention is not participation for its own sake, but rather the potential to build power and shift legal meanings. . . . These tactics illustrate the ways in which contestation outside of formal state-driven mechanisms can play a part in shifting power and agency to marginalized groups, destabilizing entrenched legal and constitutional meanings, and demonstrating to the larger public the communal and structural harms that the criminal justice system creates and perpetuates.”).

82. Sarah Lazare, *Now Is the Time for ‘Nobodies’: Dean Spade on Mutual Aid and Resistance in the Trump Era*, ALTERNET (Jan. 5, 2017), www.alternet.org/2017/01/now-time-nobodies-dean-spade-mutual-aid-and-resistance-trump-era/ (“Local, grassroots work that is rooted in mutual aid and has lots of people participating is vital for both survival of the most targeted and building the power to displace the structures that have been making war on targeted populations for centuries.”).

83. *What Is Mutual Aid?*, BIG DOOR BRIGADE, bigdoorbrigade.com/what-is-mutual-aid/.

84. *About Participatory Defense*, PARTICIPATORY DEFENSE, www.participatorydefense.org/about; see also Raj Jayadev, “Participatory Defense”—Transforming the Courts Through Family and Community Organizing, ALBERT COBARRUBIAS JUST. PROJ., acjusticeproject.org/about/purpose-and-practice/.

initiate plea negotiations with true diversion and alternatives, and fill courtrooms to demonstrate community support.⁸⁵ In the process of providing this support for people facing charges, participants build relationships of solidarity with one another and in becoming a collective, resist oppressive dynamics of control, hierarchy, and saviorship that are common to charities and social service providers.⁸⁶

B. Strategies focused on the prosecuting office

Examples of strategies focused on the prosecuting office include electoral organizing and organizing to shift office policy and culture. As evinced with the #ByeAnita campaign, organizing to remove officeholders and staff in the prosecuting office committed to status quo punishment and harm is consistent with an abolitionist framework. While this organizing focuses on ousting individuals in the interim, the orientation is always on the systemic and structural, and abolitionist organizers must continually work to uplift this in public messaging and education. Even without a negative campaign, in general, elections can be good opportunities for abolitionist base-building, as long as the information being distributed is issue-focused and not candidate-focused. Organizers can conduct issue-based canvassing and public education forums about the role of the elected prosecutor in the criminal punishment system.

During election season, organizers can also make demands of all prosecutor candidates for policy changes that are decarceral and that reduce the prosecuting office's harm, power, and influence. Organizers can use these demands to not only push candidates to commit to policies and practices that lessen the impact of the PIC, but also as opportunities for public education about the role of the prosecutor as part of the larger PIC and why the prosecuting office needs to be abolished. While demands must be tailored to a local context, a few example demands include:⁸⁷

- De-resource. Demand reduced budgets, staff, and scope of power (including curtailing prosecutorial discretion).

85. See, e.g., Jocelyn Simonson, *The Place of "The People" in Criminal Procedure*, 119 COLUM. L. REV. 249, 268–70 (2019); Janet Moore, Marla Sandys & Raj Jayadev, *Make Them Hear You: Participatory Defense and the Struggle for Criminal Justice Reform*, 78 ALB. L. REV. 1281, 1282–83 (2015).

86. See Jayadev & Weiss, *supra* note 73 ("The hub is focused on ensuring that participatory defense is not understood as a 'service', where families are 'clients' to get help, but rather see[s] families who come to meetings as the key agents of change. The hub values the horizontal sharing of power, putting a premium on the lived experience, and the relationships built through the process. The regular actions of a participatory defense hub reposition the community in the court room and in relation to the public defender, and importantly begin to change the power dynamic."); Simonson, *supra* note 85, at 269 ("[T]he wisdom and energy of marginalized groups who do not ordinarily have a say in the justice process are centered in collective efforts to support defendants, shift power, and create new visions of community.").

87. For a full list of example demands, see COMMUNITY JUSTICE EXCHANGE, ABOLITIONIST PRINCIPLES, bit.ly/AbolitionistPrinciples.

- For example, while prosecuting offices wield their discretion to decline to seek bail in certain cases,⁸⁸ abolitionists push further for policies that eliminate the possibility of seeking pretrial detention altogether. Abolitionist organizers recognize that cementing a prosecutor's authority to decline to seek bail does not abolish money bail; instead, it allows prosecutors to continue seeking bail to detain certain people within a framework that imbues those decisions with new legitimacy,⁸⁹ and risks replacing money bail with other forms of pretrial punishment, including so-called preventative detention,⁹⁰ punitive conditions,⁹¹ and the digital shackles of electronic monitoring.⁹²

88. Announcing policies to release on recognizance in lieu of requesting bail for certain enumerated charges is a hallmark among recently elected prosecutors, although organizers on the ground often document how line prosecutors flout the policy or exploit every exception to continue imposing bail.

89. Malik Neal, Opinion, *What the Pandemic Revealed About 'Progressive' Prosecutors*, N.Y. TIMES (Feb. 4, 2021), www.nytimes.com/2021/02/04/opinion/prosecutors-bail-reform.html; Press Release, Courtwatch Observations Show Shortcomings in Krasner's Promise to End Cash Bail, Phila. Bail Fund (May 8, 2019), www.phillybailfund.org/da-report; Bryce Covert, *Progressive Philly D.A. Larry Krasner's Bail Reform Plans Seem Stalled*, *Advocates Say*, APPEAL (June 25, 2019), theappeal.org/progressive-philly-d-a-larry-krasners-bail-reform-plans-seem-stalled-advocates-say; *Breaking: Durham Judges Refuse to Eradicate the Use of Money Bail or Include Needs Assessment Model in New Policy*, SOUTHERNERS ON NEW GROUND (Mar. 1, 2019), southernersonnewground.org/breaking-durham-judges-refuse-to-eradicate-the-use-of-money-bail-or-include-needs-assessment-model-in-new-policy.

90. Joshua Vaughn, *Massachusetts Prosecutors Are Using 'Dangerousness' Holds to Keep People Incarcerated Pretrial*, APPEAL (Oct. 23, 2019), theappeal.org/massachusetts-prosecutors-pretrial-incarceration ("Advocates say that despite the election of several progressive prosecutors in the state, there's a substantial increase in such detentions, which are stymieing gains made through policies to limit cash bail."); Rory Fleming, *When a "Progressive" Prosecutor Ditches Reform to Grab More Power*, FILTER MAG. (Apr. 7, 2020), filter-mag.org/progressive-prosecutor-ditch-reform ("The 'progressive' label somehow sticks while Torr ez is fighting for arbitrary detention without due process back at home.").

91. David Greenwald, *Bail Reform Doesn't Mean Automatic Pretrial Release in San Francisco*, DAVIS VANGUARD (Feb. 13, 2020), www.davisvanguard.org/2020/02/bail-reform-doesnt-mean-automatic-pretrial-release-in-san-francisco ("By replacing money bail with a risk-based system, people who are safe to be released get released quickly with appropriate, non-monetary conditions, and those who pose a serious threat to public safety are detained, regardless of their wealth.") (quoting a San Francisco District Attorney's Office Press Release).

92. MEDIA JUSTICE, NO MORE SHACKLES: TEN ARGUMENTS AGAINST PRETRIAL ELECTRONIC MONITORING (2019), mediajustice.org/wp-content/uploads/2020/04/No-MoreShackles-PretrialReport-2019-final-draft.pdf; see also Michelle Alexander, Opinion, *The Newest Jim Crow*, N.Y. TIMES (Nov. 8, 2018), www.nytimes.com/2018/11/08/opinion/sunday/criminal-justice-reforms-race-technology.html; Blair Jackson, *Shackles Before Sentencing: The Global Positioning System as a Means of Pretrial Restraint*, 3 FAULKNER L. REV. 17 (2011); Matthew Perry, *Replicating the Problem of Punishment Before Verdict*, MEDIUM: NO DIGITAL PRISONS (July 25, 2018), medium.com/nodigitalprisons/replicating-problems-of-punishment-6529abcf51e.

- Expanding the budget, staff, or scope of a prosecuting office to accommodate “reforms”⁹³ is antithetical to an abolitionist politic because it *grows* the footprint, clout, and power of the prosecuting office. Calls and claims for more funding are doubly dangerous—diverting funds from social programs that build a social safety net, a critical element of community safety, to criminalization efforts instead.⁹⁴ That danger only grows in the future because of the difficulty of changing the status quo and removing entrenched funding from an existing law enforcement and PIC architecture.⁹⁵
- De-criminalize. Demand that prosecutors never initiate or support

93. See, e.g., Jeremy Kohler, *Changing How Crimes Are Prosecuted in St. Louis County Will Cost Money, But Council Isn't Rushing*, ST. LOUIS POST-DISPATCH (Feb. 15, 2019), www.stltoday.com/news/local/govt-and-politics/changing-how-crimes-are-prosecuted-in-st-louis-county-will/article_1bd62241-df9a-5ed7-9ca9-e1283be20a91.html; Zach Despart & Keri Blakinger, *Kim Ogg's Request for 100 More Prosecutors Criticized By Reformers*, HOUS. CHRON. (Feb. 4, 2019), www.houstonchronicle.com/news/houston-texas/houston/article/Ogg-at-odds-with-progressives-over-push-for-more-13599424.php; Chris Palmer, *Philly DA Larry Krasner Asks City Council for 13% Funding Increase*, PHILA. INQUIRER (Apr. 24, 2018), www.inquirer.com/philly/news/crime/philadelphia-district-attorney-larry-krasner-city-council-13-percent-funding-increase-mayor-kenney-20180424.html.

94. For further reading on an invest-divest or abolitionist framework for people's budgeting, see, for example, CTR. FOR POPULAR DEMOCRACY, LAW FOR BLACK LIVES & BLACK YOUTH PROJECT 100, FREEDOM TO THRIVE: REIMAGINING SAFETY & SECURITY IN OUR COMMUNITIES (2017), populardemocracy.org/sites/default/files/Freedom%20To%20Thrive%2C%20Higher%20Res%20Version.pdf; CHELSEA THOMSON, LEAH SAKALA, RYAN KING & SAMANTHA HARVELL, URB. INST., INVESTING JUSTICE RESOURCES TO ADDRESS COMMUNITY NEEDS: LESSONS LEARNED FROM COLORADO'S WORK AND GAIN EDUCATION AND EMPLOYMENT SKILLS (WAGEES) PROGRAM (2018), www.urban.org/sites/default/files/publication/96341/investing_justice_resources_to_address_community_needs.pdf; *Demand More: Investing in Communities to Transform Criminal Justice*, PUB. WELFARE FOUND. (Sept. 6, 2019), www.publicwelfare.org/resource/demand-more-investing-in-communities-to-transform-criminal-justice; *Platform & Demands*, FREEDOM CITIES (2017), freedomcities.org/platform; CHI. COMMUNITY BOND FUND, MONEY FOR COMMUNITIES, NOT CAGES: THE CASE FOR REDUCING THE COOK COUNTY SHERIFF'S JAIL BUDGET (2018), chicagobond.org/wp-content/uploads/2018/10/money-for-communities-not-cages-why-cook-county-should-reduce-the-sheriffs-bloated-jail-budget.pdf; Scott Kurashige, Nat'l Ctr. for Institutional Diversity, *Grassroots Models of a Just Future: Learning from Black Radicalism in Detroit*, MEDIUM (Feb. 4, 2019), medium.com/national-center-for-institutional-diversity/grassroots-models-of-a-just-future-learning-from-black-radicalism-in-detroit-74de83602a55; BLACK YOUTH PROJECT 100, AGENDA TO BUILD BLACK FUTURES (2016), agendatobuildblack-futures.org/wp-content/uploads/2016/01/BYP_AgendaBlackFutures_booklet_web.pdf.

95. See, e.g., PETER WAGNER & BERNADETTE RABUY, PRISON POL'Y INITIATIVE, FOLLOWING THE MONEY OF MASS INCARCERATION (2017), www.prisonpolicy.org/reports/money.html; BEN FORMAN & MICHAEL WIDMER, JUSTICE REINVESTMENT AT-A-GLANCE: REVISITING CORRECTIONAL EXPENDITURE TRENDS IN MASSACHUSETTS I, MASSINC (2018), massinc.org/wp-content/uploads/2018/05/Revisiting-Correctional-Expenditure-Trends-in-Massachusetts.pdf (“Despite steady decline in the total number of individuals held in correctional facilities, spending on prisons and jails continues to rise.”).

the creation of new laws criminalizing more behavior and advocate for current laws to be repealed. Demand (retroactive) sentencing reforms to eliminate mandatory minimums, reduce maximums, and eliminate sentencing enhancements.

- Prosecutors not only can decline to prosecute existing criminal charges, but can also advocate with the city or state legislature to remove criminal offenses and their rigid penalties from the penal code. Historically, “[d]istrict attorney associations are some of the biggest spenders and loudest voices in criminal law lobbying.”⁹⁶ Demanding that prosecuting offices curtail their own power by eliminating offenses from the criminal code furthers the abolitionist goal of reducing the criminal punishment system’s authority to regulate social and economic behavior, identities, and relationships through criminalization, prosecution, and incarceration.
- Stop the prosecution and punishment machine. Demand that fewer people are prosecuted or subject to detention or detention-like conditions, such as jail, prison, e-carceration (GPS shackles/electronic monitoring), immigration prison, deportation, stay away orders, and supervision (pre-trial, probation, parole). Demand an end to stacking charges, up-charging, and plea bargaining. Demand an end to the practice of requesting bail: affirmatively recommend pre-trial freedom in all cases. Demand an end to requests for detention without bail; warrants for missed court appearances; fines or fees; continuances and case delays. Demand an end to the practice of requesting the death penalty and life sentences with or without parole.

We also offer questions for organizers to consider in crafting their demands. They are intended to provide guidance about whether specific demands actually will move us further along on the path to abolishing prosecutors or not. The questions include:

- How do your demands delegitimize the prosecuting office? Limit the power, staff, technology, and resources of the prosecuting office? Challenge the notion that prosecutors promote safety?
- Are your demands accountable/strategic to building power long term? How do your demands build power for our movements and our people over the long term? To whom are we accountable?
- Do your demands prioritize people facing more or less serious charges? What do we gain by focusing our campaigns on the power

96. *Debunking the Racist Myths of a Backwards District Attorney*, COURTWATCHMA (June 3, 2019), www.courtwatchma.org/stories-from-court/debunking-the-racist-myths-of-a-backwards-district-attorney.

prosecutors have over those with more serious charges? What do we lose when we focus on non-serious, non-violent charges?

- How do your demands take into account an attempt to free the highest numbers of people, while also prioritizing freeing the people who are the most criminalized and demonized and scapegoated, while also prioritizing freeing the people the system harms disproportionately?
- Do your demands primarily rely on the prosecutor using their individual discretionary power or do they require change to the office in more material, sustainable ways? Do your demands call for strategic deployment of resources by the prosecuting office that ultimately reinforce the power of the prosecutor?
 - For example, demanding prosecutors decline to prosecute certain charges is a discretionary decision that depends on the particular prosecutor in power (and follow-through by individual line prosecutors). Demanding prosecutors support repealing laws that criminalize behavior, if successful, would result in legislative change that could not be easily reversed with the election of a different prosecutor.
- Do your demands support the provision of rights or services to one person or group of people contingent on the criminalization of another person or group of people?

Organizing targeted at the local prosecuting office continues after someone is elected. Elected prosecutors are targets we can push on the path to eliminating prosecution altogether. No matter who is elected, it is necessary to focus on what policies and practices a prosecuting office enacts and whether they result in decarceration, decriminalization, and shrinking the office's resources and power. Organizers can track the implementation of policy changes through data monitoring, court watching, or other tactics.⁹⁷ Organizers can monitor existing gains while also advocating for even more decarceral shifts or changes to other harmful practices.

A central tension with organizing focused on the prosecuting office is that

97. Tracking data on the decisions of criminal punishment system stakeholders flips the traditional power hierarchy around criminal punishment system data, used as a tool of racial and social control. *See generally* STOP LAPD SPYING COALITION, DISMANTLING PREDICTIVE POLICING IN LOS ANGELES 13–18 (2018), stoplapdspying.org/wp-content/uploads/2018/05/Befor-the-Bullet-Hits-the-Body-May-8-2018.pdf. For more on the tactic of courtwatching, see CMTY. JUST. EXCH., SO YOU WANT TO COURTWATCH (2019), static1.squarespace.com/static/5e1f966c45f53f254011b45a/t/5e35aa598d7df649e77e9fc0/1580575321975/CJE_Courtwatching_FINAL.pdf; *see also* Simonson, *supra* note 81, at 1618 (“These community groups become self-appointed watchdogs who can present the results of their observations in their own words, on their own terms, and independent of official accounts of policies and trends.”); Jocelyn Simonson, *The Criminal Court Audience in a Post-Trial World*, 127 HARV. L. REV. 2173, 2183, 2185–86 (2014), harvardlawreview.org/wp-content/uploads/2014/06/vol127_simonson.pdf.

even if a prosecuting office takes steps to reduce the size, scope, and power of the office, the role of the prosecuting office is to prosecute. Every day, the staff of the prosecuting office will send people to jail and prison, subject them to surveillance and control, and protect the role and power of the police. Even an office that reduces pre-trial detention, that seeks to release people from prison, that sentences fewer people to incarceration, *still prosecutes new cases every day*—sending other people to jail and prison; separating families; creating new barriers to health, housing, employment, and stability; reinforcing damaging narratives of the necessity of punishment; perpetuating generational trauma.⁹⁸ The office remains a criminal punishment pillar, an integral component of the system.

This tension arises even in some of the prosecution mechanisms most similar to non-reformist reforms, like case dismissals or *nolle prosequi* (a prosecutor formally declining charges). Declining or dismissing cases appears non-reformist in many ways. De facto decriminalization through a decline to prosecute policy acknowledges that the blunt and harmful tool of criminal law is not an appropriate way to address social issues. Through dismissing or declining cases, people are kept out of the criminal punishment system, bucking and negating its power. Professor Allegra McLeod and others have argued that, for these reasons, de facto decriminalization is consistent with an abolitionist ethic:

De jure and de facto decriminalization are similarly an important component of prevention and justice in a structural register and consonant with an abolitionist ethic—both preventing crime and acting in service of a fuller conception of justice than punishment of minor offenses achieves. . . . De facto decriminalization, or at least reduced sentencing, may involve exercises of police or prosecutorial discretion to simply not pursue, arrest, or prosecute particular categories of cases while retaining a legal norm of criminalization.⁹⁹

98. Allegra M. McLeod, *Envisioning Abolition Democracy*, 132 HARV. L. REV. 1613, 1638 (2019), [harvardlawreview.org/wp-content/uploads/2019/04/1613-1649_Online.pdf](https://www.harvardlawreview.org/wp-content/uploads/2019/04/1613-1649_Online.pdf) (“[C]riminal prosecution generally fails to address the needs of survivors of harm. It also degrades and brutalizes those subject to prosecution. All the while, the criminal legal system neglects the underlying causes of the problems at hand so that they are almost certain to occur again.”); TAYLOR PENDERGRASS, LEGISLATIVE STRATEGIES FOR PROSECUTORIAL REFORM: PHASE 1, EXPLORING POSSIBILITIES 11 (2016), www.openphilanthropy.org/files/Focus_Areas/Criminal_Justice_Reform/Exploring_Legislative_Possibilities_for_Prosecutorial_Reform_with_Appendices_5.8.16.pdf (“Any shift in that status quo is an improvement and, from that vantage point, having prosecutors utilize alternatives to incarceration is much better than current practices. Many of these alternatives, however, continue to route social problems through a criminal justice system designed to judge and punish. The prosecutor—trained as a lawyer and litigator, not as a doctor, or mental health clinician, or social worker, organizer, etc.—acts as gatekeeper and decision-maker.”).

99. Allegra M. McLeod, *Prison Abolition and Grounded Justice*, 62 UCLA L. REV. 1156, 1226–27 (2015), www.uclalawreview.org/wp-content/uploads/2019/09/McLeod_6.2015.pdf; see also *Chapter 6: Excarcerate*, in *INSTEAD OF PRISONS: A HANDBOOK FOR ABOLITIONISTS* (Mark Morris ed., 1976), www.prisonpolicy.org/scans/instead_of_prisons/chapter6.shtml (“Abolitionists advocate drastically limiting the role of criminal law. We do this not because we wish to encourage certain behavior, but because we realize that criminal sanctions are not an effective way of dealing with social problems.”).

But protecting and cementing the DA's power to decline cases also reinforces the discretionary power of the DA as an institutional actor in the criminal punishment system, immune from oversight or accountability.¹⁰⁰ Though we see case declination as largely a non-reformist reform, we concede that validating the power of the District Attorney to act unilaterally does nothing to reduce the size, scope, or power of the office, even as the act of implementing a declination policy and declining cases does reduce the size and scope of the office's docket and, in individual cases, prevents further harm. This tension makes clear that abolitionist tactics and strategies require struggle and experimentation, but also that we need constant vigilance and questioning and inquiry guided by the core principle that the criminal punishment system cannot be reformed, it must be abolished.

C. Strategies focused on shrinking systems of harm & boosting resources for community

Shrinking the structural power of the prosecutor's office involves designing, demanding, and implementing policies that decrease its size, scope, and power in a material and sustainable way. This strategy necessarily requires legal change outside the prosecuting office itself; for example, local, state, or federal legislation that will strip power, resources, and staff from prosecuting offices, in a way that a newly elected prosecutor could not easily undermine. This could look like repealing laws that criminalize behavior and reducing prosecutorial discretion in plea bargaining, as two examples.¹⁰¹ Another strategy to shrink the power of the prosecuting office is to pressure other criminal punishment system stakeholders—such as judges, police, public defenders, court administrators—to make decarceral and de-resourcing changes.¹⁰² Prosecutors have immense power, but they are also only one piece in a violent, punitive system.

In addition, as we shrink systems of harm we must invest in people and communities so they have what they need to live safely and well.¹⁰³ The language of

100. See, e.g., Dorothy E. Roberts, *The Supreme Court, 2018 Term—Foreword: Abolition Constitutionalism*, 133 HARV. L. REV. 1, 35–36 (2019), [harvardlawreview.org/wp-content/uploads/2019/11/1-122_Online.pdf](https://www.harvardlawreview.org/wp-content/uploads/2019/11/1-122_Online.pdf) (discussing the ways that state actors who cause harm in the criminal punishment system are immune from accountability).

101. See, e.g., PENDERGRASS, *supra* note 98, at 3, 12–13, app. A; *How to Talk About Abolition*, COURT WATCH NYC: LAST WEEK IN COURT (Feb. 4, 2020), www.courtwatchnyc.org/last-week-in-court/2020/2/4/last-week-in-court (“[S]uccessful efforts by organizers across the state led to bail reforms that will keep many more New Yorkers home with their families before trial. While these reforms did not go far enough in abolishing the money bail system entirely, or in ending pretrial detention and surveillance, they will ensure pretrial freedom for a significant amount of people.”).

102. See, e.g., *Solutions*, BUILDING UP PEOPLE NOT PRISONS COALITION, www.peoplenotprisons.org/solutions; Melissa Hellman, *Defunding Police—How Antiracist Organizers Got Seattle to Listen*, YES! MAG. (Mar. 9, 2017), www.yesmagazine.org/social-justice/2017/03/09/defunding-police-how-antiracist-organizers-got-seattle-to-listen.

103. See, e.g., *Marbre Stahly-Butts: Transcript for FFJ Divest/Invest Interview*,

invest/divest,¹⁰⁴ an abolitionist strategy, differs slightly from the reformist notion of “justice reinvestment,”¹⁰⁵ but the rhetorical difference reflects a substantial and material divergence in approach. Abolitionists recognize that the severe investment in policing, surveillance, militarization, and incarceration over the last several decades reflects what Ruth Wilson Gilmore calls “organized abandonment”:¹⁰⁶ deliberate disinvestment in poor communities of color via redlining; highway construction; the siting of environmental hazards; the destruction of the social safety net; the shuttering of schools and community centers; the manipulation of the tax code to benefit corporations, wealthy individuals, and white people; and other forms of intentional government-sponsored neglect and harm.¹⁰⁷

FUNDERS FOR JUSTICE, drive.google.com/file/d/165KxNkwGXjTADs_9B-ke5ezxuNMBaK6b/view (“[I]nvest/divest is the idea that as we’re making reforms, as we’re pushing policy changes, as we’re overseeing shifts in practice, that we pay special attention to how money is being spent, and we demand a divestment from the systems that harm our communities, like the criminal legal system, like policing regimes, like the court system and demand that that money that’s currently being spent, that’s being poured into those systems with no accountability, be moved instead to community-based alternative systems that support ou[r] people, that feed our people, that ensure we have jobs, and housing—the things we need to take care of ourselves and our communities.”); BETH RICHIE & ANDREA J. RITCHIE, BARNARD CTR. FOR RESEARCH ON WOMEN, THE CRISIS OF CRIMINALIZATION: A CALL FOR A COMPREHENSIVE PHILANTHROPIC RESPONSE (2017), bcrw.barnard.edu/wp-content/nfs/reports/NFS9-Challenging-Criminalization-Funding-Perspectives.pdf.

104. See, e.g., *Invest/Divest*, MOVEMENT FOR BLACK LIVES, m4bl.org/policy-platforms/invest-divest.

105. See, e.g., *Justice Reinvestment*, COUNCIL OF STATE GOV’TS JUSTICE CTR., csjjusticecenter.org/projects/justice-reinvestment.

106. *Ruth Wilson Gilmore Makes the Case for Abolition*, INTERCEPTED PODCAST (June 10, 2020), theintercept.com/2020/06/10/ruth-wilson-gilmore-makes-the-case-for-abolition (“In the United States, where organized abandonment has happened throughout the country, in urban and rural contexts, for more than 40 years, we see that as people have lost the ability to keep their individual selves, their households, and their communities together with adequate income, clean water, reasonable air, reliable shelter, and transportation and communication infrastructure, as those things have gone away, what’s risen up in the crevices of this cracked foundation of security has been policing and prison.”); see also Ruth Wilson Gilmore, *What Is To Be Done?*, 63 AM. Q. 245, 257 (2011) (“[T]he structural adjustment process has, across the world, tried to achieve scorched earth—through outsourcing, criminalization, and a host of other forms of organized abandonment.”).

107. Elizabeth Hinton, Opinion, *George Floyd’s Death Is a Failure of Generations of Leadership*, N.Y. TIMES (June 2, 2020), www.nytimes.com/2020/06/02/opinion/george-floyd-protests-1960s.html. See generally ELIZABETH HINTON, FROM THE WAR ON POVERTY TO THE WAR ON CRIME: THE MAKING OF MASS INCARCERATION IN AMERICA (2016); KHALIL GIBRAN MUHAMMAD, THE CONDEMNATION OF BLACKNESS: RACE, CRIME, AND THE MAKING OF MODERN URBAN AMERICA (2011); EVE EWING, GHOSTS IN THE SCHOOLYARD: RACISM AND SCHOOL CLOSINGS ON CHICAGO’S SOUTH SIDE (2018); KEEANGA-YAMAHTTA TAYLOR, RACE FOR PROFIT: HOW BANKS AND THE REAL ESTATE INDUSTRY UNDERMINED BLACK HOMEOWNERSHIP (2019); UNION OF CONCERNED SCIENTISTS, INEQUITABLE EXPOSURE TO AIR POLLUTION FROM VEHICLES IN THE NORTHEAST AND MID-ATLANTIC (2019), www.ucsusa.org/resources/inequitable-exposure-air-pollution-vehicles; Kevin M. Kruse, *What Does a Traffic Jam in Atlanta Have to Do with Segregation? Quite a Lot.*, N.Y. TIMES MAG. (Aug. 14, 2019), www.nytimes.com/interactive/2019/08/14/magazine/traffic-atlanta-segregation.html; Peter Reuell, *Unpacking the Power of Poverty*, HARVARD GAZETTE (May

As public dollars, privatization, and capital resources have built up the architecture of the PIC,¹⁰⁸ funds have simultaneously been slashed from the systems of support that people need to be healthy and safe.¹⁰⁹

“Justice reinvestment” operates on two conditional axes: temporally, by requiring funds to be freed up from the criminal punishment infrastructure before they can be redirected to other ends, and in quantity, confining the “reinvestment” to the funds made available by limitedly scaling back the breadth of the PIC.¹¹⁰ We know that merely “reinvesting” funds from criminal punishment funding streams will not achieve the necessary investment in long-deprived communities, and by skimming away only some of the PIC’s resources, this strategy

17, 2019), news.harvard.edu/gazette/story/2019/05/harvard-study-shows-exactly-how-poverty-impacts-childrens-success (“The least-exposed majority-black neighborhoods still had levels of harshness and toxicity greater than the most-exposed majority-white neighborhoods, which plausibly accounts for a substantial portion of the racial disparities in outcomes”); Kelly M. Bower, Roland J. Thorpe, Jr., Charles Rohde & Darrell J. Gaskin, *The Intersection of Neighborhood Racial Segregation, Poverty, and Urbanicity and Its Impact on Food Store Availability in the United States*, 58 PREVENTIVE MED. 33 (2014); Brian Highsmith, *On Reimagining State and Local Budgets in an Abolitionist Moment*, LAW & POL. ECON. PROJ.: LPE BLOG (June 15, 2020), lpeblog.org/2020/06/15/on-reimagining-state-and-local-budgets-in-an-abolitionist-moment (“Many limitations on state and local tax authority result from efforts to protect white property owners from redistributive taxation benefiting Black people. As a report from the Center on Budget and Policy Priorities recounts, Alabama’s highly restrictive property tax limits were adopted ‘[d]uring state constitutional conventions called in 1875 and 1901 to re-establish white dominance following Reconstruction.’ Similarly, wealthy white landowners in Mississippi enacted a constitutional provision requiring a supermajority for all state tax increases in 1890, at a convention where delegates also disenfranchised nearly all the state’s Black voters. Beginning in the 1970s, states passed a wave of new tax limitations in response to white backlash against civil rights advancements and fomenting fears of racial wealth redistribution.”).

108. See, e.g., WORTH RISES, *THE PRISON INDUSTRY: MAPPING PRIVATE SECTOR PLAYERS* (2020), static1.squarespace.com/static/58e127cb1b10e31ed45b20f4/t/5eb26cb17cc82c67c6254da6/1588751538880/The+Prison+Industry+-+2020.pdf; Peter Wagner & Bernadette Rabuy, *Following the Money of Mass Incarceration*, PRISON POL’Y INITIATIVE (Jan. 25, 2017), www.pris-onpolicy.org/reports/money.html.

109. See, e.g., Brian Highsmith, *Defund Our Punishment Bureaucracy*, AM. PROSPECT (June 2, 2020), prospect.org/justice/defund-our-punishment-bureaucracy; JEFF BERNSTEIN, MASS. BUDGET & POL’Y CTR., *INCARCERATION TRENDS IN MASSACHUSETTS: LONG-TERM INCREASES, RECENT PROGRESS* 9 (2016), www.massbudget.org/reports/pdf/Incarceration%20Trends%20in%20Massachusetts%20Long-term%20Increases.%20Recent%20Progress%201-26-2016.pdf#page=9.

110. See, e.g., Gillian Ganesan, *Black Communities Can Not Wait Any Longer. The Time to Divest Is Now.*, AM. CIV. LIB. UNION (June 22, 2020), www.aclu.org/news/criminal-law-reform/black-communities-can-not-wait-any-longer-the-time-to-divest-is-now (“In Los Angeles, Mayor Eric Garcetti has pledged to cut between \$100 and \$150 million from the city’s policing budget, and declared that those funds can and should be reinvested into Black communities across the sprawling city. . . . Advocates are all too familiar with the empty promises and attending inaction of the past, making this an important step toward divestment and reinvestment. Still, activists have been critical of Garcetti’s pledge, and rightly so—the proposed budget cut only amounts to 6 percent of the nearly \$2 billion discretionary budget.”).

once again legitimizes the vast architecture of the PIC that remains and entrenches the supposed need for policing, prosecution, and punishment.¹¹¹ The concept of “justice reinvestment” is centrally about efficiency, not about humanity. Further, in presenting the criminal punishment system as leaner or more economically sustainable,¹¹² it may grow to take on new roles and new power, transmuting instead of reducing.

By contrast, the lexicon of invest/divest—which names *invest* as the first and primary demand—is an intentional choice. Abolitionists recognize that many state systems and public-private partnerships comprise the PIC—that beyond the police department or the prosecuting office, other actors take on the mission of policing and prosecuting conduct through racialized social control.¹¹³ Accordingly, the invest/divest strategy does not limit its horizons to shifting funding from one arm of the state to another; rather, it also calls for directly funding community-led endeavors for wellness, safety, and healing. Finally, “justice reinvestment” differs from invest/divest in its methodology as well as its goals. “Justice reinvestment” is a technocratic endeavor that has taken hold in state governments via traditional “policymaker” players and traditional government structures like commissions made up of largely white, largely well-off stakeholders and political elites, including punishment bureaucrats. We do not want or need more commissions churning out the same hollow reforms.¹¹⁴ Abolitionists are demanding and creating processes of participatory people’s budgeting led by and for directly impacted communities.¹¹⁵

111. See generally NANCY LA VIGNE, S. REBECCA NEUSTETER, PAMELA LACHMAN, ALLISON DWYER & CAREY ANNE NADEAU, URBAN INST., JUSTICE REINVESTMENT AT THE LOCAL LEVEL: PLANNING AND IMPLEMENTATION GUIDE 1 (2010), www.urban.org/sites/default/files/publication/71341/412233-Justice-Reinvestment.pdf (“What can county and city managers do to manage these costs without compromising public safety? They can engage in justice reinvestment. Justice reinvestment can help prioritize jail space for those who pose the greatest risk to public safety while also informing which individuals would be better off in the community, where services and treatment may be more readily available. . . . To provide instruction for local leaders aiming to improve cost-efficiency in their criminal justice systems, this guidebook describes the steps involved in the justice reinvestment process . . .”).

112. See, e.g., CHRIS FOX, KEVIN ALBERTSON & KEVIN WONG, JUSTICE REINVESTMENT: CAN THE CRIMINAL JUSTICE SYSTEM DELIVER MORE FOR LESS? (2013).

113. See, e.g., Roberts, *supra* note 20 (discussing the family regulation function of the “child welfare” system). See generally MAYA SCHENWAR & VICTORIA LAW, PRISON BY ANY OTHER NAME: THE HARMFUL CONSEQUENCES OF POPULAR REFORMS (2020) (collecting examples of how social workers, landlords, teachers, child protective service workers and others across a variety of domains are engaged in policing and carceral projects and have been effectively deputized as police).

114. See Kaba, *supra* note 14; Jill Lepore, *The History of the “Riot” Report*, NEW YORKER (June 15, 2020) www.newyorker.com/magazine/2020/06/22/the-history-of-the-riot-report; Adam Harris, *Racism Won’t Be Solved by Yet Another Blue-Ribbon Report*, ATLANTIC (June 4, 2020), www.theatlantic.com/politics/archive/2020/06/george-floyd-racism-police-brutality/612565.

115. E.g., PEOPLE’S BUDGET LA, THE PEOPLE’S BUDGET: LOS ANGELES 2020-2021 (2020), peoplesbudgetla.files.wordpress.com/2020/05/peoplesbudgetreport_may26.pdf; NASHVILLE PEOPLE’S BUDGET COALITION, INVEST/DIVEST: BUILDING A NASHVILLE PEOPLE’S

The abolitionist strategy of funding communities involves pressuring local and state actors to prioritize funding for housing, healthcare, education, transformative justice, and jobs that pay living wages, in part by reducing, and ultimately eliminating, spending on all state systems connected to the criminal punishment system, including prosecutors, police, and criminal courts. Key to this abolitionist strategy is ensuring that the people and communities most directly impacted by criminalization, incarceration, and the endemic oppressions of the PIC are centered in organizing, in crafting policy, and in receiving the investments themselves.¹¹⁶ In the wake of the murders of George Floyd, Breonna Taylor, Tony McDade, and so many others, the demand to defund the police has catapulted to a national audience,¹¹⁷ squarely backed by the Movement for Black Lives, and organizers are producing new resources on participatory budgeting

BUDGET (2020), nashvillepeoplesbudget.files.wordpress.com/2020/05/investdivest-report-nashville-peoples-budget-coalition-4.pdf; FAMILIES FOR JUSTICE AS HEALING, THE PEOPLE'S BUDGET (2020), justiceashealing.org/peoples-budget-3/. See generally K. Sabeel Rahman & Jocelyn Simonson, *The Institutional Design of Community Control*, LAW & POL. ECON. PROJ.: LPE BLOG (May 20, 2020), lpeblog.org/2020/05/20/the-institutional-design-of-community-control.

116. *Chapter 3: Diminishing/Dismantling the Prison System*, in *INSTEAD OF PRISONS: A HANDBOOK FOR ABOLITIONISTS*, *supra* note 99, www.prisonpolicy.org/scans/instead_of_prisons/chapter3.shtml (“For prison abolition to become a reality, alternatives must exist. Prisoners must be empowered to take responsibility for their own lives. Prisoners need support and allies. Above all they need services in their communities—health, educational, vocational, residential, counselling and legal services—which should be available not only for prisoners but for all people.”); *Chapter 9: Empowerment*, in *INSTEAD OF PRISONS: A HANDBOOK FOR ABOLITIONISTS*, *supra* note 99, www.prisonpolicy.org/scans/instead_of_prisons/chapter9.shtml (“Empowerment is more than a belief; it is a concept that governs the way we interact with people. It is also a method—one which reflects the values of human dignity, respect for growth of consciousness and the integrity of relationships. Empowerment means that people and communities have the ability to define and deal with their own problems. Successful self-management requires access to and control of proper resources, but lack of access in no way reduces the clarity with which affected people perceive their own problems and needs. Empowerment is essentially a political process—redistributing power among the heretofore powerless.”).

117. Amy Goodman & Juan González, *Khalil Gibran Muhammad Discusses the Significance of Calls to Defund the Police*, TRUTHOUT: DEMOCRACY NOW! (June 10, 2020), truthout.org/video/khalil-gibran-muhammad-discusses-the-significance-of-calls-to-defund-the-police; Laura Bliss, *The Movement Behind LA's Decision to Cut Its Police Budget*, BLOOMBERG CITYLAB (June 4, 2020), www.bloomberg.com/news/articles/2020-06-04/-people-s-budgets-movement-takes-on-police-reform; Levine, *supra* note 28 (“We cannot rely on the criminal legal system to cannibalize itself. Instead, other institutions and citizens must commit to divesting their dollars and their reliance on the police, who have shown time and again that they do not respect black lives. I am cautiously optimistic that the educational divestment from police may be a model we can scale throughout the country. While activists have been calling for divestment from the police for years, this response from large institutions is a sea changing amplifier of this important dimension of the fight against systemic police brutality. It is also the opposite of prosecutorial solutions, which serve instead to prop up and legitimize the very system of state sanctioned violence that led, directly, to the death of George Floyd, Breonna Taylor, and so many other valuable lives.”).

and their visions to divest from policing and invest in communities directly impacted by criminalization and punishment.¹¹⁸ As the ascendant demand to defund the police reminds us, PIC abolition fundamentally requires a shift in resources—away from militarization, surveillance, policing, prosecution, probation, parole, and incarceration, and toward elements of the social determinants of health and well-being. But there is no blueprint for abolition: abolition is a process of transformation of communities and of our society writ large; it will require humility, collaboration, building and re-building, and many different interventions and

118. *E.g.*, INTERRUPTING CRIMINALIZATION & MOVEMENT FOR BLACK LIVES, #DEFUNDPOLICE TOOLKIT: CONCRETE STEPS TOWARD DIVESTMENT FROM POLICING & INVESTMENT IN COMMUNITY SAFETY (2020), drive.google.com/file/d/1UhlRbX-OrSYUevkm2F0MBDKBqWOnEkhnX/view; MPD 150, ENOUGH IS ENOUGH: A 150 YEAR PERFORMANCE REVIEW OF THE MINNEAPOLIS POLICE DEPARTMENT (2017), [www.mpd150.com/wp-content/uploads/2020/06/mpd150_report-compressed%20\(1\).pdf](http://www.mpd150.com/wp-content/uploads/2020/06/mpd150_report-compressed%20(1).pdf); DREAM DEFENDERS, DEFUND POLICE REBUILD OUR COMMUNITIES (2020), drive.google.com/file/d/1UFNn-2ZZsCK1wzZmj5MIDa_LqSbc9w/view; #8TOABOLITION, www.8toabolition.com; ABOLITIONIST RECOMMENDATIONS TO DEFUND NYPD, WITH NO NEW JAILS + BY CLOSING RIKERS NOW (2020), drive.google.com/file/d/198Yh4hrPY78j-q6bV2nHMAG0D6axHDt6/view; MOVEMENT FOR BLACK LIVES, POLICY PLATFORM: END THE WAR ON BLACK PEOPLE (2020), m4bl.org/end-the-war-on-black-people; MPD 150, MINNEAPOLIS & HENNEPIN COUNTY RESOURCE LIST (2019), www.mpd150.com/wp-content/uploads/2019/08/Police-Alt-Resources-LETTER-SIZE.pdf; INVEST/DIVEST LOUISVILLE, www.investdivest.org, RECLAIM THE BLOCK, DISMANTLING THE MINNEAPOLIS POLICE DEPARTMENT AND CREATING A NEW TRANSFORMATIVE MODEL FOR SAFETY (2020), static1.squarespace.com/static/5d8faf6f8ba16e7343478cdb/t/5edfb4912cdf0d320a51c28d/1591719059704/MPLS+One+Pager+FINAL.pdf.

community-led institutions.¹¹⁹ It is a process of imagination and experimentation—reimagining communities,¹²⁰ not policing, prosecution, or prisons.¹²¹

V. CONCLUSION

As abolitionists, we are working towards a future where people are no longer prosecuted and therefore where prosecutors do not exist. That future is a long way off. To get there, our movements need to build significant power through a variety of organizing interventions while remaining pointedly focused on shrinking the power, size, and scope of the prosecuting office. We must build new ways of being in relationship with one another, with our communities, and with our world. And at risk of taking steps that actually strengthen the criminal punishment system, our movements need to wrestle with and develop rigorous clarity about what an abolitionist organizing framework entails. When it comes to prosecution, abolition requires not just shifting prosecutors' power toward different ends, but rather divesting power from prosecutors and building power for communities most affected by criminalization, incarceration, surveillance, and social

119. See, e.g., Victoria Law, *We Want a World Without Police. These Organizers Are Charting the Way.*, TRUTHOUT (Jan. 21, 2020), truthout.org/articles/we-want-a-world-without-police-these-organizers-are-charting-the-way; BEYOND SURVIVAL: STRATEGIES AND STORIES FROM THE TRANSFORMATIVE JUSTICE MOVEMENT (Ejeris Dixon & Leah Lakshmi Piepzna-Samarasinha eds., 2020); ZACH NORRIS, *WE KEEP US SAFE: BUILDING SECURE, JUST, AND INCLUSIVE COMMUNITIES* (2020); Andrea J. Ritchie, *Communities Need to Reduce Violence Against Women of Color Without Police*, TRUTHOUT (Aug. 31, 2017), truthout.org/articles/communities-need-to-reduce-violence-against-women-of-color-without-police; CREATIVE INTERVENTIONS, CREATIVE INTERVENTIONS TOOLKIT: A PRACTICAL GUIDE TO STOP INTERPERSONAL VIOLENCE (2020), www.creative-interventions.org/tools/toolkit; Ejeris Dixon, *Building Community Safety: Practical Steps Toward Liberatory Transformation*, TRUTHOUT (Aug. 25, 2015), truthout.org/articles/building-community-safety-practical-steps-toward-liberatory-transformation; Kristian Williams, *A Look at Feminist Forms of Justice That Don't Involve the Police*, BITCH MEDIA (Aug. 20, 2015), www.bitchmedia.org/article/look-feminist-forms-justice-dont-involve-police.

120. See, e.g., Andrea James, *Ending the Incarceration of Women and Girls*, 128 YALE L.J. FORUM 772, 787–88 (2019); *Oversight Hearing on the Federal Bureau of Prisons and Implementation of the First Step Act Before the H. Comm. on the Judiciary*, 116th Cong. (2019) (written statement of Andrea James, Exec. Dir., Nat'l Council for Incarcerated and Formerly Incarcerated Women and Girls), docs.house.gov/meetings/JU/JU08/20191017/110089/HHRG-116-JU08-Wstate-JamesA-20191017.pdf; #FreeHer Campaign, NAT'L COUNCIL FOR INCARCERATED & FORMERLY INCARCERATED WOMEN & GIRLS, nationalcouncil.us/action; see also Jocelyn Simonson, *The Bail Fund Moment*, N+1 MAG. (June 22, 2020), nplusonemag.com/online-only/online-only/the-bail-fund-moment (“The goal is to reclaim the neighborhood as a vital location not for state extraction, but for state investment in collaborative approaches to safety and mutual aid. Reclaim the neighborhood, reclaim community, reclaim public safety: these conceptual goals are entangled with the day-to-day work of freeing people from incarceration.”).

121. *Contra* Anthony D. Romero, *Reimagining the Role of Police*, AM. CIV. LIBERTIES U. (June 5, 2020), www.aclu.org/news/criminal-law-reform/reimagining-the-role-of-police; Davis, *supra* note 32; *Reimagining Prison*, VERA INST. OF JUST., www.vera.org/projects/reimagining-prison.

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