

The Contradictions of Violence: How Prosecutors Think About the Biggest Challenge to Real Reform

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Scholars have long contended that crimes involving violence are often ambiguously defined¹ and overlooked as a critical driver of mass incarceration.² Currently, individuals charged with violent crimes make up nearly a third of pretrial jail populations across the country, and people convicted of violent crimes represent more than half the number of people in state prisons.³ Policymakers have long grappled with how to enact criminal legal system reforms that reduce incarceration for such charges while also ensuring public safety. Decisions about cases involving violence can be fraught for criminal legal system stakeholders. Both the media and policymakers give them outsized attention—in particular, decisions related to pretrial release and the use of bail—a phenomenon witnessed most recently with the spike in pandemic-era violence in many parts of the country.⁴

KEY FINDINGS

- There is an appetite for new approaches to prosecuting cases involving violence.
- Prosecutors grapple with competing definitions of violence.
- Prosecutors report prioritizing the seemingly contradictory goals of both punishment *and* rehabilitation.
- A lack of institutional training about the use of ATIs coupled with limited data tracking create additional roadblocks to shifting status quo approaches to prosecution.

Elected officials have the difficult task of balancing public *perceptions* of the most effective way to address crime with the *reality* that those strategies might make things worse, while navigating the impact both might have on their electability.⁵ Although there is promising evidence that treatment has the potential to reduce recidivism of individuals who commit certain types of violent offenses, policymakers and practitioners must contend with public outcry associated with being “too lenient” in highly publicized cases, the resulting fear-driven and knee-jerk demands for more punitiveness, and perceptions that “nothing works.”⁶ In contrast, research has demonstrated that status quo approaches emphasizing incarceration may exacerbate defendants’ underlying risk factors and be counterproductive to public safety in the long term.⁷

Across the country, elected state and local prosecutors are grappling with all of these issues and are critical players in shaping policy related to crimes involving violence. Prosecutors are the primary gatekeepers determining access to pretrial release or community-based alternatives for individuals charged with violent crimes.⁸ For example, a 2017 national survey of prosecutors’ offices conducted by

the Center for Court Innovation revealed that although 55% of responding agencies offered some form of diversion programming, only 4% of these programs accepted violent felonies.⁹ Despite the unprecedented growth of alternatives to incarceration (ATIs) as a response to

nonviolent and drug crimes, carceral responses are the current default in prosecuting cases involving violence.¹⁰ Recent sentencing reforms and legislative enactments will now enable prosecutors in some jurisdictions to initiate or support early release for individuals previously convicted of violent crimes who have served lengthy terms of imprisonment.¹¹ But not enough is known about how prosecutors arrive at their decisions or the prevalence of specific practices across different prosecutors' offices.

In early 2020, the Center for Court Innovation (the Center)—in collaboration with Fair and Just Prosecution (FJP) and NORC at the University of Chicago—was awarded a grant from Arnold Ventures to document how prosecutors make decisions in cases involving violence. Phase one of this project, presented here, draws on results from an in-depth national survey.

The results of our survey clearly show an appetite for new approaches among prosecutors. But they also suggest that how prosecutors think about violence and the goals of prosecution can be rife with paradoxes. That tension starts with the different ways prosecutors' offices define violence and continues through a frequently expressed desire for the seemingly contradictory aims of both punishment *and* rehabilitation. In some cases, survey results reflect mistaken assumptions of what crime survivors want from the criminal legal system.¹² We also identified a lack of training designed to foster a better understanding of existing research on alternatives to traditional prosecution. Moreover, even if offices utilize alternative approaches, they are frequently hampered by a failure to collect sufficient supporting evidence. Ultimately, these gaps and deficits undermine efforts to encourage prosecutors to embrace new approaches to violence.

We hope that the survey results provide an opportunity for prosecutors' offices to clarify their thinking and consider implementing more consistent practices and policies. We also believe they offer useful insights for advocates seeking to work with prosecutors to implement alternatives to status quo approaches by highlighting the many considerations at play when prosecuting cases involving violence.

Survey Approach

Members of the project team¹³ worked with subject matter experts at FJP to design a 39-item survey intended to be completed by high-level decision-makers in prosecutors' offices.¹⁴ The survey included closed- and open-ended questions to capture information about office structure, general policies and practices associated with prosecuting violent cases, and decision-making at the pretrial stage versus plea or sentencing recommendations. NORC

utilized a multi-modal data collection strategy (mailings, web-based surveys, and telephone) and collected data from February 2021 to August 2021.

We designed the survey to document (1) national trends in prosecutorial decision-making related to violent crime; (2) prevalence and use of diversion programs, ATIs, community- and prison-based treatment programs, or other innovations in violent cases; and (3) support for these types of innovations among prosecuting agencies. A total of 274 agencies from a random sample of 1,100 agencies completed the survey,¹⁵ but we can generalize findings across the full 3,926 offices in the sampling frame by weighting the data.¹⁶

Local Context

The final sample consisted of more urban (59%) than rural (41%) jurisdictions across 46 states. Although NORC used census data to distinguish between urban and rural communities, the lack of diversity in self-reported local political climate highlights additional considerations—over two-thirds reported that the population they served was conservative (68%). In contrast, only 22% felt the population held mixed views. The remaining 10% described their communities as moderate (6%) or progressive (4%).

Although the number of prosecuting attorneys in each office ranged from one to 500, 83% were smaller offices staffed by one to 12 attorneys. Most respondents reported that their office had implemented a vertical prosecution model (67%), in which the same attorney prosecutes the case from initial charging through sentencing.¹⁷ When asked to select all the ways a case could be assigned, random assignment (54%) and independent tracks based on specialization (51%) were the most common. Over three-quarters of respondents (77%) reported that their office offered in-house victim support services, suggesting that most agencies have the resources to directly respond to the needs of survivors.

In contrast, respondents indicated their offices were limited in data capacity, which aligns with the barriers observed in previous surveys of prosecutors.¹⁸ Little more than half (54%) reported using a computerized case management system, and even when such a system was in use, it was commonly limited to select measures (e.g., defendant identifiers, charges filed/dismissed, sentence). Few offices reported that they tracked compliance with pretrial conditions/ATI programming or the outcome of ATI programming. The lack of data creates a “black box” scenario where there is little opportunity for attorneys to learn from using alternatives to traditional prosecution.

Prosecutorial Culture & Resources

We asked respondents to briefly describe the general prosecutorial philosophy of their office. The project team coded these responses to better understand the local prosecutorial culture. Responding prosecutors reported an emphasis on upholding the law (55%),¹⁹ ensuring equity and fairness (20%), centering survivors (19%), and maintaining public safety (14%).²⁰ Despite the survey taking place when fears of rising crime are at the forefront of political discourse, only 7% expressed a “tough-on-crime” philosophical approach.²¹

To further capture the culture of prosecutors’ offices, we also asked questions about the prevalence of community-oriented prosecutorial practices and training topics.²²

- Overall, 94% of respondents reported their office had implemented at least one practice related to community-oriented prosecution. The most commonly applied approaches include restorative justice practice (51%), followed by partnerships with local community advocacy groups (49%) and active participation of line prosecutors in community meetings (45%). Just over a third (38%) indicated they openly solicited community input in addressing crime.²³
- The most common training topics presented at prosecutors’ offices in 2018-2019 included substance use disorder, mental illness, and understanding the impact of trauma on behavior. Despite this emphasis on criminogenic needs, only 27% reported training related to promoting desistance and recidivism reduction. This suggests a potential disconnect. While line staff may receive information on the prevalence of these issues among system-involved populations, they receive less information on how to address such underlying criminogenic needs in ways shown to improve long-term outcomes. Additionally, although approximately half of the offices delivered implicit bias training, training related to cultural competency and structural racism in the criminal legal system were the least common.

Given the diversity of respondents, we first wanted to determine the *availability* of non-carceral options (e.g., community-based supervision or treatment) before exploring when and how offices use them.

- Regarding pretrial decision-making, 61% of respondents indicated that supervised pretrial release was available in their jurisdiction for individuals charged with crimes involving violence.

- Respondents reported the three most common alternatives to traditional prosecution were post-plea ATI options, pre-plea diversion programs, and drug court. However, these options are primarily used in nonviolent cases (74%, 74%, and 63%), rather than in cases involving violence (50%, 27%, 20%). Indeed, 32% of respondents indicated non-carceral options were unavailable for cases involving violence, compared to only 4% in nonviolent cases.

Placed in the context of the findings from the Center’s 2017 survey, the prosecutor-led diversion landscape in 2021 largely remains the same regarding the availability of alternatives for cases involving violence.²⁴ Non-carceral tools are available to prosecutors, but they are rarely available in cases involving violence. As explored below in the section on decision-making, it is not a question of resource availability but a matter of the willingness of prosecutors and other system stakeholders (e.g., judges) to utilize such tools at both the pretrial and case resolution stages.

Conceptualization of Violence

In exploring expanded use of non-carceral responses to cases involving violence, we must start by understanding *how* prosecutors define violence.²⁵ While criminal statutes provide a baseline for defining offenses and penalties, prosecutors have wide discretion to consider alternatives, including how they define cases involving violence. Although nearly three-quarters of responding jurisdictions (73%) reported that violence was statutorily defined, an equal proportion indicated that office policy or custom was to classify violence on a case-by-case basis. Even though many jurisdictions statutorily define violence, prosecutors may apply discretion to incorporate additional crimes under that definition.

We asked respondents to identify the features of cases categorized as violent (by statute or office policy). Physical injury to a survivor (significant or not) and use of a weapon with injury were the most common, mentioned by 83% or more of respondents. Over two-thirds of respondents noted that the presence of a weapon—regardless of injury—and the threat of physical injury shaped their definition. This suggests that while respondents primarily conceptualize violence as involving physical injury, the emotional harm experienced by a survivor and/or perceived threat of future violence may also be important considerations in differentiating between violent and nonviolent acts.

Respondents also ranked the top three priorities of their office in prosecuting violent cases. These priorities emphasize punishment of the individual (i.e., “just desserts,” 62%), punishment to deter others (i.e., general deterrence, 42%), and rehabilitation (48%). Despite

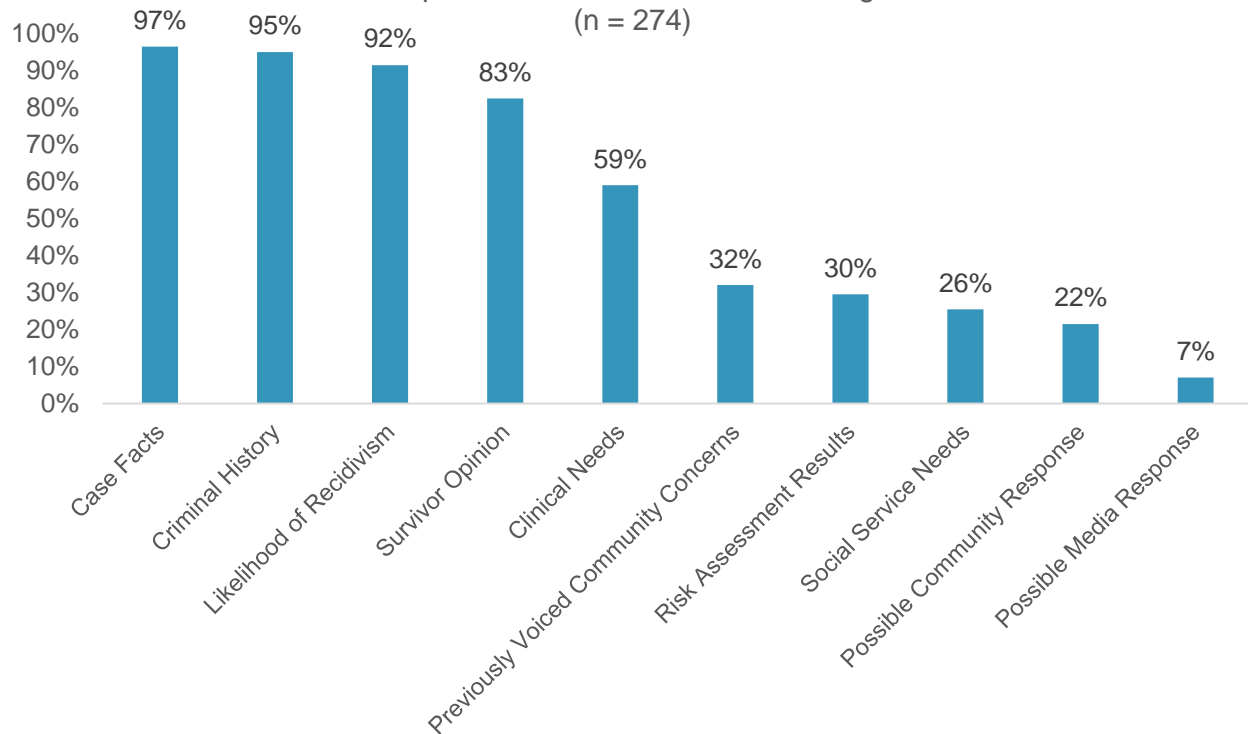
the infrequency with which we observed tough-on-crime approaches mentioned in *general* prosecutorial philosophy, such an approach has more broad appeal among respondents regarding violent crimes. However, respondents also reported a desire to fulfill rehabilitative goals. The extent to which punishment and rehabilitation can effectively coexist in meaningful case resolutions is unclear.

Decision-Making in Cases Involving Violence

We asked respondents if their office had a policy or customary practice guiding recommendations for individuals charged with crimes involving violence. Office policies were most focused on pretrial release recommendations (53%),²⁶ with more leeway given to line prosecutors in determining the substance of plea offers (38%) and sentencing recommendations (32%). When asked about external factors shaping local prosecutorial policy, extra-agency policies (e.g., court policy, pretrial services restrictions; 53%), bond schedules (34%), or state statutes limiting the use of money bond (15%) commonly influenced release recommendations.²⁷ Local sentencing guidelines most frequently influenced plea offers and sentencing recommendations (82%).

We presented respondents with a list of factors prosecutors in their office may decide to consider when deciding on pretrial recommendations or case resolution and asked them to rate each based on their importance. We averaged the ratings across both the pretrial and disposition stages of a case to provide an overall assessment of the most important factors considered by prosecutors when making decisions in cases involving violence.²⁸ As depicted in Figure 1, case facts, perceived likelihood of future criminal activity, criminal history, and survivor feedback are the most important considerations.

Figure 1. Public Safety and the Opinions of Survivors are the Most Important Factors in Decision-Making



Note: Percentages represent the average between factors considered at the pretrial stage and plea/sentencing, which participants characterized as being "very" or "extremely" important.

We also examined the frequency with which respondents apply carceral and non-carceral options to resolve cases involving violence to clarify how the prosecutorial goals noted above translate into practice. Overall, respondents reported that financial restitution,²⁹ jail, or prison were the three components often or always included in a plea offer or sentencing recommendation. Approximately half the time, respondents included community-based supervision (probation, split sentences, and treatment/case management). Community service and restorative justice were the least frequently utilized plea components.

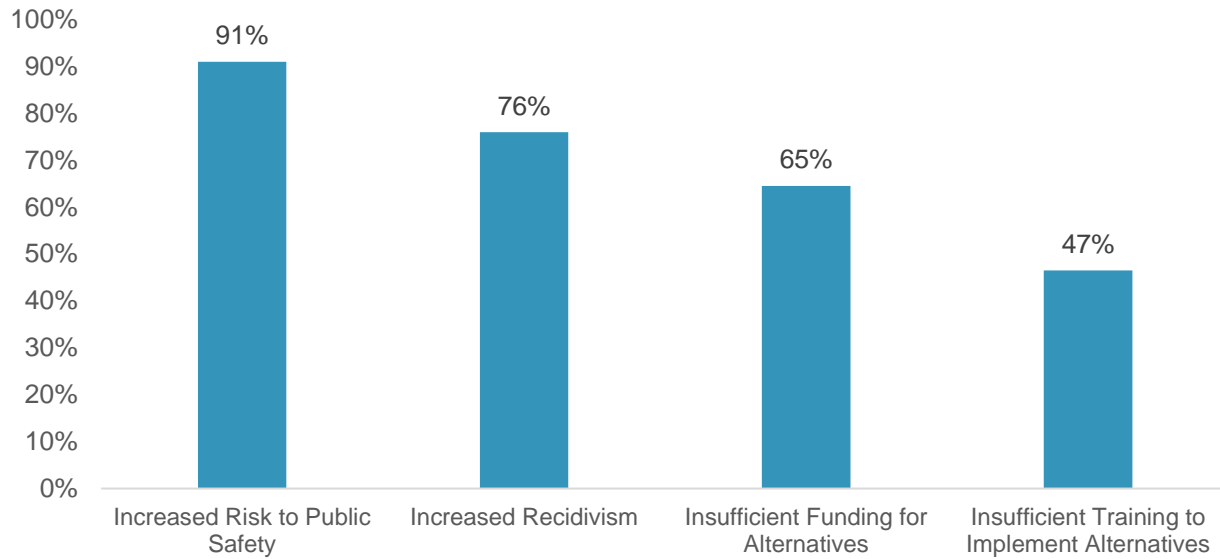
Support for Broadening Non-Carceral Responses

Although our analysis suggests that non-carceral options are present, such options are primarily made available on a discretionary basis rather than through a formal office policy. This means that community-based supervision is commonly available during the pretrial stage and as a form of case resolution, but prosecutors may need to secure local buy-in to implement such options specifically in cases involving violence.

Approximately a third of respondents felt that their offices would be supportive of broadening the availability of non-carceral release options for cases involving violence at pretrial (33%) or sentencing (34%). Those who felt their offices would not be supportive of such approaches expressed less general support for alternatives during the pretrial (42%) as opposed to the sentencing stage (37%). Although possible media response was rated as the least important factor in decision-making at the level of *individual* cases, the recent media focus on violent crime and bail reform might be playing a part in shaping office policy concerning pretrial release. Thus, prosecutors appear slightly more supportive of sentencing alternatives than pretrial alternatives.

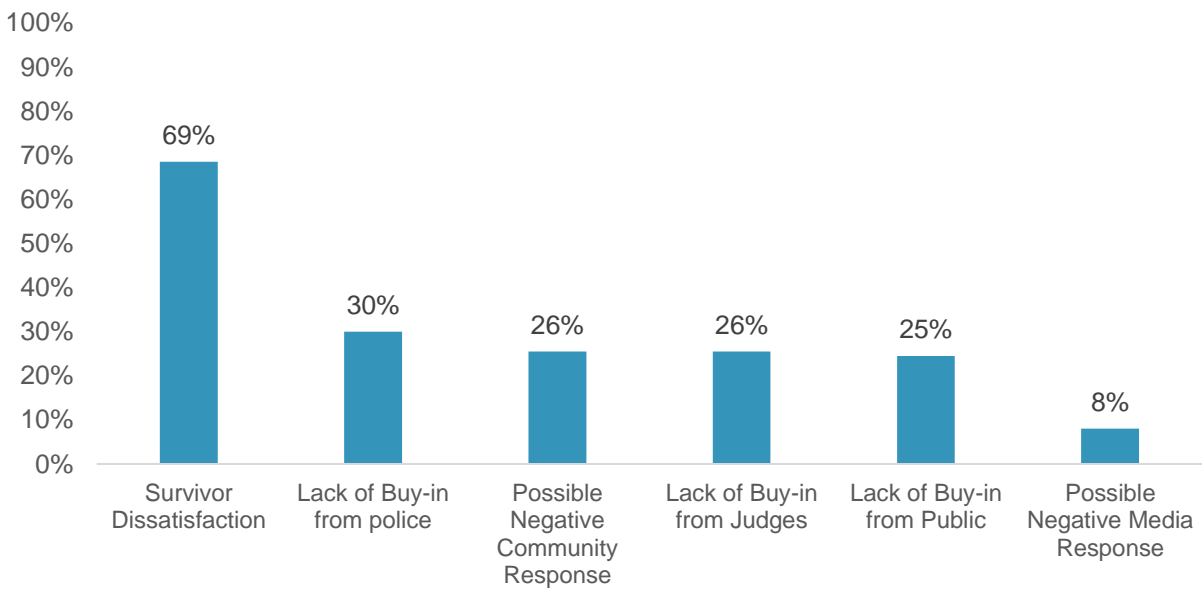
To better understand the concerns associated with broadening community-based alternatives at the pretrial and case disposition stages, we asked respondents to consider a list of items related to implementation (Figure 2) and stakeholder buy-in (Figure 3) and to rate their level of concern. We again averaged responses across stages of the case to identify overall focus areas. The picture is clear regarding implementation considerations: the primary concern is public safety. Respondents also expressed concerns about the resources and fidelity with which sites implement alternatives, suggesting that even if these resources are available, there are doubts regarding their efficacy. These responses were largely consistent across stages of a case, apart from increased recidivism being of slightly more concern at sentencing (79%) than pretrial (73%). Specific only to the pretrial stage, respondents expressed significant concerns about inadequate pretrial supervision (77%) and increased failure to appear (70%).

Figure 2. Implementation Concerns are Focused on Public Safety
(n = 274)



Note: Percentages represent the average between concerns expressed at the pretrial stage and sentencing which participants characterized as being "very concerned" by or a "major concern."

Figure 3. Survivor Satisfaction is the Most Influential Stakeholder Concern
(n = 274)



Note: Percentages represent the average between concerns expressed at the pretrial stage and sentencing which participants characterized as being "very concerned" by or a "major concern."

When asked to consider concerns relating to different stakeholder groups, survivor dissatisfaction is the primary focus for prosecutors. This comports with our findings above regarding general philosophical approaches to prosecution, where some respondents reported prioritizing survivor-centered approaches. Although media response is rated the lowest, it may indirectly exert an impact through community concerns. However, it is beyond the scope of our survey to directly test this hypothesis. Once again, our findings were largely consistent across stages of a case with slight differences: survivor dissatisfaction was considered more at sentencing, whereas possible negative community response was a greater factor at pretrial.

Conclusions and Recommendations

Our findings point to a host of complexities in how prosecutors grapple with violence. Most respondents indicated that violence was statutorily defined, but an equal number responded that their offices defined violence on a case-by-case basis. Overall, there was a lack of data collection and little to no training related to evidence-based recidivism reduction. Still, survey results suggest a desire for proven alternatives that keep communities safe. Notwithstanding presumed innocence, there was greater discomfort with non-carceral responses during the pretrial stage as opposed to sentencing. The reported goals in prosecuting violence suggest that both punishment and rehabilitation are priorities, as is survivor satisfaction. However, research has documented that crime survivors are frequently members of communities disproportionately impacted by mass incarceration and are deeply dissatisfied with the status quo and presumptively punitive responses to violence.³⁰

How can proponents of non-carceral responses—inside or outside prosecutors’ offices—navigate these mixed reactions and messages? Our findings suggest three potential approaches:

- **Shift thinking about alternatives to status quo practices.** If the goals of prosecuting cases involving violence focus on punishment and rehabilitation, research documents how those goals contradict one another. A recent meta-analysis of 116 studies demonstrated that custodial sanctions (e.g., jail/prison, residential treatment) produce a criminogenic effect relative to non-custodial sanctions (e.g., probation, non-residential treatment) across a diverse range of contexts.³¹ To counter existing punitive prosecutorial approaches to violence, there need to be more directed efforts at educating prosecutors and the public about the negative impacts of custodial sanctions and how alternatives can more effectively achieve rehabilitation and accountability, given the complexity of the relationship between the defendant and survivor. For example, restorative justice,³²

intensive supervision probation,³³ and non-financial conditions of release (e.g., supervision by pretrial services)³⁴ may strike a balance in reducing the criminogenic effects of incarceration, ensuring access to services, and balancing survivor safety and satisfaction considerations.

- **Build the evidence base for diversion.** Our findings align with the Center's 2017 national survey: diversion programs are primarily offered to individuals charged with nonviolent crimes, and very few are made available to those charged with violent offenses. Although there has been a proliferation of prosecutor-led diversion programs in recent years, the evidence base documenting their efficacy is limited.³⁵ A 2018 multisite evaluation revealed that four of the five diversion programs reduced the likelihood of re-arrest up to two years from program enrollment, with the fifth program yielding no change.³⁶ Many of these programs had eligibility restrictions related to prior or current violent charges, but the findings demonstrate the promise of prosecutor-led alternatives in upholding public safety. While our findings cannot establish the overall prevalence with which jurisdictions apply certain types of alternatives in cases involving violence, they do indicate that jurisdictions across the country either formally or informally utilize them when violence is present. We encourage such offices to explore research-practice partnerships to facilitate more formalized pilots, action research projects related to targeted topics (e.g., defendant and survivor satisfaction, office culture), and more robust multi-method impact evaluations that will enable the field to begin documenting how and when diversion programs could be an effective option that prosecutors can trust.
- **Seek to better understand the needs of survivors.** Our findings emphasize the importance prosecutors place on survivor satisfaction, yet they may be prioritizing goals that run counter to what survivors want. A national survey of 800 survivors documents that those who experienced violence, similar to those who experienced property crimes, support shorter sentences, believe that prison makes individuals more likely to commit future crimes, and prefer people be held accountable through alternatives to prison.³⁷ Our findings highlight that many prosecutors' offices have in-house victim support services and engage in community-based prosecution practices. Despite these avenues for outreach, they have a relatively rudimentary understanding (tied to status quo carceral measures) of what survivors want. Thus, while the foundation is present for prosecutors to directly engage survivors and the communities most impacted by violence, they need to be more collaborative and open-minded to diverse voices. Only then can they work with impacted communities to co-create alternatives firmly rooted in the priorities of those who have experienced harm.

Endnotes

- ¹ See, for example, Skalansky, David Alan. 2021. “How We Define Violent Crime in America Shapes Who Gets Punished for It—And Who Doesn’t.” *Time*. Accessed at: <https://time.com/5952785/violent-crime-america-definition/>.
- ² For an overview, see O’Hear, Michael. 2020. “Symposium Introduction—Legal Responses to Violent Crime: Does Research Support Alternatives to Long-Term Incarceration?” *Marquette Law Review* 103(3):735-744. Accessed at: <https://scholarship.law.marquette.edu/cgi/viewcontent.cgi?article=5438&context=mulr>.
- ³ Sawyer, Wendy, and Peter Wagner. 2022. *Mass Incarceration: The Whole Pie 2022*. Accessed at: <https://www.prisonpolicy.org/reports/pie2022.html>.
- ⁴ For a specific example, see Bratton, William J., and Rafael A. Mangual. 2022. “Bail Reform Is Killing New Yorkers as Eric Adams Pushes for Change.” *The Wall Street Journal*. Accessed at: <https://www.wsj.com/articles/bail-reform-killing-new-yorkers-violence-convictions-criminals-judges-court-order-release-murder-stabbing-assault-violent-crime-11645029571>; More generally, see Akinnibi, Fola. 2022. “How Bail Reform, Crime Surge Mix in an Angry Debate.” *Bloomberg*. Accessed at: <https://www.bloomberg.com/news/articles/2022-01-21/how-bail-reform-crime-surge-mix-in-an-angry-debate-quicktake>.
- ⁵ Brenan, Megan. 2022. “Worry About Crime in the U.S. at Highest Level Since 2016.” *Gallup*. Accessed at: <https://news.gallup.com/poll/391610/worry-crime-highest-level-2016.aspx>.
- ⁶ Except for some work in the juvenile and drug court contexts, which suggests that treatment has the potential to reduce recidivism among individuals who committed violent and nonviolent crimes alike, there is currently little to no extant research on the effects of general community-based alternatives on individuals charged with violence. Moreover, while some studies of programs developed specifically to address violent and high-risk individuals (e.g., restorative justice, prison-based treatment, cognitive behavioral therapy for individuals who committed sex offenses) show promise, the limited reach of these programs prevents the generalizability of findings. See, for example, Haerle, Darin R. 2016. “Dosage Matters: Impact of a Violent Offender Treatment Program on Juvenile Recidivism.” *Youth Violence and Juvenile Justice* 14(1):3-25 <https://doi.org/10.1177/1541204014555436>; Skeem, Jennifer L., and Devon L.L. Polaschek. 2019. “High Risk, Not Hopeless: Correctional Intervention for People at Risk for Violence.” *Marquette Law Review* 103(3):1129-1148. Accessed at: <https://scholarship.law.marquette.edu/mulr/vol103/iss3/17/>; Bonta, James, Suzanne Wallace-Capretta, Jennifer Rooney, and Kevin Mcanoy. 2002. “An Outcome Evaluation of a Restorative Justice Alternative to Incarceration.” *Contemporary Justice Review* 5(4):319-338. Accessed at: https://www.researchgate.net/publication/247499576_An_outcome_evaluation_of_a_restorative_justice_alternative_to_incarceration
- ⁷ See, for example, Lowenkamp, Christopher T. 2022. *The Hidden Costs Revisited*. New York, NY: Arnold Ventures available at <https://craftmediabucket.s3.amazonaws.com/uploads/HiddenCosts.pdf>; Copp, Jennifer E. 2020. “The Impact of Incarceration on the Risk of Violent Recidivism.” *Marquette Law Review* 103(3):775-791. Accessed at: <https://scholarship.law.marquette.edu/cgi/viewcontent.cgi?article=5440&context=mulr>.
- ⁸ See more generally Pfaff, John. 2017. *Locked In: The True Causes of Mass Incarceration and How to Achieve Real Reform*. New York, NY: Basic Books. For a conversation with the author about prosecutors’ role in mass incarceration, see Watkins, Matt. 2018. “Prosecutor Power #1: John Pfaff on Mass Incarceration.” *New Thinking Podcast*, The Center for Court Innovation, 27 Mar. 2018. Accessed at: <https://www.courtinnovation.org/publications/john-pfaff-podcast>.
- ⁹ Lowry, Michela, and Ashmini Kerodal. 2019. *Prosecutor-led Diversion: A National Survey*. New York, NY: Center for Court Innovation. Accessed at: <https://www.courtinnovation.org/publications/prosecutor-led-diversion-national-survey>.

¹⁰ Andrews, D. A., and James Bonta. 2010. “Rehabilitating Criminal Justice Policy and Practice.” *Psychology, Public Policy, and Law* 16(1):39-55. <http://dx.doi.org/10.1037/a0018362>.

¹¹ Ghandnoosh, Nazgol. 2021. *A Second Look at Injustice*. Washington, DC: The Sentencing Project. Accessed at: <https://www.sentencingproject.org/wp-content/uploads/2021/05/A-Second-Look-at-Injustice.pdf>

¹² Our survey used the term “victim” to align with how support services may commonly be referred to in the criminal legal system. We have opted to use the term “survivor” throughout this brief unless referring specifically to services.

¹³ The Center’s project team includes researchers and practitioner experts, including former prosecutors.

¹⁴ The survey included a screening question designed to eliminate any offices that did not prosecute cases involving violence. Respondents answered the question based on their own office’s definition of crimes involving violence. We omitted the four offices that did not meet this criterion.

¹⁵ To establish national prevalence, NORC drew a random sample from a national directory of 3,926 prosecutors’ offices maintained by the National Public Safety Information Bureau. The NORC team divided the sample into five geographical regions (Northeast, Southeast, Midwest, Southwest, and West) and further distinguished them as urban or rural. From the ten groups, NORC identified a sample of 1,100 offices to which surveys were sent. NORC applied weighting techniques to create a final sample representative of the actual national composition. A total of 278 agencies provided completed surveys (25% response rate). We omitted four respondents that indicated their offices did not prosecute cases involving violence from the analysis file. For more details on the sampling and weighting techniques utilized by NORC, please visit the project’s Open Science Framework page available at https://osf.io/rdxe8/?view_only=39292f9f0a944c9bac2a27d2e0850e89.

¹⁶ Except for percentages associated with open-ended items, we weighted the analysis to produce representative estimates for the population of 3,926 agencies from which the sample was randomly selected. Thus, percentages may not always directly correspond to the final sample of 274.

¹⁷ Vertical representation is considered a best practice in prosecuting certain types of violence cases due to the consistency of information gathered and relationship building with the survivor. For example, see National Sexual Violence Resource Center. 2018. *Best Practices for Prosecution*. Accessed at: <https://www.nsvrc.org/sites/default/files/publications/2018-09/Best%20Practices%20for%20Prosecution.pdf>.

¹⁸ Olsen, Robin, Leigh Courtney, Chloe Warnberg, and Julie Samuels. 2018. *Collecting and Using Data for Prosecutorial Decisionmaking*. Washington, DC: Urban Institute. Accessed at: https://www.urban.org/sites/default/files/publication/99044/collecting_and_using_data_for_prosecutorial_decisionmaking_0.pdf.

¹⁹ This category included a range of general responses, such as “uphold the law,” “seek justice,” “seek truth,” and “innocent until proven guilty.”

²⁰ Percentages do not add up to 100% because multiple approaches could be identified in the open-ended responses.

²¹ This category included a range of general responses, such as “tough on violent crime” to “harsh punishment,” “prison for violent crimes,” and “get a conviction by any means.”

²² Community-oriented prosecution emphasizes close collaboration amongst prosecutors, police, and the community to identify crime problems and create preventive-based solutions. For more information, see Goldkamp, John S., Cheryl Irons-Guynn, and Doris Weiland. 2002. *Community Prosecuting Strategies: Measuring Impact*. Washington, DC: United States Department of Justice, Bureau of Justice Assistance. Accessed at: <https://www.ojp.gov/pdffiles1/bja/192826.pdf>.

²³ Offices varied in terms of the number of practices they had implemented. Over half reported having implemented one to two practices, a little under a third having implemented three to four practices, and two percent implementing five to six practices.

²⁴ Lowry and Kerodal *supra* note 9.

²⁵ Sklansky *supra* note 1.

²⁶ When asked to provide more detail, the most common responses highlighted the case-by-case considerations reflected above as prosecutors considered factors such as the findings of a risk assessment instrument, criminal history, survivor opinion, and offense severity. Respondents also identified requesting no-contact orders or cash bonds as customary practices.

²⁷ Percentages do not add up to 100% because some respondents who completed the paper copy of the survey selected multiple responses.

²⁸ Most factors were rated equally across decision points with some minor differences (i.e., a difference between 5% and 7%) with a handful of exceptions: recidivism and the defendant's clinical or social service needs were considered more at the pretrial stage, whereas survivor opinion was a more important factor in case disposition.

²⁹ 70% of respondents indicated that their offices' sentencing recommendations often or always included court fines or fees. We omitted the item from the components listed for plea offers.

³⁰ Alliance for Safety and Justice. 2016. *Crime Survivors Speak: The First-Ever National Survey of Victims' Views on Safety and Justice*. Accessed at: <https://allianceforsafetyandjustice.org/crimesurvivorsspeak/#:~:text=Crime%20Survivors%20Speak%20%E2%80%93%20Alliance%20for,for%20safety%20and%20justice%20policy.>

³¹ Petrich, Damon M., Travis C. Pratt, Cheryl Lero Jonson, and Francis T. Cullen. 2021. "Custodial Sanctions and Reoffending: A Meta-Analytic Review." *Crime and Justice* 50(1):353-424. <https://doi.org/10.1086/715100>.

³² Dana, Olivia, and Sherene Crawford, S. 2020. "Restorative Prosecution? Rethinking Responses to Violence." *New York Law School Law Review* 64(54):53-66. Accessed at: https://digitalcommons.nyls.edu/cgi/viewcontent.cgi?article=1447&context=nyls_law_review.

³³ Latessa, Edward J., and Myrinda Schweitzer. 2020. "Community Supervision and Violent Offenders: What the Research Tells Us and How to Improve Outcomes." *Marquette Law Review* 103(3):911-938. Accessed at: <https://scholarship.law.marquette.edu/cgi/viewcontent.cgi?article=5445&context=mulr>.

³⁴ Advancing Pretrial Policy & Research. 2020. *Pretrial Research Summary - Pretrial Detention*. Accessed at: <https://advancingpretrial.org/appr/appr-resources/pretrial-research-summaries/>.

³⁵ Noble, David. 2020. "Mapping the Landscape of Prosecutor-led Pretrial Diversion." *The Criminal Law Practitioner* 11(1):8-32. Accessed at: <https://www.prosecution.org/prosecutorled-pretrial-diversion-series>.

³⁶ Rempel, Michael, Melissa Labriola, Priscillia Hunt, Robert C. Davis, Warren A. Reich, and Samantha Cherney. 2018. *NIJ's Multisite Evaluation of Prosecutor-Led Diversion Programs*. New York, NY: Center for Court Innovation. Accessed at: <https://www.courtinnovation.org/publications/multisite-evaluation-prosecutor-led-diversion-programs>.

³⁷ Alliance for Safety and Justice *supra* note 30.