

(IN)JUSTICE *in* L.A.

Analysis of the Los Angeles County District Attorney's Office & Recommendations for Improvement

FULL REPORT AVAILABLE AT: MEETYOURDA.ORG/LADA



District Attorneys (DAs) wield significant power to influence the criminal legal system. They decide whether to bring charges, what charges to bring, which police to call as witnesses, whom to bring a death penalty case against, whose parole to oppose, and how restrictive to make someone's probation terms. District Attorneys also heavily influence whether an individual is routed into treatment or diversion programs and whether someone is detained pretrial.

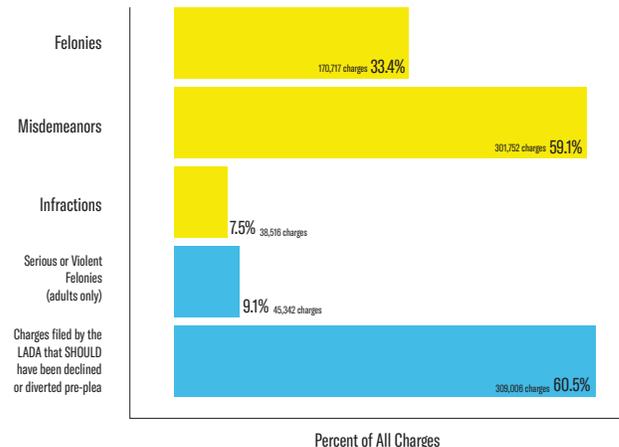
The ACLU of Northern California sent a California Public Records Act request to the 15 largest district attorney's offices in the state of California, including the Los Angeles District Attorney's (L.A. DA) Office. The PRA requested prosecution, diversion, and parole hearing data, as well as office policies, protocols and guidelines for prosecutors. This report was informed by the data and documents provided in response to the PRA, as well as interviews with public defenders, criminal legal system activists, and experts who are criminal legal system-impacted.

George Gascón unseated two-term L.A. DA incumbent Jackie Lacey in the 2020 general election. Gascón ran on a platform that included holding police accountable, reforming the justice system, reducing racial disparities, and ending mass incarceration. This report highlights opportunities for the L.A. DA's office to reduce incarceration and the harms caused by contact with the criminal legal system. The main findings and recommendations are summarized below.

CHARGING DECISIONS

Data provided by the L.A. DA's office reveals that of the 510,996 charges the L.A. DA's office prosecuted in 2017 and 2018, almost 60% were misdemeanors, 60.5% were charges that are minor enough that the ACLU recommends DAs always either divert prior to filing or decline to charge entirely, and only 9.1% were serious or violent felonies.

- **The L.A. DA's office should develop a "Decline to Charge / Pre-Plea Diversion" list of charges** that are automatically dropped or diverted that includes: charges related to driving with a suspended or revoked license, crimes associated with being a victim of sex trafficking, low-level drug charges, trespassing charges, and charges against individuals with mental health disorders while they are in custody.
- The office should eliminate the use of sentence enhancements, and analyze the racial impact of its charging decisions, releasing the data and results publicly, as well as their plan to eliminate racial disparities in charging.



Frequency of different charge types. All charges are either felonies, misdemeanors, or infractions. All serious or violent felonies are felonies, while 73.5% of the "Decline to charge or pre-plea diversion" charges are misdemeanors, 22.3% are felonies, and 4.2% are infractions. The "Serious or Violent Felonies" category is restricted to adults as it does not include WIC 707(b) which defines further felonies that are categorized as serious and/or violent for juveniles.

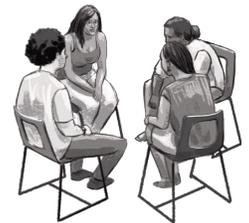
PROSECUTING LAW ENFORCEMENT

Despite being 8% of L.A. County's population, Black individuals make up 20% of the people killed by law enforcement in L.A. County. Since 2012, the L.A. DA's office has only reviewed 252 fatal officer-involved shootings, and declined to prosecute all but one, even when the Chief of Police recommended criminal charges. In order to better hold law enforcement accountable for their actions, and to protect those they disproportionately inflict violence upon, the L.A. DA should:

- remove the conflict of having to prosecute the same people that they rely upon to build their cases against the general public the L.A. DA's office should support the creation of an entity entirely separate from the DA's office for the purpose of prosecuting cases against law enforcement officials, and transfer the necessary ongoing funding from the DA office's budget to this new entity. This will help remove the conflict of having to prosecute the same people that they rely upon to build their cases against the general public.
- advocate for the current Bureau of Victim Services, which is housed within the L.A. DA's office, to be closed and a new entity, separate from the DA's office, to be established. The funding currently provided to the office for the Bureau of Victim Services should be transferred to this new entity on an ongoing basis.
- join the call by several other California District Attorneys to remove the conflict of interest created by police unions' influence on campaign finance.

DIVERSION & PAROLE

The data provided by the L.A. DA's office showed that less than 1% of people prosecuted by the L.A. DA's office in 2017-18 had any of their charges diverted. Given that approximately 18.3% (over 3,000 people on any given day) of the entire L.A. County Jail population at any given time is suitable and eligible for Mental Health Diversion (let alone other types of diversion), yet remains incarcerated, **the L.A. DA's office needs to automatically decline and divert many low-level charges.** Although the office reported that they attended 2,983 parole hearings in 2017-18, they were unable to provide data on whether they supported or opposed parole in those hearings. The L.A. DA's office should:



- track diversion and parole data and make it publicly available to ensure accountability.
- eliminate money-based barriers to diversion, move diversion to community-based programs, and incentivize diversion over prosecution. All diversion programs should be offered pre-plea, and not require an admission of guilt.

IMMIGRATION

Certain criminal convictions at the county level can result in non-citizens being placed in removal proceedings and deported by the federal Immigration and Customs Enforcement (ICE) agency. Despite a legal obligation that prosecutors must consider these adverse consequences in plea negotiation, the L.A. DA's office currently has no guidelines or training on how to do so. Accordingly, public defenders report widely varying adherence to this law. **The L.A. DA's office should immediately write a policy and develop training for line prosecutors requiring them to always use immigration-neutral pleas that are consistent with the facts of the case.** The L.A. DA's office should also streamline access to post-conviction relief to help mitigate the adverse immigration consequences of convictions.

COVID-19 RESPONSE

The L.A. DA's office should plan to continue several policies implemented in response to the COVID-19 pandemic and ensure they are adhered to by staff, even once health and safety concerns around the pandemic subside. Specifically, former DA Jackie Lacey directed her deputies to "allow nonviolent offenders who do not pose a danger to the community to remain outside

the criminal justice system," and, "not request that defendants be remanded on probation or parole violations on nonviolent and non-serious crimes" unless they pose a danger to the community. She also directed Head Deputy District Attorneys to expand the use of the Pre-filing Diversion Program. All of these policies promote the well-being of the community and should be continued.

