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New Report: Alameda County District Attorney Office's Practices Lead to Overcriminalization, Needlessly Cost County Money, and Promote Mass Incarceration

ACLU of Northern California and Urban Peace Movement Call for Alameda County District Attorney to Take Action to Reduce Harm on Black and Brown Communities

Oakland, CA -- The ACLU of Northern California and the Urban Peace Movement today released a new report that outlines how the policies and practices of the Alameda County District Attorney's Office, under the leadership of Nancy O'Malley, lead to overcriminalization, needlessly cost the county money, and promote mass incarceration, with devastating impact on Black and Brown communities. ***In(Justice) in Alameda County: A Case for Reform and Accountability*** also provides immediately actionable steps the Alameda County District Attorney can take to address these issues.

"The Alameda County District Attorney plays an outsized role in maintaining mass incarceration, fueling racial disparities and failing to hold police accountable," said E.J. Pavia, Campaign Director with Urban Peace Movement. "We are calling on the Alameda County District Attorney to change its internal policies and practices. We are also calling on Alameda County residents to hold the office accountable for its actions."

Among the key findings in the report:

- Over six in 10 of all charges the Alameda County DA brought against adults were low-level offenses that either should have been directed to diversion programs or not charged at all.
- The Alameda County DA's Office opposed release of incarcerated people in 70 percent of all parole hearings it attended and without documenting any justifications for taking those positions.
- The Alameda County DA's Office had internal guidelines instructing its prosecutors to leverage immigration consequences in order to seek longer probation or jail time during plea negotiations from non-citizens until March 2020.
- While the data relating to diversion was incomplete, it indicated that the Alameda County DA's Office diverted a mere 5 percent of cases in 2017 and 2018 combined.
- The Alameda County DA's Office kept and provided poor-quality data and had no policies regarding data integrity.

"Prosecutors wield tremendous power in the criminal justice system and in our communities," said Yoel Haile, Criminal Justice Program Manager at ACLU of Northern California. "With this report, we aim to show how the Alameda County District Attorney can better align its practices with public support for justice reform, center the perspectives of system-impacted people and redirect public spending away from costly over-prosecution and over incarceration. Alameda County residents should be aware that a

District Attorney is an elected position, whose practices should reflect the values of the community to end mass incarceration.”

According to the report, Alameda County data shows that Black and Latinx people have higher jail and prison incarceration rates than whites. For example, Black people were almost nine times as likely as whites to be incarcerated in jail, and over four times the county average, while rates for Latinx people were about twice the rate of whites. The disparities provide evidence of discriminatory policing and prosecution. The report makes recommendations for reform in policies regarding charging decisions, immigration, police accountability, diversion programs, parole and sentencing, and data tracking. Recommendations include:

- Create a policy to never charge youth as adults.
- Reduce and eliminate excessive penalties by no longer seeking enhancements, and no longer charging under the three strikes law, life without the possibility of parole and death sentences.
- Continue to work with community partners to implement and enforce new policies that mitigate and eliminate the immigration consequences of criminal convictions.
- Create an internal policy around police-relevant practices, including: investigating and charging police use-of-force incidents, records access under SB 1421, making the “Brady list” public (list of unreliable officers not to be used as witnesses by the DA), and pledging to never receive campaign donations from law enforcement unions.
- Increase access to diversion programs and collaborative courts.
- Institute a policy where the Alameda County District Attorney’s Office only involves itself in the parole process to support the release of individuals much like the Los Angeles DA’s new policy.

The Alameda County DA is an elected position, which has been held by Nancy O’Malley since 2009. During the three election cycles O’Malley has served, she has only run opposed once. This report seeks to raise awareness among Alameda County voters of the power this office holds to either fuel or reduce mass incarceration, as well as the harmful activities enacted by the DA’s office to date. These recommendations provide Alameda County voters a platform of commitments to demand from candidates in the 2022 election.

The report is the culmination of extensive research into the office of Alameda County DA through public records requests and analysis, community engagement, and court-watching. Read the report: www.meetyourda.org.

About ACLU of Northern California:

American Civil Liberties Union of Northern California (“ACLU-NC”), founded in 1934 and based in San Francisco, is dedicated to defending and promoting civil rights and civil liberties by holding the government accountable for compliance with the state and federal constitutions. ACLU-NC is one of the largest ACLU affiliates, with approximately 169,000 members. ACLU-NC has long been dedicated to

holding district attorney offices in California accountable, and ensuring that they do not abuse the power of that office.

About Urban Peace Movement:

Urban Peace Movement (UPM) builds youth leadership in Oakland to transform the culture and social conditions that lead to community violence & mass incarceration in communities of color. UPM's model of "Healing-Centered Youth Organizing" supports young people to feel self-confident & hopeful while empowering them to work for healing, social justice, and a brighter future for all.

<https://urbanpeacemovement.org>