

Public Comment Regarding the Appointment of a New Chief State's Attorney

Lauren Ruth, Ph.D.
Research & Policy Director

Connecticut Criminal Justice Commission
October 11, 2019

Justice McDonald and esteemed members of the Criminal Justice Commission:

I am submitting these comments today on behalf of Connecticut Voices for Children, a research-based child advocacy organization working to ensure that all Connecticut children have an equitable opportunity to achieve their full potential. Thank you for providing this opportunity provide input regarding priorities when searching for and selecting Connecticut's next Chief State's Attorney.

We encourage the Commission to examine the role of the Chief State's Attorney's office in reducing—or perpetuating—racial inequities within Connecticut's justice system and to select a candidate who is committed to increasing prosecutorial transparency and creating bold reforms and collaborations in the service of reducing these inequities. We additionally request that the Commission prioritize selecting a Chief State's Attorney committed to continuing the evidence-based juvenile justice reform measures that are ongoing in Connecticut.

Releasing and Examining Prosecutorial Data to Reduce Racial and Ethnic Inequities in the Justice System

National research has found that there are disparate racial outcomes in almost every state of prosecutorial decision-making.¹ Prosecutors are more likely to offer plea bargains to white defendants than to Black or Brown defendants, and this is especially true for low- and mid-level offenses.² When defendants are offered plea bargains, prosecutors are more likely to lower the charges of the plea bargain for white defendants than Black or Brown defendants, which is correlated with defendants serving shorter sentences.³ Black defendants were more likely to be denied bail than white defendants,⁴ and Black defendants who were placed on bail tended to have the bail set higher than white defendants, making bail less accessible to Black defendants.⁵ Even when adjusting for factors such as prior offenses, race remained a significant predictive factor in outcomes,⁶ and victim race plays an important factor in how prosecutors treat defendants. Prosecutors are more likely to charge a defendant with an offense if a victim is white than if a victim is a person of color.⁷

During the 2019 legislative session, the Connecticut General Assembly passed S.B. 880 as an attempt to increase transparency within the prosecutorial system. Lack of transparency in how defendants are treated by legal systems including the police and prosecutors undermines the public's perception of procedural justice⁸—that is, the belief that the process of resolving disputes is fair, unbiased, and treats persons involved with dignity. When legal systems have high levels of procedural justice, the public is more likely to participate in crime prevention programs⁹ and offenders are less likely to recidivate,¹⁰ both of which improve public safety. Choosing a Chief State's Attorney who is committed to interrogating racial disparities within each prosecutorial decision point and publically reporting on how individuals are treated at each stage of the

- ¹ Besiki Kutateladze et al. (2012). *Do Race and Ethnicity Matter in Prosecution?* The Vera Institute. Retrieved from: <http://www.vera.org/sites/default/files/resources/downloads/race-and-ethnicity-in-prosecution-first-edition.pdf>
- ² Berdejo, C. (2017). *Criminalizing Race: Racial Disparities in Plea Bargaining*. Boston College Law Review, 59. Retrieved from: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3036726
- ³ Lynch, M. J., & Patterson, E. B. (1991). "Bias in Formalized Bail Procedures" in *Race and Criminal Justice*. New York: Harrow and Heston.
- ⁴ *Ibid.*
- ⁵ Berdejo, C. (2017). *Criminalizing Race: Racial Disparities in Plea Bargaining*. Boston College Law Review, 59. Retrieved from: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3036726
- ⁶ Besiki, K. & Andiloro, N. (2014). *Race and Prosecution in Manhattan*. The Vera Institute. Retrieved from: <http://www.vera.org/sites/default/files/resources/downloads/race-and-prosecution-manhattan-technical.pdf>
- ⁷ Sorenson, J. & Wallace, D.H. (1999). *Prosecutorial Discretion in Seeking Death: An Analysis of Racial Disparity. in the Pretrial Stages of Case Processing in a Midwestern County*, Justice Quarterly 16 (3), 559-578.
- ⁸ Schafer, J. (2013). *The role of trust and transparency in the pursuit of procedural and organisational justice*. Journal of Policing, 8. Retrieved from: <https://www.researchgate.net/publication/263339861> The role of trust and transparency in the pursuit of procedural and organisational justice
- ⁹ Reisig, M. D. (2007). Procedural justice and community policing: What shapes residents' willingness to participate in crime prevention programs. *Policing: A Journal of Policy and Practice*, 1(3), 356-369.
- ¹⁰ Tyler, T. R. (2006). Psychological perspectives on legitimacy and legitimation. *Annu. Rev. Psychol.*, 57, 375-400.
- ¹¹ Corrado, R., & Mathesius, J. (2014). Developmental psycho-neurological research trends and their importance for reassessing key decision-making assumptions for children, adolescents, and young adults in juvenile/youth and adult criminal justice systems. *Bergen Journal of Criminal Law & Criminal Justice*, 2(2), 141-163.
- ¹² Steinberg, Lawrence, Elizabeth Cauffman, and Kathryn C. Monahan. (2015). "Psychological Maturity and Desistance from Crime in a Sample of Serious Juvenile Offenders." Office of Juvenile Justice and Delinquency Prevention Juvenile Justice Bulletin. Retrieved from: https://www.cga.ct.gov/app/ifs/20141215_Juvenile%20Justice%20Policy%20and%20Oversight%20Committee/20160218/Dr.%20Elizabeth%20Cauffman%27s%20Pathways%20and%20Maturity%20.pdf
- ¹³ Washburn, J. J., Teplin, L. A., Voss, L. S., Simon, C. D., Abram, K. M., & McClelland, G. M. (2008). Psychiatric disorders among detained youths: a comparison of youths processed in juvenile court and adult criminal court. *Psychiatric services*, 59(9), 965-973.
- ¹⁴ Connecticut Juvenile Training School Advisory Board. (2018). Report to the Commissioner of the Department of Children and Families. Retrieved from: <https://portal.ct.gov/-/media/DCF/CJTS/pdf/CJTS-Annual-Report-2018.pdf?la=en>
- ¹⁵ Kaiser Family Foundation. (2018). Mental Health Care Health Professional Shortage Areas. Retrieved from: <https://www.kff.org/other/state-indicator/mental-health-care-health-professional-shortage-areas-hpsas/?currentTimeframe=0&sortModel=%7B%22collId%22:%22Location%22,%22sort%22:%22asc%22%7D>
- ¹⁶ Tarkan, L. (2018, April 22). *State's adolescent mental health care lags*. CT Post. Retrieved from: <https://www.ctpost.com/local/article/State-s-adolescent-mental-health-care-lags-12854337.php>
- ¹⁷ Torrey, E.F., Kennard, A.D., Eslinger, D., Lamb, R. & Pavle, J. (2010). *More Mentally Ill Persons are in Jails and Prisons than Hospitals: A Survey of the States*. Treatment Advocacy Center and the National Sheriffs' Association. Retrieved from: https://www.treatmentadvocacycenter.org/storage/documents/final_jails_v_hospitals_study.pdf
- ¹⁸ United States Department of Justice. (2011). Department of Justice Activities Under the Civil Rights Institutionalized Persons Act: Fiscal Year 2010. Washington DC: United States Department of Justice. Online. Available: http://www.justice.gov/crt/about/spl/documents/split_cripa10.pdf
- ¹⁹ Pew Charitable Trusts. "Prosecutors Play an Important Role in Pew's Juvenile Justice Reforms." Retrieved from: <https://www.juvjustice.org/news/990>
- ²⁰ Lambie, I., & Randell, I. (2013). The impact of incarceration on juvenile offenders. *Clinical Psychology Review*, 33(3), 448-459.
- ²¹ Willmott, D., & Van Olphen, J. (2005). Challenging the Health Impacts of Incarceration. *Californian Journal of Health Promotion*, 3(2), 38-48.