

# Diversity in Prosecutors' Offices: Views from the Front Line

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2016



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**A Report of the Stanford Criminal Justice Center**

**March 2016**

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The Stanford Criminal Justice Center (SCJC), led by faculty co-directors Joan Petersilia, David Sklansky, and Robert Weisberg and executive director Debbie Mukamal, serves as a research and policy institute on matters related to the criminal justice system. For more information about our current and past projects, please visit our website: <http://law.stanford.edu/criminal-justice-center>.

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# Introduction and Overview

In July 2015, the Stanford Criminal Justice Center (SCJC) released a report detailing the racial and gender demographics of prosecutors' offices across California.<sup>1</sup> That study was conducted in response to events that renewed longstanding concerns regarding the treatment of racial minorities in the criminal justice system. In particular, national protests followed failures to indict White police officers implicated in the deaths of two unarmed Black men, Michael Brown and Eric Garner, in Ferguson, Missouri, and Staten Island, New York. Since the release of the SCJC's first report, White officers implicated in the death of Tamir Rice, a Black 12-year-old, were also not indicted. The treatment of these officers by White prosecutors stands in stark contrast to the indictment of officers implicated in the death in Maryland of Freddie Gray, a 25-year-old Black man. The State's Attorney in Baltimore was a Black woman.

Given the concern over the treatment of racial minorities in the criminal justice system, the lack of information on the demographics of prosecutors' offices seemed especially concerning. Prosecutors wield a substantial amount of influence. They determine who is charged, what they are charged with, what sentence is sought, and what concessions to offer in exchange for a guilty plea. In those cases that do not go to trial—the vast majority—prosecutors exercise perhaps their greatest influence, often effectively determining the defendant's sentence. Further, prosecutors set broad policies, deciding the aggressiveness with which different laws will be enforced, and other law enforcement officials often follow their lead.

The July 2015 study was the first to make publicly available demographic data regarding prosecutors' offices. We strongly encourage readers to refer to the July 2015 report in detail.<sup>2</sup> Broadly speaking, we found that minorities, particularly Latinos, are underrepresented among California prosecutors. Whites comprise approximately 38 percent of the population in California but 70 percent of California prosecutors. Further, while 48 percent of prosecutors are women, only 41 percent of supervisors are female.

However, the July 2015 study, as a quantitative analysis of prosecutors' offices at a particular time, has limitations. In particular, such a snapshot fails to indicate whether, in recent years, offices were becoming less or more diverse. Our earlier report also attempted to describe previous research, which highlighted the possible effects a lack of diversity may have on office performance and to specify some factors that contribute to this lack of diversity. However, our quantitative analysis does not fully illuminate the causes or effects of the lack of diversity. As a result, we sought to supplement our first report with a qualitative analysis.

We interviewed prosecutors in an attempt to better understand the importance of diversity in the workplace, the evolution of the demographics of prosecutors' offices, the challenges prosecutors face in creating and maintaining a diverse workforce, and the most promising strategies in overcoming those challenges. To that end, we spoke with prosecutors in five California counties:

**Riverside**, Santa Clara, San Diego, San Francisco, and San Joaquin. Here are the key findings from our interviews:

- **Diversity is important.** Respondents largely agreed that having a range of perspectives in an office encourages more equitable outcomes. They also stressed that a prosecutor's office should reflect the community because doing so creates an appearance of fairness, cultivates trust, and allows for more effective prosecution.
- **Demographics are changing in offices.** Many, although not all, respondents said that in recent years their offices had hired more attorneys of color and more frequently promoted both attorneys of color and female prosecutors. Much of this change was attributed to the elected District Attorneys prioritizing diversity. Most respondents said that their office had already achieved some semblance of gender balance by the time they were hired.
- **There are many challenges to achieving diversity.** Respondents identified several challenges to increasing diversity in their offices, including: the lack of individuals of color graduating from law school, which necessarily limits the pool of candidates; the difficulty in competing with law firms for diverse candidates; and the negative perception of prosecutors among racial minority groups.
- **But, solutions have been developed to achieve diverse workplaces.** The most common solutions respondents shared include: (1) a conscious effort to recruit diverse candidates; (2) working to ensure that candidates meet women and attorneys of color during the recruiting and interview process; (3) community engagement as a method of combating the pipeline problem and the stigma associated with prosecutors in many communities of color; and (4) programs to actively retain current employees, such as job-sharing for prosecutors who prefer to work part-time.

We explain below how we selected the counties, chose the individual interviewees, and conducted the interviews. We also discuss the limitations of our methodology. We then present our findings in more detail. It is important to stress at the outset that our interviewees were not selected randomly and should not be assumed to be a representative sample of California prosecutors. We did not conduct a scientific survey. Rather, we spoke with a range of prosecutors in several different offices in an effort to get a sense of how issues of workplace diversity appear to at least some California prosecutors. We hope that the perspectives of the prosecutors we interviewed will be helpful in gaining a better understanding of how diversity may matter in prosecutors' offices, the factors that may explain why there is not more diversity, and strategies that may be helpful in increasing diversity. Given the lack of diversity that exists in prosecutors' offices across the United States,<sup>3</sup> we hope this study will help foster productive discussions about effective ways to overcome these obstacles on a national level.

## Methodology

When selecting offices to interview, we wanted the offices to be geographically heterogeneous. The five counties that we identified—**Riverside**, Santa Clara, San Diego, San Francisco, and San Joaquin—provided us with a cross-section of larger rural and urban counties from both southern and northern California.

Furthermore, the population of these five counties has interesting demographic compositions when compared to the general population of the state and to other District Attorneys' offices in the state. **The populations of three of the five counties—Riverside, Santa Clara, and San Joaquin—are more diverse than the general population of the state as a whole.** When further examining the offices themselves, four of the five offices we interviewed ranked in the top fifteen offices with the highest percentage of non-White prosecutors. Yet their percentages of White prosecutors range from 53 percent to 81 percent.<sup>4</sup>

**Figure 1: Racial and Ethnic Composition of District Attorneys' Offices in California, 2015**

County	White (Non-Hispanic)	Black (Non-Hispanic)	Latino	Asian or Pacific Islander	Other/Undisclosed
San Francisco	53.5%	12.4%	10.1%	18.6%	5.4%
Santa Clara	60.3%	3.8%	6.5%	14.1%	15.2%
<b>Riverside</b>	<b>64.3%</b>	<b>4.9%</b>	<b>9.8%</b>	<b>8.6%</b>	<b>12.3%</b>
San Diego	70.3%	4.4%	13.1%	11.6%	0.6%
San Joaquin	81.1%	5.4%	8.1%	4.1%	1.4%

While the five identified counties were among the seventeen larger counties in our previous study, the sizes of the offices ranged from 74 to 244 prosecutors. Still, we believed that, as larger counties, these counties would be receptive to granting us access to their prosecutors.

To hear from a diverse range of perspectives, we requested to speak with eight to ten prosecutors from each office matching the following criteria:

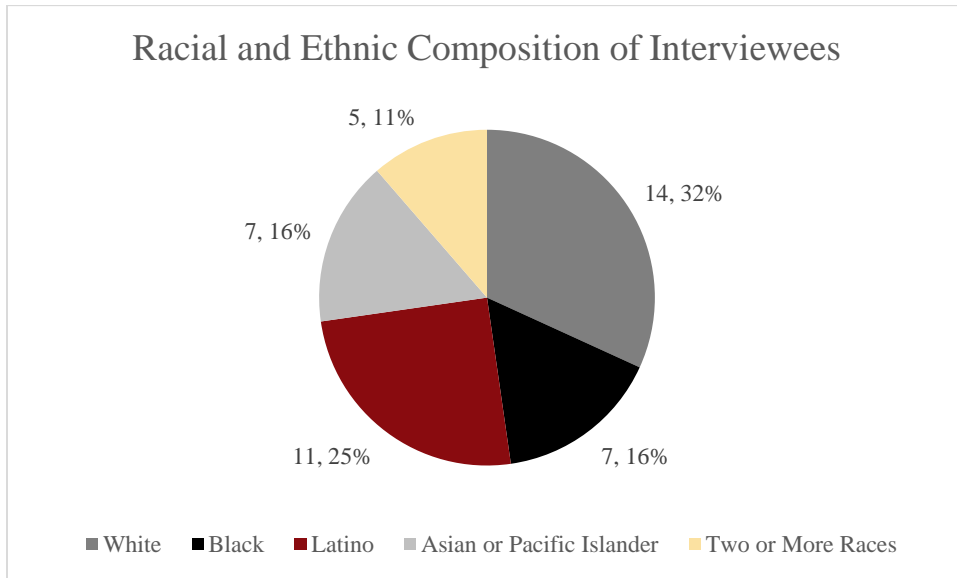
- The District Attorney;
- At least two prosecutors from the Diversity Committee (if such committee exists);
- At least two prosecutors from the Hiring Committee (if such committee exists);
- At least one female supervising prosecutor and at least two female line prosecutors; and



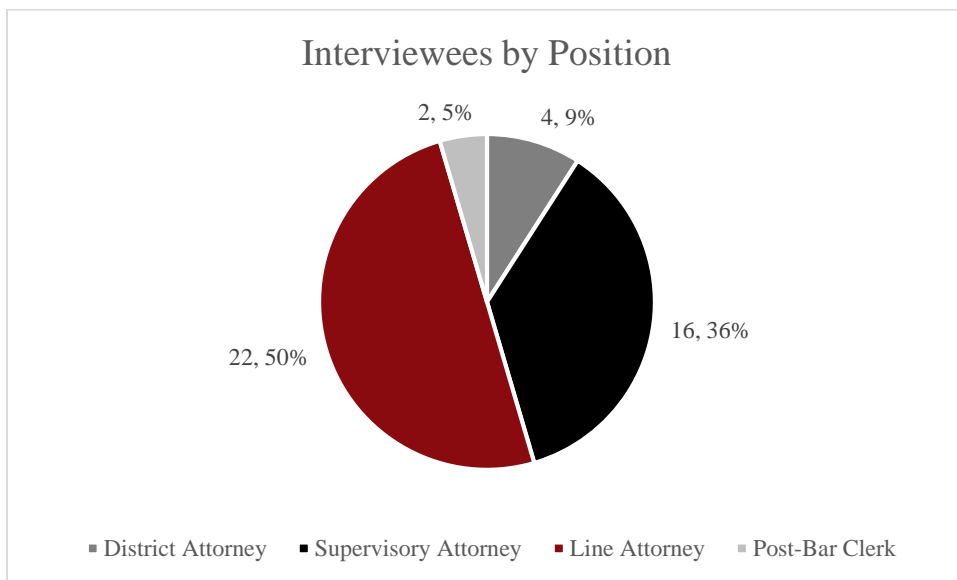
- At least one supervising prosecutor of color and at least one line prosecutor of color.

We also asked that the interviewees have a range of legal and supervisory experience. The offices selected our interviewees, using the criteria we suggested. We interviewed a varied set of 44 prosecutors—24 females and 20 males—across all five offices. The racial and ethnic composition and range of experience for our interviewees can be seen in the figures below.

**Figure 2: Racial and Ethnic Composition of Interviewees**



**Figure 3: Interviewees by Position**



**Figure 4: Interviewees by Years of Experience**



In Riverside County we interviewed ten prosecutors including: the District Attorney, four supervisory attorneys and five line attorneys. Of the ten prosecutors, six were females and four were males, and eight were non-White, including five who were Latino. Their years of experience ranged from seven years to twenty-seven years.

In Santa Clara County we interviewed nine prosecutors including: the District Attorney, five supervisory attorneys and three line attorneys. Most of the attorneys were members of the office’s Diversity Committee. Out of the nine prosecutors interviewed, four were females and five were males, and three were Latino and one was Black. Their years of experience ranged from five years to twenty-one years.

In San Diego County we interviewed seven prosecutors. We did not interview the District Attorney, however, the seven prosecutors consisted of two supervisory attorneys and five line attorneys. Of the seven prosecutors interviewed, three were females and four were males. Five of the seven prosecutors were non-White, and their years of experience ranged from one year to sixteen years.

In San Francisco County we interviewed eight prosecutors including: the District Attorney, four supervisory attorneys and three line attorneys. We interviewed five females and three males, and seven of the eight attorneys were non-White. Their years of experience ranged from one year to twenty-four years.

Finally, in San Joaquin County we interviewed ten prosecutors including: the District Attorney, three supervisory attorneys, four line attorneys and two post-bar clerks. (Like other District Attorneys’ offices in California, San Joaquin often hires recent law school graduates as clerks before promoting them to prosecutor positions.) Of the ten prosecutors, six were females and

four were males, and six were non-White. Their years of experience ranged from one year to twenty-nine years.

We conducted interviews during October 2015 and November 2015. Respondents were interviewed one at a time, with two interviewers asking questions and taking notes. Before our rounds of interviews began, we developed a set of approximately 50 questions. These questions, which can be found in the Appendix below, focused on: the importance of diversity within the office; changing demographics within the office; hiring practices; and attracting, promoting, and developing attorneys from underrepresented backgrounds. Paradigm, a firm that consults with public and private employers in their efforts to attract, hire, develop, and retain diverse workforces, reviewed and provided feedback on the interview schedule we developed.

Additionally, based on these questions, we developed a set of codes to qualitatively analyze the interviews. Interviews lasted 30 to 45 minutes each. In addition to written notes, the interviews were recorded, so that they could be referenced afterwards for coding, summarizing, and quoting. All quotes used within this report have been verified and authorized by the respondent who gave the statement. All interviewees had the option to be quoted anonymously.

Using the recordings, one of the two interviewers wrote a report of the interview. The report was a general summary of questions and responses—not a transcript. Then the other interviewer present at the interview coded the interview report using the predetermined codes. The codes were then used to develop themes across all interviews.

Before addressing our findings, we would like to acknowledge the limitations of our methodology. A set of 44 interviews is not large enough to draw any scientific conclusions, especially given that we did not use a random sample. The lack of a random sample due to the self-selection of respondents obviously makes our findings open to selection bias. Although we prepared questions in advance to make them as neutral as possible, interviews were free-flowing and were not strictly regimented by our set of questions. Because of time constraints with our interviews, different respondents may have been asked a slightly different set of questions depending on the flow of the interviews.

Despite these limitations, our findings are rich with information. Some sentiments were common across offices, some were particular to individual offices, and some differed within offices. This report is not prescriptive but descriptive and suggestive. The description of our findings are detailed in the sections below and provide what we believe are valuable, inside perspectives on the role of diversity within District Attorneys' offices.

## **The Importance of Diversity**

The respondents highlighted two major themes about the importance of diversity: the importance of diverse perspectives, and having a staff that reflects the community being served.

## The Importance of Diverse Perspectives

The prosecutors we interviewed believe that racial, ethnic, and gender diversity is important because it creates an environment with diverse perspectives. They told us that diverse perspectives provide benefits such as combatting biases, which may be present in judgment-based determinations, and fostering more equitable outcomes.

First, some respondents mentioned that prosecutors, like others, can have blind spots or biases. Jeff Rosen, the Santa Clara County District Attorney, stated that everyone has “blind spots that you aren’t aware of until someone points them out to you.”<sup>5</sup> Additionally, George Gascón, the District Attorney of San Francisco County, acknowledged, “a bias free environment isn’t possible.”<sup>6</sup> But these blind spots were not necessarily considered to be a negative attribute, but rather a fact of life. Whether good or bad, prosecutors said that they bring both their past life experiences and values when making decisions.

Jay Boyarsky, the Chief Assistant District Attorney in Santa Clara County, pointed out that, along with blind spots, “[p]rosecutors have immense power and responsibility.”<sup>7</sup> Respondents said that diverse perspectives are particularly helpful when making judgment calls. As Carlos Monagas, a prosecutor in the Riverside County District Attorney’s Office, explained: “In murder cases, for example, a prosecutor has to decide whether to seek life without parole or the death penalty. Ultimately the prosecutor has to make a gut-check decision and it is better to have more perspectives at the table when making decisions.”<sup>8</sup>

Prosecutors usually have more discretion the more senior they are in the office. Respondents explained that line attorneys are able to provide input on whether they think a case should be diverted to a treatment program, but these decisions must be approved by management. Justine Cephus, a line prosecutor employed in the San Francisco County District Attorney’s Office, said that “people at the top have much more discretion over charging decisions like whether a defendant is facing 20 years or life without parole.”<sup>9</sup> Thus, diverse perspectives are even more important in management. James Simmons, a line attorney who has been at the San Diego County District Attorney’s office for ten years, provided an example of discretion in his daily work:

*Right now I’m in the gang unit. I’ve been here for six years. On cases that are less serious—that are not a murder case—for the most part I have almost sole discretion . . . I still have to clear things with my chief and my managers, but I go in there and make a decision on how I think the case should be handled and how I think the case should be resolved. And then I go in there and explain to them why I think it should be resolved that way. Then they’ll either agree or not agree, but for the most part they agree with my discretion or my input. But that’s me after having been a DA for ten years compared to somebody who has just started in the office . . . As you go through your career, depending on the manager as well, you may have more discretion than others.<sup>10</sup>*

Given the racial diversity of defendants, many prosecutors discussed the importance of cultural sensitivity in these judgment-based decisions. When discussing what it means to be “culturally sensitive,” a few respondents pointed to the ability of minority prosecutors to draw on their experiences to better understand the case of a defendant who is also a minority. For example, Jonathan Mott, a prosecutor of White, Latino, and Native American ancestry in the San Joaquin County District Attorney’s Office, said that his negative experiences with police officers in the past can help him to “assess the facts with your goggles on and provide a more realistic or minority-centered view.”<sup>11</sup>

Many prosecutors discussed how working with a diverse, culturally-sensitive team fostered more equitable outcomes for defendants. Although prosecutors are often faced with judgment calls, many prosecutors said that discussing the facts of a case with other line attorneys or supervisors allowed for more balanced outcomes for defendants. As Ron Freitas, a supervising attorney in San Joaquin County, stated, “If you have only one perspective, then you only come to one answer.”<sup>12</sup> He said that diversifying teams made him a better prosecutor and supervisor. Respondents highlighted certain cases in particular that seemed to benefit from diverse perspectives: resisting arrest, human trafficking, domestic violence, and sexual assault cases. For example, Carrie Lawrence, a line prosecutor in San Joaquin County, said it was helpful to discuss resisting arrest cases with minority attorneys:

*Sometimes you’ll take the same set of facts and run it by a few people and you can get really varying answers. I just feel that having people from different backgrounds and experiences is really important in dealing with that. In search and seizure issues, people who have some experience themselves with improper questioning or bad experiences in the past—their view is a little more honest: ‘were those officers being a little too harsh on those kids?’ And so I think that it’s important there’s a range of experiences.<sup>13</sup>*

Attorneys of color also spoke about drawing on their own personal experiences to better understand a defendant’s situation. One prosecutor told us that he feels more comfortable dismissing cases because of his own negative experiences with the police. In his first year as a prosecutor, he has dismissed three cases where he felt there were clear Fourth Amendment issues.<sup>14</sup>

Another prosecutor remembered one instance in which she felt the defendant had been stopped by the police because he was Black. She spoke to her supervisors, and the fact that the stop may have been illegitimate influenced the offer she gave to the defendant.<sup>15</sup>

Lastly, a prosecutor reflected that young, minority prosecutors were instrumental in encouraging his office to drop a majority of charges filed against protesters after the 1998 shooting of a young Black woman by police officers. The prosecutor stressed, though, that race should not play a role in whether or not charges are filed or if a case is pursued more aggressively.<sup>16</sup>

These stories align with research showing that increasing diversity in prosecutors' offices encourages more equitable outcomes. One study found that "Black defendants are more likely to be sentenced to prison than their White counterparts, even after controlling for legally relevant variables, but when Black defendants are sentenced in districts with increased representation of Black prosecutors, they have a decreased likelihood of being imprisoned, resulting in more racially equitable sentences."<sup>17</sup> Increased interactions with minority prosecutors are likely to provide a new perspective, alter attitudes, increase sensitivity, and help to offset biases.<sup>18</sup> Most importantly, by inserting new and varied perspectives into charging and sentencing recommendations, District Attorneys' offices may be less likely to make these judgment-based decisions in a way that produces disparate outcomes.<sup>19</sup>

Furthermore, diversity benefits decision making in other ways. As Eric Fleming, a prosecutor in San Francisco County, told us:

*I think in the workplace, especially in our workplace, it's such a team-oriented environment that the more diverse your team is [then] the more street smart your team is, the smarter your team is, [and] the more compassion it has. You can't have this monotone, or one way of trying to doing things. Diversity allows you to expand your horizons, allows you to be more open-minded, more creative, more understanding.<sup>20</sup>*

Wade Chow, a prosecutor in the same office, said that a diversity of viewpoints allows for a questioning mentality: "People question the way things have been done and whether there is a good reason behind it or not."<sup>21</sup> This echoes research that heterogeneous organizations perform better than less diverse groups with "problem solving, innovation, and creative-solution building."<sup>22</sup> Diverse organizations are better equipped to approach problems and make decisions because a diverse range of viewpoints encourages that "non-obvious alternatives" are to be more likely considered.<sup>23</sup>

## **Defining a Diverse Perspective**

There was no agreed-upon definition of what it means to achieve diversity. Several respondents discussed that a diverse perspective means that all members of the community have a voice. Luis Ramos, a prosecutor in Santa Clara County, explained:

*We are a government office and we represent the people of the State of California and if an office this large is representing the People, the attorneys should represent the communities. I'm talking about defendants, defense attorneys, judges, victims, the people out there should see that they are represented within the office and that their voice is being heard.<sup>24</sup>*

Some prosecutors said that a diverse perspective is achieved by reflecting the community. As Cindy Hendrickson, a prosecutor in Santa Clara County, put it, "The pool of prosecutors should

look somewhat like the pool of defendants.”<sup>25</sup> Others said that it was more important to represent the languages spoken by the community.

However, most prosecutors we interviewed focused on the importance of representing varied personal experiences in order to reflect the community. Kareem Salem, a prosecutor in San Diego County, explained that hiring attorneys with diverse perspectives “might be accomplished most easily through ethnic diversity.”<sup>26</sup> Other prosecutors emphasized that diverse experiences are not just about ethnicity. Eric Fleming stated, “Diversity is not just about color—it’s about experiences. We represent the city of San Francisco and it is one of the most diverse cities in the country and we want the office to reflect that.”<sup>27</sup> Santa Clara County District Attorney Jeff Rosen felt similarly when discussing his hiring criteria for community prosecutors, who work with the local community to help solve public safety problems. District Attorney Rosen explained:

*We may want someone who can speak the language of the community but it doesn’t mean that that person then has to be that ethnicity. I don’t want people to think that the gang team is for White guys and the family violence team is for women because people are different—some minority prosecutors are conservative and some White attorneys are liberal.*<sup>28</sup>

Jaron Shipp in Santa Clara County also emphasized that prosecutors really need to think about diversity from more than a pure numbers standpoint, because “not only do prosecutors’ offices want to increase the numbers of prosecutors of color, it should also be a goal to bring in prosecutors with diverse experiences and backgrounds.”<sup>29</sup>

## The Importance of Reflecting the Community

The prosecutors who we interviewed explained that it was important to reflect the community in which they work, because it creates an appearance of fairness, cultivates trust, and facilitates more effective prosecution.

Many prosecutors stated that there is a special need for diversity in a government agency. Cindy Hendrickson of Santa Clara County said, “We are public servants, and so we should reflect the public that we serve.”<sup>30</sup> Chris Arriola, Chair of the Diversity Committee in Santa Clara County, expanded on this sentiment and explained that government agencies need to do better than law firms at hiring candidates from underrepresented backgrounds. He stated,

*As a government agency, [the District Attorney] is an elected official. We’re his deputies, and we need to be able to respond to the people we’re trying to help, the people we’re trying to serve and to prosecute, [and] their families. Our jurors need to know we look like them, sound like them, and understand them.*<sup>31</sup>

Additionally, San Francisco County District Attorney George Gascón said that “reflecting the community is also important because in a public safety role the office needs to be credible.

Witnesses, victims, defendants will feel more comfortable if there are folks that look like they look.”<sup>32</sup>

In general, respondents described a vast chasm between law enforcement and minority communities. Tori Verber Salazar, the San Joaquin County District Attorney, acknowledged that “there is a perception that we are not here to help, we are only concerned with convictions or our win-loss record. The reality is much different. We don’t want defendants, because we know with each defendant comes a new victim, someone who has been harmed. It is imperative we intervene and work to prevent crime before it happens.”<sup>33</sup> Justine Cephus, a prosecutor in the same office, described an “us versus them” mentality in her own community:

*Victims of crime and defendants in criminal cases are [usually] people of color. I grew up in a family that did not trust the police. And you know calling police and seeing someone who looks nothing like you, [with] experiences wildly different from your own, it’s not exactly something that’s welcoming and makes people want to be forthcoming with law enforcement and that extends all the way to prosecution. If you have a White male officer show up at the scene, and then a White male DA is assigned to your case, and then you go before a White male judge, it is very us versus them—without even saying it—it’s just the message that is conveyed.*<sup>34</sup>

Because of this, she emphasized, “You absolutely have to reflect the community you prosecute and that you protect.”<sup>35</sup> Similarly, another prosecutor observed, “Communities have lost faith in law enforcement. The time of believing police officers on the stand is gone. We need to adapt or eventually the community won’t even be able to believe the prosecutor.”<sup>36</sup>

These sentiments reflect research that District Attorneys’ offices can lose legitimacy if their attorneys do not reflect the demographics of those they prosecute.<sup>37</sup> It has also been found that minority communities have less trust and confidence in the police, the courts, and the legal system than Whites.<sup>38</sup>

Many prosecutors said that they are hoping to dispel this negative perception by increasing the number of minority prosecutors. Christina Arrollado, a prosecutor in San Diego County, explained, “It is important there be an appearance of fairness, as this increases trust in law enforcement and makes it less of an us versus them mentality.”<sup>39</sup> Meghan Buckner, a Black prosecutor in San Diego County, suggested that her presence in the office adds credibility:

*It gives legitimacy to the criminal justice system for someone [who’s a] minority [to see] someone on the prosecution side who understands . . . I have a cousin that’s in prison, so I understand. And my aunts were very shocked that I wanted to be a prosecutor, but that’s what I told them. It gives legitimacy to the criminal justice system, that there’s someone on the other side knowing where these individuals come from and the struggles that they have.*<sup>40</sup>



Another benefit of diversity discussed by Kareem Salem, an Egyptian-American prosecutor in the same office, was that prosecutors of color have a desire to reach out to their communities in order to help change these negative perceptions:

*By virtue of having a diverse office, you are going to have people that want to reach out to those communities. As an Egyptian-American who speaks Arabic, I can tap into that community and get them involved, dispel any misconceptions, or if they have any grievances, let them air those grievances, and act as a channel.<sup>41</sup>*

This aligns with findings that increased diversity improves trust and credibility. One study found that when police departments recruit and promote a large proportion of minority officers, the credibility of its entire force improves within minority communities. Additionally, research suggests that people are more likely to respect and trust authority when the superordinate group includes members of their own ethnic group or gender.<sup>42</sup> Thus, increasing the diversity of criminal justice decision makers could “further enhance the viability of legal institutions and promote the perceived legitimacy of the law.”<sup>43</sup>

Furthermore, prosecutors explained that reflecting the community not only increases credibility, but it also benefits prosecution efforts by improving interactions with victims, witnesses, and defendants. Jean Roland, a prosecutor in San Francisco County, described diversity as a “bridge to the people we represent.”<sup>44</sup> As a Korean, she felt that:

*[Koreans] feel comfortable knowing that they have someone in the prosecution office who is like them. I only say that because I come from the Korean community and every time I am in that community I feel like they can relate to our office better. And I think a large part of that is because I have that background. It makes them feel safer but it also makes them feel like they can come forward because I think especially with the Asian community, especially a monolingual community, they don't really want to get involved when it comes to legal issues because whether it's fear or immigration issues or because they don't think anyone is going to understand the cultural sensitivities . . . they just don't want to be involved.<sup>45</sup>*

As a Black prosecutor in San Diego County, James Simmons, felt similarly:

*The community sees the office differently depending on the diversity of the office . . . I make a point to speak with victims of my cases. I go speak with them in their community, in their houses, and a vast majority of the time they are surprised when they see an African-American attorney come to talk to them, saying, 'Hey I'm the prosecutor that's handling this case.' And they feel, in my experience at least, a lot better represented and more comfortable talking to me, especially since I have similar experiences from my own upbringing as a lot of these victims have. I have had similar experiences with family members that have been involved in the criminal justice system as well. So, at least personally, I've seen the ability or the ease and the comfort at which I'm able to socialize*

*and communicate with people in the community who are not just victims but also defendants. Because despite the fact that they are here as defendants, they still deserve the same respect as everybody else . . . I had a case several years ago, where I was prosecuting a guy for attempted murder. His mother, to this day, sees me on the street, walks up, gives me a hug, and says thank you so much for handling my son's case and treating us with respect.*<sup>46</sup>

Similarly, another Black prosecutor stated that Black victims and Black defendants may be more trusting when the prosecutor working on their case is not White.<sup>47</sup>

In the Latino community, Patricia Rieta-Garcia, a Latina prosecutor in San Joaquin County, said that “victims or witnesses have some visible relief when they see someone who looks like me.”<sup>48</sup>

Carlos Monagas, a Latino prosecutor in Riverside County, also argued that attorneys of the same ethnicity or culture could better connect with minority witnesses—especially Spanish-speaking witnesses. He said, “It is more helpful when an attorney does not have to use an interpreter, because culture is not lost within the interpretations.”<sup>49</sup>

In San Joaquin County, District Attorney Tori Verber Salazar told us that it is difficult to break into the Asian and Muslim communities where there are a significant number of unreported crimes. She recently hired several new attorneys who are members of these groups and has accompanied them to religious centers in order to reach out to the communities.<sup>50</sup>

Many prosecutors also mentioned domestic violence and sexual abuse as cases where diversity is immensely important in connecting with the victim—whether by race, ethnicity, gender, or sexual orientation. Amy Barajas, a prosecutor in Riverside County explained that in child abuse and sexual assault cases it is helpful being Mexican and a woman because victims are more comfortable with her, and she does not have to entirely rely on a translator.<sup>51</sup> However, Deena Bennett, another prosecutor in the same office, has seen gender diversity play out both ways in these cases: “Female victims do not want to talk to male prosecutors, but young boys also do not want to talk to women.”<sup>52</sup>

Cindy Hendrickson has also seen the sexual orientation of a prosecutor encourage a victim to be more forthcoming. Hendrickson described an openly gay deputy district attorney who was able to relate to a gay victim in a domestic violence prosecution with greater sensitivity and understanding than another prosecutor might be able to convey. This rapport relaxed the victim and allowed him to be more forthcoming in discussing the case. She emphasized: “Our job is all about being able to relate to others, and so the more diverse the office is, the more diverse the office is in being able to relate to people.”<sup>53</sup>

Furthermore, prosecutors also explained that diversity can benefit the prosecution in front of a jury. Riverside County District Attorney Michael Hestrin emphasized that “race has an impact in the courtroom because of the perception of justice and fairness. While someone’s race certainly

has nothing to do with their skills or abilities in the courtroom, it's important that, as best as we can, our staff reflect the community we represent."<sup>54</sup>

Jonathan Mott of San Joaquin County felt that his personal experiences help make a compelling argument to a diverse jury. He said it was important to ask:

*How do you think this is gonna play in front of a jury? And not a jury of conservative, White males, but a jury like we're gonna get in Stockton. You're gonna have African-Americans on the jury, you're gonna have Mexican-Americans, you're gonna have Asian-Americans, you're gonna have low-income persons from across the board on your jury. You need to ask yourself: 'What does your experience as a minority tell you about law enforcement coming into an all minority neighborhood?'*<sup>55</sup>

Overall, prosecutors stated that diversity was important in their offices. They explained that diversity could be used as a tool not only to dispel negative perceptions of prosecutors' offices in the community, but also to encourage more effective and fair prosecution. Accordingly, prosecutors gave many examples about how diverse teams created more equitable outcomes for defendants and facilitated interactions with victims and witnesses. Diversity, whether measured by personal experiences or race and ethnicity, benefits both prosecutors and the communities they serve.

## Changing Demographics

The prosecutors we interviewed emphasized three main themes related to the changing demographics of their offices in recent years. First, office demographics recently have shifted more dramatically for minorities than for women. Second, women and prosecutors of color are being promoted more frequently. Lastly, respondents attributed these shifts, in part, to changing office culture inspired by leaders who place greater emphasis on diversity.

### Gender

The majority of respondents said that there have not been significant changes in the number of female prosecutors in their offices. This is not necessarily due to a lack of diversity. Rather it is indicative that for some period of time—at least before many current prosecutors began their careers—these offices already achieved some semblance of balance with regards to gender. For example, Christine Garcia-Sen noted that since she started at the Santa Clara County District Attorney's Office 19 years ago, the gender demographics "ha[ve] changed, but not a lot," noting that when she began her career almost half of the prosecutors were women.<sup>56</sup>

However, others offered a different picture. Patricia Rieta-Garcia noted that, when she first started at the San Joaquin County District Attorney's Office in 1986, she could "count on one

hand how many women were in the office.”<sup>57</sup> Though not to be discounted, such comments were in the minority.

Many respondents voiced concern regarding the assignment of women to units within offices and their promotion to leadership positions. For the most part respondents said that there have been significant improvements in both areas. Some respondents reported continuing problems, though. One respondent indicated that a desirable unit in the office is comprised entirely of White men, making it difficult for women and prosecutors of color to gain the experience trying serious cases that can be critical to career advancement.<sup>58</sup>

These sentiments echo the findings from our first report that females are underrepresented among prosecutors with supervisory titles, but not among total state prosecutors. Of the 769 prosecutors with supervisory titles in our database, 317—41.2 percent—are female, and of the 52 elected District Attorneys, 17—32.7 percent—are female.<sup>59</sup>

## Race and Ethnicity

Further, most respondents said that racial diversity in their offices has improved significantly. For instance, one respondent noted that during the attorney’s tenure at the office the number of Black prosecutors has doubled.<sup>60</sup> Additionally, Santa Clara County District Attorney Jeff Rosen thinks his office is still not as racially diverse as the county population, but is confident that it has become much more diverse, particularly over the last five years.<sup>61</sup> Other respondents from the Santa Clara County District Attorney’s Office also emphasized that the racial demographics of the office have changed dramatically during their tenures, with the change accelerating over the last five years.<sup>62</sup>

Some respondents, on the other hand, told us that there had not been much change in the racial demographics because their respective offices were already quite diverse. For instance, Wade Chow, who has worked at the San Francisco County District Attorney’s Office for 19 years, noted that it was diverse from the day he started.<sup>63</sup> Our initial report found that in 2015, 53.5 percent of prosecutors in San Francisco County were White.<sup>64</sup> Julie Ching, a prosecutor in the Riverside County District Attorney’s Office, had a similar view. She said the office was probably more diverse than most prosecutors’ offices, that her hiring class was ethnically diverse, and that the office already had a “significant number” of minority attorneys.<sup>65</sup> Our previous study found that 64.4 percent of prosecutors in the Riverside County were White.<sup>66</sup> Though there were not many, other respondents opined that not much has changed in the racial composition of their office and, as a result, their offices continue to lack diversity.

Perhaps the most common sentiment regarding changing demographics was that there has been significant progress in the promotion of attorneys of color to leadership positions. Even those prosecutors who said that their offices had been diverse for a long time stated that there had been a relative dearth of minorities in supervisory positions. Wade Chow remarked that in the San

Francisco County District Attorney's Office "[t]he major difference . . . over the 19 years is that there are now more attorneys of color in leadership positions. For instance, four of the five criminal division chiefs are of diverse backgrounds."<sup>67</sup> Another respondent commented that when the prosecutor was hired there was only one prosecutor of color in a leadership position. Now, however, there are more supervisors of color. The change, the prosecutor said, has been dramatic.<sup>68</sup>

## Office Culture

For those respondents who said that their offices have become more diverse, a change in the office culture was often cited as one of the primary factors. In particular, the emphasis placed on diversity by the elected District Attorney seems to have a significant impact. For instance, Deena Bennett, a prosecutor in the Riverside County District Attorney's Office, noted that the composition of the office is "completely different" under Michael Hestrin, the recently elected District Attorney.<sup>69</sup> This sentiment was echoed by other respondents from Riverside County, many of whom emphasized that District Attorney Hestrin has prioritized diversity.

Ghazal Sharif noted that in the San Joaquin County District Attorney's Office, the workforce had been almost entirely White men, but within one year of being elected, San Joaquin County District Attorney Tori Verber Salazar hired several prosecutors of color in addition to a very diverse intern class.<sup>70</sup> Patricia Rieta-Garcia, in describing the impact of District Attorney Verber Salazar, remarked that perhaps the greatest sign of increased diversity is that "I'm sitting here talking to you as a chief. It's important to remember this office is not a democracy. The District Attorney gets to make choices about how things are run."<sup>71</sup>

Prosecutors in the Santa Clara County District Attorney's Office said much the same thing. Chris Arriola, the Chair of the Diversity Committee, praised the efforts of District Attorney Jeff Rosen: "Having a DA who is committed to diversifying the office is important because ultimately he is going to sit with the list of candidates and decide who to hire. He decides who he is going to promote . . . It's got to come from the top."<sup>72</sup> Jaron Shipp also emphasized District Attorney Rosen's impact: "The leadership in the office truly cares about building a diverse office. I can't speak for previous administrations . . . but today, the office seems far more progressive on the issue compared to other offices I've encountered."<sup>73</sup>

Similarly, in the San Francisco County District Attorney's Office, Eric Fleming said that he started under former San Francisco County District Attorney Kamala Harris, a Black female, who "made an effort to make the office more diverse" and recruited experienced attorneys of color. He said that the current District Attorney, George Gascón, has continued this trend.<sup>74</sup>

Overall, prosecutors seemed positive about what they perceived as increased diversity in their offices, despite the fact that the diversity of these offices still does not fully match the diversity of the communities they serve.<sup>75</sup>

# Challenges to Attracting and Hiring Diverse Talent

Although most prosecutors we interviewed stated that diversity has increased in their offices in recent years, many identified multiple barriers to attracting and hiring diverse talent. In particular, they highlighted the stigma surrounding prosecutors in minority communities and a pipeline problem which creates a small pool of potential minority candidates.

## Stigma

The most frequently identified barrier was the stigma surrounding prosecutors in minority communities, especially among Blacks and Latinos. Almost half of the respondents highlighted this challenge of overcoming the negative perception of prosecutors as the “bad guys.” One Latina prosecutor described how other Latinos viewed her job as a “betrayal of the neighborhood.”<sup>76</sup> A Black prosecutor described being viewed as a sellout.<sup>77</sup> Ghazal Sharif, a Muslim-American prosecutor in the San Joaquin County District Attorney’s Office, expressed her initial desire to become a public defender because of the cultural bias against prosecution:

*I wanted to be a public defender . . . I just didn’t have the heart to prosecute people . . . Even when I first got here, it was hard to be like my role was, ‘You did something wrong.’ I just didn’t have the heart to do that. I also thought I would never have the opportunity to work at a District Attorney’s office. I went to law school in San Diego and I saw that the people they hired didn’t look like me . . . And even if they did hire me, I thought I wouldn’t appeal to the jury pool . . . Getting a post-bar with a DA’s office, I felt guilty explaining that to my friends . . . I always felt like I had to give a disclaimer: ‘I’m not one of those.’ I still grapple with that.<sup>78</sup>*

A few respondents said this stigma stemmed from a historical distrust of law enforcement within minority communities. Eric Fleming told us, “When you grow up in a certain environment and you have family members who have been prosecuted, you can feel like you are turning your back on your community by being a prosecutor.”<sup>79</sup> Because of the disproportionate representation of minorities among defendants, he concluded that many minority law students feel more inclined to work as public defenders than as prosecutors.

Seven respondents urged that law students pursue prosecution careers since prosecutors have more discretion in making charging decisions. Debbie Hernandez described the discretion she exercises as a reason for her career choice:

*I believed I could make a better impact as a prosecutor rather than as a public defender . . . We actually do have discretion to do certain things, and I have had a case where I do believe that we don’t have the right person or we can’t prove it beyond a reasonable doubt, and I’ll dismiss it. And that’s huge . . . You have the ability to take the case forward and hold them accountable for the crime they committed, but if you think you*

*have the wrong person or don't think they did it, you can dismiss it. I think that makes a bigger impact on the community than defending people charged with crimes.*<sup>80</sup>

Chris Arriola echoed the need to have more diverse prosecutors, because they are “the arbiter of justice . . . [and] decide what’s charged and what’s not charged.”<sup>81</sup> James Simmons described how an internship at a District Attorney’s office in law school increased his awareness of prosecutorial discretion: “I saw that I could have a bigger impact on this side of the table because we’re the ones that make the charging decisions as far as looking at what someone should face as their potential punishment.”<sup>82</sup>

A handful of respondents said this negative attitude toward prosecutors also existed in law schools. One prosecutor discussed how many of his law school classmates and professors were pro-defense and held a firm bias against prosecutors. When he tried to enroll in a criminal law seminar during his third year of law school, he recalled that a professor suggested he did not belong in the course because of his intended career as a prosecutor.<sup>83</sup>

## Pipeline Problem

Several respondents also stated that their recruitment efforts were limited by the small pool of minority attorneys in California. Identifying a pipeline problem, they pointed out that minorities were disproportionately underrepresented not only in law schools but also among bar certified attorneys. Because prosecutor offices are “limited to what is available in the marketplace,” San Francisco County District Attorney George Gascón emphasized that they have to be more assertive in their recruitment efforts of diverse candidates.<sup>84</sup> Many respondents concluded that the issue of underrepresentation in prosecution and other sectors in the legal profession largely stemmed from the law school admissions process and graduation rate. Because relatively few minorities graduate from law school and pass the state bar, respondents argued that their offices had a disproportionately low number of minority candidates from which to select.

## Additional Barriers

Eleven prosecutors described the additional difficulty of competing with law firms for diverse candidates. They mentioned that prosecutors’ offices, in comparison to law firms, have significantly smaller budgets and, in general, cannot compensate their summer interns or post-bar clerks. Respondents suggested that this budget restriction impacts candidates from lower socioeconomic backgrounds who are disproportionately racial minorities. Only prosecutors in Santa Clara County said that their office had funding to pay summer interns in their 2L Honors Program. According to Debbie Hernandez, the program has noticeably increased the racial diversity of their office.<sup>85</sup>

Respondents mentioned a few other barriers in attracting and hiring diverse talent. Two prosecutors discussed that many minority children grow up unaware that becoming an attorney,

let alone a prosecutor, is a career option, as none of their family or community members are attorneys. Meghan Buckner stated, “I did not know a prosecutor growing up. Nobody in my family has ever been a lawyer or been to law school . . . I never thought I wanted to step foot in a courtroom.”<sup>86</sup> A few respondents stressed an additional barrier created by Proposition 209, which amended the California Constitution to prohibit state institutions, including District Attorneys’ offices, from discriminating against and granting preference to racial minorities and women.<sup>87</sup> Elton Grau, a prosecutor in San Joaquin County, stated, “The office is stifled by HR policies . . . As long as we can’t take ethnicity into account, we are limited. Diversity can’t be a category that we choose from, just a category that we look at.”<sup>88</sup> **Finally, several prosecutors who work in the Riverside County and San Joaquin County District Attorneys’ Offices described the difficulty of attracting minorities because of their offices’ locations. Prosecutors from both offices faced the challenge of overcoming the perception of their counties as small, rural, and isolated.**

While most respondents said they faced multiple barriers to diversifying their offices, this sentiment was not shared by all. One respondent who has worked at the Santa Clara County District Attorney’s Office for several years, said the office did not face any major challenges.<sup>89</sup> This prosecutor estimated that the office typically receives hundreds of applications from candidates of all racial backgrounds. Overall, however, respondents explained that their offices faced various challenges in creating a diverse workforce.

## Tools for Diversification

Prosecutors also discussed a wide array of tools for diversifying their workforces in response to the historical lack of diversity within prosecutors’ offices and to the many challenges that stand in the way of diversification. We group the responses under four broad philosophies: Inclusive Hiring, Diversity Attracts Diversity, Community Engagement, and Active Retention.

### Inclusive Hiring

As discussed above, the most widespread view regarding diversity among the respondents was that diversity benefits an office for a plethora of reasons. This translated, across all five offices, into maintaining a conscious effort to bring aboard diverse candidates. San Francisco County District Attorney George Gascón, for example, said that “it is important that the DA’s office is ‘actively seeking’ a diverse pool of applicants.”<sup>90</sup> With the goal of diversifying their workforce in mind, offices have implemented a variety of methods as described below. These methods cover three broad areas: proactively recruiting candidates from underrepresented racial and ethnic groups; ensuring equal opportunity for candidates from underprivileged socioeconomic backgrounds; and combating the stigma against prosecution common among communities underrepresented in prosecutors’ offices.



## Proactive Recruiting within Diverse Settings

Prosecutors at all five of the offices surveyed identified techniques employed by the office to target diverse candidates in order to counteract the pipeline problem.

One of the primary methods recounted by respondents is for prosecutors to recruit directly at area law schools and at public interest fairs. One prosecutor, for example, said that prosecutors from his office go to nearby law schools to “actively recruit” and seek out qualified minority candidates who maybe thought “they didn’t have a place at the DA’s office.” This prosecutor said that the most recent hires are diverse because the District Attorney “actively searched,” commenting that recruiting minority talent must be part of an “articulated vision.”<sup>91</sup> Indeed, multiple prosecutors from each of the five offices identified this as an important strategy.

A related strategy identified by respondents is direct outreach to student affinity groups. In the San Diego County District Attorney’s Office, for example, James Simmons, told us that he reaches out to Black Law Students Associations both of his own initiative and with the encouragement and support of the office, both generally and during the office’s hiring process.<sup>92</sup>

Another, similar strategy identified by respondents is to establish contacts with ethnic bar and lawyers’ associations. Some of the offices devoted resources to sending their attorneys to such organizations, while other offices encouraged their employees to forge connections but were unable to provide funding for time spent on such endeavors. Jaron Shipp, for example—a prosecutor from the Santa Clara County District Attorney’s Office—was sent by his office to attend the National Black Prosecutors Association Convention. However, while agreeing with the strategy, he noted that such endeavors cannot be one-off events because it is important to have a sustained presence at these types of conventions and job fairs. Although it may result in a low yield at the beginning, Shipp asserted that one has to build up goodwill and trust over a number of years: “No one wants to come in and just be treated like a token; they want to feel valued as a larger member of the office and community.”<sup>93</sup>

Santa Clara County employs another pro-active strategy to diversify its office: sending hiring notices directly to diversity-affiliated groups. Jay Boyarsky explained that when the office circulates a hiring notice, it makes sure to contact a large number of diversity-affiliated organizations.<sup>94</sup>

San Francisco County proved unique among the surveyed offices in that, as a part of its recruitment strategy, the office hosts a diversity symposium. At the symposium, minority students can meet minority attorneys, and the attorneys can share their experiences and their reasons for pursuing a career in prosecution.<sup>95</sup> The event is hosted at the Hall of Justice in San Francisco, and the office conducts outreach at all of the law schools in the San Francisco Bay Area. One respondent from the office noted that a number of prosecutors give a presentation about what it is like to work in a District Attorney’s office. Feeling that attorneys of color are more likely to be public defenders, presenters specifically point out the fact that prosecutors

make many of the critical decisions in a case. Thus, by being a person of color in a prosecutor's office, one is in a position to have a positive impact on and represent all people, even the defendant.<sup>96</sup>

Lastly, although none of the offices surveyed actively recruit at historically black colleges and universities, respondents from two different offices believe such a strategy would be effective.

## **Paid Internship Positions**

Because of law schools' disproportionate economic impact upon students from underrepresented backgrounds, prosecutors highlighted that one way to proactively recruit diverse candidates is to offer paid internship positions. One obstacle that was echoed among many respondents, and which is covered above, is the difficulty in attracting candidates from underrepresented backgrounds to unpaid internships when such candidates are also sought out by firms, which pay handsomely for a summer's work. One prosecutor noted that while their office pays its third-year law clerks, it cannot do so for second-year law clerks. This prosecutor believes this presents a problem in that it is difficult for the office to compete with law firms in recruiting law students: firms offer \$30,000 for a summer's worth of work, whereas the prosecutor's office does not have the resources to pay its second-year summer clerks.<sup>97</sup> Melissa Diaz, a prosecutor in San Diego County responsible for hiring, echoed these sentiments. She noted that retention of second-year law students is difficult, especially with candidates representing diverse populations:

*Everybody and their brother wants [diversity students from top tier schools] at their firm, at their organization, and we can't compete: we don't pay our summer interns or academic year interns, and the fact of the matter is I find a lot of our diversity candidates have bigger debt loads than some other candidates. So, when they tell me they don't want to come back, I encourage them to go to the paid job because debt is debt and I've been there.<sup>98</sup>*

Chris Arriola, a prosecutor in Santa Clara County, noted that his office is able to pay its second-year law student interns and "the fact that the [2L Honors Program] is paid is critical." District Attorney Jeff Rosen established the 2L Honors Internship at the suggestion of David Angel and Chris Arriola. District Attorney Rosen agreed that it should be paid in order to bring a socioeconomic and ethnic diversity to the internship program that it previously lacked when it was all volunteer-based.<sup>99</sup>

## **Combating the Stigma around Prosecution**

In carrying out any of the above pro-active recruiting strategies, multiple prosecutors from each office identified that an important topic to broach with possible candidates from these communities is the stigma against prosecutors and prosecution. In order to combat this stigma, respondents from every office stressed that when recruiting a minority candidate (especially Black and Latino candidates), how the job is framed within the broader criminal justice context

is of paramount importance. Some prosecutors suggested framing prosecution as protecting victims and the community at large rather than targeting defendants. Additionally, many prosecutors explained that a prosecutor has more power to help the community—including defendants—than does a public defender.

Several prosecutors shared how they positively frame prosecution with these considerations in mind. Jay Boyarsky of Santa Clara County stressed that, “If you really want to have an impact, go to where the power is. If you really want the system to change, be a part of the system.”<sup>100</sup> He challenged the view that “if you really care about injustice, you become a criminal defense attorney,” and noted that this perception is changing. Christine Garcia-Sen, another respondent in the same office, framed it slightly differently:

*Our focus should be how crime adversely impacts minority victims . . . and that is the selling feature if you're recruiting people to work as DAs. People don't sign up to be a DA because [they] want to throw . . . people in jail. They want to be DAs [to do trial work and to] do work that is in line with their values.<sup>101</sup>*

Meghan Buckner, a respondent from San Diego County, also touched on this issue: “It’s not necessarily because you are a minority you have to defend, because minorities are on both sides. There are minority victims of crimes.”<sup>102</sup>

## Diversity Attracts Diversity

Another of the most widespread philosophies and tools for diversification is the principle that “diversity attracts diversity.”<sup>103</sup> This philosophy is employed both when attracting candidates from underrepresented backgrounds as new hires, and when attracting and promoting candidates from underrepresented backgrounds within the office to management positions.

### Attracting New Hires from Underrepresented Backgrounds

All five offices we surveyed explicitly employ the philosophy of “diversity attracts diversity” as a tool to attract applicants, though in differing ways. At the Riverside County District Attorney’s Office, when the office sends attorneys to recruit at law schools and job fairs, they choose a diverse group to represent the office. According to one of the prosecutors in Riverside County, while the office does not pick applicants based on race or gender, they attract a diverse group of applicants by sending a diverse group of attorneys to the law schools and job fairs.<sup>104</sup> Another prosecutor added that the goal is to assemble a group of attorneys of different ages, genders, races, and practice areas.<sup>105</sup>

Santa Clara County employs a strategy of “diversity attracts diversity” in a way similar to Riverside County, but does so through its Diversity Committee. District Attorney Jeff Rosen established the Diversity Committee to examine issues centered around gender, ethnicity, religion, and sexual orientation, as well as to assist in community engagement and office

recruitment.<sup>106</sup> The committee—which comprises attorneys from a range of gender, racial, and ethnic groups within the office and community—keeps an informal tally of the ethnic, gender, and sexual orientation breakdown of the office based on self-identification.<sup>107</sup> Using that data, the committee seeks to bring in candidates from underrepresented backgrounds so that the office better reflects the community. According to one prosecutor in the office, the Diversity Committee’s role is to catalogue the diversity of the office, be mindful of it, and seek out candidates of color. The meetings mainly consist of looking over the numbers in the office and discussing who is attending specific on-campus interviews. From this prosecutor’s experience, “when you have people of color and/or Caucasians that recognize the value of diversity, and those people are the ones going out and looking for candidates . . . almost 100 percent of the time you’ll do a better job, you’ll have a higher yield of diverse candidates coming in for interviews than you would with people who don’t recognize or don’t think about the value of a diverse prosecutor’s office.”<sup>108</sup>

The San Francisco County District Attorney’s Office, as described above, hosts a diversity symposium where minority students can meet minority attorneys and attorneys can share their experiences and their reasons for becoming prosecutors. In addition to these symposia, one of the respondents from San Francisco County suggested that the office’s reputation for being diverse might attract diverse applicants.<sup>109</sup>

While neither the San Diego nor San Joaquin County District Attorney’s Offices reported being proactive in their choice of attorneys sent out to recruit, prosecutors at both offices, along with multiple prosecutors from San Francisco County, identified a conscious effort to ensure that interviewing panels are diverse. In San Diego County, for example, one prosecutor said that for their third-year summer law clerk program, there is a conscious effort for each panel to reflect the gender and ethnic diversity of the office.<sup>110</sup> Likewise, District Attorney George Gascón asserted that the hiring committee in San Francisco County comprises a diverse group of people. This composition is intentional so that committee members come from different backgrounds and have their own contextual view of candidates.<sup>111</sup> District Attorney Tori Verber Salazar told us that today the San Joaquin County District Attorney’s Office consciously makes interview panels more diverse. “We are a diverse community, we want people to realize our diversity the minute they walk in the doors.”<sup>112</sup>

Of the respondents who had an opinion on whether or not the diversity of their interview panel during their own hiring process affected them or their job decision, more respondents said that the demographic composition of the interview panel did not affect their decision to accept an offer. However, of seven respondents who had an opinion on the matter, two attorneys opined that the level of diversity of the hiring panel was a factor in their decision.<sup>113</sup>

## Fostering Diverse Management

Respondents from four out of the five offices surveyed told us that having a diverse management staff is an important factor in signaling the opportunity for candidates from underrepresented backgrounds to pursue management positions. In San Diego County, for example, Meghan Buckner, a Black woman and recent hire, said that both the gender and racial diversity of management within the office made her feel that she could and wanted to advance to such positions. In particular, identifying a Black supervising attorney at the office, Buckner said that the fact that he could make it so high in the managerial echelon was really encouraging. She expressed similar sentiments about female managers of color within the office:

*With Melissa [Diaz, a Latina supervising attorney,] being a female, I think that helped as well. Knowing that someone who is a female and who is a minority can definitely achieve greatness in this office . . . that definitely allowed me to understand and see that I can achieve greatness as well.*

With regard to the women of the office more generally, Buckner said that given the large number of women in the San Diego County office with families and children, “it is amazing to see how they can do a work-life balance with that. And they’re in management, they’re trying very serious cases—murder cases, three strikes cases—and they still have families . . . That’s what made me really want to be a part of this office because this office facilitates different lifestyles.”<sup>114</sup>

One prosecutor stated that younger attorneys can be affected by whom they see in management. Younger attorneys are “looking for cues: are there people like me that are doing this kind of work?” Younger attorneys consider if there is a “track record of people like me being rewarded for hard work and commitment to the organization.”<sup>115</sup>

Regarding diversity in leadership, Jaron Shipp from Santa Clara County said that, “Many people who become prosecutors are extremely highly motivated [and] ambitious people . . . You want a career that is going to continue to build towards a peak . . . but sometimes your career can stagnate . . . and that’s a concern that [attorneys of color] raise. And I think when your leadership is not necessarily reflective of the diversity in your office and certainly in your community, it can provide an unconscious message to women or attorneys of color that there is some type of glass ceiling.”<sup>116</sup>

Two prosecutors explained that diversity in leadership is important because it creates role models.<sup>117</sup> Stephanie Mason, a female prosecutor in San Francisco County, said that “qualified attorneys wouldn’t work in a place—would not work in an office—where diversity or women in leadership didn’t exist, particularly if they had goals for advancement.”<sup>118</sup>

## Community Engagement

Because of the pipeline issue discussed above, and the stigma against law enforcement among communities of color, respondents from all five offices identified early, consistent, and positive community engagement as an important philosophy and tool in enlarging the potential pool of diverse candidates from which to draw. This community engagement came in many flavors, a number of which are detailed below.

### Getting into the Trenches

A significant number of respondents from all five offices identified general community outreach efforts as being critical to stemming the bias against prosecutors' offices among communities of color and in broadening the future candidate pool. One respondent identified this as "getting into the trenches" rather than sitting on high and judging people.<sup>119</sup>

In Riverside County, for example, the District Attorney has created a very strong mandate that prosecutors volunteer in the community. One of the respondents from that county stated that the office participates in outreach programs for at-risk youth in the county, as the office's goal is always to hire people from the local community.<sup>120</sup>

The San Diego County District Attorney's Office has supported its attorneys' participation in a community program that interacts with fifth graders. The program—a ten-week curriculum to teach kids to avoid gangs and peer pressure—has the dual benefit of deterring youth from getting entangled with the criminal justice system and of leaving a positive impression of the District Attorney's Office. James Simmons, a prosecutor who has worked in the program, says "[t]he biggest thing for me is making sure I have an impact in the community. My job as a prosecutor isn't just to lock up people because nothing changes if that's all you do. It's just going to be a revolving door. So I think it's important to try and have an impact on the community to even prevent individuals from coming into the system."<sup>121</sup>

Additionally, another prosecutor talked about the importance of their interaction with the community. This prosecutor discussed the Youth Advisory Board, a program wherein attorneys from the office participate in afterschool programs for at-risk youth. The office also takes part in Thanksgiving dinners with police officers and underprivileged kids in the community.<sup>122</sup>

In San Francisco County, District Attorney George Gascón noted the importance of convincing young men and women of color that being a prosecutor is an achievable and worthy endeavor. The office hosts its diversity symposium each year to achieve this goal. Additionally, the office participates in many community events to help the office to better appreciate concerns within the community. District Attorney Gascón sends existing staff out to events to increase awareness. He stated that he makes a "proactive effort to have these conversations regularly."<sup>123</sup> Another prosecutor from that office noted that the office recently invited young adults from the Bayview neighborhood of San Francisco, who are predominantly Black. Some of the attorneys in the

office then shared with the youths their reasons for being prosecutors. This prosecutor also noted that the office has similar events for law students and stated that it takes prosecutors of color speaking to these populations to get them to “see a different side.”<sup>124</sup> Another prosecutor from San Francisco County mentioned that the office actively staffs many panel discussions about why individual attorneys chose to be a prosecutor, particularly for people from minority communities.<sup>125</sup>

District Attorney Tori Verber Salazar described some of the efforts of her office to engage with the community of San Joaquin County. She noted that the office partners with Pacific Law Academy, a high school in Stockton with all pre-law students, as well as with the pre-law program at University of Pacific, which allows students to complete their undergraduate and law degrees within a combined six years at University of Pacific and McGeorge Law School. Additionally, the office partners with other programs at Stanislaus State University, University of Pacific, and San Joaquin Delta College. Though she noted that the better results of these efforts will not come for 10-12 years, the office is trying to build a better foundation.<sup>126</sup> As stated by San Joaquin County District Attorney Tori Verber Salazar, the goal of these partnerships is to reach out to younger students in Stockton and to encourage them not to give up on education: “Without intervention and prevention, the community will lose students from the ages of eight to twelve. If we don’t intervene the gangs will.”<sup>127</sup>

Chris Arriola of Santa Clara County described his office’s Law Related Education program, which they have run for almost 20 years. Attorneys from the office speak at almost every fifth grade class within the San Jose Unified School District about being a prosecutor. The program culminates with a trip to criminal court. All prosecutors who might relate to the youth population are encouraged to participate in the program, but especially young prosecutors and those of color.<sup>128</sup>

Respondents from both San Diego County and Santa Clara County noted that their offices participated in local high school mock trial programs. Christine Garcia-Sen, a prosecutor in Santa Clara County, for example, mentioned that she coached mock trial for several years, largely to non-White students. Each year she would bring the students to the courthouse and then introduce them to a sitting judge. Viewing their reactions, Garcia-Sen feels better able to see the system from their viewpoint. The judge is from a minority community, and the students were always excited to see a person with significant power who looks like them. Garcia-Sen believes that these visits help to inspire trust in the criminal justice system among the participating students.<sup>129</sup>

## **Community Prosecution Unit**

The Santa Clara County District Attorney’s Office has an entire unit dedicated to community outreach: the Community Prosecution Unit. One prosecutor described the Community Prosecution Unit as being built on a restorative justice model. Thus, while a part of its mandate is

to interact with the community and to positively counteract the stigma against law enforcement therein, it is also a community prosecutor's job to restore the community. The community prosecutors strive to help the community members advocate for themselves, so that they can allocate more resources to an issue.

The office has recently increased the unit from one person to five in order to liaison with communities of color, so they feel like they have a direct connection to the office.<sup>130</sup> This takes such forms as attending and participating in community events, as well as, for example, having a Latino prosecutor present on how to avoid falling victim to fraudulent immigration forms.<sup>131</sup>

## **Outreach to Student Affinity Organizations and Membership in Ethnic Bar Associations**

The inclusive hiring practices mentioned above include strategies of outreach to student affinity organizations and of encouraging an office's attorneys to join or participate in ethnic bar associations. These strategies, however, also serve a second purpose: engaging the community and allowing the office to try to bring in people from those organizations that fit the mold and mission of the office.<sup>132</sup> One prosecutor, for example, mentioned that while it has not officially been a part of the general hiring process, he sees great value in such outreach and he communicates with local ethnic student organization chapters on his own initiative and with his office's encouragement.<sup>133</sup> Likewise, another prosecutor noted that this year their office reached out to criminal law associations at different schools and to student organizations as a part of its hiring process. In so doing, the attorneys met with the students and urged them to apply to the office's internship programs, which feed its general hiring process.<sup>134</sup> Another prosecutor mentioned that their office is seeking to work with the local county Bar Association and the La Raza Bar Association.<sup>135</sup>

## **Active Retention**

While the above-three philosophies and their associated strategies focus on attracting and hiring diverse candidates, respondents also identified another important philosophy in creating and maintaining a diverse workforce: active retention of already-hired diverse attorneys. Several tools and strategies to accomplish this goal were highlighted.

### **Job-Share Programs**

A job-share program allows two employees to occupy one position within the office, which is accomplished by each of the two employees dropping from full-time to part-time. The biggest area in which the importance of this tool arose was in the arena of maternity and paternity.



The Riverside County District Attorney’s Office has an official job-share program in which one attorney effectively vacates his or her position, and then both attorneys evenly split a salary and all benefits while dropping to part time.<sup>136</sup> The San Francisco County District Attorney’s Office also has a job-share program. District Attorney George Gascón said that he has tried to make the workplace more desirable for new parents. In the past, he noted that this has been accomplished through job sharing.<sup>137</sup> Santa Clara County also has a formal program of voluntary reduced work hours.<sup>138</sup>

However, prosecutors had some criticism of these programs. One prosecutor participated in a job-share program after the birth of her children. She described working part-time through the program for a long period before coming back on full time. She believes working part-time never impacted the trajectory of her career.<sup>139</sup> In contrast, another prosecutor in the office considered using the program but never did. She told us it would be financially difficult for her family to lose half of her income, and also thought it would be hard to put her career aside, noting that it is “hard to have a balance of home life and professional life.”<sup>140</sup> Another female respondent noted that “it seemed for a while that there were certain women who decided that they wanted to raise their families” and left the office. There is a job sharing program at her office, but, in her opinion, it was “not an easy job if you have to get home.”<sup>141</sup>

## Other Tools and Strategies for Retention

In addition to the retention strategies outlined above, some additional strategies were highlighted by various respondents. For example, one prosecutor said that it is important to tell candidates from underrepresented backgrounds that they are valued. Eric Fleming, from the San Francisco County District Attorney’s Office, explained: “We sit down and talk to [diverse attorneys and law clerks] and let them know they’re valued, and talk to them about their future at this office.” In fact, Fleming stated that among the reasons he has stayed at the office is because the leadership informed him how much they value him.<sup>142</sup> Another strategy that Fleming detailed was keeping in touch with law clerks that have left but who have an interest in returning. For example, occasionally the office will have a law clerk during the summer who then works at another prosecutor’s office the following summer. The office will stay in touch with that person and let them know when it expects the interview to be a line prosecutor to take place. This can play a key role in the individual picking the San Francisco office over other opportunities. “We let them know they are sought after because their experiences are important to us and it will allow them to be a voice for the community.”<sup>143</sup>

One prosecutor we interviewed believes that some diverse candidates have the feeling that they do not belong or are not wanted by certain District Attorneys’ offices, so this prosecutor’s office tries to let candidates know it is not true.<sup>144</sup>

By employing tools from the four broad categories detailed above—Inclusive Hiring, Diversity Attracts Diversity, Community Engagement, and Active Retention—prosecutors in the five

offices we surveyed said that they have been able to tackle many of the obstacles which inhibit workforce diversity.

## Conclusion

We spoke with 44 prosecutors across five different California District Attorneys' offices to better understand the obstacles to and strategies for achieving a diverse office. Although this study is limited by the sample size, the nonrandom selection of interviewees, and our qualitative interview method, we were able to identify some common themes and strategies amongst the offices in regard to diversity.

First, respondents highlighted that diversity within the office is important because it allows for diverse perspectives in decision-making and makes the office more reflective of the community it serves. Although there was disagreement as to whether diversity is accomplished numerically by race or through attorneys' personal experiences, our respondents repeatedly said that by drawing on personal experiences, prosecutors with diverse perspectives reduce potential biases, enhance cultural sensitivity, and provide for more equitable outcomes. Our respondents also emphasized that it is especially important that a District Attorney's office, as a government agency, reflect the community in order to foster an appearance of fairness, cultivate trust within the community, and allow for more effective prosecution.

Second, although the diversity of District Attorneys' offices lags behind the diversity of the state population, respondents for the most part agreed that the racial, ethnic, and gender demographics of their offices have become more diverse over the past ten to fifteen years, especially with respect to racial and ethnic diversity. Also, even though some prosecutors believe that there are still not enough women and attorneys of color in management positions, we consistently heard from respondents that women and attorneys of color are being promoted more frequently now than they had been in the past. Many respondents emphasized the uptick in these two demographic shifts were spurred by a change in office culture that was largely driven by the administration and the District Attorney.

Third, along with competing against law firms for candidates, and the limits of Proposition 209 on hiring practices, respondents identified two main challenges that hindered their offices' ability to recruit and hire minority candidates: a negative perception of prosecutors' offices and a small pool of minority applicants. Despite agreeing that prosecutors from underrepresented backgrounds are needed within their offices, respondents explained that one of the largest challenges to recruiting and hiring minority candidates was overcoming the negative perception of prosecutors held by candidates that could drive them away from prosecution and into defense. Respondents also emphasized a pipeline problem, in which potential minority candidates are

siphoned off at every step in the process of becoming a prosecutor—from college enrollment to law school enrollment to bar passage.

Fourth, respondents suggested that their offices could overcome some of those hindrances by employing inclusive hiring practices, using the office’s current diversity to attract candidates from underrepresented backgrounds, engaging the community, and employing active retention methods. Respondents suggested a variety of inclusive hiring practices that could help overcome the pipeline problem by proactively recruiting candidates from underrepresented racial and ethnic groups through job fairs, public interest fairs, student affinity groups, and ethnic bar and lawyers’ associations, and by offering paid internship positions for law students. Respondents also said they thought that using the office’s current diversity for on-campus interviewing, interviewing panels, diversity committees, or diversity symposia, and promoting female attorneys and attorneys of color to management positions can help attract more candidates from underrepresented backgrounds to apply to their offices. To further combat the pipeline and negative perception problems, respondents emphasized the importance of engaging communities early, consistently, and positively through volunteering in community programs and building relationships with community prosecution units. While those three techniques have been used to attract more prosecutors from underrepresented backgrounds, respondents also identified active retention methods like job-share programs, which may be especially beneficial for retaining gender diversity.

Our conclusions are limited by research constraints. Our qualitative analysis reflects both the challenges five California District Attorneys’ offices face in attracting diverse talent and the techniques that have been used to address these challenges, but we still have unanswered questions about the success of these strategies. We cannot say with confidence how successful these techniques have been in increasing the diversity of prosecutors in these offices. Further research is necessary to assess and compare the success of these various strategies, as well as regarding whether the successes and struggles that District Attorneys’ offices face in hiring and retaining minority and female prosecutors vary from county to county or state to state. More work, both qualitative and quantitative, is needed to better understand these challenges to diversity and strategies to diversify.

While these offices have undoubtedly worked to increase diversity, our initial report illustrates that racial and ethnic demographics are still “Stuck in the 70’s.” Although obstacles to and strategies for increasing diversity varied from office to office, all respondents emphasized the important and beneficial role diversity plays in their workforce. We hope that the opinions and anecdotes shared by our respondents will suggest some of the roles diversity may play in prosecutors’ offices, as well as possible challenges to and opportunities for increasing diversity in those offices.

# Appendix

## Interview Questions

Mission Statement: Thank you for taking the time to speak with us. We are conducting a follow-up to a study that we publish in July about the race, ethnic, and gender demographics of DA's offices. The information we gather from these interviews will be published in a qualitative report in the winter on attorneys' experiences with diversity in DA's offices. For the purposes of our study, we are defining diversity as racial, ethnic, and gender diversity. Have you signed the consent form? Unless we get your permission, we won't identify you or your office. Is it ok for us to record?

### Elected District Attorney

#### Background

1. Could you please talk about your experience with diversity in your office.
2. When did you start at this office?
3. Could you describe the demographic composition of the office with respect to race, ethnicity, and gender when you first started?
4. Have there been shifts in the demographic composition of the office? How? Why do you think this has happened?
5. What role, if any, do you think diversity plays in the workplace, particularly within the criminal justice setting?
6. Do you have a formal position on diversity and inclusion?

#### Attract / Hire

1. Does your office have a formal hiring process? Could you please describe your office's hiring process?
2. Does your office recruit attorneys? How?
3. What kind of factors, skillsets, or traits does your office look for in potential hires?
4. What's the gender, racial, and ethnic composition of interviewers during the hiring process?
5. What's the gender, racial, and ethnic composition of the hiring committee?
6. What factors do you consider when attempting to attract talent or to hire talent at your office?
7. What strategies, if any, do you use to attract talent to your office?
8. Are there any initiatives that your office is undertaking to increase the diversity of your office?
9. Are there challenges with attracting diverse talent? Please describe.
10. Have state policies such as Prop 209 shaped your hiring process?
11. Have practices changed? How? Why?

## **Develop and Retain**

1. What is your onboarding process?
2. What is your process for giving feedback?
3. Is there a formal performance review process?
4. Are there opportunities for mentorship?
5. Have you ever conducted research on employee engagement (either a survey or interviews)?
6. What data do you have about people's job satisfaction?
7. What factors do you think are important when retaining talent at a district attorney's office? To retain diverse talent?
8. Are there challenges to retaining diverse talent? What challenges?
9. Do you use any strategies to retain attorneys? What about attorneys from underrepresented backgrounds?
10. Do you implement any strategies to increase the diversity of your office? What strategies?

## **Closing**

1. Is it ok if we follow up with you?

## **Diversity Committee**

### **Background**

2. Could you please talk about your experience with diversity in your office.
3. When did you start at this office?
4. Could you describe the demographic composition of office with respect to race, ethnicity, and gender when you first started?
5. Have there been shifts in the demographic composition of the office? How? Why do you think this has happened?
6. What role, if any, do you think diversity plays in the workplace, particularly within the criminal justice setting?
7. Do you have a formal position on diversity and inclusion?
8. What is your role on the diversity committee?
9. Does the diversity committee have a mission? What is it?
10. Does the diversity committee have a formal strategy? What is it? How was it determined?

### **Attract / Hire**

1. Does your office have a formal hiring process? Could you please describe your office's hiring process?
2. Does the hiring committee factor diversity into attracting talent, resume review, interviewing and making decisions? How?

3. Do you feel diversity is a factor to consider when attracting talent / hiring at a district attorney office? Why or why not?
4. Please describe the gender/ethnic make-up of the Diversity Committee.
5. Are there any current initiatives that the diversity committee is undertaking regarding attracting talent? What have been the results?
6. How are resumes reviewed?
7. How are resume reviewers selected?
8. How are interviewers selected? How large is the pool of attorneys who interview candidates?
9. Do interviewers receive any training?
10. How are interview questions determined? Who formulates interview questions?
11. How are hiring decisions made following interviews? Whose and what input is considered when deciding who to hire?
12. How are candidates selected for interviews? What is the decision-making process like?
13. Does each candidate answer the same questions? Is there a rubric for evaluating answers to interview questions?
14. Who communicates with the candidates? What information is given to the candidates before the interview?
15. Are open positions advertised? How?
16. Does the office recruit directly on law school campuses? If so, do you target particular schools? How? Why? If so, in what manner does the office advertise recruiting on the individual campuses?
17. What kind of factors, skillsets, or traits does your office look for in potential hires?
18. Is “fit” a consideration? If it is, how is fit determined?
19. Do you include any language or statements about valuing diversity or encouraging people from underrepresented backgrounds to apply, either on your website or in job descriptions?
20. What is the pre-interview process evaluation like? What kind of information are candidates required to provide? Does the office ask specifically about the criminal history of family members of the candidate?
21. Do you collect feedback from the candidate on the hiring process? If so, what have you learned?
22. Are there challenges to attracting diverse talent? What challenges?
23. Do you use strategies to attract diverse talent and increase the diversity of your office? What strategies?
24. How have state policies such as Prop 209 shaped your hiring process?
25. Have practices changed? How? Why? (might be interesting to press on specific issues like pipeline problem)

## **Retain**

1. Do you feel diversity is a factor to consider when retaining talent at a district attorney office? Why or why not?
2. Are there challenges to retaining diverse talent? What challenges?
3. Do you use strategies to retain diverse talent and increase the diversity of your office? What strategies?
4. If you have collected data on employee engagement, have you found differences by demographic variables (do underrepresented minorities report different levels of engagement?)

## **Supervising Attorney**

### **Background**

1. When did you start at this office?
2. Could you describe the demographic composition of the office with respect to race, ethnicity, and gender when you first started?
3. Has the demographic composition of the office changed since you began? Why or why not?
4. What role, if any, do you think diversity plays in the workplace, particularly within the criminal justice setting?
5. Do you have any specific examples where diversity amongst your team has helped solve/win a case?
6. How does your office's demographic composition compare to your prior work experiences?
7. What does your office do well regarding diversity?
8. What could your office do better?

### **Attract / Hire**

1. Could you describe the hiring process when you were applying for a position?
2. Please describe the gender/ethnic make-up of your interview panels/hiring committee.
3. Why did you choose to work at this office?
4. What factors did you consider in selecting DA offices to interview at or to accept a job at? Did you consider staff diversity?
5. What have been the challenges to attracting diverse talent?
6. What strategies, if any, have you used to attract minority applicants?
7. Have practices changed? How? Why? (might be interesting to press on specific issues like pipeline problem, Prop 209, etc.)

### **Retain**

1. Why have you stayed at this office?

2. Do you have any specific examples of female or minority co-workers who have left the office and why?
3. Do you think diversity is important in leadership at a DA office?

## **Line Attorney**

### **Background**

1. When did you start at this office?
2. Could you describe the demographic composition of office with respect to race, ethnicity, and gender when you first started?
3. Has the demographic composition of the office changed since you began? How has it changed?
4. How do you perceive the level of demographic diversity of this office? How does it compare to your prior work experiences?
5. Do you think diversity is important in the workplace, particularly within the criminal justice setting?
6. Do you have any specific examples where diversity amongst your team has helped solve/win a case?
7. What does your office do well regarding diversity?
8. What could your office do better?
9. Was there something in particular about the culture of this office that you found appealing?

### **Attract / Hire**

1. Could you describe the hiring process when you were applying for a position?
2. Who communicated with you?
3. What information were you given about the interview process?
4. What did you like about the interview process? What could be improved?
5. Please describe the gender/ethnic make-up of your interview panels/hiring committee.
6. Why did you choose to work at this office?
7. What role did diversity play in selecting DA offices to interview at or to accept a job at?
8. Do you feel diversity is an important factor to consider when choosing a DA office? Why?
9. Are there challenges to attracting diverse talent? What challenges?
10. Are there strategies to attract diverse talent and increase the diversity of your office? What strategies?
11. How have state policies such as Prop 209 shaped your hiring process?
12. Have practices changed? Why? How?(might be interesting to press on specific issues like pipeline problem, Prop 209, etc.)



## Retain

1. Why have you stayed at this office?
2. Do you have any specific examples of female or minority co-workers who have left the office and why?
3. Do you think diversity is important in leadership at a DA office?

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- <sup>1</sup> Bies et al., *Stuck in the '70s: The Demographics of California Prosecutors*, Stanford Criminal Justice Ctr. 14 (July 2015), <https://law.stanford.edu/wp-content/uploads/2015/04/Stuck-in-the-70s-Final-Report.pdf>.
- <sup>2</sup> The report can be found at: <https://law.stanford.edu/wp-content/uploads/2015/04/Stuck-in-the-70s-Final-Report.pdf>.
- <sup>3</sup> For instance, data obtained by the Stanford Criminal Justice Center through a federal Freedom of Information Act request indicates that, nationwide, 8 percent of Assistant United States Attorneys are Black and 5 percent are Latino.
- <sup>4</sup> In our quantitative study, the Riverside County District Attorney's Office was reported as 64 percent White, making it the office with the tenth highest percentage of non-White attorneys. But since 27 out of the 30 attorneys categorized as "Other" did not disclose their race or ethnicity, the percentage of the office that is White could be as high as 75 percent. This would place Riverside County outside of the top 15 of offices with the highest percentage of non-White attorneys.
- <sup>5</sup> Interview with Jeff Rosen, District Attorney, Santa Clara County District Attorney's Office, in San Jose, Cal. (Nov. 3, 2015).
- <sup>6</sup> Interview with George Gascón, District Attorney, San Francisco County District Attorney's Office, in S.F., Cal. (Nov. 6, 2015).
- <sup>7</sup> Interview with Jay Boyarsky, Chief Assistant District Attorney, Santa Clara County District Attorney's Office, in San Jose, Cal. (Oct. 20, 2015 and Nov. 6, 2015).
- <sup>8</sup> Interview with Carlos Monagas, Supervising Deputy District Attorney, Riverside County District Attorney's Office, in Riverside, Cal. (Oct. 21, 2015).
- <sup>9</sup> Interview with Justine Cephus, Assistant District Attorney, San Francisco County District Attorney's Office, in S.F., Cal. (Oct. 29, 2015).
- <sup>10</sup> Interview with James Simmons, Deputy District Attorney, San Diego County District Attorney's Office, in San Diego, Cal. (Oct. 22, 2015).
- <sup>11</sup> Interview with Jonathan Mott, Deputy District Attorney, San Joaquin County District Attorney's Office, in San Joaquin, Cal. (Nov. 6, 2015).
- <sup>12</sup> Interview with Ron Freitas, Chief Deputy District Attorney, San Joaquin County District Attorney's Office, in Stockton, Cal. (Nov. 6, 2015).
- <sup>13</sup> Interview with Carrie Lawrence, Deputy District Attorney, San Joaquin County District Attorney's Office, in San Joaquin, Cal. (Nov. 6, 2015).
- <sup>14</sup> Interview with Anonymous Prosecutor #11.
- <sup>15</sup> Interview with Anonymous Prosecutor #38.
- <sup>16</sup> Interview with Anonymous Prosecutor #29.
- <sup>17</sup> Amy Farrell, Geoff Ward & Danielle Rousseau, *Race Effects of Representation Among Federal Court Workers: Does Black Workforce Representation Reduce Sentencing Disparities?*, 623 *Annals Am. Acad. 23 Pol. & Soc. Sci.* 121, 131 (2009); see also Ryan D. King, Kecia R. Johnson & Kelly McGeever, *Demography of the Legal Profession and Racial Disparities in Sentencing*, 44 *L. & Soc'y Rev.* 1, 23, 26 (2010).
- <sup>18</sup> Roscoe C. Howard, Jr., *Changing the System from Within: An Essay Calling on More African Americans to Consider Being Prosecutors*, *Widener L. Symp. J.* 139, 164 (2000); Ward et al., *supra* note 17, at 773.
- <sup>19</sup> Angela J. Davis, *Prosecution and Race: The Power and Privilege of Discretion*, 67 *Fordham L. Rev.* 13, 39 (1998).
- <sup>20</sup> Interview with Eric Fleming, Chief Trial Assistant District Attorney, San Francisco County District Attorney's Office, in S.F., Cal. (Oct. 29, 2015).
- <sup>21</sup> Interview with Wade Chow, Deputy District Attorney, San Francisco County District Attorney's Office, in S.F., Cal. (Oct. 29, 2015).
- <sup>22</sup> Edward E. Hubbard, *The Diversity Scorecard: Evaluating the Impact of Diversity on Organizational Performance* 12, 16 (2004).
- <sup>23</sup> Taylor H. Cox & Stacy Blake, *Managing Cultural Diversity: Implications for Organizational Competitiveness*, 5 *The Executive*, Aug. 1991, at 50.

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- <sup>24</sup> Interview with Luis Ramos, Deputy District Attorney V, Santa Clara County District Attorney’s Office, in Santa Clara, Cal. (Oct. 20, 2015).
- <sup>25</sup> Interview with Cindy Hendrickson, Assistant District Attorney, Santa Clara County District Attorney’s Office, in Santa Clara, Cal. (Nov. 3, 2015).
- <sup>26</sup> Interview with Kareem Salem, Deputy District Attorney I, San Diego County District Attorney’s Office, in San Diego, Cal. (Oct. 22, 2015).
- <sup>27</sup> Interview with Eric Fleming, Chief Trial Assistant District Attorney, San Francisco County District Attorney’s Office, in S.F., Cal. (Oct. 29, 2015).
- <sup>28</sup> Interview with Jeff Rosen, District Attorney, Santa Clara County District Attorney’s Office, in San Jose, Cal. (Nov. 3, 2015).
- <sup>29</sup> Interview with Jaron Shipp, Deputy District Attorney, Santa Clara County District Attorney’s Office, in Santa Clara, Cal. (Oct. 20, 2015).
- <sup>30</sup> Interview with Cindy Hendrickson, Assistant District Attorney, Santa Clara County District Attorney’s Office, in Santa Clara, Cal. (Nov. 3, 2015).
- <sup>31</sup> Interview with Chris Arriola, Supervising Deputy District Attorney, Santa Clara County District Attorney’s Office, in Santa Clara, Cal. (Nov. 3, 2015).
- <sup>32</sup> Interview with George Gascón, District Attorney, San Francisco County District Attorney’s Office, in S.F., Cal. (Nov. 6, 2015).
- <sup>33</sup> Interview with Tori Verber Salazar, District Attorney, San Joaquin County District Attorney’s Office, in San Joaquin, Cal. (Nov. 6, 2015).
- <sup>34</sup> Interview with Justine Cephus, Assistant District Attorney, San Francisco County District Attorney’s Office, in S.F., Cal. (Oct. 29, 2015).
- <sup>35</sup> *Id.*
- <sup>36</sup> Interview with Anonymous Prosecutor #11.
- <sup>37</sup> Cruz Reynoso, *A Survey of Latino Lawyers in Los Angeles County—Their Professional Lives and Opinions*, 38 U.C. Davis L. Rev. 1563, 1599 (2005).
- <sup>38</sup> Jason Sunshine & Tom R. Tyler, *The Role of Procedural Justice and Legitimacy in Shaping Public Support for Policing*, 37 Law & Soc’y Rev. 513, 523 (2003).
- <sup>39</sup> Interview with Christina Arrollado, Deputy District Attorney III, San Diego County District Attorney’s Office, in San Diego, Cal. (Oct. 22, 2015).
- <sup>40</sup> Interview with Meghan Buckner, Deputy District Attorney I, San Diego County District Attorney’s Office, in San Diego, Cal. (Oct. 22, 2015).
- <sup>41</sup> Interview with Kareem Salem, Deputy District Attorney I, San Diego County District Attorney’s Office, in San Diego, Cal. (Oct. 22, 2015).
- <sup>42</sup> Tom R. Tyler, *Multiculturalism and the Willingness of Citizens to Defer to Law and to Legal Authorities*, 25 Law & Soc. Inquiry 983, 1015 (2000).
- <sup>43</sup> *Id.*
- <sup>44</sup> Interview with Jean Roland, Juvenile Unit Managing Attorney, San Francisco County District Attorney’s Office, in S.F., Cal. (Oct. 29, 2015).
- <sup>45</sup> *Id.*
- <sup>46</sup> Interview with James Simmons, Deputy District Attorney, San Diego County District Attorney’s Office, in San Diego, Cal. (Oct. 22, 2015).
- <sup>47</sup> Interview with Anonymous Prosecutor #38.
- <sup>48</sup> Interview with Patricia Rieta-Garcia, Chief Deputy District Attorney, San Joaquin County District Attorney’s Office, in San Joaquin, Cal. (Nov. 6, 2015).
- <sup>49</sup> Interview with Carlos Monagas, Supervising Deputy District Attorney, Riverside County District Attorney’s Office, in Riverside, Cal. (Oct. 21, 2015).
- <sup>50</sup> Interview with Tori Verber Salazar, District Attorney, San Joaquin County District Attorney’s Office, in San Joaquin, Cal. (Nov. 6, 2015).
- <sup>51</sup> Interview with Amy Barajas, Senior Deputy District Attorney, Riverside County District Attorney’s Office, in Riverside, Cal. (Oct. 21, 2015).
- <sup>52</sup> Interview with Deena Bennett, Deputy District Attorney, Riverside County District Attorney’s Office, in Riverside, Cal. (Oct. 21, 2015).
- <sup>53</sup> Interview with Cindy Hendrickson, Assistant District Attorney, Santa Clara County District Attorney’s Office, in Santa Clara, Cal. (Nov. 3, 2015).

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- <sup>54</sup> Interview with Mike Hestrin, District Attorney, Riverside County District Attorney's Office, in Riverside, Cal. (Oct. 21, 2015).
- <sup>55</sup> Interview with Jonathan Mott, Deputy District Attorney, San Joaquin County District Attorney's Office, in San Joaquin, Cal. (Nov. 6, 2015).
- <sup>56</sup> Interview with Christine Garcia-Sen, Deputy District Attorney V, Santa Clara County District Attorney's Office, in Santa Clara, Cal. (Oct. 20, 2015).
- <sup>57</sup> Interview with Patricia Rieta-Garcia, Chief Deputy District Attorney, San Joaquin County District Attorney's Office, in San Joaquin, Cal. (Nov. 6, 2015).
- <sup>58</sup> Interview with Anonymous Prosecutor #9.
- <sup>59</sup> Bies et al., *Stuck in the '70s: The Demographics of California Prosecutors*, Stanford Criminal Justice Ctr. 14 (July 2015), <https://law.stanford.edu/wp-content/uploads/2015/04/Stuck-in-the-70s-Final-Report.pdf>.
- <sup>60</sup> Interview with Anonymous Prosecutor #5.
- <sup>61</sup> Interview with Jeff Rosen, District Attorney, Santa Clara County District Attorney's Office, in San Jose, Cal. (Nov. 3, 2015).
- <sup>62</sup> Interview with Chris Arriola, Supervising Deputy District Attorney, Santa Clara County District Attorney's Office, in Santa Clara, Cal. (Nov. 3, 2015); Interview with Cindy Hendrickson, Assistant District Attorney, Santa Clara County District Attorney's Office, in Santa Clara, Cal. (Nov. 3, 2015); Interview with Nahal Iravani-Sani, Deputy District Attorney, Santa Clara County District Attorney's Office, in Santa Clara, Cal. (Oct. 20, 2015).
- <sup>63</sup> Interview with Wade Chow, Deputy District Attorney, San Francisco County District Attorney's Office, in S.F., Cal. (Oct. 29, 2015).
- <sup>64</sup> Bies et al., *Stuck in the '70s: The Demographics of California Prosecutors*, Stanford Criminal Justice Ctr. 32 (July 2015), <https://law.stanford.edu/wp-content/uploads/2015/04/Stuck-in-the-70s-Final-Report.pdf>.
- <sup>65</sup> Interview with Julie Ching, Deputy District Attorney, Riverside County District Attorney's Office, in Riverside, Cal. (Oct. 21, 2015).
- <sup>66</sup> Bies et al., *Stuck in the '70s: The Demographics of California Prosecutors*, Stanford Criminal Justice Ctr. 32 (July 2015), <https://law.stanford.edu/wp-content/uploads/2015/04/Stuck-in-the-70s-Final-Report.pdf>.
- <sup>67</sup> Interview with Wade Chow, Deputy District Attorney, San Francisco County District Attorney's Office, in S.F., Cal. (Oct. 29, 2015).
- <sup>68</sup> Interview with Anonymous Prosecutor #25.
- <sup>69</sup> Interview with Deena Bennett, Deputy District Attorney, Riverside County District Attorney's Office, in Riverside, Cal. (Oct. 21, 2015).
- <sup>70</sup> Interview with Ghazal Sharif, Deputy District Attorney, San Joaquin County District Attorney's Office, in San Joaquin, Cal. (Nov. 6, 2015).
- <sup>71</sup> Interview with Patricia Rieta-Garcia, Chief Deputy District Attorney, San Joaquin County District Attorney's Office, in San Joaquin, Cal. (Nov. 6, 2015).
- <sup>72</sup> Interview with Chris Arriola, Supervising Deputy District Attorney, Santa Clara County District Attorney's Office, in Santa Clara, Cal. (Nov. 3, 2015).
- <sup>73</sup> Interview with Jaron Shipp, Deputy District Attorney, Santa Clara County District Attorney's Office, in Santa Clara, Cal. (Oct. 20, 2015).
- <sup>74</sup> Interview with Eric Fleming, Chief Trial Assistant District Attorney, San Francisco County District Attorney's Office, in S.F., Cal. (Oct. 29, 2015).
- <sup>75</sup> Bies et al., *Stuck in the '70s: The Demographics of California Prosecutors*, Stanford Criminal Justice Ctr. 31-33 (July 2015), <https://law.stanford.edu/wp-content/uploads/2015/04/Stuck-in-the-70s-Final-Report.pdf>.
- <sup>76</sup> Interview with Anonymous Prosecutor #13.
- <sup>77</sup> Interview with Anonymous Prosecutor #38.
- <sup>78</sup> Interview with Ghazal Sharif, Deputy District Attorney, San Joaquin County District Attorney's Office, in San Joaquin, Cal. (Nov. 6, 2015).
- <sup>79</sup> Interview with Eric Fleming, Chief Trial Assistant District Attorney, San Francisco County District Attorney's Office, in S.F., Cal. (Oct. 29, 2015).
- <sup>80</sup> Interview with Debbie Hernandez, Deputy District Attorney, Santa Clara County District Attorney's Office, in Santa Clara, Cal. (Nov. 3, 2015).
- <sup>81</sup> Interview with Chris Arriola, Supervising Deputy District Attorney, Santa Clara County District Attorney's Office, in Santa Clara, Cal. (Nov. 3, 2015).
- <sup>82</sup> Interview with James Simmons, Deputy District Attorney, San Diego County District Attorney's Office, in San Diego, Cal. (Oct. 22, 2015).
- <sup>83</sup> Interview with Anonymous Prosecutor #28.

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- <sup>84</sup> Interview with George Gascón, District Attorney, San Francisco County District Attorney's Office, in S.F., Cal. (Nov. 6, 2015).
- <sup>85</sup> Interview with Debbie Hernandez, Deputy District Attorney, Santa Clara County District Attorney's Office, in Santa Clara, Cal. (Nov. 3, 2015).
- <sup>86</sup> Interview with Meghan Buckner, Deputy District Attorney I, San Diego County District Attorney's Office, in San Diego, Cal. (Oct. 22, 2015).
- <sup>87</sup> Prohibition Against Discrimination or Preferential Treatment and Other Public Entities. Initiative Constitutional Amendment., November 5th, 1996 Gen. Election, available at <<http://vote96.sos.ca.gov/html/BP/209.htm>> (last visited July 9, 2015).
- <sup>88</sup> Interview with Elton Grau, Deputy District Attorney, San Joaquin County District Attorney's Office, in San Joaquin, Cal. (Nov. 6, 2015).
- <sup>89</sup> Interview with Anonymous Prosecutor #36.
- <sup>90</sup> Interview with George Gascón, District Attorney, San Francisco County District Attorney's Office, in S.F., Cal. (Nov. 6, 2015).
- <sup>91</sup> Interview with Anonymous Prosecutor #11.
- <sup>92</sup> Interview with James Simmons, Deputy District Attorney, San Diego County District Attorney's Office, in San Diego, Cal. (Oct. 22, 2015).
- <sup>93</sup> Interview with Jaron Shipp, Deputy District Attorney, Santa Clara County District Attorney's Office, in Santa Clara, Cal. (Oct. 20, 2015).
- <sup>94</sup> These organizations include: California Women Lawyers, the California Association of Black Lawyers, the Santa Clara County Bar Association, the Asian Pacific American Bar Association, the National Asian Pacific Islander Prosecutors Association, La Raza Lawyers Association of California, the Filipino Bar Association of Northern California, the Vietnamese American Bar Association of Northern California, the Arab American Attorney Association, the Bay Area Association of Muslim Lawyers, Palo Alto Area Bar Association, Santa Clara County Black Lawyers, Silicon Valley Bar Association, Women Lawyers/Santa Clara, Sunnyvale Cupertino Bar Association, Asian American Bar/Bay Area, Korean American Bar Association/Northern California, Queen's Bench, Diversity Committee of Santa Clara County Bar Association, South Asian Bar Association of Northern California, and the Charles Houston Bar Association.
- Interview with Jay Boyarsky, Chief Assistant District Attorney, Santa Clara County District Attorney's Office, in San Jose, Cal. (Oct. 20, 2015 and Nov. 6, 2015).
- <sup>95</sup> Interview with Anonymous Prosecutor #9.
- <sup>96</sup> Interview with Anonymous Prosecutor #39.
- <sup>97</sup> Interview with Anonymous Prosecutor #23.
- <sup>98</sup> Interview with Melissa Diaz, Deputy District Attorney, San Diego County District Attorney's Office, in San Diego, Cal. (Oct. 22, 2015).
- <sup>99</sup> Interview with Chris Arriola, Supervising Deputy District Attorney, Santa Clara County District Attorney's Office, in Santa Clara, Cal. (Nov. 3, 2015).
- <sup>100</sup> Interview with Jay Boyarsky, Chief Assistant District Attorney, Santa Clara County District Attorney's Office, in San Jose, Cal. (Oct. 20, 2015 and Nov. 6, 2015).
- <sup>101</sup> Interview with Christine Garcia-Sen, Deputy District Attorney V, Santa Clara County District Attorney's Office, in Santa Clara, Cal. (Oct. 20, 2015).
- <sup>102</sup> Interview with Meghan Buckner, Deputy District Attorney I, San Diego County District Attorney's Office, in San Diego, Cal. (Oct. 22, 2015).
- <sup>103</sup> Interview with Elaina Gambera Bentley, Deputy District Attorney, Riverside County District Attorney's Office, in Riverside, Cal. (Oct. 21, 2015).
- <sup>104</sup> Interview with Anonymous Prosecutors #31.
- <sup>105</sup> Interview with Anonymous Prosecutor #34.
- <sup>106</sup> Interview with Chris Arriola, Supervising Deputy District Attorney, Santa Clara County District Attorney's Office, in Santa Clara, Cal. (Nov. 3, 2015).
- <sup>107</sup> Interview with Anonymous Prosecutor #3.
- <sup>108</sup> Interview with Anonymous Prosecutor #5.
- <sup>109</sup> Interview with Anonymous Prosecutor #8.
- <sup>110</sup> Interview with Anonymous Prosecutor #23.
- <sup>111</sup> Interview with George Gascón, District Attorney, San Francisco County District Attorney's Office, in S.F., Cal. (Nov. 6, 2015).

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- <sup>112</sup> Interview with Tori Verber Salazar, District Attorney, San Joaquin County District Attorney's Office, in San Joaquin, Cal. (Nov. 6, 2015).
- <sup>113</sup> Interview with Anonymous Prosecutors #11 and #18.
- <sup>114</sup> Interview with Meghan Buckner, Deputy District Attorney I, San Diego County District Attorney's Office, in San Diego, Cal. (Oct. 22, 2015).
- <sup>115</sup> Interview with Anonymous Prosecutor #10.
- <sup>116</sup> Interview with Jaron Shipp, Deputy District Attorney, Santa Clara County District Attorney's Office, in Santa Clara, Cal. (Oct. 20, 2015).
- <sup>117</sup> Interview with Anonymous Prosecutors #7 and #40.
- <sup>118</sup> Interview with Stephanie Mason, Deputy District Attorney, San Francisco County District Attorney's Office, in S.F., Cal. (Oct. 29, 2015).
- <sup>119</sup> Interview with Anonymous Prosecutor #25.
- <sup>120</sup> Interview with Anonymous Prosecutor #31.
- <sup>121</sup> Interview with James Simmons, Deputy District Attorney, San Diego County District Attorney's Office, in San Diego, Cal. (Oct. 22, 2015).
- <sup>122</sup> Interview with Anonymous Prosecutor #22.
- <sup>123</sup> Interview with George Gascón, District Attorney, San Francisco County District Attorney's Office, in S.F., Cal. (Nov. 6, 2015).
- <sup>124</sup> Interview with Anonymous Prosecutor #38.
- <sup>125</sup> Interview with Anonymous Prosecutor #41.
- <sup>126</sup> Interview with Tori Verber Salazar, District Attorney, San Joaquin County District Attorney's Office, in San Joaquin, Cal. (Nov. 6, 2015).
- <sup>127</sup> Interview with Tori Verber Salazar, District Attorney, San Joaquin County District Attorney's Office, in San Joaquin, Cal. (Nov. 6, 2015).
- <sup>128</sup> Interview with Chris Arriola, Supervising Deputy District Attorney, Santa Clara County District Attorney's Office, in Santa Clara, Cal. (Nov. 3, 2015).
- <sup>129</sup> Interview with Christine Garcia-Sen, Deputy District Attorney V, Santa Clara County District Attorney's Office, in Santa Clara, Cal. (Oct. 20, 2015).
- <sup>130</sup> Interview with Anonymous Prosecutor #3.
- <sup>131</sup> Interview with Anonymous Prosecutor #4.
- <sup>132</sup> Interview with Anonymous Prosecutor #2.
- <sup>133</sup> Interview with Anonymous Prosecutor #1.
- <sup>134</sup> Interview with Anonymous Prosecutor #44.
- <sup>135</sup> Interview with Anonymous Prosecutor #2.
- <sup>136</sup> Interview with Anonymous Prosecutor #28.
- <sup>137</sup> Interview with George Gascón, District Attorney, San Francisco County District Attorney's Office, in S.F., Cal. (Nov. 6, 2015).
- <sup>138</sup> Interview with Anonymous Prosecutor #37.
- <sup>139</sup> Interview with Anonymous Prosecutor #30.
- <sup>140</sup> Interview with Anonymous Prosecutor #34.
- <sup>141</sup> Interview with Anonymous Prosecutor #7.
- <sup>142</sup> Interview with Eric Fleming, Chief Trial Assistant District Attorney, San Francisco County District Attorney's Office, in S.F., Cal. (Oct. 29, 2015).
- <sup>143</sup> *Id.*
- <sup>144</sup> Interview with Anonymous Prosecutor #39.