

FAIR AND JUST PROSECUTION

Reimagining The Field Of Prosecution

I. PROJECT OVERVIEW

Fair and Just Prosecution (FJP) will bring together elected prosecutors as part of a network of like-minded leaders committed to change and innovation. These individuals – and the new approaches to prosecution that they exemplify – will be supported and reinforced through in-person convenings, vehicles for ongoing sharing of information, mentoring, the development of research and resource materials, communications and research support, site visits with on the ground learning opportunities, and exposure to key national thought leaders. Through all of these strategies, FJP will enable a new generation of prosecutive leaders to access and learn from best practices, forward-thinking policies and innovations around the nation that will enhance accountability and transparency, move beyond past incarceration-driven approaches and develop criminal justice policies that promote safer and healthier communities. As these leaders model new justice system strategies, efforts will be made to highlight their successes and use their accomplishments to propel broader changes in the field and underscore the vitally important leadership role of prosecutors in advancing fair and just practices.

II. BACKGROUND – *An Opportune Moment for New Thinking*

Great strides have been made over the past few years in promoting justice system reforms that recognize that prior “tough on crime” and incarceration-driven practices have not always resulted in safer or healthier communities. New thinking has started to permeate justice system agencies and has prompted proactive and prevention-oriented strategies. That thinking was fueled over the past few years by federal leadership and so-called “smart on crime” initiatives aimed at reducing mass incarceration and diverting individuals from a justice system that too often exacerbates the likelihood of future criminal conduct.

While law enforcement and national justice system leaders have embraced many of these shifting paradigms, some local prosecutors have been slower to adjust to this new justice system thinking. Instead, for many prosecutors, “success” continues to be defined by the number of cases they charge, the length of the sentences imposed, and the rate of guilty pleas and convictions. There is inadequate attention paid to the fair and equitable exercise of weighty prosecutorial discretion; procedural justice considerations; successful prevention and diversion from the justice system; community engagement strategies; and efforts to promote not simply safer, but also healthier neighborhoods.

In an effort to fortify increasingly fragile bonds of trust between the community and justice system leaders, law enforcement agencies have come to appreciate the need to enhance systems of internal oversight and transparency. In contrast, many prosecutive offices have not as routinely embraced accountability approaches that are now increasingly common in the law enforcement arena. While many members of the public view DAs and their offices as a “black

box,” prosecutive offices have typically escaped the intense scrutiny that has triggered reforms within law enforcement agencies.¹ Community advisory boards and accountability models are becoming the norm in the law enforcement context, yet there are very few mechanisms for public engagement in – or oversight of – local prosecutors.

Amidst these concerns, recent local elections have ushered in a new generation of more reform-minded prosecutor leaders committed to changing their office ethos and promoting a less punitive approach to addressing crime. A cadre of prosecutor candidates over the past eighteen months – ranging from large urban areas such as Chicago to smaller rural communities – unseated longtime incumbent District Attorneys or State’s Attorneys by mounting campaigns that were not driven by the “law and order/tough on crime” rhetoric of past decades. Instead, the agenda advanced by these new leaders has included:

- The need for investing in prevention and developing exit ramps from the justice system;
- The importance of conviction integrity review and enhanced prosecutive accountability mechanisms;
- Fortifying public trust and enhancing community outreach and engagement;
- Rethinking the handling of low level drug and other offenses and diverting appropriate individuals;
- Investing in reentry approaches and ameliorating the collateral consequences of convictions;
- Developing more data-driven practices and enhanced metrics for judging success;
- Supporting struggling families and at-risk youth; and
- Rethinking application of the death penalty and juvenile life without parole sentencing.

With this new generation of elected prosecutors, there is now a “critical mass” of leaders who, working together, can start to transform the landscape of prosecution. Yet their ability to do so will require support, experienced guidance, connections to best practices, and reinforcement as they seek to navigate their critical first two years in office. Indeed, their elections will be only as transformational as their resolve and capacity to implement the agendas they ran on, while grappling with the inevitable institutional resistance and systemic pressures that will make meaningful and lasting reforms challenging. Moreover, the national impetus for justice system change is likely to move in different directions under the new federal administration. As such, the playing field for criminal justice reforms in the coming years will need to focus more than ever on the local level.

Both these impending challenges and the new opportunities presented by recent local elections suggest that the time is ripe to reimagine the field of prosecution in a strategic and bold manner. Indeed, it is hard to conceive of a more timely moment to advance this endeavor – and the failure to do so may well see the window of opportunity close in the face of a shifting federal landscape.

Fair and Just Prosecution will provide a strategic hub for this work. The project will link together and support a select group of newly elected progressive prosecutive leaders, while building on the successful and robust research, materials and transition work prepared for the Cook County

¹ These concerns led the New York Times in a recent editorial to conclude that prosecutors “are almost never held accountable for misconduct” and to call for “federal oversight of prosecutors’ offices.” See “To Stop Bad Prosecutors, Call the Feds,” New York Times editorial (June 6, 2016), <http://www.nytimes.com/2016/06/06/opinion/to-stop-bad-prosecutors-call-the-feds.html? r=0>. There have also been increased calls for referrals of prosecutors to ethical authorities in recent years.

(IL) State’s Attorney’s Office in 2016. FJP is led by the same team that directed the Cook County project and is well positioned to hit the ground running with the benefit of the momentum, connections and body of work from that initiative.

III. BUILDING OUT AND REIMAGINING WHERE WE GO -- FJP’s Objectives and Areas of Engagement

Even with the important justice system work that is afoot by many other organizations and individuals², there are gaps that remain and none of these entities are *singularly focused* on the unique needs of recently elected prosecutive leaders. FJP will fill this void by providing a supportive, proactive and agenda-focused network to support and strengthen the resolve of reform-minded prosecutors who are in their early years. FJP will create a structured “hub” for this work that will bring together and seek to bridge the many initiatives and individual endeavors that are currently underway, with a focus on a new class of recently elected progressive prosecutors.

FJP will achieve these objectives by engaging in the following activities, among others:

- **Assisting and supporting** recently elected reform-minded prosecutors – fortifying prosecutors committed to change as they seek to implement new approaches and redefine their role in promoting public safety;
- Building a **network** of new prosecutors willing to rethink past practices and connecting these like-minded leaders to each other;
- Creating **learning opportunities** through site visits, research support, and access to key national leaders and experts;
- Supporting elected leaders as they develop, implement, and champion criminal justice **policy changes**;
- Developing **communications strategies** to give voice to change agents within the field of prosecution and help them navigate the inevitable challenges that will arise;
- Supporting ongoing outreach to – and bridging of reform-minded prosecutors with – **national organizations and leaders**; and
- Connecting new prosecutors to **potential resources** and working with philanthropic investment in prosecutive reform endeavors to help promote a strategic and coordinated focus on what is most needed and impactful.

FJP will offer an experienced and directed focus on processes of transition and the unique needs of – and opportunities presented by – a new generation of elected leaders. It will provide a safe space for newly elected like-minded prosecutors to informally network, learn from each other, and be guided by the best thinking in the justice arena.

² A number of other organizations and individuals – including academicians, Measures for Justice, the Institute for Innovation in Prosecution, Vera Institute of Justice, the Association of Prosecuting Attorneys and the Center for Court Innovation – are engaged in important thinking and the development of new approaches aimed at moving the field of prosecution in positive new directions.

IV. SPECIFIC FOCUS OF FJP's WORK

The work of FJP will fall into three broad categories:

A. **INTERNAL SUPPORT** for prosecutive leaders who model new thinking and share a bolder vision of the role of prosecutors that goes beyond incarceration driven approaches through activities that will include:

- **In person gatherings** to create an ongoing opportunity for these individuals to come to know each other and serve as peer to peer resources and support
- Opportunities for **connecting** recently elected prosecutors to more **experienced prosecutive leaders** who share their perspectives and can offer the benefit of lessons learned from experience
- Developing a “go to” list of **national experts** on key issues and working with **academic partners** to develop new tools and applied research that can advance the field of prosecution
- Developing an **informal network and safe space** for like-minded prosecutors to share ideas, concerns and challenges through the use of a list serve and an internal document sharing network, as well as telephonic information sharing calls to discuss new innovations and to hear from thought leaders working on important and timely issues
- Creating a body of **educational materials** that model best practices and important thinking on key issues (many of which can be adapted from materials accumulated during the Cook County project) and make those materials available through an internal document sharing network
- Brokering or, when gaps exist, providing **technical assistance** to prosecutive heads to help them in implementing policy changes, address challenging issues and enhance their ability to move reforms forward
- Producing materials that can help guide a **process of transition** and offer a starting point for new leaders during their all-important first year in office
- Supporting **ongoing learning opportunities** through:
 - Site visits to key learning locations – there are few substitutes for seeing innovation in action and meeting national thought leaders in their home base
 - An informal network and inventory of identified thought leaders and experts who can be available to assist in regard to specific issues and reforms

B. COMMUNICATIONS AND POLICY WORK

This project will also serve to amplify and reinforce the collective voice of prosecutors committed to new thinking. By bringing together prosecutors who exemplify new thinking, there will be “safety in numbers” that will strengthen their ability and resolve to move forward with new approaches in their own offices. Activities in regard to this outward facing element will include:

- **Lifting up** the voices of prosecutive change agents
 - Helping enhance internal **communications strategies** and looking for communications opportunities where these voices can be most impactful
- Helping reform-minded prosecutive leaders to embrace and champion proactive **policy changes** that move justice reform, thereby creating a place and space for impacting policies both locally and nationally with these voices

- Lifting up the voices of this group through **external strategic communications** and opportunities that put a spotlight on their successes and highlight the way that their work models new paradigms in the field of prosecution
- **Creating bridges** to other community groups, advocates and stakeholders seeking to propel broader justice reforms

C. NATIONAL EFFORTS AND ENGAGEMENT

FJP’s national outreach efforts will enhance the ability to promote justice system changes within individual offices as well as more broadly. These efforts will include:

- Helping connect new prosecutors to potential resources and also guiding philanthropic investment in prosecutive reform endeavors to ensure that there is an overarching strategic and coordinated focus on what is most needed and impactful
- Advocating for and working to develop national support, where appropriate and possible, for prosecutive reforms
- Supporting ongoing outreach to – and bridging of reform-minded prosecutors with – aligned national leaders, organizations and academic partners

V. DEFINING SUCCESS AND LONGER TERM PROJECT TRAJECTORY

FJP’s success will be measured by accomplishing the activities and promoting the strategies described herein that enhance the ability of new leaders in the field to promote meaningful change. The development of materials that help promote new thinking, creating a cadre of prosecutive leaders and supportive national thinkers focused on these issues, and promoting new approaches will all be key ingredients of FJP’s success. Participating prosecutors will be asked to offer feedback as FJP work continues and adjustments will be made, as needed, based on that feedback. Success will also be measured by the actions and changes implemented by the prosecutors with whom FJP works, as well as by the coverage of these issues and the attention to new reforms that results in changes in the field as well as the broader public. Finally, FJP will seek to be a connector and help lace together work on reform in various parts of the country so that those efforts can be that much more impactful in propelling change.

Longer term, FJP will be built out to include and engage more prosecutive members, as future leaders are identified and embrace the organization’s thinking in key areas. It is expected that FJP’s body of materials will grow and partnerships with academic institutions and other initiatives will be forged to broaden FJP’s reach. FJP hopes to become a known leader in the field and a respected voice in local and national policy reforms. Eventually it is hoped that FJP’s impact will be seen in the field as a whole, as the voices supporting new paradigms and a different way of defining prosecutive success are amplified and become more commonplace among prosecutive leaders and offices.

VI. FJP LEADERSHIP AND STAFFING

A. Executive Director

Miriam Krinsky has a unique combination of skills and expertise that can enable her to effectively lead, build out, organize and run FJP. She previously served for 15 years as a federal prosecutor, both in Los Angeles and on an organized crime and narcotics task force in the Mid-Atlantic region. During her tenure as an Assistant United States Attorney in the Central District of California, Ms. Krinsky served as Chief of the General Crimes Sections (supervising the work

of over 50 new prosecutors), Chief of the Criminal Appellate Section (overseeing the Office's docket of over 1,000 criminal appeals), chaired the national Solicitor General's Advisory Group on Appellate Issues, served on the Attorney General's Advisory Committee on Sentencing and received the Attorney General's highest national award for appellate work.

Not only does Mr. Krinsky possess expertise as a prosecutor, she has extensive experience running new initiatives and serving as a thought-leader for high-level assessment and reform of criminal justice institutions, policies and practice. In 2012, Miriam served as the Executive Director of Los Angeles County's Citizens' Commission on Jail Violence, a seven member high level Commission appointed to investigate allegations of excessive force by Los Angeles Sheriff's deputies in L.A. County jails and make recommendations for system change and enhanced accountability. The Commission issued a two hundred page report with over 60 recommendations for reform after a nearly one year process. Thereafter, Ms. Krinsky served as the Policy Coordinator for L.A. Sheriff's candidate Jim McDonnell and after the election directed his Transition Team. She then spent a year working inside the Sheriff's Department as a Special Advisor to the newly elected Sheriff and assisted in implementing significant new innovations and reforms within one of the largest law enforcement agencies in the nation. She also previously served as a Co-Director of the Transition Team for the newly elected Los Angeles City Attorney.

Ms. Krinsky has had extensive involvement over the years in endeavors that have provided guidance and helped establish standards for lawyers and the legal community, including serving as President of the Los Angeles County Bar Association, five years (including two years as President) on the Los Angeles City Ethics Commission, three years on the California Judicial Council, as a member of the California Blue Ribbon Commission on Foster Care and as a founding member of the American Bar Association's Youth at Risk Commission.

Ms. Krinsky has also worked on a variety of system change endeavors, including spending a year as an advisor to the California Supreme Court during its creation of the Statewide Child Welfare Council; as an advisor to the Los Angeles County Bar's Task Force that investigated and recommended prosecutive, court and justice system reforms in the wake of the LAPD Rampart incident; and as the national head of the Home At Last initiative – a multistate reform effort focused on implementation of system change recommendations by the Pew Commission on Children in Foster Care. She also spent five years as the Executive Director of the Children's Law Center of Los Angeles – a 200-plus person legal services organization representing over 20,000 abused and neglected children.

In September of 2013, Ms. Krinsky was appointed by the California Supreme Court to serve a three year term on the California State Bar Board of Trustees, the regulatory body that oversees all of California's lawyers. She also currently serves on the American Law Institute's Sentencing Project Advisory group, the ALI Principles of Policing Advisory Group and numerous other federal, state and local policy groups. She has testified before national and state legislative, governmental and judicial bodies, authored over 50 articles, and has lectured nationwide on criminal law, law enforcement oversight and reform, foster care, juvenile justice, and sentencing issues.

Ms. Krinsky's unique breadth of experience will provide invaluable perspectives and useful national connections that can assist newly elected leaders navigate processes of transition and implement systemic change.

B. Center for Court Innovation

The Center for Court Innovation has the experience, staff expertise and reputation to serve as an invaluable organizational partner. Their work around the nation positions them well to open doors, identify new opportunities and resources, help plan site visits and assist with identifying innovative thought leaders – all activities that will serve as an invaluable backdrop for the newly elected leaders’ thinking, implementation of reforms and development of new prosecution strategies.

The Center for Court Innovation’s mission is to help create a more effective and humane justice system by designing and implementing operating programs, performing original research, and providing reformers around the world with the tools they need to launch new strategies. As mentioned above, the Center provides training and expert assistance to justice reformers inside and outside of government within and beyond the U.S. Current national efforts include serving as the technical assistance provider on the federally-funded Community Court Grant Program and Minority Youth Violence Prevention Initiative, as well as the Safety and Justice Challenge led by the MacArthur Foundation.

The Center’s in-house research department helps contribute to the “what works” research literature with projects such as a study of prosecutor-led diversion programs (currently in progress, funded by the National Institute of Justice) and an evaluation of the intelligence-driven prosecution model developed by the Manhattan District Attorney’s Office (funded by the U.S. Department of Justice’s Bureau of Justice Assistance).

The Center is an incubator project of the Fund for the City of New York, a 501(c)(3) corporation.

C. FJP Team and Support

The work of FJP will be supported by a team to be built out over the project’s first six months that will include research and policy staff and consultants, administrative support, potential academic/research partners and communications expertise. This talented team will work closely with, and complement, the CCI staff.