



NATIONAL PARTNERSHIP *for*  
**PRETRIAL JUSTICE**

# Prosecution Research RFP

ARNOLD VENTURES  
CRIMINAL JUSTICE INITIATIVE  
PRETRIAL JUSTICE

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## Background

The state of mass incarceration in the U.S. is the result of 40 years of “punitive excess”<sup>1</sup> an unduly harsh response to crime that has imposed disparate and devastating burdens on communities of color, particularly black people, who are over-policed, over-prosecuted and over-incarcerated in comparison to their white counterparts.<sup>2</sup> This state of affairs is the result of policy choices enacted by legislators and enabled and enforced by local criminal justice officials, particularly prosecutors. Prosecutors exercise expansive power over the individual decisions that lead to racial disparities in our justice system: whether and what charges to bring against someone accused of a crime; what recommendations to make to judges on both pretrial release and sentencing; control of the plea-bargaining process; and whether or not to divert people out of the system. By any measure, prosecutors may be the most powerful actors in the criminal justice system—yet there is so much we do not know about how they use their authority. Broad discretion, limited accountability, and incentive systems that reward punishment over rehabilitation, redemption, and restoration can lead to not only opaque decision making but harmful and unjust outcomes for people and communities.

Over the last decade, a new generation of prosecutors and thinkers has put forth a vision of what the goals of prosecution can and should be: that “effective disposition should be separated from the application of punishment and state authority. Punishment and the application of state authority should not be, implicitly or explicitly, ends in themselves, but should be deployed as minimally as is consistent with public safety and commensurate with the harm caused. The commitment to ‘winning’ should be replaced with a commitment to just and effective outcomes.”<sup>3</sup>

In order to make meaningful and effective changes to practice, it is critical for prosecutors to have empirical knowledge about how their practices and policies impact peoples’ lives. Yet in the more than 2,300 offices within the United States, lack of capacity to collect and assess meaningful data on prosecutorial discretion and practice is the reality rather than the exception. Consequently, the lack of data leaves offices at a disadvantage when looking to determine if the values and practices they prioritize have produced the desired outcomes. It also means that prosecutors have very little indication if any changes to policies are needed to improve short- and long-term impacts on those they serve. Working toward a more equitable, just, and effective criminal justice system means assessing what policies and practices achieve these goals. By funding empirical research on prosecutorial decision-making, **AV seeks to realize a new vision for prosecution: one in which prosecutors’ offices are committed to racial equity, transparent, and data-driven; where prosecutors use punitive measures sparingly; and where prosecutors prioritize a holistic approach to community safety.**

For years, researchers have demonstrated that harsher policies do not lead to more or better community safety, and that aggressive, overly punitive decisions not only affect individuals themselves, but negatively affect families and entire communities that suffer the consequences alongside the impacted individual.<sup>4</sup> Further research on the role of prosecution and prosecutorial decisions at various points along the criminal justice process will provide the field with empirically-based knowledge needed to understand what impact prosecutorial policy and practice has on individuals, their families, and communities, while debunking the myth that harsher policies lead to more desirable community safety outcomes. That is what we mean by a holistic approach to community safety—one in which the community’s voice and agency defines the successful

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<sup>1</sup> Travis, J; Western, B. 2021 The Era of Punitive Excess. Brennan Center for Justice. Available [here](#).

<sup>2</sup> See generally, Hinton, E.; Henderson, L.; and Reed, C. 2018. An Unjust Burden: The Disparate Treatment of Black Americans in the Criminal Justice System. Vera Institute of Justice. Available [here](#).

<sup>3</sup> Institute for Innovation in Prosecution, John Jay College of Criminal Justice. 2020. A Vision for the Modern Prosecutor, at 4. Available [here](#).

<sup>4</sup> Pinard, M. (2010). Reflections and Perspectives on Reentry and Collateral Consequences, 100 J.L. & CRIMINOLOGY 1213; CIVIL PENALTIES, SOCIAL CONSEQUENCES (Christopher Mele & Teresa Miller eds., 2005); Marlaina Freisthler & Mark A. Godsey, Going Home to Stay: A Review of Collateral Consequences of Conviction, Post-Incarceration Employment, and Recidivism in Ohio, 36 U. TOL. L. REV. 532 (2005); Michael Pinard & Anthony C. Thompson, Offender Reentry and the Collateral Consequences of Criminal Convictions: An Introduction, 30 N.Y.U. REV. L. & SOC. CHANGE 585 (2005).

outcomes of community safety and where prosecutors do not measure their effectiveness exclusively, or even primarily, by their conviction rates. Rather prosecutors should understand and measure how their power results in improving successful community safety outcomes and reduces the harms felt by individuals, families, and communities that suffer from a culture of punitive excess.

Arnold Ventures' Prosecution [grantmaking](#) supports research to better understand the mechanisms of prosecutorial decision-making and the widespread effects those decisions have on individuals, families, communities, and the criminal justice system at large; and the development of policy and practice guidance to support our vision for transforming the field of prosecution. Our interest in the use of and changes to prosecutorial discretion centers around *five prosecutorial decision-making points*: charging; pretrial release and bail; diversion; plea negotiations and sentencing. For these five key decisions, we will prioritize for funding research that explores how prosecutorial policy and/or decision-making in these areas can advance policy aimed to reduce racial disparities; and/or reduce the footprint and harms associated with pretrial detention, jail, prison or community supervision.

**We will consider proposals that:**

1. **Assess prosecutorial policies or practices that aim to change outcomes around one or more of the five prosecutorial decision-making points;**  
*and/or*
2. **Examine how prosecutors use their discretion at one or more of the five prosecutorial decision-making points;**<sup>5</sup> *and/or*
3. **Document and analyze racial disparities in one of the five prosecutorial decision-making points and efforts to reduce those disparities.**

While we welcome research proposals involving partnerships with larger prosecutor offices, we are particularly interested in research proposals that work with offices of less than 100 attorneys and/or in jurisdictions of less than 500,000 people.

### Commitment to Racial Equity and Diversity

Promoting diversity and equity in research practice is a key facet of AV's mission of maximizing opportunity and minimizing injustice. While racial disparities and bias persist at key decision-making points throughout the criminal justice system, there are too few researchers of color leading studies that are intended to result in successful policies and outcomes for children, adults, and communities of color. We are committed to funding work conducted by research teams that are diverse and not only represent affected communities, but actively include community members in shaping and developing research. We believe that research should be conducted *with*, not for or to, the community.

We strongly encourage research teams (universities, researchers, prosecutors' office staff) to include members of groups who are disproportionately impacted by the criminal justice system. The voices and expertise of practitioners and researchers of color as well as those directly impacted by the criminal justice system are fundamental to finding solutions that will be most beneficial for individuals most impacted and should therefore be actively and meaningfully included in all proposed work. Research teams are encouraged to integrate community and impacted voices into any and all phases of the planning and research process: developing/defining the research questions, methods, outcomes of interest, and in describing the policy implications of the research results.

In addition, AV's commitment to building the field of scholarship means that applicants should propose teams that include early-career researchers and scholars with meaningful and active roles in the work. AV also equally welcomes new potential partners and existing grantee partners to apply to this RFP.

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<sup>5</sup> As a general matter, we are not seeking proposals that focus on issues of forensic or legal practice.

## Statement on Transparency and Research Integrity

AV is strongly committed to the principles of research transparency and integrity, as explained in [our Guidelines for Investment in Research](#). To ensure the utmost in rigor, we require all funded research projects to be pre-registered on the [Open Science Framework](#) website, and all non-confidential materials be open and freely available. In the case of confidential data, proposals should address the feasibility of publicly sharing a de-identified dataset for public use.

## Outcomes and Data

AV's [prosecution research agenda](#) is guided by our [pretrial justice research agenda](#) as well as our values and [principles of pretrial justice](#); our [research philosophy](#); and [our mission](#) of maximizing opportunity and minimizing injustice. We aim to fund research that is both multi-faceted and inclusive and examines the effect of prosecutorial decision making across four key levels of research outcomes: individual, family, community, and system. Funded research should specifically analyze decision-making through analysis of any combination of the five key case points: charging, bail/pretrial release, diversion, pleas, and sentencing.

In response to this RFP, research teams must include *policy relevant research questions* and clearly indicate which proposed outcomes will be studied in the short term (6-9 month follow-up period) and which will be studied in the long term (12-18-month follow-up period).

We recognize that given the specified grant term (see below) and the scarcity of available data in prosecutors' offices, applicant teams may only be able to examine relevant administrative case data. However, special consideration will be given to projects that draw on data relevant to quality of life; economic, residential and social stability; and educational outcomes and opportunities.

## The Five Prosecutorial Decision-Making Points

This section provides a brief overview of each of the five prosecutorial decision-making points. For each of the five points listed below, AV may select multiple proposals for funding. Proposals to examine more than one decision-making point within the same office or a decision point or points among multiple offices are strongly encouraged.

### Decision Point 1: Charging

A prosecutor's first decision is whether and how to file charges in a case. Charging decisions may be influenced by bias, and disparate charging practices often occur by gender and race of the justice-involved person.<sup>6</sup> Racial bias in charging practices can have negative impacts through to sentencing, where Black individuals tend to receive more punitive sentences.<sup>7</sup> Research centered on charging practices is paramount to understanding how and why charging decisions are made, and to identify opportunities that will minimize bias, disparities, and harmful, often unnecessary involvement in the criminal justice system.

### Decision Point 2: Bail Recommendations

During a bail hearing, prosecutors make release or bail recommendations to the court. While judges make the ultimate bail decisions, judicial decisions are strongly determined by the recommendations made by prosecutors.<sup>8</sup> Given the close relationship between prosecutorial recommendations and judicial decisions, it is critical to understand how prosecutors

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<sup>6</sup> McPhail, Beverly A. & DiNittio, Diana M. "Prosecutorial Perspectives on Gender-Bias Hate Crimes" Sage Publications, Vol 11, No 9, Violence Against Women (2005).

Rehavi, M. Marit; Starr, Sonja B. "Racial Disparity in Federal Criminal Sentences." Journal of Political Economy, Vol 122, No 6. (2014). One noted limitation is that this study focuses on federal data, rather than state and local which comprise the majority of criminal cases.

<sup>7</sup> Rehavi, M. Marit; Starr, Sonja B. "Racial Disparity in Federal Criminal Sentences." Journal of Political Economy, Vol 122, No 6. (2014). Kutateladze, Besiki; Tyman, Whitney; Crowley, Mary. "Race and Prosecution in Manhattan." Prosecution and Racial Justice Program, Vera Institute of Justice Research Summary (Jul 2014). Report submitted to the National Institute of Justice.

<sup>8</sup> Phillips, Mary T. 2012. A Decade of Bail Research in New York City. New York City Criminal Justice Agency, Inc.

make bail recommendations; how policies on pretrial release recommendations are crafted and implemented; and what impact they have.

### Decision Point 3: Diversion

Prosecutors may divert a case away from the traditional criminal justice process.<sup>9</sup> Charging and plea negotiations are two such points where diversion may be recommended, though the research on diversion tends to focus on evaluation of programs, rather than an examination of the prosecutor's discretion to divert. More empirical information is needed on what influences prosecutors' decisions to divert; and how offices' policies and practices incentivize or discourage diversion.

### Decision Point 4: Plea Offers

More than 90% of criminal convictions are the result of plea offers, a process that is largely controlled by prosecutors<sup>10</sup> and whereby researchers have revealed persistent disparities in outcomes based on defendant demographics.<sup>11</sup> Given that pleas control the overwhelming majority of criminal dispositions, understanding the mechanisms behind prosecutorial development and use of plea offers is necessary to inform evidence-based practices that encourage early declinations where appropriate, plea offers at the lowest range of sentencing, and use of pleas to reach a just and fair resolution of the case.

### Decision Point 5: Sentencing

Similar to bail recommendations, while judges make the final decisions on sentencing, prosecutors control sentencing through their power to charge, to downgrade an offense, or to pursue sentence enhancements; and the recommendations they make to judges. Similar to the way prosecutors' bail recommendations function, judges will often adopt and implement sentencing recommendations made by prosecutors.<sup>12</sup> The overly punitive nature of sentences and the ripple-effect it has on the entire life of the sentenced person, their families, and even entire communities has been well-documented. Therefore, it is essential to understand the factors that weigh most heavily on a prosecutor's recommendation and the subsequent influence these recommendations have on judicial sentencing decisions.

## Grant Term

Due to the limited timeframes that prosecutors may serve in their respective offices, researchers should thoughtfully consider what projects can realistically be completed. Collectively, there will likely be a need to assess data capacity, monitor data and technology improvements, and develop a research agenda related to what can be accomplished in the short term that establishes or builds upon data and research capacity within the office, and a long-term research agenda that is carried out independently by the researchers. **When submitting a LOI, teams should develop their budget around a feasible timeline that does not exceed 30 months in length.**

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<sup>9</sup> Institute for Innovation in Prosecution, John Jay College of Criminal Justice. 2020. Prosecutorial-Led Pretrial Diversion Series. Available [here](#).

<sup>10</sup> Devers, Lindsey. "Plea and Charge Bargaining: Research Summary." Bureau of Justice Assistance, U.S. Department of Justice. (Jan 24, 2011). <https://www.bja.gov/Publications/PleaBargainingResearchSummary.pdf>.

<sup>11</sup> Berdejo, Carlos. "Criminalizing Race: Racial Disparities in Plea-Bargaining." Boston College Law Review, Vol. 59. (2018).

Johnson, Brian D. "In Search of the Missing Link: Examining Contextual Variation in Federal Charge Bargains across US District Courts." Justice Quarterly, 35:7, 1133-1165 (2018).

<sup>12</sup> Gershman, Bennett L. "The most fundamental change in the criminal justice system: the role of the prosecutor in sentence reduction." Criminal Justice. Vol 2, Iss 43 (1990).

Committee on Law and Justice, Division of Behavioral and Social Sciences and Education. "The Role of the Prosecutor," What's Changing in Prosecution? Report of a Workshop. Ed. Heymann, Philip & Petrie, Carol. Washington DC: National Academy Press, 2001. Chapters 2, 3. <https://www.nap.edu/read/10114/chapter/3>.

Frederick, Bruce, and Stemen, Don. "The Anatomy of Discretion: An Analysis of Prosecutorial Decision-making for Cases Processed by Offices in One Northern County and One Southern County, 2007-2010." Ann Arbor, MI: Inter-university Consortium for Political and Social Research [distributor]. (Apr 21, 2016).

## Initial Response to the RFP

As a first step, respondents should submit a Letter of Interest (LOI). Respondents who want to conduct multiple studies must submit a separate LOI for each study, unless the studies are related whereby information learned in one study directly informs or complements the methods of the next study. If respondents are invited to submit full proposals, they must submit separate proposals that align with the separate LOIs, if applicable. Please refer to the LOI section of this RFP for more information on LOI development and submission. To satisfy the research objectives, project teams may involve partnerships among universities, researchers, justice-involved persons, community members, scholars, policymakers, practitioners, and/or subject matter experts to ensure a highly qualified team. Justice system policymakers or practitioners, community-based organizations, and subject matter experts are also highly encouraged to initiate a potential research study, coordinate the formation of the research team, and apply for funding.

## Application Step 1: LOI Submission

Teams interested in responding to this RFP should first submit an LOI by 11:59 p.m. EST on July 1, 2021. Please send the LOI to [ProsecutionRFP@arnoldventures.org](mailto:ProsecutionRFP@arnoldventures.org) with the subject line, "PROSECUTION RFP LOI." All LOIs must adhere to the specifications. *Failure to meet any of these criteria within the specified timeframe may result in disqualification for further consideration of proposal submission.* AV may contact the project point of contact with questions following the LOI submission. Teams selected to submit full proposals will be notified on or about July 30, 2021.

### LOI Specifications:

- **Page length:** LOIs are not to exceed 3 pages.
- **Cover page:** All LOIs should include a cover page with names of primary investigators, organizational/agency affiliation, contact information, title of proposed project. *Cover page does not count toward total page length.*
- **Research objective(s):** Clearly state your policy relevant research objective(s); how your research plan will address these objectives; why those questions are important to the field; and how your findings may contribute to policy change at the legislative or the office level.
- **Study design and plan:** Provide a brief summary of the study design and describe data necessary to conduct study, listing of independent and dependent variables, and an overview of the analytical strategy.
- **Deliverables:** Provide a brief list of project deliverables. Arnold Ventures encourages research teams to include at least two short, non-technical briefs for a general audience that summarize policies and practices; findings; and policy implications. One brief should be centered on short-term outcomes and the other should be based on long-term outcomes. Respondents are encouraged to explain what additional deliverables will provide the greatest benefit for target audiences, including researchers, community members, criminal justice agency stakeholders, policymakers, and practitioners.
- **Team biographies:** Provide a brief biography for all project team members, specifying their roles and responsibilities for the project. *Team biographies do not count toward the total page length.*
- **Budget:** Specify the overall project cost and project timeline and provide some detail on the anticipated drivers of this cost. Some examples include personnel time, data acquisition, and travel and administrative costs. Offer a budget that reflects the scope of the work proposed. *The budget does not count toward the total page length.* **Please refer to the "Budget" section for more detailed information on budget requirements and guidelines associated with this RFP.**

## Budget

When creating a budget and budget narrative, applicants should keep in mind the following guidelines:

- **If the work is being conducted in one office:**
  - Budget should not exceed \$300,000 when examining *one* decision-making point.
  - An additional \$25,000 can be added for projects examining *two* decision-making points.

- Up to \$350,000 will be awarded for projects answering *three* or more decision-making points.
- In addition,
  - a subaward of up to \$25,000 may be included in the budget to provide support, where needed, to prosecutors’ offices to collect and extract data for the project;
  - a subaward of up to \$50,000 may be added to support a partnership with a community organization to define research goals; collaborate in the research and/or data collection; and participate in analysis and communication of the findings.

We recognize that there may be limitations in generalizing research findings when evaluations are completed in just one office. In recognition of this, Arnold Ventures is interested in the examination of similar policies and practices across multiple offices. Applicant teams are encouraged to partner with two or more offices, when possible, to examine the same or similar prosecutor policies or practices (i.e., decision-making points). The budget guidelines for this are provided below.

- **If the work is being conducted in more than one office:**
  - Budget should not exceed \$350,000 when examining *one* decision-making point in *two* offices.
  - Budget should not exceed \$375,000 when examining *two* decision points in *two* offices.
  - An additional \$25,000 may be added for each additional decision-making point and each additional office.
  - In addition,
    - a subaward of up to \$25,000 may be included in the budget to provide support, where needed, to prosecutors’ offices to collect and extract data for the project;
    - a subaward of up to \$50,000 may be added to support a partnership with a community organization to define research goals; collaborate in the research and/or data collection; and participate in analysis and communication of the findings.

Table 1. Maximum Award Amounts by Number of Offices and Number of Decision-Making Points

# of Offices	# of Decision-Making Points	Maximum Budget	Maximum Subaward for Prosecutor’s Offices	Maximum Subaward for Community Partnership	Maximum Total Award
1	1	\$300,000	\$25,000	\$50,000	\$375,000
	2	\$325,000	\$25,000	\$50,000	\$400,000
	3+	\$350,000	\$25,000	\$50,000	\$425,000
2	1	\$350,000	\$25,000	\$50,000	\$425,000
	2	\$375,000	\$25,000	\$50,000	\$450,000
	3+	\$400,000 + \$25,000 per add’l decision point	\$25,000	\$50,000	\$475,000+
3+	1	\$375,000 + \$25,000 per add’l office	\$25,000	\$50,000	\$450,000+
	2	\$400,000 + \$25,000 per add’l office	\$25,000	\$50,000	\$475,000+
	3+	\$425,000 + \$25,000 per add’l decision point + \$25,000 per add’l office	\$25,000	\$50,000	\$500,000+

**Applicant teams seeking to do work in two or more offices are encouraged to reach out to ([ProsecutionRFP@arnoldventures.org](mailto:ProsecutionRFP@arnoldventures.org)) to discuss the budget needs if they fall outside these guidelines.**

### Application Step 2: Proposal Submission

Project teams selected to submit proposals will be contacted on or about July 30, 2021. Proposals are due by 11:59 p.m. EST on September 8, 2021 and must be submitted via email to [ProsecutionRFP@arnoldventures.org](mailto:ProsecutionRFP@arnoldventures.org) using the subject line “PROSECUTION RESEARCH RFP PROPOSAL.” All proposals must adhere to the criteria listed below. *Failure to meet any of these criteria within the specified timeframe may result in disqualification.* The proposal length is limited to 8 pages. AV may contact



the project point of contact with questions following the proposal submission. If applicants are invited to develop a research proposal, proposal and budget templates and will be provided by AV. Letters of support will be required with proposal materials.

## Project Teams and Arnold Ventures Collaboration

- If a grant is awarded by AV, the institutions affiliated with the grant will be automatically enrolled as partners in the National Partnership for Pretrial Justice (NPPJ), an AV grant-funded community of practitioners whose work combines research, innovative policy development, and advocacy to reform our nation's pretrial justice system.<sup>13</sup>
- If selected for this award, as a stipulation of the grant agreement, AV expects all groups applying together (such as, but not limited to researchers, sub-awardees and prosecutors' offices) to work collaboratively with each other and in partnership with our organization.
- Teams are expected to provide AV with regular updates, enlist us as necessary in solving problems and removing obstacles that may interfere with research objectives, and communicate with us about research results as they are obtained. The designated Primary Investigator(s) will be primarily responsible for organizing the agenda and updates for each call or meeting with AV.

## Project and Award Timeframe

- May 27, 2021: RFP released
- June 10, 2021: Optional conference call at 1:00 EDT
- July 1, 2021: LOIs Due
- July 30, 2021: Notification of invitations to submit full proposals
- September 8, 2021: Deadline to submit full proposals
- Quarter 4 2021/Quarter 1 2022: Notification of award

## Optional Conference Call

AV will answer questions related to this RFP during an optional call on June 10, 2021 at 1:00 EDT. Potential respondents are encouraged to prepare for this conference call in advance by reviewing the research objectives and proposal requirements. We encourage you to RSVP to the call (in case of technical difficulties) by emailing us at [ProsecutionRFP@arnoldventures.org](mailto:ProsecutionRFP@arnoldventures.org). To join the call, please dial 929.205.6099 and use the code: 952.8800.8251, passcode 12345 if required. Respondents are welcome to submit questions in advance by emailing [ProsecutionRFP@arnoldventures.org](mailto:ProsecutionRFP@arnoldventures.org) with "PROSECUTION RFP CALL" in the subject line. Following the call, all questions and responses will be posted on AV's website on or about June 14, 2021. Respondents are encouraged to check the site and adhere to any changes made to the RFP.

## Advisory Board

To ensure a comprehensive evaluation of the proposals, a [Policy and Research Advisory Board](#) that works with our AV Pretrial Team and is comprised of researchers, practitioners, policymakers, and pretrial experts will conduct an independent and objective review of each proposal. The advisory board will make recommendations to AV on awards for proposals that demonstrate quality and rigor based on the following criteria: (1) study design, (2) analytical strategy, (3) feasibility, (4) research expertise, and (5) benefit to the field/advancement of research, practice and policy.

**If you have questions that are not addressed here, please feel free to email [ProsecutionRFP@arnoldventures.org](mailto:ProsecutionRFP@arnoldventures.org).**

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<sup>13</sup> For more information on our existing NPPJ partners, please visit our [NPPJ partners page](#).