

11-3-2021

Holistic Public Safety: Prosecutor-Led Reform through AB 1308

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Holistic Public Safety: Prosecutor-Led Reform through AB 1308



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Prosecutors can promote safety in communities by approaching public safety holistically and by participating in legislative efforts to reform criminal justice. Some prosecutors in California did just that in 2021.

Community Perceptions about Justice Have Changed

At the most basic level, prosecutors are charged with representing all the people of a given community in criminal court. In some cases, even though an individual crime victim would not pursue charges against the person who harmed them, the prosecutor may bring charges nonetheless on behalf of the community and as a representative of the people. Prosecutors do this to send a message about what their community wants to uphold as right and wrong because they are effectively representing the will and **values** of the **community**. Given the importance of community support for the role of the prosecutor, what happens when it becomes clear that the **preferences** of the community have changed over time?



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American opinion [polls](#) have demonstrated widespread [support](#) for criminal justice reform, and many [prosecutors](#) have championed changes. Over the last ten years, especially, [non-governmental organizations](#), [grassroots advocacy groups](#), [other justice system actors](#), and [media outlets](#) have shined a bright light on the role of the prosecutor and the power of prosecutors' offices in ultimately determining criminal justice outcomes. In California, the community-led criminal justice reform movement continues to surge forward with organizers supporting and passing progressive [legislation](#), influencing [elections](#), and garnering an influential place in local [politics](#) and planning. Voters have responded, and prosecutor leaders in [many parts of the country](#) have leaned into these changes by creating more opportunities for diversion, supporting alternatives to prosecution, and by declining to prosecute certain kinds of cases altogether.

Prosecutors Leading Reform Legislation

Some prosecutors in California have also taken an active role in the legislative process, sponsoring progressive legislation designed to reform the laws prosecutors and other justice system stakeholders uphold in the name of public safety. In recent years, alliances between prosecutors and community groups have [produced](#) and [promoted](#) groundbreaking legislation. One prosecutor-led organization founded in 2020, the Prosecutors Alliance of California ([PAC](#)) sponsored three bills in 2021. These bills included: [Senate Bill 299](#), which is expected to be heard next year, [Senate Bill 710](#), which has failed, and [Assembly Bill 1308](#) ("AB 1308"), which has also recently failed in the Senate. AB 1308, the Fair Arrest & Conviction Relief bill was a promising bill that will hopefully be reintroduced next session. [The bill](#) was originally introduced by Assemblymember Phil Ting and co-sponsored by [Californians for Safety and Justice](#), a criminal justice reform organization.

AB 1308 would have extended the effects of a 2019 bill that created automatic criminal record expungements for certain eligible people whose cases were filed after January 1, 2021. To be **eligible**, individuals generally would need to have completed a diversion program or have had their case dismissed. AB 1308 would have made that policy retroactive dating back to 1973.



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In California, **eight million people** have criminal convictions. A criminal conviction makes it more difficult to find a job and housing, to secure public benefits, or be admitted to college. The 2021 bill would have replaced a system that currently requires most of the Californians eligible for expungement to electively initiate the process, retain an attorney, and wait years for their expungement. Those barriers have resulted in **fewer than 20%** of eligible individuals

actually completing the process. Changing the **law** would ease access to community reintegration for individuals especially disadvantaged by and excluded from the system. As long as the law remains as it currently stands, every sentence for charges filed between 1973-2020 in California will continue to amount to a **life sentence**. Ultimately, although AB 1308 and many other proposed criminal justice reform measures in California failed this year, **some** were successful.

Justice Reform Protects Communities

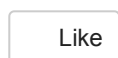
In championing justice system reform legislation, prosecutors can lead the changes their communities are demanding and simultaneously promote public safety. Despite their front-end role, prosecutors know that every person sentenced to incarceration will then proceed through an overcrowded **jail system** or a dehumanizing **prison system**. The **reentry process** will then present barriers to housing, employment, and other necessities, reinforcing the notion that people who accused of or charged with a crime are irredeemable. Those kinds of barriers further reproduce our disappointing recidivism rates, the rates at which people are convicted of a new crime after release from a term of incarceration (over **fifty percent** of people recidivate within three years of release from incarceration). In other words, our failure to ease reentry actually makes us less safe. Furthermore, our failure to allow returning citizens to reintegrate into housing and work betrays a lack of trust in our own justice system. Promoting public safety requires us to reform our approach to reentry, and prosecutors are well positioned to champion these kinds of changes.

We have more work to do. Though California has seen tremendous progress toward combating mass incarceration in recent years, advocates and their prosecutor allies cannot stop applying pressure. We have the technology, the data, and the historical understanding to promote smarter approaches to criminal justice. What may be missing in California now is **political will**. Amid the national **political** atmosphere, the job of promoting criminal justice reform has increasingly fallen on the shoulders of state and **local** agents. Now is the time for local prosecutors to join in on legislative priorities for criminal justice reform.

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