

# Creating a Culture of Racial Equity



Although some prosecutors have emphasized racial equity for several years, to date that focus has primarily targeted external policy changes, such as bail reform. The 2020 protests forced chief prosecutors and line attorneys -- especially prosecutors of color -- to look internally and question their role in a system that inflicts substantial harm on communities of color. This has led to an awakening for some prosecutors, and reaffirmation among others, that issues of racial inequity exist inside prosecutor's offices as well.

Reform-minded prosecutors cannot effectively implement external changes unless their internal office policies promote racial justice. To accomplish this, chief prosecutors should first acknowledge that a line prosecutor's identity can impact how they view their work, and that Black and Brown prosecutors in particular may struggle with their role in a racially disparate system. In addition, elected prosecutors should look beyond diversity in hiring and retention. Prosecutors must establish an office culture that fosters essential conversations about race, and they must commit to examining policy through an anti-racist lens.

The Action Guide below encourages chief prosecutors to implement *internal* policies to promote racial justice and support prosecutors of color. All of these ideas are small but significant steps to ensure that the momentum for reform leads to lasting change.

## 1. Create a system for internal feedback about policies that relate to racial justice.

- A. Form a **policy committee** to generate policy proposals, for the chief prosecutor, aimed at reducing racial inequities in the criminal legal system.
  - i. The committee should include line assistants of different backgrounds and seniority levels; membership should be replaced regularly to allow as many people in the office as possible to participate.
  - ii. The policy committee should create a mechanism for non-members to submit ideas for consideration.
- B. Disseminate and encourage participation in **anonymous surveys** that examine job

satisfaction, including in relation to racial justice. Use the results to implement training and policies.

- i. The survey could inquire, for instance, whether line prosecutors have heard colleagues use racially charged language and if they feel that the office is doing enough to reduce racial disparities in the communities they serve.
  - ii. The survey should be administered regularly to determine whether or not the culture of the office has changed over time.
- C. Hire an **outside diversity and inclusion expert** to conduct focus groups with prosecutors in the office, and gauge how they view the office's efforts to promote racial justice.
- i. Encourage the focus groups to create working documents that propose policy changes to the chief prosecutor.
  - ii. Explain which of the proposals the elected prosecutor is implementing, and why the remaining proposals will not be put into place.
- D. Particularly in larger offices, not all mid-level supervisors may be inclined to implement the chief prosecutor's policies, especially those that run counter to how the office has operated for many years. The chief prosecutor has little way of knowing about internal obstructionists if there is no mechanism in place for junior attorneys to **report internal impediments** to reform. Chief prosecutors should create an anonymous system for whistleblowers to report a supervisor who is obstructing implementation of a new policy.
- i. After the 2020 protests, one chief prosecutor created an email address that only the elected prosecutor can access for this purpose.

## **2. Emphasize the importance of training and education on racial justice.**

- A. Emphasize that the **onus is on all prosecutors**, not just prosecutors of color, to educate themselves and promote racial justice. Although studies have shown that educating white Americans about Black Americans' experiences increases awareness for bias, a [Harvard Business Review](#) article explains that "too often the responsibility of doing this education falls to Black employees . . . White employees and others can take individual responsibility for their own education by tapping into the wealth of resources others have compiled."
- B. Ensure there is training that insists **all staff members call out bias** or racially insensitive remarks, rather than waiting for prosecutors of color to push back when such instances occur. Prosecutors of color may feel particularly apprehensive about raising these claims or speaking up, especially in offices where they are a small minority.
- C. Host regular **training and educational presentations** on the role of race in the criminal legal system. An example of a training curriculum that explains the intersection of race and

the criminal system is the [IIP's Procedural Justice](#) materials. At least some of these trainings should be mandatory. The IIP has also created [Racial Justice in America: Resources for Educating Prosecutors](#). The document is a list of books, podcasts, movies and other items to help educate prosecutors about the history and legacy of racial injustice in America.

- D. Invite **guest speakers**, especially directly impacted individuals, to explain how the criminal system has affected them and their community.
- E. Emphasize the importance of **proximity** between prosecutors and their communities; it is incumbent on prosecutors to engage on a personal level with the people they serve. Although most prosecutors do not come from the neighborhoods disproportionately impacted by the criminal legal system, the chief prosecutor can instill empathy and understanding of these communities in his/her staff. As an example, the chief prosecutor can provide staff attorneys with training and/or require them to participate in a [class with incarcerated individuals](#)
- F. Carefully consider which trainings or events are **mandatory versus voluntary**. On the one hand, making the programs mandatory sends a clear signal that it is a high priority of the office and should be taken seriously. On the other hand, requiring attendance or participation at such events might simply breed resentment. What is important is to carefully consider which approach to take based on the topic of the program, the staff's general receptiveness to the type of training proposed, as well as the chief prosecutor's leadership style.

### **3. Provide space for prosecutors of color to build communities within the office.**

- A. Make conscious and thoughtful efforts to **recruit Black and Brown attorneys**. [As of 2019](#), close to 75% of elected prosecutors are white men. According to the [American Bar Association](#), approximately 86 percent of all attorneys identify as Caucasian/White; 4.7 percent as African-American; 4.6 percent as Hispanic; 2.1 percent as Asian; and 0.4 percent as Native American. Elected prosecutors can work to ensure their staff attorneys represent communities of color by recruiting Black and Brown students in law schools. Specifically, prosecutors can conduct outreach to historically black colleges and universities and Black/Latinx law student association groups.
- B. Support the creation of cultural **affinity groups** within the office.
  - i. Encourage staff to join affinity groups within the office, and provide funding and physical space for them to host meetings and events.
  - ii. Consider having executive staffers join meetings with affinity groups, periodically, to hear about their concerns on race and culture within the office.

- iii. Routinely engage with these affinity groups, rather than limiting contact with them during race-specific events such as Black History Month or in the aftermath of criminal justice-related protests.

#### **4. Reward line prosecutors who consider the impact of their decisions on all parties involved, and the community as a whole.**

- A. Evaluate line prosecutors using **criteria that looks beyond trial outcomes**. Examples of more holistic criteria include whether the prosecutor dismisses or investigates police misconduct when appropriate, successfully diverts an accused individual from prison, and carefully considers the impact of his/her decisions on the community at large.
- B. Embrace the **360-evaluation process**. Line prosecutors should have the opportunity to submit an “upward” review of their respective legal supervisors. This ensures that the executive staff knows the impact mid-level supervisors have on their line assistants’ experiences, as well as any efforts by those supervisors to stymie changes implemented by the chief prosecutor.
- C. Make transparent the process and criteria for **promotion** and career advancement.
  - i. Especially in larger offices, some junior attorneys do not understand how to apply for or obtain a mid-level supervisory position. All positions should be formally announced rather than circulating openings by word of mouth. Small and large offices should accept applications from all interested individuals and should formalize the process (i.e., require a letter of interest and an interview process).
  - ii. Particularly in larger offices, consider collecting data on the race of applicants for management positions and who is ultimately promoted to identify hiring patterns.
  - iii. Promote individuals who attend community events, share the values of the chief prosecutor, and those with a high level of emotional intelligence. Trial and investigative skills are critical and must be considered as well, but talented trial attorneys do not necessarily make effective supervisors.

#### **5. Make sure there are equal opportunities for professional growth for all line prosecutors.**

- A. Use a formalized system to ensure every prosecutor has the opportunity to **second seat** a jury trial or assist in a complex investigation. Permitting senior prosecutors to cherry-pick junior assistants may lead to inadvertent exclusion of prosecutors of color in these opportunities.
- B. Ensure **cases are assigned in a non-arbitrary way**. Carefully monitor practices in which police officers seek out specific line assistants to work on cases with them. Intensely

devoted and hard-working detectives may gravitate toward a line prosecutor who is equally driven. However, these relationships risk leaving out other attorneys from gaining valuable experience. In addition, having the same prosecutor work repeatedly with a specific officer risks bias in how the attorney may view evidence or handle a case.