

# The Thurston County Prosecuting Attorney's Office Criminal Justice Data Improvement Project Proposal Narrative

## a. Description of the Issue

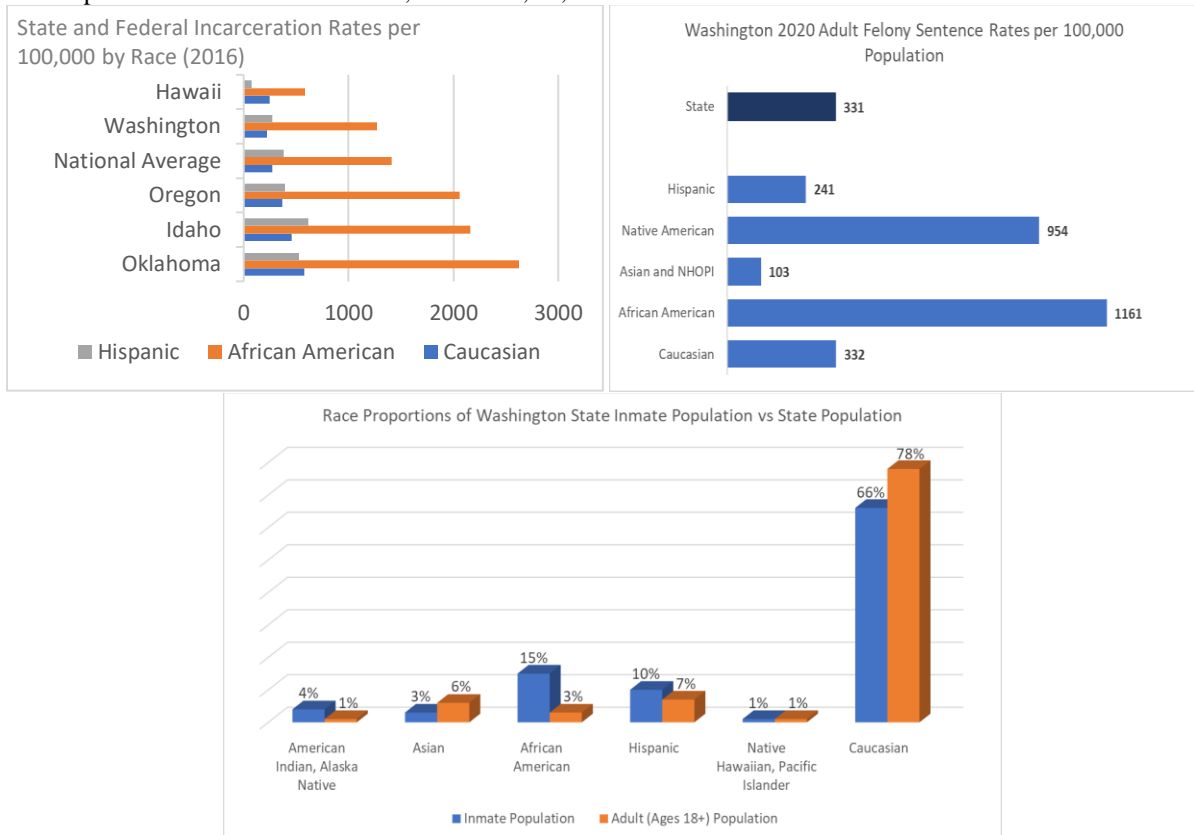
The project seeks to address:

- A. Racial disparity and disproportionality in the Thurston County criminal justice system
- B. Limited data analysis capabilities within the Prosecuting Attorney's Office (PAO)
- C. A lack of transparency and trust between the Thurston County community and the PAO

### Racial disparities and disproportionalities

Despite appearing to have lower rates of racial disparity compared to the national average<sup>1</sup>, minority racial groups remain disproportionately overrepresented in court, prison, and jail populations, relative to their share of Washington State's general population.<sup>2</sup>

From top left clockwise to bottom left, Tables A., B., C.



<sup>1</sup> United States Department of Justice. Office of Justice Programs. Bureau of Justice Statistics. National Prisoner Statistics, 1978-2014.

<sup>2</sup> Table A., source [www.sentencingproject.org/publications/color-of-justice-racial-and-ethnic-disparity-in-state-prisons/](http://www.sentencingproject.org/publications/color-of-justice-racial-and-ethnic-disparity-in-state-prisons/)

The PAO consulted the Washington State Institute for Public Policy (WSIPP), to assess statewide racial disparity within the criminal justice system. WSIPP research suggests that disparity builds at each stage of the system continuum from arrest through parole and may be identified using data. Statewide criminal justice data reveals that while African Americans represent 4.4% of Washington’s adult population, they are systemically more likely to receive disparate treatment in pretrial release decisions such as bail,<sup>3</sup> and African Americans represent:

- 14% of adult arrests <sup>4</sup>
- 14% of adult felony sentences, with a disproportionality ratio of 3.5 <sup>5</sup> and;
- 18% of adult prisoners under jurisdiction of State or Federal correctional authorities<sup>6</sup>

The population of Thurston County is approximately 290,500, with 78% of the adult population identifying as Caucasian, 7% Hispanic, 6% Asian, 3% two or more races, 3% African American, 1% Pacific Islander or Native Hawaiian, and 1% American Indian or Alaska Native. <sup>7</sup>

A review of 2020 data from the Thurston County Corrections Facility (TCCCF) shows that despite representing a cumulative 18% of the County adult population, Black, Indigenous and People of Color (BIPOC) represent 34% of the incarcerated population, African Americans accounting for nearly half of that figure, despite representing 3% of the general population. <sup>8</sup>

The collective impact of racially disparate outcomes and disproportionate contact with the criminal justice system fosters public mistrust of the system and a perception of unfairness, especially among BIPOC communities. <sup>9</sup> Research on the conditions that lead to legal compliance indicates that perceptions of fairness and trust in the authority’s motivation and honesty, are essential to people’s support and acceptance of laws and authority. <sup>10</sup> Based on the

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<sup>3</sup> Preliminary Report on Race and Washington’s Criminal Justice System March 2012, 87 WASH. L. REV. 1 Research Working Group of the Task Force on Race and the Criminal Justice System

<sup>4</sup> Washington Association of Sheriffs and Police Chiefs Crime in Washington 2019 Annual Report

<sup>5</sup> Table B, source: The State of Washington Caseload Forecast Council Adult General Disproportionality Report, FY20

<sup>6</sup> Bureau of Justice Statistics (BJS), National Prisoner Statistics (NPS), 2016; and Federal Justice Statistics Program (FJSP), 2016.

<sup>7</sup> 2019 Washington State Office of Financial Management Small Area Demographic Estimates by Age, Sex, Race

<sup>8</sup> Table C, source: The Thurston County Department of Public Health and Social Services

<sup>9</sup> King, R. (2008). Disparity by Geography: The War on Drug in America’s Cities. WA, D.C.: The Sentencing Project

<sup>10</sup> Tyler, Tom R. 2006. Why People Obey the Law. Princeton, NJ: Princeton University Press

principles of procedural justice, unaddressed racial disparity poses a liability for the PAO by undermining public perception of the criminal justice system as fair, eroding community trust, and hindering prosecutors' credibility and ability to effectively prevent and respond to crime.

Racial disparity is a systemic problem, rather than the result of the actions of any single agency, but there are actions prosecutors can take to address the issue. In 2021, the PAO supported the Board of County Commissioners' proclamation declaring racism a county-wide crisis and is taking action through the work of an internal Equity and Justice group, integration of bias training, participation in the Arnold Ventures Advancing Pretrial Policy Reform Project<sup>11</sup> and the Governmental Alliance on Race and Equity.<sup>12</sup> However, additional work is needed to ensure equitable, just outcomes for all justice-system involved persons in Thurston County.

### **Limited Data Capabilities**

A thorough internal review of PAO data systems and collection practices found that the office faces an array of challenges related to data, including handling, using and displaying growing bodies of data generated through the eProsecutor<sup>13</sup> case management software. In the last decade, prosecutors nationwide have demonstrated the utility of improved data to assist in prosecutorial decision-making by enhancing analytic capabilities through support from contractors or dedicated analytics staff.<sup>14</sup> The PAO is currently limited in its ability to explore similar innovations due to county-wide budget cuts that prevent the office from retaining sufficient resources to support the services of an external contractor or a full-time employee to facilitate collection, analysis and visualization of data.

In the absence of dedicated data analytics staff, the PAO is limited to measuring success using data variables that are easily quantified, tracked, and compared, such as aggregate

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<sup>11</sup> [www.arnoldventures.org/newsroom/arnold-ventures-launches-ambitious-pretrial-reform-project-names-first-five-partner-sites/](http://www.arnoldventures.org/newsroom/arnold-ventures-launches-ambitious-pretrial-reform-project-names-first-five-partner-sites/)

<sup>12</sup> [www.racialequityalliance.org/](http://www.racialequityalliance.org/)

<sup>13</sup> <https://journaltech.com/e prosecutor>

<sup>14</sup> Ferguson, A. G. (2019). The rise of big data policing: Surveillance, race, and the future of law enforcement. NYU Press

incarceration statistics, conviction rates and general crime rates. These measures provide insufficient information about the extent to which the multitude of discretionary steps that precede a conviction are affected by or correlated with the race and gender of the prosecutor, defendant, or victims or by the offense at arrest.

For example, based on the disproportionate racial composition ratio of the TCCF inmate population compared to the general county population, it is reasonable to infer that our criminal justice system is not exempt from systemic racism. However, in the absence of data analytics from all stages of the justice system, the depth and nuance of disparity and disproportionality resulting from the actions of the PAO are relatively unknown. In fact, even if end-stage statistics do not appear disproportionate compared to the general population, there may still be disparate treatment or outcomes occurring at the stage of conviction and sentencing, when compared to the distributions of individuals involved in earlier stages of the justice system.

The professional judgments of criminal justice system decision-makers are enhanced when they are informed by data at various stages of a case.<sup>15</sup> The PAO's data knowledge gap currently exists as an opaque filter, obscuring clear understanding of how the data available fits within the larger scope of the criminal justice system. The absence of comprehensive system data poses a barrier to meaningful incorporation of data analytics into prosecutorial decision-making as it relates to public safety and racial disparity, among other issues that threaten procedural justice. The PAO's lack of wholistic data impedes the office's ability to support community efforts addressing racial disparity, to track internal goals and progress, to promote public participation, advance systemic fairness, and to identify new opportunities for diversion that would allow prosecutors to focus time and resources on the most violent and serious crimes.

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<sup>15</sup> Wright, R. F., & Miller, M. L. (2010). The worldwide accountability deficit for prosecutors. *Wash. & Lee L. Rev.*, 67, 1587

As mentioned previously, the PAO has actively sought opportunities to adopt internal policies to address bias and racial equality and to work with other community organizations to support local efforts to address systemic racism. Access to quality data is integral to enhancing these efforts. In addition, the collection and dissemination of these data would provide support to regional organizations and county justice system partners that work to increase public safety.

### **Transparency and Trust**

In Thurston County public trust in the criminal justice system has noticeably eroded in recent years. Following the tragic death of George Floyd in 2020 and several national high-profile wrongful conviction cases, the PAO continues to grapple with public perceptions of and the reality of unfairness in the justice system.

Operating under increased public scrutiny, the PAO is frequently engaged by constituents and advocacy groups in challenging conversation related to systemic racism. In the absence of comprehensive data analytics, the PAO is limited in its ability to engage in fact-based dialogue regarding the criminal justice system. A qualitative review of 77 constituent contacts received by the PAO between May and August of 2020, indicated a perceived lack of transparency and trust in legal authority, which is a key factor in effective public safety initiatives.<sup>16</sup>

According to principles of procedural justice, a concept identified by researchers as an evidence-based and cost-effective way to reduce crime, citizen perceptions of criminal legal system legitimacy are strongly associated with their compliance with the system.<sup>17</sup> This research indicates that legal authorities can combat violent crime and uphold community safety more effectively when they receive deference and cooperation from the public. Consequently, the PAO views even a minor decrease in community perception of legitimacy as a serious concern.<sup>18</sup>

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<sup>16</sup> <http://cjc.delaware.gov/PDF/Delaware%20summit%20report%20111307.pdf>

<sup>17</sup> Procedural Justice and Legal Compliance, Annual Review of Law and Social Science Vol. 13:5-28

<sup>18</sup> Tyler, T., (2008). Legitimacy and Cooperation: Why Do People Help the Police Fight Crime in Their Communities? Ohio State J. Crim. L. 231.

Currently, the only method for the public to access data collected by the PAO is through public records requests. Of the 5,046 requests received by the County in 2019, \$442,596 in PAO staff resources went toward providing responses. The public cannot access PAO data without adding to county costs, which is uniquely problematic now because staff time is needed to address the overwhelming case backlog caused by the Coronavirus Pandemic. A public data dashboard that could reduce even 10% of those staff hours would greatly benefit the PAO's efforts to address the backlog.

In combination, these circumstances impede the PAO's work to administer justice, especially in criminal cases, in which witness cooperation and input from the community are essential. However, research indicates that trust and legitimacy can be re-built by prosecutors through procedural justice, transparency, accountability, and proactive community engagement.<sup>19</sup>

### **Project Design and Implementation**

The PAO is seeking \$ 283,870.00 over a 24-month period to increase public safety, trust and cooperation with the local community and the criminal justice system by identifying, reporting and addressing the presence of racial disparity and disproportionality through enhanced use of data analytics. Through an open and collaborative approach, this project will strongly contribute to written policy and practice changes designed to achieve fair treatment for all individuals and safer communities throughout the county.

**Project Goals and Outcomes:** Use data and community engagement to reduce crime and increase community safety in Thurston County by:

1. Enhancing PAO data accessibility, analytics, and reporting technology to achieve the following outcomes:
  - a. Prioritize diversion so that time and resources can be focused on violent crime

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<sup>19</sup> Kearns, E.M., Ashooh, E. & Lowrey-Kinberg, B. Racial Differences in Conceptualizing Legitimacy and Trust in Police. *Am J Crim Just* 45, 190–214 (2020). <https://doi.org/10.1007/s12103-019-09501-8>

- b. Establish a data-driven approach to increased use of evidenced-based prosecution strategies that improve prosecutors’ ability to prevent and respond to crime
  - c. Identify the presence of disparity in prosecutorial decision-making; and
  - d. Address key decision points where disparity and disproportionality are identified through development of evidence-based policies for operational change
2. Increasing community trust and transparency between PAO and constituents.

**The PAO will achieve these outcomes through the following objectives:**

1. In Q4 of 2021, the PAO will collaborate with **Measures for Justice (MFJ)** to conduct an independent, objective evaluation of data sourced from PAO case management systems.
2. In Q4 of 2021 the PAO will engage justice system partners and community stakeholders to form the **Community Advisory Board (CAB)** to manage a free public-facing digital data dashboard, or “**Commons**,” designed for the community to engage with the PAO through exploration of data and foster community trust through transparency.
3. In Q4 of 2022, MFJ will **launch the Commons** using PAO case management data, which the CAB will use to break down demographics and other case characteristics that aid in measurement of goals and development of performance indicators. For 12-months MFJ will continue to provide monthly data updates and the CAB will continue to monitor patterns, set goals and provide data-driven recommendations for reform.
4. From Q4 of 2022 through Q4 of 2023 the CAB will use the Commons to identify decision points where concerning trends patterns exist related to racial disproportionality and disparity and compile **data-driven recommendations for reform strategies**.
5. Based on the CAB recommendations, the PAO will establish a **data-driven approach to increase the use of evidenced-based prosecution strategies** by Q4 of 2023.

Under this project, the PAO will allow MFJ researchers unprecedented third-party access to case management data to conduct an independent, objective evaluation of prosecutorial decision

making. MFJ will collect, validate, and publish the dataset to the Commons no less than 12 months from the award date, allowing the PAO and community to use data to track progress toward shared criminal justice goals; track monthly data and long-term trends on case flow through the system; disaggregate data by defendant and victim demographics, case characteristics, and racial, sex, and indigent status disparities; and easily share findings with state legislators, local media, and other stakeholders. The MFJ team will collect, analyze, clean, process, display and warehouse the dataset used to measure project performance monthly. The PAO will:

- Allow MFJ access to a monthly feed of PAO data
- Support MFJ's work to improve data quality and collect new data using eProsecutor
- Permit MFJ to clean PAO data and identify data problems or irregularities; and
- Commit to co-managing the Commons with the Community Action Board.

The data dashboard Commons will contain three distinct areas of monthly measurement:

1. The policy goal tracker will allow the PAO to measure and demonstrate monthly progress toward the goal of identifying and addressing racial disparity.
2. The monthly data section will measure the number of cases reaching key milestones including, but not limited to:
  - Cases received by the office
  - Cases prosecuted and cases rejected
  - Cases that are diverted, by diversion program
  - How long it takes for cases to reach key milestones
  - Cases resolved, by disposition type
  - Cases sentenced, by sentence type
3. The Commons also includes a set of annual performance measures, including:
  - Violent cases received by the prosecutor
  - Racial disparity in violent victimization in cases received by the prosecutor
  - Cases rejected for prosecution and cases dismissed
  - Misdemeanor offenses received by the prosecutor resulting in diversion
  - Felony cases resolved with a trial verdict
  - Time from offense to charging and sentencing
  - Time to disposition in felony cases and misdemeanor cases
  - Nonviolent felonies sentenced to prison and length of imposed prison sentence
  - Nonviolent misdemeanors sentenced to jail and length of imposed jail sentence
  - Drug possession convictions sentenced to prison and jail
  - Rearrest rate three years after the projected sentence end



The Commons will allow users to filter each metric by defendant, victim and case characteristics, to enable a targeted evaluation of patterns to identify data points where racial disproportionality and disparity, among other issues exist. The CAB will take a disciplined approach to using data and research to inform and guide decision-making to seek fair and equal justice, facilitate understanding, ensure open communication, prioritize public safety objectives, and increase confidence and participation in the criminal justice system. The role of the CAB will include the following activities:

- Meet with MFJ to discuss the criminal justice system data that is most important to them.
- Provide input on the data the community is most interested in seeing.
- Identify a racial disparity and disproportionality goal(s) to be tracked publicly.
- Make recommendations to increase use of evidenced-based prosecution strategies that improve prosecutors’ ability to prevent and respond to crime
- Consider additional data sets as goals are met and help pick new goals.

**Project Performance Indicators** (\*Please see Timeline, attached for additional details)

Objective		Timeframe	Measure
1	1.1 of 1	Q4 FY21	Complete 100% of one data infrastructure self-assessment questionnaire
	1.2 of 1	Q4 FY21	Adopt 100% of Data Infrastructure Self-Assessment Report recommendations
	1.3 of 1	Q1 FY22	Deliver a data sample to MFJ that includes 100% of relevant case data from 1/1/2020 - 4/1/2020
	1.4 of 1	Q2 FY22	Implement 100% of recommendations from MFJ for changes to the data entry processes and/or office policies that may cause missing or bad data
	1.5 of 1	Q2 FY22	Identify no less than 5 best practices related to data entry to be implemented
	1.6 of 1	Q4 FY23	Decrease missing data issues and data errors by 50%
	1.7 of 1	2022-23	Extract PAO CMS data in bulk no less than once per month
2	2.1 of 2	2021-23	Convene the CAB & compile monthly data overview no less than 24 times, meet for one hour or more
	2.2 of 2	Q4 21	Identify and record no less than five metrics to track racial disparity and disproportionality
	2.3 of 2	Q4 23	Increase the number of data-driven responses sent to constituents to equal 100%
	2.4 of 2	Q4 23	Decrease the number of community contacts received by the PAO citing issues related to “trust” and/or “racism” as concerns by 50% by the end of Q4 FY2023
	2.5 of 2	2023	Increase CAB community membership by 15% by grant year 2
	2.6 of 2	Q4 23	Decrease the percentage of PAO public record requests processed by the PAO by 10%
3	3.1 of 3	Q1 22	Increase public exposure to PAO data by 100% through launch of Commons
	3.2 of 3	Q4 2022	Produce one findings report based on Commons data that identifies decision points where concerning trends and patterns exist related to racial disproportionality and disparity
	3.3 of 3	Q4 2022	Identify no less than 5 goals to track and reduce racial disparity
	3.4 of 3	Q2 2022	Identify a minimum of 2 key decision points where disparity exists
4	4.1 of 4	Q4 2023	Increase racial disparity goals by 50% by Q4 of grant year 2
	4.2 of 4	2021-2023	Produce eight quarterly progress reports during grant years 1-2

	4.3 of 4	2022-2023	Compile 2 reports consisting of no less than 4 data-driven recommendations for PAO reform strategies
	4.4 of 4	Q4 2023	Complete one annual report describing progress on goals using the initial report and monthly commons data as an established benchmark for measuring progress of goals
5	5.1 of 5	Q4 FY23	Percentage increase in felony cases diverted by prosecutors to diversion
	5.2 of 5	Q4 FY23	Reduce percentage in the number of days that violent crime cases wait to be prosecuted
	5.3 of 5	2022-2023	Percentage decrease in PAO staff time spent on public records requests
	5.3 of 5	Q4 2023	Percentage increase of new data-driven approaches and evidenced-based prosecution strategies adopted in grant year two

**Capabilities and Competencies**

The project will be led by the PAO, with support from MFJ and Thurston County Public Defense (TCPD). County Prosecutor Jon Tunheim has served as the elected Prosecutor in Thurston County for 10 years and a deputy prosecuting attorney with the office since 1989. Mr. Tunheim leads “Innovative Justice,” an initiative that supports creative, collaborative justice solutions in Thurston County by uniting a diverse group that includes criminal justice, and behavioral health partners, elected officials, law enforcement, community resource providers, and members of the public. Innovative Justice contributors reach a wide network of criminal justice involved individuals, BIPOC community leaders and faith-based groups. These long-established connections will provide a foundation for CAB formation. Agency executive-level support includes the Thurston County PAO, PD, Board of County Commissioners, and Courts (letters of support attached).

The PAO and TCPD maintain a long-standing uniquely cooperative relationship and share the belief that systems achieve better outcomes when they operate collaboratively. The offices have partnered on numerous successful initiatives, including diversion programs, the Regional Law and Justice Council and a countywide Law Enforcement Assisted Diversion program. Both are motivated to advance transparency, reduce silos, and increase efficiency.

MFJ is a non-partisan organization with a decade of experience arming communities and practitioners with their own data to create sustainable solutions to systemic problems in criminal justice. Examples include the following:

- Alabama journalists used MFJ data to pinpoint disparities in case outcomes between indigent and non-indigent defendants <sup>20</sup>
- Ohio judiciary used MFJ data to push for data transparency reform <sup>21</sup>
- A Utah prosecutor was able to secure needed resources that had been denied for years from his county by showing his performance through MFJ's data portal <sup>22</sup>

MFJ developed the model proposed in this project to co-create public-facing dashboards with prosecutors and their communities through community engagement, by soliciting public input on what they want to see publicly measured and how. This process allows MFJ, a third-party validator, to build trust in the data, and provides an opportunity for the community and the PAO to use the language of data to find common ground. MFJ piloted this model with the Yolo County District Attorney's Office in California to great success, launching in April of 2021. <sup>23</sup>

In-kind Thurston County staff assigned to the project include (See resumes attached):

Jon Tunheim, Thurston County Prosecutor – Project oversight  
 Christy Peters, PAO Chief of Staff – Project oversight, CAB representative  
 Patrick O'Connor, Director of TCPD - CAB representative  
 The County is currently interviewing candidates for this position, Thurston County Law & Justice Coordinator – Project Management  
 Jessie Knudsen, PAO Community Engagement Specialist – CAB Project Management  
 Wendy Ireland, PAO Office Administrator - MFJ Data Liaison and Case Management Lead

**d. Plan for Collecting the Data Required for this Solicitation's Performance Measures**

The CAB, led by Jon Tunheim, will be responsible for performance and outcome measurement of the group's goals. Working collaboratively, the CAB will use the Commons to identify mutual goals, analyze practices, understand pertinent research, and adopt change strategies in order to improve racially disparate outcomes identified using data. Over 24 months, they will develop and implement a set of policies to guide project goals, using logic models to

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<sup>20</sup> <https://www.alreporter.com/2020/12/08/report-shows-disparities-in-alabamas-criminal-justice-system/>  
<sup>21</sup> <https://www.theatlantic.com/ideas/archive/2020/12/how-a-spreadsheet-could-change-the-criminal-justice-system/617370/>  
<sup>22</sup> [https://www.youtube.com/watch?v=Av0\\_ipmbPy4](https://www.youtube.com/watch?v=Av0_ipmbPy4)  
<sup>23</sup> <https://www.measuresforjustice.org/Commons/yoloda>, <https://www.sacbee.com/news/local/article250450936.html>

examine the purpose, content, and sequence of activities. The CAB will monitor for any potential unintended impacts that arise following the adoption of reforms. Project data will consist of monthly dataset transfers from PAO case management systems to MFJ. The dataset listed under Project Design and Implementation are pertinent to the goals of this project. The CAB will track and identify disparity using this matrix, among other methods.

Decision Point	% of each race	% at preceding decision point of each race	Disparity ratio
Total Population			
Arrest			
Detention			
Prosecution			
Conviction			
a. Probation			
b. Incarceration			

CAB progress reporting deliverables will be managed by Jessie Knudsen and include:

- Quarterly Progress Reports to inform the funder on goals and objective progress tracking
- Annual presentations of data findings
- Quarterly Financial Reports documenting how federal funds are being spent on allowed activities and expenses; and
- Monthly Narrative Reports defining CAB progress towards goals and objectives, including goal/progress tracking and changes in trends and patterns observed.