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# Prosecutorial Campaigns: A Strategy to Mobilize and Engage Communities of Color

Findings and lessons learned from case studies  
of electoral campaigns and post-election  
accountability efforts in Cook County, Illinois,  
and Harris County, Texas

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**DA**



BARSOUM POLICY CONSULTING

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## INTRODUCTION AND EVALUATION QUESTIONS

The Civic Participation Action Fund (CPAF) commissioned two case studies that would describe district attorney (DA) election campaigns and postelection work to hold the newly elected DAs accountable in Cook County, Illinois, and Harris County, Texas.<sup>1</sup> This report synthesizes and summarizes the findings and the lessons learned from the two cases.

The evaluation used the case studies to explore 501(c)(4) grassroots organizations' role in civic engagement and the organizations' ability to influence the voting behavior and continued engagement of members of communities of color.

Although numerous groups and coalitions in both Harris and Cook Counties conducted the DA campaigns and the accountability work, the case studies zero in on two individual grassroots organizations in each site because of the leading roles they played in the work: the Texas Organizing Project (TOP) and the People's Lobby (TPL). However, the case studies also describe the important roles played by partner organizations, coalitions, and the organizing and advocacy field.

The public generally understands the role of their state's governor and state legislators, but there is little to no public understanding or knowledge about the role of district attorneys. Educating the public about DAs and helping connect the community to the DA's office is an important function of 501(c)(3) organizations. But knowing more about DAs' roles, although helpful, may not be adequate to ensure the DA is serving all members of the community—especially low-income communities and communities of color. It may be necessary, therefore, to get the right people elected, which is the work of 501(c)(4) organizations. Both types of organizations are described in this report, but their roles are distinct and governed by different rules and regulations.

### KEY QUESTIONS

- 1** What effect does organizing in support of a candidate for DA have on increasing participation rates among black voters?
- 2** How does engaging in a DA race contribute, if at all, to the strength of key advocacy organizations and to the overall power-building equation in a community?
- 3** What is the relative value of grassroots organizing to election outcomes vis-à-vis other public outreach mechanisms?
- 4** What role can grassroots organizations play in ensuring accountability of newly elected prosecutors?
- 5** What roles can national and local funders play in prosecutor elections?

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<sup>1</sup>"Harris County, Texas, District Attorney Election and Accountability: Building Electoral Power for Criminal Justice Reform" is available at: <https://bit.ly/2PgfqB3>

"Cook County, Illinois, State's Attorney Election and Accountability: From Protest to Power" is available at: <https://bit.ly/2ROoJd7>

**The Texas Organizing Project (TOP)** works to improve the lives of low-income and working class Texas families through community organizing, and civic and electoral engagement. TOP is a membership-based organization that conducts direct action organizing, grassroots lobbying and electoral organizing led by working families in Texas.

In addition, we provide training, leadership development, and public education, putting community organizers on the ground in working communities throughout the state. These organizers identify issues of common concern; recruit, develop and train leaders; and build partnerships with community, labor and policy groups to strengthen neighborhoods across the state of Texas.

With every campaign we run, every issue we fight for and every neighborhood we organize, we focus on creating effective ways to ensure that voices of low income and minority communities are not only heard, but that they have sufficient power to advance the issues.

By mobilizing neighborhoods into public issue-based campaigns and linking those issues to the importance of voting, we have been able to build infrastructure of grassroots community leaders and organize to win tangible results and increase voter participation.

**The People's Lobby (TPL)** is a fast-growing, membership-driven organization devoted to organizing widespread support for public policies and candidates—including people from our communities—that put the needs of people and planet before the interests of big corporations and the very rich. We train leaders to build bases in our communities, organize support for progressive legislation, endorse candidates and take direct action to pressure elected officials and other powerful people to put the interests of people and the planet first.

Our membership spans the greater Chicago area, from the south suburbs through the north shore and northwest suburbs. On campuses across Chicago, our student leaders with Chicago Student Action organize for racial, economic, and gender justice at their universities and beyond. Our Faith Liberation Movement is a collective of clergy and people of faith seeking to transform our economy and society so that justice reigns, rather than the dominant values of greed and individualism.

The time and financial contributions of our members give TPL the independence to set our own agenda.

## A NOTE ON 501(C)(4) ORGANIZATIONS

501(c)(4) organizations are social welfare organizations that may pursue educational, lobbying, and some limited political activities (as a secondary activity).

Issue-based advocacy activities are as follows.

- Unlimited amount of lobbying
- Work on passage or defeat of ballot measures

Partisan political activity is as follows.

- Endorsement of candidates or opposition of candidates
- Partisan voter outreach
- Development of a pipeline of good candidates
- Independent expenditures
- Establishment and/or management of connected political action committees
- Contributions directly or indirectly to state or local candidates that permit corporate contributions
- Conducting of voter registration or get-out-the-vote drives aimed at supporting a candidate or party

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“ It’s the combination of the two components—issue-based advocacy and the ability to engage in the political process—that makes (c)(4) organizations particularly potent in shaping policy outcomes.

ALLIANCE FOR JUSTICE

Alliance for Justice sources:

- **Primer on Social Welfare Organizations: Using 501(c)(4) Organizations for Good**
- **501(c)(4) Strategy and Discussion Guide**

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## POWER-BUILDING FRAMEWORK

Both campaigns resulted in the election of a progressive DA. However, the electoral win was only one outcome among many: it was part of a broader, power-building strategy. A power-building framework contextualizes a win and helps explain:

- **How** organizing groups built power through electoral organizing and postelection DA accountability work
- **What** outcomes the groups achieved beyond the win

Strategic Concepts in Organizing and Policy Education (SCOPE), a Los Angeles–based organizing group, developed a power-mapping tool to help build grassroots power that would lead to social and economic justice for low-income communities of color in Los Angeles. The tool served as a guide for communities on the development of an organizing plan (building power), a campaign plan (exercising power), and a means to assess communities' progress and achievements (having power).

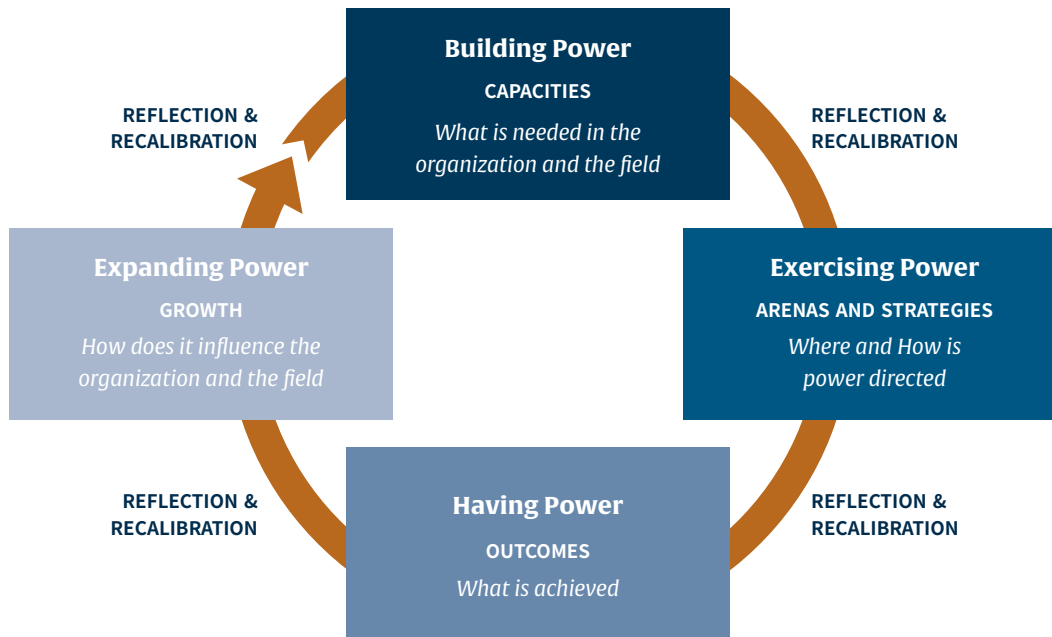
The basic assumption underlying the power-mapping tool is that unequal power relationships in society represent one of the main drivers of adverse conditions in communities. The tool provides a systemic way of understanding power—how and by whom it is exercised—with a view to develop strategies that address the root causes of inequities.

The tool also provides a useful construct for this evaluation because it centers communities and grassroots organizing in building power. This evaluation modifies the framework for assessing how the DA election campaigns and accountability work built power<sup>2</sup>. That modified framework incorporates a new phase—Expanding Power—based on the evaluation findings. Following is a description of each of the phases.

- 1. Building Power (Capacities):** What types of capacities are needed and built in both the organization and the field (e.g., scope and scale of members, coalition partners, expertise, resources, skills, and capacities related to grassroots organizing, electoral organizing, and legislative and administrative advocacy)?
- 2. Exercising Power (Arenas and Strategies):** Where and how is power directed with regard to targets (legislative, administrative, judicial, electoral, cultural, and economic) and actions and activities (e.g., legislative advocacy, administrative and systems change advocacy, lobbying, grassroots organizing and base building, legal advocacy and litigation, electoral advocacy, research and policy analyses, and communications and messaging)?
- 3. Having Power (Outcomes):** What are the outcomes of power (e.g., issue and candidate campaign victories, policy and systems changes, narrative change, and shifts in political dynamics)?
- 4. Expanding Power (Growth):** How do the wins and losses affect the individual, the organization, and the field/infrastructure (e.g. new community leaders, perceptions of the organization as a power broker, a threat, and/or a go-to; the growth of the organization's base and membership, and geographic reach; and growth of the field with regard to number of partners, constituencies, and capacities)?
- 5. Reflection and Recalibration:** How do organizations translate their experiences in each phase into capacity changes and additional tactical and strategic modifications?

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<sup>2</sup>The framework was also informed by the following report: Manuel Pastor, Jennifer Ito, and Madeline Wander. Changing States: A Framework for Progressive Governance. USC Program for Environmental and Regional Equity, May 2016; [https://dornsife.usc.edu/assets/sites/242/docs/PERE\\_Changing\\_States\\_Framework\\_Final\\_WebPDF.pdf](https://dornsife.usc.edu/assets/sites/242/docs/PERE_Changing_States_Framework_Final_WebPDF.pdf).



**The power-building framework emphasizes the following.**

- **Power is grounded in and emanates from communities.** Within an organizing framework, people who are marginalized, disenfranchised, and impacted by inequitable systems and policies are, collectively, the source of power that is being built to cause long-term systemic change and address community conditions.
- **Power building is cyclical.** The external perception of having influence and power does not get built through one single campaign victory or policy win. Rather, it results from an accumulation of wins and the leveraging of losses that become the demonstrated manifestations of an organization’s ability to effect electoral and/or policy change.
- **Capacity building is an ongoing process.** Capacity is the internal organizational and field ability to influence and achieve goals. The framework not only identifies Building Power as the phase in which organizations plan and assess their campaign capacities and needs but also acknowledges that capacity gets built with each campaign and action, including losses. The ability to identify capacities built as well as capacity gaps and needs develops through an ongoing process of reflection and recalibration.
- **Power building is dynamic.** Power is not a constant factor; it can fluctuate—and be lost. The existence of an advocacy and organizing infrastructure or field beyond a single organization helps mitigate the impacts of fluctuations and losses.



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## PROSECUTORS: THE OPPORTUNITY AND THE CHALLENGE

“ Few people in the criminal justice system are as powerful, or as central to prison growth, as the prosecutor. . . . For all their power, prosecutors are almost completely ignored by reformers. . . . They are essentially invisible.

JOHN PFAFF<sup>3</sup>

Prosecutors have a tremendous amount of discretion but very little accountability. Prosecutors are elected—as opposed to appointed—to avoid corruption and to ensure they are accountable to the public.<sup>4</sup> However, incumbent prosecutors win about 95 percent of their primary and general election campaigns, and 85 percent run unopposed in both primary and general elections. “District attorneys are reelected with unfailing regularity,” says John Pfaff, a law professor and criminal justice expert.<sup>5</sup>

Many state polls have shown that voters have limited knowledge of the DA’s role and influence; moreover, many do not know it is an elected position. Pfaff describes that limited knowledge as making the DA “essentially invisible”—and also unaccountable.

This is beginning to change, though. National campaigns led by Color Of Change, the American Civil Liberties Union, and the recently formed Mass Liberation Project are placing a spotlight on prosecutors and supporting communities in the election of progressive DAs and then holding those DAs accountable. Color Of Change amplifies local wins nationally to change the tough-on-crime narrative and ensure prosecutors around the country can no longer run or win on that policy platform.

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<sup>3</sup> John Pfaff. *Locked In: The True Causes of Mass Incarceration and How to Achieve Real Reform*. New York: Basic Books, 2017.

<sup>4</sup> *Ibid.*

<sup>5</sup> *Ibid.*

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## FINDINGS

“ It’s not just that these [incumbent] state’s attorneys lost their seats, but how, that is significant. Prosecutorial elections . . . have traditionally been fought over promises to be tougher on crime. . . . In contrast, last night’s winners campaigned on changing the system and not letting officers off the hook.

CHRISTIE THOMPSON, THE MARSHALL PROJECT<sup>6</sup>

The case studies document how electoral wins occurred in two different counties and how community organizations used the elections to advance criminal justice reform agendas. The cases differ with regard to context, history, and field capacity, but in both cases, grassroots organizing groups were at the center of the campaign wins and accountability work. The power-building framework organizes the findings and ultimately describes how organizations used the DA campaign and accountability work to build power. The following issues are addressed in this section.

- 1. Engaging Communities of Color: How 501(c)(4) Grassroots Organizing Groups Used the DA Election and Accountability Work to Build and Exercise Power**
- 2. Beyond the Win: How 501(c)(4) Strategies Helped Expand and Build Power**
- 3. Lessons Learned: The Challenges with DA Accountability**

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<sup>6</sup>Christie Thompson. “Should Hard-line Prosecutors Be Nervous?” The Marshall Project, March 16, 2016; <https://www.themarshallproject.org/2016/03/16/should-hard-line-prosecutors-be-nervous>.

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## 1. Engaging Communities of Color: How 501(c)(4) Grassroots Organizing Groups Used the DA Election and Accountability Work to Build and Exercise Power

“ Republicans spent around a million dollars. There was no more than three hundred and fifty thousand dollars spent on our side, and no television—the Republicans probably spent half a million dollars on TV. Our [DA] campaign was focused on getting folks to turn out, and we knew that a lot of them don’t have time to watch a bunch of TV. They’re working two jobs’ they’re not engaged in the political process anyway, so if they see a commercial, it means nothing to them . . . TOP was out talking to people, labor was out talking to people—it’s the one-on-one engagement that makes the difference.

AMBER MOSTYN, HARRIS COUNTY, TEXAS, DA CAMPAIGN DONOR, IN AN INTERVIEW WITH HARPER’ S MAGAZINE <sup>7</sup>

One-on-one engagement makes the difference when it comes to mobilizing voters—especially low-propensity voters. After a devastating 2010 electoral cycle and millions of dollars of investment, Amber Mostyn and the Texas donors’ table, in discussion with TOP, recognized they needed to support year-round organizing if they were going to build longer-term electoral capacity and infrastructure in the state for local and statewide races.

Grassroots organizing groups occupy a unique space in the advocacy field, and those that were also 501(c)(4) entities played even more important roles in engaging communities of color around the DA. Some of their unique strategies were the following.

- Transformational, not transactional, strategies
- Leveraging of movement moments
- Transitioning to accountability

**Transformational, not transactional, strategies:** Organizing groups such as TOP and TPL play unique roles in electoral work because they focus on transformative rather than transactional strategies to engage communities of color rather than reducing them to a vote. The groups’ transformative approach had two key characteristics.

- **Leading with the issue.** Organizers led with the issue and not the candidate. Year-round organizing helped community members prioritize criminal justice reform. Grassroots organizations then positioned the progressive candidate as a vehicle for reform. They mobilized communities of color to vote by aligning their self-interest with their vote. The Texas Organizing Project refers to it as “issue centered GOTV [get out the vote].”
- **A means to an end.** Within an organizing framework, a vote is more than an isolated action. A vote is one step in a process fostering the voter’s personal agency to bring about changes in criminal justice issues that affect them directly. For grassroots organizations, the election was a means to build their members’ leadership, expand their base, advance policy goals, and build power. By integrating electoral organizing into a power-building framework, it is changed from a transactional tactic to a transformational strategy.

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<sup>7</sup>Andrew Cockburn. “Texas Is the Future: Can Democrats Reconquer the Lone Star State?” Harper’ s Magazine, March 2017; <https://harpers.org/archive/2017/03/texas-is-the-future/>.

**Leveraging of movement moments.** The DA elections in both counties were taking place in tumultuous contexts. Both counties had controversial and embattled incumbent DAs. And both counties had experienced high-profile killings of black youth: Laquan McDonald, shot by a Chicago police officer 16 times, and Sandra Bland, found dead in a Texas county jail cell where she had been held because she could not post bail. Those events turned into movement moments that put a spotlight on criminal justice abuses and system failings and then led to mass protests and civil unrest.<sup>8</sup> Organizing groups played unique and important roles in leveraging those moments because the groups had bases and the capacity to engage in (c)(4) electoral strategies.

- **Readiness.** As base-building membership organizations, grassroots groups were able to mobilize their communities around these movement moments. They used them as organizing tools to expand the conversation to the DA election and to channel people's anger to the polls.
- **Candidate education.** Organizing groups effectively highlighted the failings of incumbent DAs and mobilized communities against those DAs while also educating the communities on the role of the DA and promoting the progressive candidate. (Color Of Change also played an important role in providing digital organizing and communications support against those sitting DAs.<sup>9</sup>) Often, 501(c)(3) organizations educated communities about the role of the DA. The 501(c)(4) organizations independently focused on candidate education and get out the vote.

Even though the sitting DAs were embroiled in controversy, the organizations did not face easy electoral victories. Research shows that when an incumbent faces a challenger, the incumbent wins 65 percent of campaigns in smaller jurisdictions<sup>10</sup> and 80 percent in larger jurisdictions. Organizing groups played a critical role in educating voters about both the importance of the DA as an elected position and the candidates. That was particularly important in the Cook County Democratic primary because three candidates were on the ballot.

- **Building political capital.** Organizing groups played an important role in mobilizing communities of color to vote in the DA elections. Both Cook and Harris Counties reported increased voter turnout among communities of color and low-propensity voters. The electoral win enabled them to build political capital they then carried into the accountability work with the DA. Both Kim Foxx of Cook County and Kim Ogg of Harris County sought endorsements by community groups, and both of them acknowledged the critical role those groups played in their election.

"I give great credit to the activists on the ground in Chicago," said Foxx in an interview with *The Appeal*. "They weren't marching for me. They were marching for accountability from my predecessor, and that changed the whole game. Because inasmuch as I was beating the drum, I was a first-time candidate—not particularly well funded—talking about a system that people hadn't paid attention to in Chicago. . . . So, after Thanksgiving of that year, the ball game changed. I became a contender, and again, not because of my steadfast efforts—I was in it and I was fighting—but because of the efforts of the activists on the ground."<sup>11</sup>

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<sup>8</sup>Both Cook and Harris Counties experienced high-profile killings of black youth: Laquan McDonald was shot by a Chicago police officer 16 times; Sandra Bland was detained for a broken taillight, placed in a Texas county jail because she was unable to post bail, and three days later was found dead in her cell.

<sup>9</sup>Color Of Change developed a theory of change that leverages movement moments by means of a four-pronged strategy: respond, build, pivot, and scale.

<sup>10</sup>John Pfaff. *Locked In: The True Causes of Mass Incarceration and How to Achieve Real Reform*. New York: Basic Books. 2017.

<sup>11</sup>Josie Duffy Rice and Clint Smith. "A Conversation with Kim Foxx." *The Appeal*; Justice in America episode 16, February 20, 2019; <https://theappeal.org/justice-in-america-episode-16-a-conversation-with-kim-foxx/>.

**Transitioning to accountability.** Organizing groups harnessed the energy of the electoral campaign win for accountability advocacy. Residents who had become energized to canvass for the candidate and vote were now eager to engage with her. Organizing groups built community capacity and created the opportunities for that engagement.

That said, holding the newly elected DA accountable was challenging for an array of reasons, including but not limited to:

- The culture of the office
- The existing politics
- The entrenched and complicated criminal justice system
- Powerful opposing forces

In Harris County, an additional challenge arose because TOP had not cultivated Ogg as a candidate. In fact, Ogg beat TOP's endorsed candidate in the primary. The political capital generated from the win did not overcome all the challenges, but it did give TOP standing and influence the group would not have had without the electoral win.

Traditional and new organizing strategies were deployed in the accountability work to keep people committed and engaged.

- **Capacity building.** Communities learned about the criminal justice system—its various components, its decision makers, and the role of the DA—through the use of popular education methods, systems mapping, and power mapping.
- **Leadership development.** New community leaders were identified and recruited through the election campaign. Those directly-impacted individuals were trained to help organize their communities on criminal justice issues and the DA accountability work.
- **Direct engagement with the DA.** Public forums, community meetings, and symposia were organized to bring residents face-to-face with the DA to build a relationship with her and hold her publicly accountable for campaign commitments. The meetings were opportunities for residents to communicate their experiences with the criminal justice system and to hear directly how the DA was addressing their concerns.
- **Court watching and data collection.** Residents were trained to attend and document bond court hearings as a way of gathering information about bail amounts being set.
- **Inside-outside strategies and direct action.** Organizing groups and their partners met regularly with the DA to collaborate on shared goals. They cultivated other champions within the system. And they worked to build external public will in support of the DA and the reforms she was attempting to advance; at times, they organized direct actions against her office when necessary.

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## 2. Beyond the Win: How 501(c)(4) Strategies Helped Expand and Build Power

“ [I]n the present hyper-partisan climate there is a growing understanding that the basic decisions about policy are made, for all intents and purposes, in the election; once candidates become legislators or chief executives they rarely stray from ideological orthodoxies. For those groups with strong policy orientations, it’s counterproductive to stay out of the electoral process.

ALLIANCE FOR JUSTICE<sup>12</sup>

The grassroots organizations that are the focal points of these case studies integrated electoral organizing into their theory of change and their approach to building power. They also structured themselves organizationally and legally to facilitate such work. In fact, several of the organizing groups formed as 501(c)(4) entities. The 501(c)(3) organizations worked to develop a more-informed public and a positive policy environment, while the 501(c)(4) organizations focused on electoral wins. The political capital gained through electoral wins and the threat of electoral action were used to advance advocacy and accountability goals (**Figure 2**).

These groups understood how—as part of broader, grassroots organizing strategies—electoral strategies can advance policy change and build power. Electoral wins were sustained and institutionalized through the accountability and governing work.

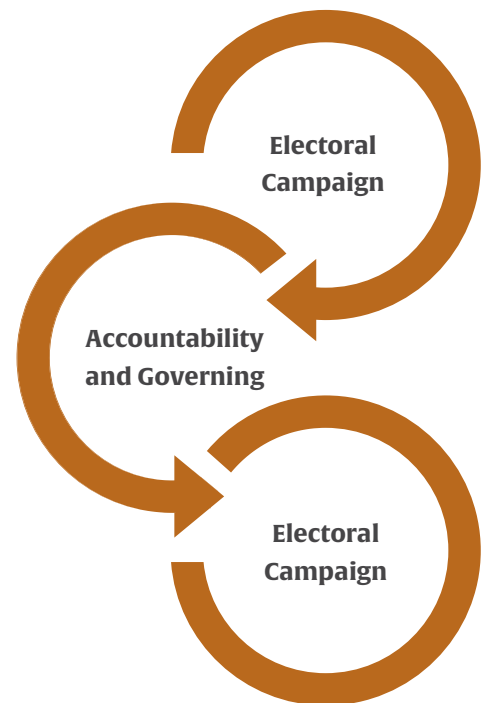
Communities in both counties were able to achieve significant policy wins—particularly in the areas of bail reform and increased data transparency. And beyond the wins, the case studies also documented important outcomes that reflected a growth, or expansion, of power.

Two findings emerged.

- Expansion resulted from both the electoral win and the accountability work.
- Expansion resulted on the individual, organizational, and field/infrastructure levels.

Those outcomes directly influence the ability to sustain wins, advance further change, and build power. The addition of the Expanding Power element to the power-building framework captured those important outcomes. The following table gives a high-level summary of the outcomes achieved and the outcomes that increased with each phase of work. The discussion after it explains how power was expanded on each level: individual, organizational, and field/infrastructure.

**Figure 2**



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<sup>12</sup>Alliance for Justice. Primer on Social Welfare Organizations: Using 501(c)(4) Organizations for Good, 2016; [https://www.bolderadvocacy.org/wp-content/uploads/2016/09/AFJ\\_c4-Primer.pdf](https://www.bolderadvocacy.org/wp-content/uploads/2016/09/AFJ_c4-Primer.pdf).

	INDIVIDUAL	ORGANIZATIONAL	ORGANIZING & ADVOCACY FIELD
ELECTORAL CAMPAIGN	<p>Individual agency: influence of vote</p> <p>Mobilization: voting behavior</p>	<p>Base and leadership: new members and leaders reached; new constituencies and geographic regions reached</p> <p>Influence: electoral efficacy demonstrated and political capital gained</p> <p>Capacity: new organizing and criminal justice policy partners</p>	<p>Electorate: number of new and low-propensity voters increased</p> <p>Partners: new collaborations and alliances for campaign</p> <p>Infrastructure: increased field capacity to outreach, educate, and mobilize communities of color to vote</p>
ACCOUNTABILITY	<p>Individual agency: influence of advocacy</p> <p>Engagement: participation in accountability work</p>	<p>Base and leadership: a base engaged on criminal justice issues; new leaders of color developed from directly impacted communities</p> <p>Influence: threat of electoral consequences leveraged to advance policy reforms; institutionalization of community role and voice at decision-making tables for governing</p> <p>Capacity: new staff and policy partners; seen as go-to on criminal justice issues</p>	<p>Multiconstituency base: engagement across a range of constituencies on criminal justice issues</p> <p>Partners: new collaborations, coalitions, and alliances for criminal justice advocacy</p> <p>Infrastructure: development of local criminal justice infrastructure that links and leverages organizing, (c)(4) strategies, policy advocacy, and legal advocacy</p>

### Individual level

Community members' level of understanding of the role of the DA as an elected official within the criminal justice system increased through the intensive education that constituted part of the campaign. One community member poignantly said to a canvasser in Cook County, "I have seen that name—Anita Alvarez—on my court documents but did not know who she was."

That understanding of the criminal justice system deepened postelection through ongoing education, direct engagement with the DA, and hands-on experiential activities such as court watching and systems mapping. It was an ongoing capacity-building process. Community members translated their new knowledge to both action and agency: first with their votes and then with their activism.

Organizing groups link personal agency to voting behavior. Organizing groups play a critical role in helping residents find the value of their votes: first, by connecting their votes to the issues those residents care about; second, by connecting their votes to the candidate's victory; and third, by connecting the policy reforms that resulted from their advocacy to the newly elected official back to their votes.

Organizing groups connect those dots to make sure that communities of color, which have been disenfranchised and electorally disempowered, feel the impact of their vote. Advancing a sense of personal agency is key to advancing a culture of voting and to building power from the ground up.

### **Organizational level**

The organizations themselves also grew in terms of their bases, leadership, capacities, and political influence.

**Expanding the membership base and leadership.** Electoral organizing focused on breadth and scale and helped grassroots organizations maximize the number of voters reached. Grassroots organizing, however, focused on depth in terms of the quality of relationships formed with community residents and the development of community leaders. The combination of both helped identify new members to expand those organizations' bases and develop leaders on criminal justice issues.

TOP reported it was able to build a base of 24,365 people who support the organization's criminal justice platform and have taken some action on it. TPL was able to reach into previously unorganized suburban regions of Chicago. And both organizations were able to build new leadership—particularly among men of color who have been directly impacted by the criminal justice system.

TOP also expanded the base of support for criminal justice reforms by bringing in new constituencies such as immigrant communities because the organization framed the issue as the criminalization of communities of color, with immigrants experiencing it through raids and detention.

**Expanding organizational capacity.** The organizing groups had never worked on a DA campaign, although they had electoral experience and had worked on other candidate campaigns. They needed to build their knowledge of the role of the DA in order to be able to engage residents in both the campaign and the accountability work. Their partnerships with policy and legal advocacy organizations, as well as their use of power mapping to identify the various influencers in the system, helped them build their knowledge over time.

The accountability work proved to be more staff intensive than the organizations had anticipated. It was especially true for TOP because criminal justice was a relatively new issue for that organization, and as the work spread to two new counties, it had to hire new staff. The expansion into criminal justice issues helped TOP raise new resources that supported replication of the Right2Justice campaign and the necessary staff in Bexar and Dallas Counties, as well as the hiring of a researcher to provide power mapping and policy research support for all of the Right2Justice campaigns across the three counties. As a result of the expanded capacity, TOP was able to support the election of progressive DAs in each of the two new counties in 2018.

**Expanding political influence.** Organizations gained political capital as a result of the DA electoral victories, which enabled them to institutionalize some of their influence. For example, they were given important roles on transition committees and regular access to the DA, as well as commitments from the DA to regularly meet with the community.

The electoral victory was also an indicator of the organizing group's electoral efficacy, which enabled them to wield the threat of electoral consequences. The greater the number of victories, the more valued the organization's endorsement and the more political influence the organization has postelection. The desirability of endorsement also enables the organizing group to garner important policy commitments from the candidate and to shape the terms of the debate. All of that positions the grassroots organization as influencer and power broker.

The electoral wins also seemed to shake up the criminal justice system—an opaque and complicated system whose elected decision makers have long gone unchallenged. TPL noted after the election of Foxx, it became able to influence



a critical chief judge to implement bail reforms. Prior to the election, that judge had been impervious to advocacy and reforms. TPL attributes the shift to the electoral victory.

The organizations and their coalitions were also seen as go-tos on criminal justice issues. The DA staff often commented that they would turn to policy partners to help sort through technical issues and contact grassroots organizations in order to listen more closely to community priorities and get access to community members.

The political capital and the threat of electoral consequences were important in the accountability work. For TPL, they were necessary parts of the group's calculus with regard to the approach to accountability, which they called co-governing. The group sought to leverage its electoral gains to co-govern with the DA.

"Kim Foxx is accountable to a different group," said Josie Duffy Rice in a podcast episode about electing progressive prosecutors. "She is not trying to please law enforcement at all costs. She is not reliant on them for reelection. She is reliant on people on the ground, and I think this really matters . . . what we saw in Chicago is a changing calculus on accountability. Instead of prosecutors' wanting to make sure they please the police union, they are now trying to make sure they please the people who are actually in these communities that are so affected by mass incarceration. And that's huge."<sup>13</sup>

### Field/infrastructure level

The grassroots organizing groups did this work in partnership with other organizing, advocacy, and community-based groups. Their collective work on criminal justice reform, in the DA election, and on postelection accountability helped grow the electorate, build new partnerships, strengthen existing ones, and build a local infrastructure for criminal justice advocacy.

**Expanding the electorate.** Elections provide episodic electoral moments to reach more people than through issue organizing alone. The DA election was an opportunity to link issue organizing on criminal justice reform to an electoral opportunity. Organizing groups used the election to reach new voters and new geographic regions. Harris County saw 97,460 more Latino votes than in the 2012 presidential election, which boosted the share of Latino voters by 3 percent. In addition, organizers' work resulted in 90,000 new or sporadic voters' going to the polls. In Cook County, the 36.2 percent turnout in the Democratic DA primary exceeded the 35.8 percent turnout during the 2008 Obama presidential election.

**Expanding partners and allies.** Organizing groups partnered with a range of organizations, including labor groups, other organizing and community-based groups, policy and legal advocacy organizations, and national organizations such as Color Of Change and the American Civil Liberties Union. Many of those new relationships formed as a result of the DA work.

The collaborations gave access to a range of skills, knowledge, and technical capacities for both the campaign and the accountability work. They also formed a broad base of support for reforms beyond a single organization.

Not all of the partners participated in the electoral work. Some provided policy guidance to inform the agenda, and others focused solely on education. Both types of organizations, though—operating within their legal lanes—helped advance policy and political agendas.

The new partnerships with policy and legal advocacy organizations were especially important for the accountability work because those organizations provided technical support on criminal justice issues. The legal advocacy

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<sup>13</sup> Josie Duffy Rice and Clint Smith. The Appeal. Justice in America Episode 7, "The New Progressive Prosecutors?" September 5, 2018; <https://theappeal.org/justice-in-america-episode-7-the-new-progressive-prosecutors/>.

organizations also served to educate community members on the judicial system and trained them as court watchers to track bail reform. The relationship also connected policy and legal advocates to a base of support for their policy goals, gave them entrée to the DA, and for some, provided a means to influence the criminal justice system at the local level rather than just the state level. All of the policy and legal advocacy organizations were 501(c)(3) organizations, so they did not participate in the electoral work; the 501(c)(4) organizations conferred an electoral threat to their policy advocacy they previously had not had.

**Building Infrastructure.** The relationships formed the basis for a criminal justice infrastructure that helped expand the base, promote coordination on shared policy goals, and build capacity and influence.

In Harris County, TOP formed the Right2Justice coalition to help coordinate the work that would put a progressive DA in office, hold the person accountable, and maximize efforts within a fragmented criminal justice field. Building a coalition comprising a range of stakeholders and constituencies has now become part of TOP's approach, and the organization replicated that approach in criminal justice reform work in Dallas and Bexar Counties, which led to 2018's election of two more progressive DAs.

In Cook County, the DA campaign and accountability work fostered new relationships and strengthened existing ones in the rich field of grassroots organizations and it also catalyzed new power-building structures. For example, the BlackRoots Alliance, a multi-issue network of black-led organizations with a racial-equity lens, is now in the process of becoming a formal 501(c)(3) organization so it can advance its policy and public education goals. The alliance is also creating a 501(c)(4) entity with a political action committee so as to build electoral power in the black community.

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### 3. Lessons Learned: The Challenges with DA Accountability

#### **Limited 501(c)(4) Partisan Political Campaign Capacity**

501(c)(4) electoral activities are a limited, but critical, element in building power, and when integrated into a broader strategy, they strengthen and add teeth to other advocacy strategies. The scarce availability of resources for those activities, however, is a challenge to expanding (c)(4) capacity and electoral work in the field.

Harris and Cook Counties varied in field capacity with regard to the number and range of organizing and advocacy groups as well as the number of (c)(4) organizations. In both counties, (c)(4) organizing groups reported being stretched thin when it came to partisan political campaign capacity.

The organizing groups that were central to these case studies were high-functioning organizations with extensive electoral experience and that had played important roles in the DA candidate campaigns and accountability work. They are currently working with partner organizations in their regions to provide technical assistance and support on becoming (c)(4) entities and build their skills at effectively deploying (c)(4) resources that will strengthen the overall capacity of their field.

Electoral capacity was also important to criminal justice advocacy. 501(c)(4) grassroots organizing groups infused an electoral strategy and a threat into the criminal justice field, which had been previously lacking. As the effort to elect progressive DAs continues across other jurisdictions, 501(c)(4) capacity will be needed in order to elect DAs, hold them accountable, and pass policy reforms.

#### **Limitations of an Electoral Threat Accountability Approach**

Unlike legislative advocacy, the work with the DA focused more on systems change and administrative advocacy.

It required more-nuanced, less-adversarial, relationship-building strategies grounded in cultivation of the DA as an inside champion. This was at times a challenge for organizing groups and their members, who were accustomed to direct actions in service of radical rather than incremental reforms.

When 501(c)(4) organizations took a hardline accountability approach, wielded with the threat of electoral consequences, they were placing the burden of reforms on the DA alone—without taking into consideration other decision makers who influence the criminal justice system.

Community members struggled to understand the complexity of the criminal justice system and the relative role and responsibilities of the DA within the system. Early on, that affected their ability to identify appropriate targets for policy change, such as judges, other agencies, and other local decision-making bodies. DA staff reported that they often had to spend time educating community members about what was in the DA's purview.

The DA's staff resented accountability approaches, which wielded the threat of electoral consequences. Those strategies undermined the relationship with the DA and the DA's staff, and they could be counterproductive in advancing reforms. Organizations that wanted to achieve desired policy goals and address the complexities of the criminal justice system had to educate themselves and their members about the system and devise more-nuanced strategies. That education process continues, but grassroots groups are now identifying individuals and agencies that are roadblocks to the DA's reforms.

In addition, such strategies ultimately collide with the political and cultural realities of the criminal justice system. Much of what prosecutors and judges do is based on their discretion, which has traditionally been influenced by a broader, law-and-order, tough-on-crime culture that existed in both counties and has been fostered by previous DAs. Changing prosecutor tactics is one thing, but changing an entrenched culture is a much bigger challenge that accountability strategies alone are insufficient to tackle.

A newly elected DA enters office and inherits an existing staff of prosecutors who do not necessarily share the DA's reform-minded goals. Those career prosecutors are not influenced by electoral power or accountability strategies, but they can influence and limit the impact of the newly elected DA. Not surprisingly, many newly elected progressive DAs have had to clean house—or fire many of the existing prosecutors upon taking office.

Foxx worried that a year into her tenure, the culture in her office had changed only superficially. Prosecutors were implementing her policies because they had to—not because they believed in them.<sup>14</sup> “[t]he institution isn’t going to change if the culture doesn’t change, and we don’t spend enough time talking about the difficulty of culture change and how if you don’t put the time, money, and resources into making sure that the institution as a whole changes, not just the leadership, again, as we’ve seen in this country, the next person can come back in and whatever gains you’ve made are lost,” said Foxx in an interview on Justice in America, a podcast produced by The Appeal.<sup>15</sup>

However, that does not diminish the importance of an electoral threat as an accountability strategy. DA candidate recruitment and development strategies are still lacking, and grassroots organizations are usually left to choose candidates who are the lesser of two evils. Moreover, there are no clear standards on what constitutes a reform-minded or progressive DA. Under such circumstances, the threat of electoral consequences is important and necessary.

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<sup>14</sup> Steve Bogira. “The Hustle of Kim Foxx.” The Marshall Project. October 29, 2018; <https://www.themarshallproject.org/2018/10/29/the-hustle-of-kim-foxx>.

<sup>15</sup> Josie Duffy Rice and Clint Smith. “A Conversation with Kim Foxx.” The Appeal. Justice in America Episode 16, February 20, 2019; <https://theappeal.org/justice-in-america-episode-16-a-conversation-with-kim-foxx/>.

## **Planning for Governing**

Elections are a means to build power, but that power is institutionalized by governing. Strategies that focus only on electoral wins squander the political capital gained through the wins. And strategies that focus only on accountability are less effective at institutionalizing power.

The governing part of the work did not come as naturally to organizing groups and their communities. Governing required a deeper understanding of the system and more-nuanced inside-outside strategies. Working with elected officials requires more time and more staff attention and energy. And electoral campaigns have traditionally received far more focus and funding, leaving accountability in governance an unfunded afterthought. Both TOP and TPL thought about and integrated some level of planning for governing work—regular access to the DA and a seat at her table—into their respective campaigns, but it was a constant balancing act. Communities had to calibrate the amount of pressure to put on the DA in order to advance their policy goals while also maintaining their relationship with her and providing her support when needed.

As the organizing groups worked with the DA during the governing phase of the work, their efforts reflected a range of strategies on a spectrum, with accountability on one end and support on the other. That range of strategies provided increasing levels of pressure to effect the criminal justice reform goals.

Both TOP and TPL recognized the importance of governing—and how they approached governing is still a work in progress—but their experiences teach important lessons.

## **Co-Governing**

TPL redefined its accountability strategy as co-governing. The term itself is an acknowledgment that the strategy is about institutionalizing the role of communities in the governing process. TPL sought to work with the newly elected DA to provide communities a regular voice in decisions and reforms.

Co-governing is also an acknowledgment that a DA needs support along with accountability and that if the DA did not get support from the community, she might get it from other, competing, and powerful interests and succumb to their agendas.

Co-governing included regularly meeting with Foxx, collecting data to track progress, and using the media and direct actions to hold her accountable. But it also included publicly praising her for progress she made and giving her public support so as to create public will for reforms she is attempting to institute. Co-governing also—significantly—included building members' capacity to engage with the DA and her staff to identify problems and propose solutions. The approach is still a work in progress, and TPL is learning from its experience in working with the DA. But TPL purposefully recognizes governance as an important phase of the work that requires unique strategies and new capacities to advance its policy goals.

The tracking and release of data represented one of the most-effective strategies TPL deployed as part of its co-governing. Through court watching, community members were trained to attend and monitor bond court hearings, gather information about defendants and how prosecutors are using their discretion, and document what judges are deciding in cases and in bail amounts being set. Data collected during the court watching provided the basis for a February 2018 coalition report that highlighted the progress and the shortcomings of various bail reform measures.<sup>16</sup>

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<sup>16</sup>Coalition to End Money Bond. "Monitoring Cook County's Central Bond Court: A Community Courtwatching Initiative, August–October 2017," February 27, 2018; [http://www.chicagoappleseed.org/wp-content/uploads/2018/02/Courtwatching-Report\\_Coalition-to-End-Money-Bond\\_FINAL\\_2-25-18.pdf](http://www.chicagoappleseed.org/wp-content/uploads/2018/02/Courtwatching-Report_Coalition-to-End-Money-Bond_FINAL_2-25-18.pdf).

TPL and its partners made important progress in advancing their goal of increasing transparency through the DA office's release of data. Access to data is critical to a co-governing strategy because it creates an objective standard of tracking progress and identifying problems.

Foxx also saw the value of data as a means of building trust and transparency with the community. She hired the office's first chief data officer and in an unprecedented move, made public six years of felony crime case data. She liked to say: "People lie; numbers don't lie. You can see trends; you know we are not hiding behind anecdotes. That is how you get so much bad policy. And criminal justice is driven by anecdote."<sup>17</sup>

Community groups were able to use the data to both hold Foxx accountable and support her. They partnered with a firm to analyze the data, and they then made it the foundation for their report cards. The reports generated media attention, elevated the progress Foxx had made, and pointed out areas that needed more work.<sup>18,19,20</sup>

### **Systems Approach**

TOP targeted the DA as one of three elected officials. The election of a progressive mayor, DA, and sheriff would create what TOP referred to as a progressive trifecta of executive leadership to "anchor broad, sweeping, progressive change." It also gave TOP influence at the city and county levels. The election of that progressive trifecta, followed by the appointment of a like-minded police chief, provided Ogg with political will and internal support to advance and implement reforms. "If we exhibit good, solid governance over the next four years, we will prove that Democrats in leadership positions provide superior service," said Ogg during an interview with the *Texas Observer*. "I think that represents a threat to the Republican stranglehold on Texas. If we're successful in reducing the crime rate and making a safer Harris County, it'll be hard for other urban areas to resist making similar changes."<sup>21</sup>

TOP's electoral strategy planned for the governing phase of the work and created the internal champions that were all aligned with TOP's community-developed criminal justice platform. They were all accountable to the community, and if they could not advance a reform through the DA, they could put pressure on the sheriff and/or the mayor.

TOP's accountability approach was not a black- and-white accountability strategy. TOP recognized that candidates needed support—especially in a state like Texas, where being progressive is relative and officials can easily be pushed away from a progressive agenda.

TOP applied its rigorous endorsement process to ensure candidates were committed to the community's policy agenda and to negotiate commitments from candidates such as roles for community members, regular meetings, and public forums. Once a candidate is endorsed, TOP views the relationship as a partnership both during the campaign and during the governing phase once elected. However, that does not preclude TOP from taking action against an elected official when needed.

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<sup>17</sup> Josie Duffy Rice and Clint Smith. "A Conversation with Kim Foxx." *The Appeal*. Justice in America Episode 16, February 20, 2019; <https://theappeal.org/justice-in-america-episode-16-a-conversation-with-kim-foxx/>.

<sup>18</sup> Reclaim Chicago, The People's Lobby, and Chicago Appleseed Fund for Justice. *In Pursuit of Justice for All: An Evaluation of Kim Foxx's First Year*, December 2017; <https://www.thepeopleslobbyusa.org/wp-content/uploads/2017/12/Equal-Justice-for-All-A-Report-on-Kim-Foxxs-First-Year-ForPrint.pdf>.

<sup>19</sup> "New Bond Policy Could Cut Jail Population by Half." *The People's Lobby*, September 18, 2017; <https://www.thepeopleslobbyusa.org/cook-county-bond-reform/#more-522>.

<sup>20</sup> "A Step in the Right Direction: Felony Prosecution." Reclaim Chicago, The People's Lobby, and Chicago Appleseed Fund for Justice, February 2018; [https://www.thepeopleslobbyusa.org/wp-content/uploads/2018/06/05-2018-Report-Kim-Foxx\\_FINAL\\_Print.pdf](https://www.thepeopleslobbyusa.org/wp-content/uploads/2018/06/05-2018-Report-Kim-Foxx_FINAL_Print.pdf).

<sup>21</sup> Sam DeGrave. "The Interview: Harris County District Attorney Kim Ogg." *Texas Observer*, July 26, 2017; <https://www.texasobserver.org/the-interviewkim-ogg/>.

Two recent examples demonstrate TOP's approach to governing by electing multiple systems leaders. In the first example, the approach helped place a check on the DA, and in the second, it helped advance significant reforms.

- **Placing a check on the DA.** In early 2019, Ogg requested a \$20-million budget increase in order to hire an additional 102 prosecutors. TOP and its partners vehemently opposed her request, considering it counter to her commitment to reduce incarcerations and advocating against it.<sup>22</sup> A newly elected Democratic majority of the Harris County Commissioners Court denied her request and instead nearly doubled the budget of the public defender's office.

TOP had also endorsed newly elected chief judge of the Commissioners Court Lina Hidalgo, who had unseated a longtime Republican incumbent. The county judge role is traditionally a managerial, bureaucratic position, but Hidalgo campaigned on issues affecting the community such as criminal justice reform. "We're not sure that hiring 100 more prosecutors is going to move the ball in terms of reform," said Kiran Khalid, Hidalgo's communications director. "Criminal justice reform is something the judge really, really believes in. We want to make sure any moves we make in that sphere are just very thoughtful."<sup>23</sup>

- **Advancing Reforms.** Harris County recently implemented a significant bail reform plan, passing an administrative rule that would permit 85 percent of people arrested on misdemeanor charges to automatically qualify for release on no-cash bonds. The move meant people would no longer be incarcerated because they cannot afford bail. The new bail rule was a response to a lawsuit that had declared the county's bail system unconstitutional but that—under the previous, Republican-dominated Commissioners Court—had dragged on for years at a cost of \$9 million to the county despite ongoing advocacy from TOP and criminal justice advocates. The new bail rule was crafted with the input and support of both the DA and the sheriff.<sup>24</sup>

After every judge who opposed bail reform lost reelection in 2018, the new judges led the settlement of the lawsuit and announced passage of the new bail reform within their first month after taking office. The bail reform victory was described by a former judge as "a prime example of transforming campaign promises into practical policy."<sup>25</sup>

In both of those instances, the policy outcomes were influenced by the elected officials TOP had endorsed and had helped elect along with its partners: a new slate of 15 judges, a County Commissioners Court judge, the sheriff, and the DA.

"Elections have consequences, and this is why TOP devoted so many resources to elections to build the progressive infrastructure that made this bail plan possible," said TOP's Tarsha Jackson in a statement soon after the bail reform passed. Jackson, a Houston-based organizer at the time, catalyzed and led TOP's criminal justice work; she has since left to run for city council in Houston's District B. "Since TOP's founding, we've been guided by the belief that organizing people of color around deeply-felt issues and connecting them to elections would result in policy wins that substantively change the lives of Black and Latino communities."<sup>26</sup>

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<sup>22</sup>Roxanna Asgarian. "DA who ran as a reformer says she needs 100 more prosecutors." *The Appeal*, February 8, 2019; <https://theappeal.org/da-who-ran-as-a-reformer-says-she-needs-100-more-prosecutors/>.

<sup>23</sup>Ibid.

<sup>24</sup>Gabrielle Banks. "Harris County judges unveil drastic new plan for releasing defendants on no-cash bail." *Houston Chronicle*, January 18, 2019; <https://www.chron.com/news/houston-texas/houston/article/Harris-County-judges-to-unveil-drastic-new-plan-13541189.php>.

<sup>25</sup>Ibid.

<sup>26</sup>Tarsha Jackson, "TOP Applauds Bail Reform Plan in Harris County"; <https://organizetexas.org/top-applauds-bail-reform-plan-in-harris-county/>.

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## CONCLUSION

“ The issues and [organizing] strategies are woven into the electoral work with leadership development. That is how we do electoral work. The payoff is people don’t see the election as the end of anything; it is just a point in an ongoing struggle and contestation for power, and that is different when you have civic engagement efforts, even if they have integrated voter engagement with issues.”

DANIEL ESPINOSA, FORMERLY OF PEOPLE’ S ACTION, NOW WITH THE MASS LIBERATION PROJECT

501(c)(4) grassroots organizing groups play a critical role in base building, candidate and issue campaigns, and postelection accountability and governing work. Few other types of organizations can play such a comprehensive role. Such groups’ fundamental operating principle is that influence is grounded in their base, and power is grounded in community and built from the bottom up.

Elections are a means to build the base and build power. DA elections, in particular, were effective in engaging communities of color because they were closely aligned with the criminal justice issues that have long affected those communities. Organizing groups made that critical connection.

Year-round organizing forms the infrastructure for campaigns. Campaign losses are harnessed to build capacity for the next campaign, and campaign wins are harnessed for accountability, governing, and policy change so as to entrench justice.

A growing tide of grassroots organizations is driving the elections of progressive DAs and targeting incumbent DAs. The message that Harris and Cook Counties, along with other first-generation DA elections, are sending is that candidates can no longer campaign and win on a so-called law-and-order agenda. As a December 2017 Washington Examiner op-ed noted, “‘Tough on crime’ used to win votes. Now it’s all about criminal justice reform.”<sup>27</sup>

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<sup>27</sup> Jon Haggerty and Arthur Rizer. “‘Tough on crime’ used to win votes. Now it’s all about criminal justice reform.” Washington Examiner, December 12, 2017; <https://www.washingtonexaminer.com/tough-on-crime-used-to-win-votes-now-its-all-about-criminal-justice-reform>.

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## FUNDER RECOMMENDATIONS

### **1. Support the development of long-term infrastructure for ongoing power building in communities of color by building the capacity of 501(c)(4) grassroots organizing groups.**

Regular investments in 501(c)(4) grassroots organizing groups, as opposed to episodic infusions of resources with each electoral cycle, can enhance such groups' readiness and ability to leverage movement and electoral moments. Power and influence are built over time, are based on accumulations of wins, build on losses, and attend to ongoing, year-round base building. Grassroots organizations played a central role in DA campaigns and accountability work and were able to use their electoral gains for the governing phase of the work. Partner organizations relied heavily on those grassroots organizations because of the organizations' ability to conduct partisan electoral organizing, but the work stretched their resources.

### **2. Support accountability and governing activities.**

Campaign victories are diminished by a candidate who does not or cannot advance a progressive policy agenda. Funding frequently ends with the campaign, and organizations do not have sufficient capacity or resources for the governing and accountability advocacy functions. The governing institutionalizes power and sustains campaign wins. Organizations had campaign strategies but lacked sufficient readiness and strategies to support the DA in progressive governance, often leaving them with only policy change demands and the threat of electoral consequences. Therefore, governing strategies must be developed well in advance of a campaign victory, and they should be embedded in the campaign itself and funded after the election is over.

### **3. Support the development of a robust ecosystem of organizations that can engage in electoral campaigns, policy and systems change advocacy, accountability, and governing work.**

Each phase of the work required a specific range of skills and strategies that no single organization possessed. That included 501(c)(4) electoral organizing, but also a range of important 501(c)(3) capacities such as base building, outreach and education, policy and legal advocacy, communications and messaging, and research and analysis. Supporting the development of a robust ecosystem, gives organizations access to such a range of capacities and helps stretch and leverage limited (c)(3) resources. It also provides an infrastructure to facilitate collaboration between organizations on a shared power analysis and strategy to shift power away from traditional and corporate power brokers in the criminal justice system.

### **4. Strengthen the electoral capacity of the criminal justice field.**

In addition to the important scope of 501(c)(3) organizations, it is also important to develop capacity to engage in electoral work, which is the purview of 501(c)(4) organizations. The criminal justice system is unique in that it has a defined set of elected decision makers such as attorneys general, district attorneys, sheriffs, and judges. That raises a strategic funding opportunity to advance reforms with electoral strategies. In addition, two needs emerged with regard to DAs.

- First, the need for progressive candidate development and pipeline programs
- Second, support for newly elected DAs in navigating often hostile environments and in developing the needed skills and capacities to govern once in office