

**Jon Wainwright:** Hello and welcome to another episode of CAP-impact's 'Policy Change in Practice'. I'm Jon Wainwright and today we are talking with Ana Zamora who is the Criminal Justice Policy Director for the ACLU of Northern California. Ana, thank you so much for joining us today.

**Ana Zamora:** Hi Jon, thanks so much for having me.

**JW:** So before we dive into the core of everything, I love your job title, so what does a Criminal Justice Policy Director do?

**AZ:** You know, at the ACLU, we have, we work on many different issue areas. Everything from immigration to LGBTQ rights, free speech, the whole gamut. And so each of those issue areas, we do work in the courtrooms, we do work in the Legislature, we do public education. We utilize all the tactics. So as the Criminal Justice Director, I'm responsible for envisioning and implementing a criminal justice program outside of the courts. So the work outside of the courts is kind of my- my area.

**JW:** Gotcha so that's educational campaigns-

**AZ:** Yup.

**JW:** -and all of that fun stuff.

**AZ:** Exactly.

**JW:** Which kind of leads us to this 'Meet your DA' campaign that you have been working on. What was the inspiration for that?

**AZ:** It's a really great question. It's evolved I would say, but I'll start from the beginning. So, in around, lets say, I think it was around 2010. 2010. I was very squarely working to end the death penalty in California and we were exploring- you know in California, the only way to end the death penalty is through a ballot measure.

**JW:** Gotcha.

**AZ:** So we were exploring the possibility of bringing this to the voters. But at that time, it wasn't the right time for a variety of reasons.

**JW:** Yeah.

**AZ:** So we were, we were thinking 'what else can we do?' We were very very frustrated by how often California District Attorneys were seeking the death penalty in their counties in individual cases. We were... it just didn't make sense to us because of course executions had been on hold, they're still on hold.

**JW:** Yeah.

**AZ:** It just seemed like this ridiculous thing and at the end of the day, you know, the District Attorney has the sole decision making power to decide when to pursue the death penalty or when to not. So we were like 'this needs to change' and so that's when we decided to start focusing in on District Attorneys, so that was kind of the- the initial- the initial angle.

**JW:** The first spark.

**AZ:** The first spark- right. Well, since then, as you know, California has kind of, we've seen a sea change in criminal justice reform. Voters are really excited and concerned about the criminal justice system and see a need for change and so the result is that we have passed a number of pretty exciting ballot measures. Everything from reforming Three Strikes to Proposition 47, which, you know, changed some low level nonviolent crimes from felonies to misdemeanors. So this is an exciting time. So-

**JW:** But I feel like part of why it's exciting and why there's such success too is. You've got a Governor who is committed to changing this stuff too, I think that makes the lift a little easier when you've got someone with a war chest like his and throw that behind a couple reform measures.

**AZ:** Sure, leadership is a really critical ingredient to social change. But I would also just say that the Governor was put in a very difficult position because of California's prison overcrowding problem. I mean, there was literally a direct mandate from the United States Supreme Court that he had to do something about it or - or he was going to be in a lot of trouble. So that really was a catalyst for change in California. No doubt about it. But the thing is, is that catalyst for change - that mandate to do something about the prison population was well received by the voters through the - evidenced by the passage of these ballot measures.

**JW:** Gotcha.

**AZ:** So the problem, though, is that when these ballot measures were in their campaign phase, nearly every District Attorney, elected District Attorney, in California publicly

opposed. And the ones that didn't, just stayed out of it, they remained neutral. Well the ballot measures passed, and in- we have a report out that shows that in the nine largest counties in California- these are counties with more than one million people- all four ballot measures passed with the exception of Prop. 47 in San Bernardino. All of them passed and these District Attorneys publicly opposed them. So what we have is misalignment on where the voters are on these issues and where the elected District Attorneys are. So the 'Meet your DA' Campaign is trying to figure out how we can better align the two towards reform.

**JW:** Okay. So one of the things I want to try to suss out is, and misalignment is a good word for it. How do you get that kind of misalignment? You mentioned out of the ten biggest counties in California, nine of them voted for these, but they all had DAs that didn't. Where do we start seeing that? What are some of the causes?

Is it just that, you know, the DA election is in June and the ballot measure is in November so people are thinking differently? Is it that they're different years entirely? What are some of the, if you can get to that, the reasons for why there's this disconnect?

**AZ:** So, I think that there is a disconnect for the simple reason that most people in California and across the country simply don't know what a District Attorney is, what their job is, that they're an elected official, let alone who their District Attorney is. And that is a - that simple fact is where we came up with the name of the campaign "Hey, Meet Your DA." Literally we're starting from the very beginning, we want to introduce people to this very powerful elected official.

**JW:** So, and I think maybe we've talked about it at the top line level a little bit. Why is it important for someone to know who their DA is? We've kind of touched a couple reasons, right? But, diving in to those, why is it so important to really know who it is?

**AZ:** Sure. Well, I mean, first of all, I would just from a foundational standpoint, it's really important, we're part of a democracy, it's really important that we participate in the democracy by voting and since the District Attorney is an elected official, I would encourage people to learn about their District Attorney for that fact.

**JW:** Know your elected officials...

**AZ:** Know your elected officials, right. So that's the foundation, but another layer is that the District Attorney is a local elected official. And local elected officials are always kind of the lowest on the totem pole in terms of who we pay attention to.

Historically, you know, everybody votes for the President and then as you move down the ballot, there's a lot of drop-off and the District Attorney - and the Sheriff for that matter - are two locally elected officials that experience a lot of drop-off.

But the third reason, and this is really at the core of why those of us in the criminal justice reform movement are paying attention to District Attorneys, the vast majority of criminal cases are resolved through the plea bargaining process. That means that the District Attorney is playing the judge and the jury in those instances and so they have tremendous power to really change peoples' lives.

They can choose, you know, to give someone a second chance, they can choose a diversion program, over filing criminal charges and putting someone away. So because of this vast power, it is critical that voters are paying attention to these - to what their District Attorney is doing, participating and ensuring that their District Attorney is aligned with their viewpoints.

**JW:** Gotcha. And that kind of gets at something I want to touch on here which is- I mean- how much, and maybe there is evidence of this and maybe there isn't but, how much can a District Attorney kind of, drag their feet on some of these criminal justice reform measures? Like Prop. 47 comes to mind, and I think, you know, you've got this new thing where some of these felonies have been bumped down to misdemeanors, but could a DA go about and still say....'Well I still want to pursue the felony as opposed to the misdemeanor punishment.'?

**AZ:** Well so our criminal laws are very, very complicated. Very complicated. The California Penal Code is -

**JW:** Massive.

**AZ:** - is massive and a lot of twists and turns, lots of loopholes, so because of this, coupled with the sheer power that District Attorneys hold when it comes to making decisions in criminal cases, I would argue that there's a lot of different ways that they could navigate the criminal code in order to get to a - to a place where they want to be.

So, so yes is the answer to your question. I think, in the aftermath of the passage of these ballot measures and how they have been implemented, I think how District Attorneys have implemented them at the local level is really telling. Some District Attorneys have embraced them more, some District Attorneys have really utilized the various loopholes in the complicated nature of the criminal code to really try to keep California where it was as opposed to advancing California as per will of the voters.

**JW:** Gotcha.

**AZ:** And I would also just say, that in the aftermath of the passage of these ballot measures, there have definitely been attempts by District Attorneys and law enforcement, generally, to roll them back in the Legislature. We have defeated those efforts but now they are definitely making an attempt to go to the ballot and roll them back.

**JW:** I think- I think there's its not out for signatures yet, but it probably will be soon. There's another one to redefine some of those.

**AZ:** Yes, there is another ballot measure and District Attorneys are absolutely at the helm or it, some District Attorneys are at the helm of it, and it is specifically seeking to roll back provisions of Prop. 47, Prop. 57, and AB 109 - which was the realignment legislation passed in 2011.

**JW:** Gotcha. Okay, we've mentioned this before, California had a very, very bad overcrowding problem and now I think it's just a very bad overcrowding problem. It's still a major issue that we are grappling with. How much of this feet dragging on the part of some DAs is contributing to this problem of prison overcrowding?

**AZ:** I think it's huge. I think this whole idea of mass incarceration which has led to prison overcrowding here in California is, you know, is a multifaceted problem. It's absolutely a result of the changing laws. You know, through the 80s and 90s, we established mandatory minimum sentencing and many other harsh sentencing. So the changing of the law absolutely contributed, but the individuals who are charged with applying those law and making decisions are the District Attorneys and so there's a direct correlation between mass incarceration, overcrowding, and prosecutorial decision making. Absolutely hands down.

**JW:** Okay, so I want to shift gears a little bit here. We've talked a lot about the DA as- in their capacity in the criminal justice process. Clearly it sounds like there's some overlap with policy process too though. What kind of is the role of the DA in that public policy process?

**AZ:** That is a really good question, I think it's up for debate. You know, the job of a District Attorney first and foremost is to seek justice in criminal cases, they represent the people. They represent us in the criminal courts. But they're also experts, you know, they- they know the criminal code and they have tremendous power so I think they

should participate in public policy conversations both at the local level, and the state level, and even at the national level. I think that's important and I think elected officials are policy makers, the District Attorney is a different type of elected official because they're not only policy makers.

**JW:** Yeah, I means there's also a- an element here that we've touched on, it seems policy implementer.

**AZ:** Exactly. Exactly. But they know, they see how policy works at the local level and I think effective public policy is constantly being evaluated and tweaked, I mean, that's why we have a legislative process.

**JW:** Yeah.

**AZ:** So, I think District Attorneys are a really important voice in the public policy making arena. I just- they also have to represent the will of their voters and be open to innovation and be open to change and acknowledge that failure, the twin failures of things like the war on drugs and mass incarceration and acknowledge that we should be using better tools to cure crime, right?

**JW:** Yeah.

**AZ:** It's not about fighting crime, because, it's about curing crime. Right? And about understanding what are the factors that make crime occur and let's tackle those as opposed to tackling individuals.

**JW:** Yeah. Alright, well this has been incredibly insightful. Thank you so much for taking the time to talk with us.

**AZ:** My pleasure, thank you for bringing this topic to light. I appreciate it.

**JW:** Yeah, we'll have to talk again soon.

**AZ:** Absolutely, thanks.