

INTRODUCTION

The killing of Michael Brown, Jr. and the subsequent decision not to indict his killer, former police officer Darren Wilson, sparked a nationwide conversation around the carceral state and the need for reform. Progressives across the country began running on platforms that focused on major public safety reforms, including in the offices of prosecuting attorneys. The phrase “Progressive Prosecutor” is often used to describe prosecutors who understand how the criminal justice system has been used in unfair and racist ways and has resulted in injustices, especially to defendants of color.¹ This is a label that has frequently been applied to Wesley Bell during his tenure as St. Louis County Prosecuting Attorney. Bell ran against incumbent St. Louis County Prosecutor Bob McCulloch, promising an alternative to the tough-on-crime philosophy that had long prevailed in the region. Bell’s promises of collaborative reform drew support from many community members, including community organizations that knocked doors, made phone calls, and led campaigns to bring change to the prosecutor’s office. Following that effort, Bell secured a victory in the 2018 Democratic primary and general election.

Since forming the Prosecutor Organizing Table (“the Table”) in 2020, our organizations have seen a gap between what prosecutors have promised and what they have prioritized while in office. We aim to hold local prosecutors accountable to their promises of progressive policies through public education, evaluation, and sustained pressure.

The organizations that make up the Table include: Action St. Louis, ArchCity Defenders, Forward Through Ferguson, Freedom Community Center, Missourians to Abolish the Death Penalty, Organization for Black Struggle, and Roderick & Solange MacArthur Justice Center.

In August 2022, the Table began reviewing Wesley Bell’s tenure as prosecutor. The timeline below highlights the lengthy process we undertook to gather this information, and the results. Some of these results are a far cry from the progressive promises made to community members. For instance, as of July 09, 2024, the jail population in St. Louis County reached the exact same level we saw in 2018, Bob McCulloch’s last year in office.

Early on, Bell cast himself as a progressive looking to make fundamental changes to the way that the St. Louis County Prosecutor’s office operated. In his first few months in office, Bell gave a speech in which he proclaimed, “You are never truly free if your brother is in chains” and called the criminal justice system one of the “greatest ills of our society.”² He promised changes to address some of the key issues that plague the criminal legal system, including

overcharging, lack of transparency, reliance on cash bail, and criminalization of poverty, drug use, and mental health illness.

This document provides a summary of the full report which covers the degree to which the five-year record of the St. Louis County Prosecuting Attorney’s office under Bell’s leadership aligns with, or departs from, those initial promises. The report includes an assessment of data from Bell’s office and freedom of information requests, independent research, as well as lived experience from people impacted by the carceral system. Following that assessment, we have included recommendations for shifting policies and practices towards a survivor-centered approach to restorative justice to decarcerate and address violence at its core. The full report is available online at www.prosecutorwatchstl.org

The Table evaluated Bell along the five key metrics mentioned in our first publication, “Prosecutor Watch – An Introduction.” These are: 1) transparency, 2) charging decisions, 3) pretrial detention, 4) convictions and sentencing, and 5) commitment to community-based alternatives. Over the course of the last two years, members of the Table engaged Bell’s office through various channels, asking questions and seeking data across all five key metrics. Our report-back from these communications – including the responses provided by Bell and his staff – are reflected in our top findings.

We note at the outset that some of the issues and questions raised by the Table went unanswered. In our view, this raises serious concerns about the office’s commitment to prosecutorial transparency.

COMMUNICATION TIMELINE

Data Collection: St. Louis County Prosecuting Attorney's Office

In August 2022, the Prosecutor Organizing Table began assessing the policies and practices of St. Louis County Prosecuting Attorney Wesley Bell's office. The following is a timeline of engagement between the Prosecutor Organizing Table and the St. Louis County Prosecuting Attorney's office.

August 8, 2022: The Prosecutor Organizing Table requested data via email from Samantha Stangl, then Director of Data and Strategic Partnerships for the St. Louis County Prosecuting Attorney's office.

September 26, 2022: Stangl responded to a Table member request with a three-page Google document.³

April 11, 2023: The Table reached out via direct communication to request an in-person meeting between the Prosecutor Organizing Table and the St. Louis County Prosecuting Attorney's office.

August 11, 2023: The Table confirmed via email that a meeting between the Prosecutor Organizing Table and the St. Louis County Prosecuting Attorney's office would be scheduled for August 24, 2023.

August 24, 2023: The Table met in-person with the St. Louis County Prosecuting Attorney's office to present a list of priorities and questions.

September 14, 2023: The Table reached out via email to request data on their policies, procedures, and practices as they relate to the Table's five key metrics. The email also contained a request for a meeting with Danielle Smith, Director of Diversion for the St. Louis County Prosecuting Attorney's office.

October 2, 2023: The Table reached out via email to request data on diversion practices as well as a meeting with Danielle Smith, Director of Diversion for the St. Louis County Prosecuting Attorney's office

October 3, 2023: The Table sent an email to Wesley Bell, St. Louis County Prosecutor, which requested information, outlined demands, and named a timeline for response from the St. Louis County Prosecuting Attorney's office

November 20, 2023: The Table reached out via email to request a response to the Table's demands from October 3, 2023.

December 13, 2023: The Table reached out via email to request a response to the Table's demands from October 3, 2023.






January 3, 2024: Andrea Harrington, Deputy Chief of Staff for the St. Louis County Prosecuting Attorney's office, called a member of the Table to notify the group that a response from the office was incoming.

January 10, 2024: The St. Louis County Prosecuting Attorney's office sent an email with their official response to the Table's demands.





OUR FINDINGS

The Prosecutor Organizing Table raised a number of issues regarding the policies and practices of Bell's office as they relate to the Table's five primary metrics. Some of these issues were raised as questions and others were presented in demands from the Table with a request for response from the Prosecuting Attorney's office.












We present all of these issues below in the form of questions for consistency and clarity. We have categorized the responses we received from the St. Louis Prosecuting Attorney's office as follows:

-  No response or No record
-  Partial response
-  Outdated response
-  Full response
-  Missing data












Finally, we include recommendations for the St. Louis County Prosecuting Attorney to implement in order to shift policies and practices towards a survivor-centered approach to restorative justice. Our recommendations are categorized as follows:

-  Increase transparency
-  Transform policy or practice
-  Follow up with updates
-  Share data

1. TRANSPARENCY

Issue Raised	Response	Our Recommendation
<p>Does the St. Louis County Prosecuting Attorney's office keep a Brady List?</p> <p>*A Brady List is a compilation of information used to identify police officers with a history of misconduct, complaints, criminal convictions, use-of-force reports, and more.</p>		<p> Share whether or not Bell's office keeps a Brady list. Updating and sharing Brady lists and related policies is critical to prosecutorial transparency not only because prosecutors are constitutionally required to maintain these lists, but also because they are vital to the defense of people accused of crimes. When prosecutors fail to accurately maintain and disclose Brady lists, innocent people can be wrongfully convicted and incarcerated.</p>
<p>Does Bell's office retain a lobbyist?</p>		<p> Share whether or not Bell's office retains a lobbyist(s) on staff or by contract. Prosecutor's offices in Missouri routinely lobby legislative bodies to express support of or opposition to criminal justice bills.</p>
<p>What process does Bell's office use to collect data?</p>	<p> Bell's office recently created a data manager position to audit and establish data collection protocols.</p>	<p> Share updates about data collection protocols and subsequent data collected.</p>
<p>What process does Bell's office use to respond to Sunshine record requests?</p>		<p> Share whether or not Bell's office has a dedicated team responsible for handling Sunshine requests, how often the office denies requests and reasons for doing so, and whether they charge for requests.</p>
<p>What process does Bell's office use to investigate police use of force incidents?</p>	<p>  Bell's office cited the 2020 launch of the Conviction and Incident Review Unit (CIRU) charged with investigating "claims of innocence, allegations of misconduct by police officers and public officials, including officer-involved shootings, allegations of excessive force, certain deaths in custody, and other public official misconduct or criminal allegations." They mentioned 84 conviction review cases that hadn't yet been addressed.</p>	<p> Bell's office has complied with best practices by appointing a past criminal defense attorney to lead the CIRU. But by combining conviction review with investigations of police misconduct and public corruption—a highly atypical move for a prosecutor's office—Bell's office has ended up doing very little conviction review. If the unit is too busy with police misconduct and public corruption to conduct conviction review, that points to serious problems both in the structure of the unit and in the convictions caused by so much police misconduct.</p>

2. CHARGING DECISIONS

Issue Raised	Response	Our Recommendation
<p>What are the St. Louis County Prosecuting Attorney's rates of declining charges?</p>	<p> Bell's office stated that they are revising data collection practices to accurately capture case outcome.</p>	<p> Continue to revise data collection practices in order to share data about case declination rates.</p> <p> Reduce the number and severity of prosecutions. This is a first step in any shift towards "progressive" prosecution.</p>
<p>Does Bell's office seek the death penalty?</p>	<p style="text-align: center;"></p>	<p> Bell has publicly opposed the death penalty and has not sought to impose the death penalty while in office. But Bell promised not just to avoid seeking the death penalty – he also promised to review past cases that sent people to death row. We would like to see bolder and more consistent efforts to review such cases.</p>
<p>What is Bell's office's record of prosecuting victimless crimes and crimes of poverty?</p>	<p> The PAO provided some figures on prosecuting certain charges and stated his intent to expand diversion.</p>	<p> Share data about rates of prosecuting victimless crimes and crimes of poverty. We have observed troubling practices in court, including felony prosecution for simple drug possession, and the prosecution of other victimless crimes. We also know that the jail population includes about 400 people who are charged with Felony D or below.</p>
<p>What is Bell's office's record of criminalizing protest?</p>	<p> The PAO stated they refused 41% of referrals from police during protests stemming from the death of George Floyd.</p>	<p> Share Bell's office's full record of criminalizing protest. The fact that 59% of George Floyd related protest charges were not declined is a concerning sign and only accounts for one brief period of time.</p>
<p>What is Bell's office's record of adding Armed Criminal Action (ACA) charges?</p> <p>*Armed Criminal Action is defined as the intent to commit a crime with a dangerous instrument or deadly weapon. Many prosecutors routinely add this charge for any alleged crime involving a vehicle.*</p>	<p> Bell's office responded that they can't capture this data.</p>	<p> Share Bell's office's record of adding ACA charges, and stop filing these charges. We have seen Bell's office pursuing armed criminal action charges alongside felonies ranging from class A to class E, including for cases as simple as driving charges or resisting arrest. These ACA charges are often used as a tool to pressure people into taking plea agreements.</p>

3. PRETRIAL DETENTION

Issue Raised	Response	Our Recommendation
What are the St. Louis Prosecuting Attorney's office's rates of recommending release, no bond, and monetary bond at bail hearings?	✘	📋 Bell's office should track the rate in which they recommend bail and reduce the use of recommendations of bail and pretrial detention and supervision. Right now, the pretrial detention population is at its highest in years, and the overall jail population is at the same level it was in Bob McCulloch's last year in office.
How frequently does Bell's office seek summons vs. warrants?	✘	📋📢 Bell's policies state that "APAs [Assistant Prosecuting Attorneys] shall request summons, and not warrants, on all D and E felony offenses" as well as all misdemeanor cases. Right now, however, nearly 40% of the jail population is made up of people charged with a Felony D or below. The office's practice needs to line up with its policy, and they need to share data confirming that practices have changed.
How long are people detained in jail?	✔	📢 We know from jail population data that the average length of stay is at least 98 days. Bell's office should adhere to speedy trial rules and work to resolve cases faster. One day in jail could increase the likelihood of people losing their livelihood and social support.

4. CONVICTION & SENTENCING

Issue Raised	Response	Our Recommendation
How frequently does the St. Louis Prosecuting Attorney's office recommend concurrent sentences vs. consecutive sentences?	🔍 The office only responded that there is no written policy.	📋📢 Bell's office does not provide data on their sentencing recommendations. We call on Bell's office to increase their use of concurrent sentences or probation as an alternative to incarceration and to track their recommendations. We also call on Bell's office to release internal data on sentencing recommendations, as well as a plan for dramatically reducing the number of people incarcerated for probation violations.
What is Bell's office's policy with respect to juvenile life without parole?	🔍 The office did not communicate a formal policy and could not share any LWOP data for juveniles.	📋📢 Bell's policies state that "APAs [Assistant Prosecuting Attorneys] shall request summons, and not warrants, on all D and E felony offenses" as well as all misdemeanor cases. Right now, however, nearly 40% of the jail population is made up of people charged with a Felony D or below. The office's practice needs to line up with its policy, and they need to share data confirming that practices have changed.
How frequently does Bell's office use the Conviction and Incident Review Unit?	✔🔍 Since the program was launched in 2020, the unit has investigated 49 allegations of public corruption, 69 allegations of misconduct by police, 22 investigations of excessive force, and 25 investigations of officer-involved shootings. The addition of a part-time prosecutor will help the unit to work through the 84 pending requests for conviction review.	📢 Bell's office has complied with best practices by appointing a past criminal defense attorney to lead the CIRU (Conviction and Incident Review Unit). But it has not fully staffed a conviction integrity unit nor fulfilled the promise of substantial conviction review. By combining conviction review with investigations of police misconduct and public corruption—a highly atypical move for a prosecutor's office—Bell's office has done very little conviction review while the unit's other work moves forward publicly.



5. COMMITMENT TO COMMUNITY-BASED ALTERNATIVES

Issue Raised	Response	Our Recommendation
<p>What efforts has Bell's office made to develop relationships with social service organizations?</p>	<p>✔ We collaborate with a diverse array of community partners who provide services. I have attached a sample of community partners available to take referrals from our diversion programs."</p>	<p>📢 We expect that prosecutors form relationships with community-based organizations to divert serious cases throughout the legal system from pre-plea to post indictment. Although Bell has responded with a list of community organizations, to our knowledge, his office's relationships with those community organizations does not include the diversion of cases for dismissals or non-carceral solutions. Rather, the County Prosecutor works with these organizations for case management and centers the diversion within the prosecutor's office.</p> <p>Rather than viewing diversion as a process that comes from within the prosecutor's office and only applies to a narrow set of cases, Bell's office should move in the direction of prosecutors such as Eric Gonzalez in Brooklyn. Gonzalez's action plan states, "The DA's office should consistently seek to resolve cases through community-based interventions. ...making incarceration and conviction options of last resort."⁴ In pursuing this model, St. Louis County can "make jail the 'alternative'."⁵</p>
<p>What is Bell's office's record of implementing diversion programs and non-carceral solutions?</p>	<p>✔ "In addition to pre-arrest, pre and post charge diversion, my office seeks to establish 'non-jail resolutions at every juncture' in cases involving non-violent offenses through the specialty courts and traditional prosecution process."</p>	<p>📢 The prosecutor's budget shows roughly 600 people going through its diversion programs annually. While this may appear to be a large number, it represents only about one in 20 cases that Bell's office reviews each year. Bell's office must increase its dismissal rates, which would reduce the need for diversion at all and would prevent such programs from having a net-widening effect. And by dismissing cases once people have engaged with community programming outside of the prosecutor's office, his office can increase the reach of diversion, including restorative and transformative justice.</p> <p>📄 We also recommend that Bell's office produce data about the success of their diversion process. They must keep and share good data on dismissals, recommendations for diversion and community programming, and recommendations for incarceration after such programming.</p>

CONCLUSION

When Wesley Bell entered the Prosecuting Attorney's office in 2019, many residents hoped to see a leader that would fight to dramatically reduce mass human caging on behalf of Black communities and others disproportionately impacted in St. Louis County. Bell's office laid out a series of promises and policies that would make real progress towards addressing these issues. But we have been following Bell's office for over two years, collecting the data, and working alongside those they prosecute. In doing so, we have seen the office fail to implement meaningful change on a number of important fronts.

After early progress, the St. Louis County jail population has steadily climbed under Bell's leadership. It has increased 23% in the past year and 46% in the past two years. There are 60% more Black women behind bars today than there were a year ago.⁶ As of early July 2024, following an increase of nearly 50 people in less than ten days, the jail population has reached the exact same levels we saw at the end of Bob McCulloch's term.

Meanwhile, the nation's overall jail and prison population has fallen by over 10%. Many people were excited for new leadership in 2019 and remained hopeful after early change, only to see a return to the policies of mass incarceration. On this score, the disappointing reality is that the nation overall has decarcerated in the past five years while St. Louis County has regressed to the status quo.

While failing to reduce the jail population long-term, Bell's office has succeeded in securing a \$1.8 million budget expansion and a \$700,000 ARPA grant to hire new attorneys and build out satellite offices with the police. This risks inflating the office's budget for years to come, creating even more power to put our neighbors behind bars.

These problems point to a clear path forward: Bell's office must work to honor its earlier commitments, reduce the jail population, reduce the reach of the prosecutor's office—including by shrinking its budget—and do all of this transparently. The recommendations in this report offer a roadmap for these goals, beginning with following through on the office's stated policies, such as steering people out of the criminal legal system and into community-based organizations. Working towards these recommendations would help build the safer, more progressive St. Louis we were promised.

Stay Engaged with #ProsecutorWatch

- If this is your first time interacting with The Table and any of its content, please review "Prosecutor Watch – An Introduction." This document introduces you to the Table, our core principles, and an in-depth explanation of key metrics.
- Use #prosecutorwatch to follow up on the conversation. We will be releasing a similar assessment on the state of prosecution in St. Louis City using the same key metrics applied to St. Louis County.
- Follow member organizations of the Table. Additional content will be released via the organizations' social media.

Contributors to this publication come from individuals at or affiliated with the Table organizations and include writing, editing, design, and photography.



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