

Vera Institute of Justice

Criminal Justice Issues and Prisoners' Rights

<https://www.vera.org/blog/a-conversation-with-cassia-spohn>

Public Facing Advocacy Writing

[Cassia Spohn](#), professor and director of the doctoral program at the School of Criminology and Criminal Justice, Arizona State University, talks about research on race and prosecution with Alice Chasan of Veras Communications Department.

AC: Why is research on race and prosecution so important and timely now?

CS: We've had several decades of research on race and sentencing that has demonstrated that blacks and more recently research has shown that Hispanics are treated more harshly than whites at the sentencing stage, especially in regard to the in/out decision. Also, as jurisdictions have enacted sentencing reforms that restrict the discretion of judges, in particular through mandatory minimum sentences and sentencing guidelines, scholars have argued that discretion is shifting to the prosecutor, and they're increasingly interested in investigating the potential for disparate or even discriminatory decisions at the plea-bargaining stage. The so-called hydraulic displacement of decision making from judges to prosecutors has increased the attention paid to prosecutors. It's a combination of the time being right to look at prosecutors, and that we know so little about the decision making criteria that they use in charging and plea-bargaining decisions.

Researchers have always been interested in prosecutors. The problem has been that prosecutors haven't been interested in collaborating on research projects. They were less willing to do so than judges. As a consequence, we know relatively little about prosecutorial decision making.

We've got a body of research that looks at charging decisions, and a few studies that look at plea-bargaining, and more recently people have been looking at the filing of charges that trigger mandatory minimums or habitual offender statutes. But relative to the large body of research on sentencing decisions, we know very little about prosecutors and the decision rules that they use in making these critically important charging and plea-bargaining decisions.

The plea-bargaining process is ripe for research: whether the deals that racial minorities get are as favorable as the deals that are offered to whites, and whether it depends on the type of attorney one has and other legally irrelevant factors, such as education and social class.

The paucity of information on plea-bargains is due in large part to the fact that many of these bargains are not on the table: they're not documented in any formal way. You can document how charges decay or whether charges are dropped from the initial charging to the guilty plea. But sentencing decisions are much more difficult to document. The federal courts do a better job than the state courts, but the invisibility, the informality of the process certainly opens the door to disparities and even discrimination.

AC: What is the focus of your own recent research?

CS: Most of my recent research regarding issues of race and criminal justice processing has focused on how race and ethnicity and sex influence the sentences that judges impose. Earlier research asked pretty unsophisticated questions: Are blacks and Hispanics treated more harshly than whites? We now know that that is a theoretically unsophisticated way to approach the issue. The more relevant question is the context in which African Americans and Hispanics are treated differently than whites.

The other area of my work that relates particularly to prosecutors is looking at charging decisions with a focus on sexual assault cases. A few years ago I had a National Institute of Justice (NIJ) grant to look at charging decisions in sexual assault cases in Philadelphia, Kansas City, and Miami. A colleague and I just finished a study of police and prosecutorial decision making in sexual assault cases in Los Angeles. As part of that project we interviewed more than 30 assistant district attorneys with the Los Angeles County District Attorneys Office and looked at their charging process as well.

AC: You recently became editor of *Justice Quarterly*. What is your vision for the journal?

CS: *Justice Quarterly* is a publication of the Academy of Criminal Justice Sciences, an organization that includes a broad array of people in political science, sociology, criminal justice, and criminology, but it also includes a lot of practitioners. So *Justice Quarterly* focuses less on criminology than the journal *Criminology* and more on criminal justice processes and outcome. My focus is finding articles that appeal to the broad readership of *Justice Quarterly*, that push back the boundaries of what we know about criminology and criminal justice and say something about policy and practice.

It's really important for authors to demonstrate the significance of their work: in terms of theory, in terms of methodology, or in terms of policy and practice.

AC: You'll be including applied research in the quarterly?

CS: Absolutely. Good evaluation research that highlights best practices is what *Justice Quarterly* seeks to promote.

AC: Is the trend toward applied research growing?

CS: I think so. Partly, this reflects the funding preferences of agencies like the [National Institute of Justice](#) (NIJ) and the [National Institutes of Health](#), which are looking for policy-relevant research. One of the criteria NIJ uses in determining whether to award a grant is the degree to which the applicants have demonstrated that the research has significant implications for criminal justice policy and practice in the United States. I think we're seeing more high-quality program evaluation research, experimental research, research that's designed to identify best practices and convey that information to practitioners and policy makers.

AC: But in terms of studying prosecution, it's still an uphill battle to build the kind of relationships that researchers need to do that work?

CS: A researcher who waltzes in and says I want to do a study of X and I need your data won't succeed with prosecutors. Effecting change—whether it's a change in a prosecutor's office or change in a police department or in a court system—requires a researcher who works with an agency to determine what its needs are, and collaborates with that agency throughout the entire process.

That's what's so amazing about what Vera has been able to do with its [Prosecution and Racial Justice Program](#) (PRJ). Whether there is racial disparity or even racial discrimination in prosecutors' decisions is clearly a sensitive topic. The fact that Vera has been able to partner with prosecutors' offices so effectively to address this issue demonstrates the degree to which the agencies trust Vera, and the degree to which they believe that Vera will work with them to improve the process rather than to publicize their deficiencies or defects. PRJ works to identify problematic aspects of the decision-making process and to devise solutions that make the process fairer for victims and defendants.

AC: You're currently working as a consultant to PRJ on its new initiative partnering with the New York District Attorneys Office. What's the nature of your participation in that work?

CS: The project is just getting underway. I provided feedback to the team that put the proposal together. Brian Johnson of the University of Maryland, who is also a consultant on the project, and I will be working on data-collection issues, as well as on conceptualization of measures for things like crime seriousness or prior criminal history, and some data analysis issues. Thus far, we've been asked to look at the list of data elements that they've been able to retrieve from the district attorneys' office and indicate whether there are things that are missing.

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