



*A Framework for High Performance
Prosecutorial Services*

by
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Hon. John T. Chisholm
*Chairman & Milwaukee County
District Attorney*

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PROSECUTOR'S REPORT III

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David LaBahn
President and CEO

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A Framework for High Performance Prosecutorial Services

Every society gets the kind of criminal it deserves. What is equally true is that every community gets the kind of law enforcement it insists on.

— *The Pursuit of Justice*, Robert Kennedy

Preface

When Attorney General Robert Kennedy wrote those words in 1964, he recognized that communities must play a central role in addressing the problem of crime by partnering with law enforcement. In the decades since then, community members have come to expect more and more from their public servants. Prosecutors, as chief local law enforcement officials, have continually embraced their ever-expanding roles as community leaders and partners in crime-prevention. Nowhere is this more evident than in recent prosecutorial elections in major jurisdictions where community members clamor for recognition of the community's role in public safety. As a result, implementing community prosecution strategies has become a key campaign promise in recent elections in Cook County (Chicago), Illinois; New York County (Manhattan), New York; and Philadelphia, Pennsylvania.

Why did this happen? Communities are actively looking for ways to contribute to their own safety and security, and community members want to know that they can access the criminal justice system through their local prosecutor's office. Additionally, these members expect prosecutors to do more than simply process cases reactively after a crime has occurred. It appears that many community members are no longer content with simply a "tough on crime" message; instead, they want a more proactive and cost effective approach to criminal justice.

Elected prosecutors in Chicago, Manhattan, and Philadelphia are in various stages of effectuating the promises made during their campaigns regarding the implementation of community prosecution strategies. All three of these offices are strengthening the prosecutor's link to the community by promoting partnership building and encouraging the development of problem-solving strategies to ensure public safety. Later in this report, we will discuss how these and other jurisdictions are applying a new prosecutorial framework for the 21st century prosecutor. So, what has led to this change? What is the new framework for the work of the 21st century prosecutor?

During much of the 20th century, the dominant paradigm for the organizational strategy¹ of a prosecutor's office was that of a case processor and sanction setter. This reactive approach was based on the belief that the prosecutor's central role was to fairly and efficiently process the cases meeting the office filing standards and ethical obligations and to advocate for sanctions sufficient to punish the offender for the offense committed, thus deterring others from similar conduct. By the late 1980s, however, this reactive approach to prosecution seemed to have reached its limits as caseloads and crime rates grew.

Beginning in the late 1980s and into the 1990s, as prosecutors began to take on new roles, a new organizational strategy began to emerge under the rubric of "community prosecution."² This new strategy focused on proactive community engagement and relied on partnerships and problem-solving as a means to not only respond to crime, but to also prevent it. A decade into the 21st century, prosecutors across our nation have continued to embrace these new roles within both the criminal justice system and the community.

In order to best capture and understand this trend that is occurring, the U.S. Department of Justice's Office of Justice Programs' Bureau of Justice Assistance (BJA) has commissioned the Association of Prosecuting Attorneys (APA) to host a number of roundtable discussions with nationally-recognized prosecutors to determine how and what is changing in the field of prosecution. This report is the product of two roundtable sessions hosted by APA, in partnership with the Center for Court Innovation (CCI), in which leading prosecutors from across the country assembled to discuss prosecution in the 21st century.³ These advisory groups consisted of a representative collection of prosecutors who agreed to help APA identify ways to support and advance the prosecutorial profession. The first session, held on January 25, 2010, was designed to assess the current state of community prosecution and to examine how the underlying principles of this philosophy can help prosecutors meet the challenges of the 21st century. The

¹ An organizational strategy refers to "an overall mode of operating that generally includes a definition of institutional mission or function; the sources of authority; the demand for service or product and management of that demand; sets of tactics for carrying out the function; organizational structures and administrative processes that facilitate the use of specific tactics; the task environment; and outcomes." See Coles, Catherine M., *Community Prosecution Problem Solving, and Public Accountability: The Evolving Strategy of the American Prosecutor*, Unpub.ms. Program in Criminal Justice, John F. Kennedy School of Government, Harvard University, 2000.

² See Coles and Kelling, *Prosecution in the Community: A Study of Emergent Strategies, A Cross-Site Analysis*, Grant No. 95-IJ-CX-0096, National Institute of Justice, Office of Justice Programs, U.S. Department of Justice, 1998.

³ Please see Appendix A for a list of contributing jurisdictions.

second session, held on August 12, 2010, was designed to analyze the profession more generally, with an eye toward identifying emerging challenges and integrating promising practices—community prosecution-based and otherwise—that can advance the state of prosecution in the 21st century.

This document describes the Framework for High Performance Prosecutorial Services (hereinafter High Performance Framework) as articulated by these leading prosecutors across the country, the current state of prosecutorial roles and needs, and the strategies that prosecutors are employing to meet the growing expectations of their communities. Since trial advocacy is at the core of the prosecutorial function, this document identifies four additional components in which prosecutors should examine beyond trial advocacy to ensure their offices are delivering high performing prosecutorial services. Going forward, APA and CCI will host a continuing series of roundtables to assist prosecutors in defining prosecution in the 21st century and identifying and promoting innovative prosecutorial practices that are taking place nationwide.

Improving Public Safety Through Effective Community Partnerships

The High Performance Framework offers a menu of innovative strategies for the modern prosecutor's toolkit. This framework provides tools to prosecutors as they embrace the expanded role that their communities have identified for them and that they have identified for themselves. For many prosecutors, their mandate is broad even as it focuses primarily on public safety: “The 21st century prosecutor seeks to protect civil liberties, build community partnerships, maintain justice and build community trust, all of which accomplish our primary goal of maintaining public safety,” suggested Chauncey Parker, New York County Executive Assistant District Attorney for Crime Prevention Strategies.

The High Performance Framework serves as an umbrella to capture the forward-looking practices being tested by leading prosecutors throughout the nation today. Just as the community prosecution movement first described the role of community engagement, partnership building, and problem-solving activities of the late 20th century prosecutor, the High Performance Framework defines the next generation of prosecutorial innovators. Key components of this strategic evolution include the following:

1) Embracing Community Prosecution

A high performance office embraces community prosecution and uses its strategies to prevent crime while reducing incarceration, promote the successful reentry of ex-offenders into the community, engage in restorative justice, address more serious crime as well as “quality of life” problems, and respond quickly to ever-changing conditions.

2) Harnessing Science and Technology

A high performance office harnesses the latest advancements in science and technology and uses them as crime fighting tools and evidence in the courtroom.

3) Implementing Information Sharing

A high performance office implements new technologies to improve data collection and analysis, share information with other agencies and the public, and ensure that decision-making is driven by data.

4) Employing Outcome Evaluation

A high performance office recognizes the value of outcome evaluation and employs it to gauge and improve the effectiveness of crime prevention and reduction efforts.

Prosecutorial Roles

In the late 1980s, the Executive Sessions on State and Local Prosecution conducted by the Kennedy School of Government at Harvard University identified and described the following five organizational strategies of prosecutors:

- The *pure jurist (case processor)*, whose goal is efficient and equitable case processing
- The *sanction setter*, whose goals are rehabilitation, retribution, and deterrence
- The *problem solver*, whose goal is to prevent and control crime
- The *strategic investor*, whose goal is to bolster the efficacy of prosecution by adding capacities
- The *institution builder*, whose goal is to restore the social institutions that help to control crime⁴

Prosecutors' views regarding their legitimate role have changed significantly over the last 20 years. While many 20th century prosecutors saw themselves primarily as case processors and sanction setters, the emergence of community prosecution has expanded that self-perception to include roles associated with crime prevention and problem-solving techniques. The 21st century prosecutor has strategically invested in new legal tools and resources, frequently through partnering with the community and other governmental agencies, in order to increase the efficacy of their operations. They have also tried to build and strengthen social institutions that can assist with controlling crime. Offices that have embraced the principles behind community prosecution are more readily positioned to accept the additional responsibilities which the community often demands from its prosecutors today.

This shift in how prosecutors view their legitimate roles is captured in the four key principles defining community prosecution. Those principles are “(1) recognizing the community’s role in public safety; (2) engaging in problem-solving; (3) establishing and maintaining partnerships; and (4) evaluating outcomes of activities.”⁵

Prosecutors at the most recent roundtable further developed these principles, identifying the following as important aspects of 21st century prosecutorial functions: engaging in crime

⁴ Tumin, Zachary, “Summary of Proceedings: Findings and Discoveries of the Harvard University Executive Session for State and Local Prosecutors.” *Working Paper* No. 90-02-05, pp. 3-10.

⁵ *Key Principles of Community Prosecution*, BJA/NDAA, 2008
http://www.apainc.org/html/final_key_principles_updated_jan_2009.pdf

prevention and reduction strategies, building community trust and participation, ensuring the integrity within the criminal justice system, and providing leadership within the broader criminal justice system. Such functions are clearly aligned with the prosecutor as problem solver, institution builder and strategic investor, and comments from the roundtable confirm that justice requires prosecutors to see their legitimate roles in more expansive terms.

While many 20th century prosecutors tended to focus their work entirely on prosecuting crime by case processing, the 21st century prosecutor tends to have a more expansive view of his or her responsibilities. It is common for today's prosecutors to seek crime reduction by addressing recidivism as an important component of their work. For example, some prosecutors have become involved in the issue of prisoner reentry—what happens when an ex-offender returns to the community from incarceration. The Community and Law Enforcement Resources Together (ComALERT) program was established by the Kings County (Brooklyn, New York) District Attorney's Office to help formerly incarcerated individuals make a successful transition from prison to home by providing such services as drug and mental health treatment, counseling, GED classes, transitional housing, and employment counseling. "We can't afford to let repeat offenders gobble up our scarce criminal justice funds," said Kings County District Attorney Charles J. Hynes. "To break the vicious cycle of recidivism, we have to deal effectively with two of the great stumbling blocks to successful reentry—drug addiction and unemployment."

The layering of additional roles on prosecutors, however, has not occurred without difficulty. Whether prosecutors have these new roles thrust upon them by a demanding public or have actively sought them out as a policy preference, trying to manage these multiple roles has proven to be a difficult task, a fact compounded further by the difficult economic times. A common theme expressed by roundtable participants was the desire for a series of tools that will provide resources and information to prosecutors regarding these expanded roles while helping them manage the added responsibilities.

Therefore, the four components of the High Performance Framework—embracing community prosecution, harnessing science and technology, implementing information sharing, and employing outcome evaluation—provide a structure for examining the opportunities and needs of today's prosecutors. Further examination of these components will ultimately allow for

the identification of information, tools, and support necessary to meet the needs of the 21st century prosecutor. These components are discussed in more detail below.

Component 1: Embracing Community Prosecution

APA's advisory groups at the Community Prosecution Advisory Committee (CPAC) and roundtable meetings concurred that, as stated by Executive Assistant District Attorney Parker, "the primary means through which public safety is achieved by the 21st century prosecutor is by building and enhancing community partnerships." Information from community members and their participation in the criminal justice process is vital to securing public safety. Prosecutors and law enforcement professionals need the cooperation of witnesses and other community members when, for example, investigating gangs, trying to identify precursor crimes of terrorism, and attempting to solve cold case homicides. These are just a few of the powerful ways the community plays a role in assuring public safety.

Over the last two decades, community prosecution has evolved from an experiment in a handful of offices around the country to a mature philosophy that influences prosecutorial practices nationwide. Like any philosophy, however, it has come to mean different things to different practitioners. While "community prosecution" *per se* has been embraced by many state, local, federal, and tribal prosecutors' offices, others have adopted some of its strategies without ever using the name. "Neighborhood" or "street-level" prosecution, "zone" prosecution, "problem solving" prosecution, "data-driven" prosecution, "intelligence-led public safety," "Community Justice Centers," and other phrases have all become part of the lexicon, offering both advantages and challenges for the field. On the plus side, the basic values of community prosecution—community engagement, partnership building, problem-solving and continual evaluation of public safety initiatives—are being broadly disseminated and adapted to meet the needs of many offices and communities. On the downside, there is the potential for confusion about community prosecution in the field, possibly inhibiting the further spread of some of these ideas.

The participants in the recent roundtables worked to identify a consensus around the current meaning of "community prosecution" and its complementary facets. First, roundtable prosecutors reviewed the formal definition of community prosecution, developed by a group of

trailblazing prosecutors. In an attempt to define a new approach to prosecution and identify its key components, that group, in 1993 and 1995, produced the following formal definition:

“[Community prosecution] focuses on targeted areas and involves long-term, proactive partnerships among the prosecutor’s office, law enforcement, the community, and public and private organizations, whereby the authority of the prosecutor’s office is used to solve problems, improve public safety, and enhance quality of life in the community.” (*Community Prosecution Implementation Manual*, American Prosecutor’s Research Institute, 1995, p. 1)⁶

In considering the current applicability of this definition and the potential need to redefine community prosecution for the 21st century, Rockland County (New City, NY) District Attorney Tom Zugibe suggested that the definition and underlying key principles are broad enough to endure the continual evolution of innovative prosecutorial strategies and community engagement as the community’s role in public safety develops. That said, roundtable participants did not consider a geographical component of targeted areas as necessarily a defining element of community prosecution strategies at this point in its evolution. “Although the geographical component of the definition has helped community prosecution be more effective in Rockland County, it shouldn’t be a necessary element of every community prosecution initiative,” said Zugibe. “I see other successful community prosecution initiatives which don’t necessarily focus on targeted geographical locations, especially once a problem area or crime issue of concern to a certain neighborhood has been eradicated.”

Other prosecutors agreed that community prosecution programs may vary widely from place to place, but they share characteristics of strong proactive leadership from the prosecutor’s office and of comprehensive strategies to increase public safety. As Kings County (Brooklyn, New York) District Attorney’s First Assistant Anne Swern put it, “the most important elements of any community prosecution initiative, or any 21st century prosecutorial strategy for that matter, include the prosecutor in a leadership role engaging their communities through partnership building which creates a more efficient public safety model.” She continued by explaining that the 21st century prosecutor uses every available resource and legal tool to focus

⁶ *Community Prosecution Implementation Manual*, APRI, 1995. For a copy of the manual or for other community prosecution resources, log onto APA’s website at <http://www.apainc.org/default.aspx?menuitemid=157> or NDAA’s website at <http://www.ndaa.org/publications.html>

on crime prevention and to figure out the context behind various cases. The prosecutor does not see crime as independent incidents, but instead as underlying issues which lead to interrelated criminal activity. Solving underlying problems such as drug addiction or the need for mental health treatment leads to less recidivism. This paradigm shift in prosecution implores prosecutors to embrace the multiple roles communities now insist upon from their public servants.

Albany County (Albany, New York) District Attorney David Soares wondered whether the term “community prosecution” says enough about the breadth and potential of this work, raising the question of whether the term captured all the roles that prosecutors accept by practicing this philosophy. “Prosecutors need to know their communities and collaboration is key. Today, prosecutors need to know where resources exist; we need to be aware of social services and have the ability within the criminal justice system to link those who need services with the agencies providing treatment,” said Soares. “Community prosecution is a change in the way an office conducts its day-to-day business. Prosecutors must accept this leadership role in addressing community concerns and providing public safety.” Roundtable participants agreed that community prosecution has a positive impact on the functioning of an office across the board, producing benefits even for attorneys and other prosecutorial staff who do not see themselves as part of the “community prosecution project” or “unit.”

Milwaukee County District Attorney John Chisholm stated that in his experience the term “community prosecution” prompts questions and an opportunity for explanation of the broad key principles. “It is a chance for the prosecutor’s office to engage with the community and together determine how community prosecution is defined in their local jurisdiction,” said Chisholm. “I use the term ‘community-based prosecution’ in Milwaukee to emphasize the importance of my community engagement approach.” Although roundtable prosecutors agreed that community prosecution or community-based prosecution still accurately described their approach and office-wide philosophy, the group expressed the need for a broader framework that would provide more information to community members, elected officials, or government agencies for which the term “community prosecution” might be unfamiliar.

The group further stressed that by improving the ways in which “community prosecution” is described to different community stakeholders, two important goals can be accomplished: (1) the community becomes engaged and they begin to take action, and (2) the

community will support the funding of community prosecution strategies. In the words of First Assistant Swern, the 21st century prosecutor helps to build and enhance “the community” by engaging a diverse majority. “We need to reach beyond those citizens who have been active for years, and seek to represent all of the voices in the community. It is vitally important to create opportunities for those community members who have been reluctant or unwilling to participate in crime prevention and public safety. The 21st century prosecutor creates open lines of communication, builds a diverse coalition of the willing, and has a variety of programs for each member of the community to become engaged,” said Swern.

Other prosecutors at the roundtable concurred that in order for prosecutors to work toward a universal vision of public safety, crime intervention and prevention efforts need to be funded. “Especially in these tough budgetary times, private foundations and federal governmental agencies play an important role in partnering with state, local, and tribal prosecutorial offices to support their community engagement and crime reducing efforts,” said Chisholm. “A high performing prosecutor’s office relies less on a ‘reactive processing’ sort of assembly line of justice, and instead is focused on an offender/victim-based system (versus offense-based).” Roundtable participants agreed that more clarity and effective messaging in describing the work of community prosecutors, and more visibility for those programs, would help build support for funding and protect the programs from budget cuts during tight economic times.

Effective messaging to the community may require prosecutors to recognize that some community members are apprehensive about or disinterested in cooperating with law enforcement and to be willing to develop initiatives designed to ease such apprehension and facilitate greater cooperation. In Cook County (Chicago, Illinois), State’s Attorney Anita Alvarez has instituted Community Justice Centers, which are designed to facilitate better relationships with communities and improve witness cooperation. These centers are independent offices for the State’s Attorney and are located in the communities where the witnesses live or work. State Attorney Alvarez notes that these “Community Justice Centers are small, welcoming spaces where witnesses are not intimidated like [in] criminal court buildings. In fact, these Centers are the familiar spots in the neighborhood that are easy to get to and have parking for their vehicles. People are relieved and relaxed about coming here.” Alvarez also states that one of her office’s great strengths in working with witnesses is borne of its ties to the community, and a key part of

that strength is the messaging to the community. “We are in the community, at meetings, providing information and holding seminars. We know the neighborhoods, people, and the dynamics in a way non-community prosecutors simply cannot. If our witnesses have not already heard of us, there is usually someone that we work with who they are familiar with. The breadth and depth of our collaboration with our neighbors in the community help us to connect with our witnesses more effectively.” State Attorney Alvarez’s efforts demonstrate how clear messaging to the community can significantly increase the community receptivity to law enforcement initiatives and improve an innovative program’s chances of long-term success.

Similarly, Philadelphia District Attorney Seth Williams has also sought to maintain clear and open communication with the community as he introduced community prosecution through his Community Action Centers Program. Through this initiative, District Attorney Williams assigns groups of Assistant District Attorneys (ADAs) to distinct neighborhoods allowing these ADAs to get to personally know local residents. ADAs work directly with residents, other criminal justice partners, and local officials to develop and implement crime reduction and crime prevention strategies. When District Attorney Williams introduced the Community Action Centers, his office announced that the major goal of these Centers was “to bridge the gap between the District Attorney’s Office, the Philadelphia Police Department, local community organizations, and residents in the neighborhoods.” District Attorney Williams also took care to communicate clearly that these Centers were essential to fostering working partnerships with town watch groups, local schools and businesses, and elected officials.”

Component 2: Harnessing Science and Technology

To harness science and technology, the High Performance Framework seeks to ensure the integrity of and respect for the advancements of evidence-based scientific and technological practices. Prosecutors nationwide are taking a proactive approach to criminal and juvenile justice, incorporating not only research- and evidence-based practices, but integrating the progression of forensic science and technology into criminal investigations and trial courtrooms.

Within courtroom settings, the 21st century prosecutor uses established and ever-evolving advancements in science and technology—such as fingerprint examinations, firearms ballistics identification, microscopic hair analysis, forensic video analysis, computer data forensics, and DNA evidence—as tools to ensure that justice is rendered. Prosecutors must continue to demand

from the forensic and technology community that they maintain the veracity of the forensic evidence used in criminal trials. Moreover, prosecutors must stay fully abreast of training and scientific advancements in forensic evidence and technology in order to present such evidence accurately and persuasively to a jury. The prosecutor ensures that the integrity of the criminal justice system is upheld by insisting on the use of reliable technology and forensic evidence.

As a crime-fighting tool outside of the courtroom, prosecutors are using the latest advancements in science to solve both recent criminal activity and cold cases, and ultimately advancements are being used to prevent the next crime from occurring. Offices across the nation are establishing prosecutorial units dedicated to the use of such advancements in forensic science. Such units include Forensic Science and Cold Case Squads, Sexual Abuse Units, DNA Burglary Units, Non-Fatal Shooting Taskforces, Cyber Crime Investigative Units, and Conviction Integrity Programs. These units use forensic science and the latest developments in technology to help convict the guilty, exonerate the innocent, and bring closure to victims in unsolved cases. One such unit highlighted during discussions at the roundtable meeting was Denver District Attorney Mitch Morrissey's DNA Burglary Project based on the "broken windows" theory.⁷

The Denver DNA Burglary Project sought to harness advanced DNA technology to improve resolutions in burglary cases. In 2005, District Attorney Morrissey developed the Denver DNA Burglary Project on the theory that traditionally nonviolent crimes, such as automobile burglary and property crimes, are intrusive to citizens and that focusing on those crimes sends a strong message to offenders that they will be caught. District Attorney Morrissey theorized that given the recidivist nature of crimes like sexual assault and burglary there was a strong likelihood that the individual who committed a crime under investigation had been previously convicted of a similar crime and thus would already be included in the CODIS DNA database.⁸ The Denver Burglary Project found that despite the relatively low occurrence of biological evidence at burglary crime scenes (~8%), burglars are likely to repeat their crimes, and in some cases, they escalate to more serious crimes.⁹ Of the DNA samples entered into CODIS from the Denver Burglary Project, 58% have found matches in CODIS, resulting in

⁷ "Broken Windows" *The Atlantic Monthly* March 1982 available at <http://www.theatlantic.com/magazine/archive/1982/03/broken-windows/4465/>.

⁸ *Using DNA to Solve Cold Cases: Special Report*, National Institute of Justice, July 2002.

⁹ NIJ Grant# 2005DNR095.

multiple crimes being solved. Moreover, since the inception of the DNA Burglary Project, the city of Denver has experienced a steady reduction in its homicide rate.¹⁰

By initiating and sustaining DNA and other scientifically-advanced projects such as this one, District Attorneys' offices will send a powerful message to community members that justice will be served. Additionally, solving crimes efficiently and interrupting repeat offenders saves money. "Prosecutors must also realize there needs to be a cost-benefit analysis showing the amount of savings incurred with the development of such programs or projects. My DNA burglary project came up with such a formula; if we did not take the time to develop this analysis, our inability to correlate money saved would have created missed opportunities for the office," said Morrissey.

Component 3: Implementing Information Sharing

Gathering, sharing, safeguarding and analyzing information is critical to the effective functioning of the criminal justice system in the 21st century, and technologically sophisticated means of doing so are becoming increasingly available. As late as the 1980s, many partners in the criminal system operated stand-alone, legacy records management systems that contained redundant, conflicting, or incomplete data. The 1990s, however, saw rapid improvements in the application of information technology-based systems within the criminal justice system and increased efforts to share information across agencies. These improvements are likely to continue given the demands being placed upon system partners by an increasingly complex statutory and regulatory environment, data reporting mandates, concerns about privacy and data security, and the need to meet public disclosure responsibilities.

The 21st century prosecutor not only has an interest in a robust data-sharing capability for his or her own agency, but is also in a unique and critical position to provide criminal justice system partners with leadership and legal guidance regarding their collective capability to collect, access, and analyze that data and their responsibilities to secure, report, and disclose it. A good example of how a prosecutor can provide such leadership is Tom Carr's executive sponsorship of the Seattle Justice Information System Program (SEAJIS), implemented while he served as Seattle's City Attorney. SEAJIS is a long-term, multi-agency, data-integration system

¹⁰ Homicide numbers, 2005 through 2010 (not including "justifiable homicides") 2005: 62 cases, 2006: 53 cases, 2007: 51 cases, 2008: 48 cases, 2009: 44 cases, and 2010 (to date 9/10): 22 cases.

that enables real-time data-sharing between Seattle’s Municipal Court, City Attorney’s Office, Police Department, and County Jail. Using data-sharing “middleware,”¹¹ it allowed systems to share case outcomes, warrant and court conditions, case scheduling, and other data across system partners in a more timely, accurate, and non-duplicative manner. Use of this type of middleware permits messaging between the partnering agencies’ differing records management systems, and readily facilitates upgrades or complete changes of an individual agency’s system without the need to entirely re-engineer the rest of the system. The project benefited from technical assistance provided by SEARCH,¹² which in conjunction with the U.S. Department of Justice, has helped sustain hundreds of statewide, regional, and local criminal justice data integration efforts over the last 15 years.

Having and sharing information is one thing, but being able to put it to good use is another. A high performance prosecutor’s office must also be able to analyze data in order to assess office performance and develop and evaluate the effectiveness of anti-crime initiatives. Dating back to the New York Police Department’s COMPSTAT¹³ system, prosecutors have shown an increasing awareness of the importance of tools that can help them to be more effective in using data to support their cases. The use of geomapping and hotspot analysis has increasingly been incorporated into criminal justice interventions and has been central to programs such as the U.S. Department of Justice’s Drug Market Initiative (DMI).¹⁴

New York County (Manhattan, New York) District Attorney Cyrus Vance, Jr. formed the Crime Strategies Unit, which is loosely based on the existing COMPSTAT model, enabling his

¹¹ Middleware is computer software that connects disparate data systems and allows them to communicate and share data with each other.

¹² SEARCH is a nonprofit membership organization created by and for the states. Its governing membership group is primarily state-level justice officials responsible for operational decisions and policymaking concerning the management of criminal justice information. Funding for SEARCH activities is provided by annual fees from member states for the operation of the consortium and Board of Directors; grants from various U.S. Department of Justice agencies; state grants; and federal, state, and local contracts. www.search.org.

¹³ COMPSTAT is a police management philosophy and organizational tool for police departments originally devised by the New York City Police Department. It employs geographic information systems to map crime and identify problems. In weekly meetings, ranking NYPD executives meet with local precinct commanders from one of the eight patrol boroughs in New York to discuss the problems. They then devise strategies and tactics to solve problems, reduce crime, and ultimately improve quality of life in their assigned area. The COMPSTAT model has been replicated in several other major cities across the United States.

¹⁴ The Drug Market Initiative (commonly known as the “High Point Model” because of its origin in High Point, NC) is a strategic problem-solving initiative aimed at permanently closing open-air drug markets. A key component of the DMI protocol involves using crime mapping to identify the operation of drug markets and police offense data to assist triaging offenders as “examples” or “call in” candidates.

office to share information and improve data analysis capabilities. “Our goal is to utilize modern technology, modern techniques to synchronize our efforts within the office on prosecution strategies,” said District Attorney Vance. “We believe this is the method that best marries the concept of geographic accountability with individual case integrity and processing.” The unit was set up to detect, analyze, and track crime trends in Manhattan, and “allows prosecutors to draw parallels among cases, unearth crime patterns in particular areas, and make more informed decisions on how to handle defendants.”¹⁵ Through shared intelligence, the prosecutor’s office can understand how each individual case “fits into a bigger pattern.”¹⁶

The New York County District Attorney’s Office divided Manhattan into five areas, based on police precincts, and assigned a prosecutor to each area. These prosecutors, along with investigators, intelligence analysts, and other allied criminal justice partners, work as a team to arrive at a plan targeting prevalent problems and focusing on priority offenders in the five neighborhood areas. “It’s connecting the dots of information that are already within the District Attorney’s office,” said Executive Assistant District Attorney Chauncey Parker, “collecting that information and making it available in a way that it can be used most effectively.”¹⁷

In Rockland, New York, District Attorney Tom Zugibe’s development of the Intelligence Led Community Policing, Community Prosecution, and Community Partnerships (IL3CP) program represents another good example of a prosecutor creating a capability to analyze and act on data. IL3CP focuses on information sharing between and among criminal justice partners. District Attorney Zugibe divided the county into four quadrants consisting of five sections (two sections are combined to form the last quadrant) and assigned an ADA to each. An IL3CP session is held every Thursday in a different quadrant. Attending these meetings are District Attorney Zugibe, the Senior ADA in charge of community prosecution, the community prosecutor(s) assigned to that quadrant, the Directors of both the Rockland County Intelligence Center (RCIC) and the Rockland County Narcotics Task Force, and ranking members of the various law enforcement agencies operating within the specific quadrant. Operations and initiatives are developed and reviewed each month at these meetings. These meetings are used to identify concerns using intelligence that has been gathered and analyzed.

¹⁵ “Top Prosecutor Creates Unit on Crime Trends,” *New York Times*, May 25, 2010.

¹⁶ “D.A. to Tap Computer Databases for Crime-Fighting Intelligence,” *New York Law Journal*, May 26, 2010.

¹⁷ “Top Prosecutor Creates Unit on Crime Trends,” *New York Times*, May 25, 2010.

Follow-up through IL3CP's Code 6 Program focuses on the small number of criminals who commit a majority of the crimes and create most of the problems in a community. Police agencies in the county list their top 20 offenders, and this data is entered into the RCIC's database, which is distributed to all of the prosecutors and law enforcement officers in the county. This cross-jurisdictional flow of information can alert a police officer from one locality to the fact that an arrestee is a problem in another locality, thereby allowing the District Attorney's Office to pursue appropriate charges and request appropriate sentences, thereby holding the offender fully accountable for the harm caused to the community. The Rockland District Attorney's Office, in its effort to create an efficient and effective criminal justice system, plays an essential role in facilitating information-sharing among the partners and providing legal guidance regarding the capability to access, analyze, collect, intercept, and process data compilations.

Component 4: Employing Outcome Evaluation

Closely connected to the issue of sharing and analyzing information, is employing outcome evaluation, which is a critical tool to assess the efficacy of prosecutorial crime-fighting initiatives and identifying what works. The 21st century prosecutor recognizes the value of such evaluation and uses it to gauge the effectiveness of interventions and to improve upon them. Under this model, evaluation is seen as a continuous dynamic process that looks both at the micro- or tactical-level, assessing the value of individual problem-solving efforts; as well as at the macro- or strategic-level, assessing the overall value of strategies such as community prosecution to public safety. Continuously using evaluation helps a high performance office build an arsenal of evidence-based practices, allows for more effective use of scarce resources, and helps to build support among policymakers and funders for these effective crime preventative interventions.

The latest roundtable participants agreed that prosecutors should be interested in using evaluation to help guide their individual problem-solving efforts. One of the challenges prosecutors face, however, is that most offices do not have the financial means to maintain evaluation capability "in-house." As roundtable participants pointed out, however, by utilizing the notion of building and enhancing community partnerships, prosecutors are increasingly reaching out to university-based and nonprofit research organizations to help meet these

evaluation demands. Given that most jurisdictions contain colleges and universities, seeking evaluation assistance through higher institutions of education is a fruitful strategy.

It was apparent to roundtable participants that traditional measures of prosecutorial effectiveness, such as conviction rates, plea bargaining percentages, and case processing time, are ill-equipped to measure prosecution effectiveness, particularly as the 21st century prosecutor takes on new and differing roles. Relying on newer measures such as reducing reported offenses, reducing defendant recidivism rates, and improving citizens' perceptions of safety will likely be part of the eventual solution to this challenge of conducting meaningful and comprehensive data evaluation.

For example, Kings County District Attorney Charles J. Hynes has been running ComALERT, a collaborative reentry program that addresses the needs of formerly incarcerated offenders in Brooklyn, New York. In partnership with an outpatient substance abuse treatment provider, a nonprofit transitional work and housing agency, the Medgar Evers College of the City University of New York, and over a dozen other community-based social services providers, ComALERT delivers intensive treatment and services designed to meet the individualized, often complex needs of its clients. The program was evaluated by Professor Bruce Western of Harvard University and found to be effective in slashing the recidivism rates of parolees who complete the program.¹⁸ By implementing a collaborative reentry model such as ComALERT, a district attorney's office can reduce recidivism, improve public safety, and enhance the overall social and fiscal health of communities.”

¹⁸Jacobs, Erin and Western, Bruce, *Report on the Evaluation of the ComALERT Prisoner Reentry Program*, Harvard University, October 2007. http://www.wjh.harvard.edu/soc/faculty/western/pdfs/report_1009071.pdf

21st Century Challenges

Developing and implementing these four components requires significant commitment and, in some cases, significant investment of time and resources. At APA's most recent roundtable session, participants responded to the question, "What challenges do you face today in carrying out your vision of the 21st century prosecutor?" Roundtable prosecutors agreed that there are certain challenges that are perpetual, such as recruiting, hiring, and retaining prosecutors, and dealing with challenging geographies and serving diverse populations. Roundtable members did, however, identify some challenges unique to the advancement of prosecution in the 21st century.

Economic Restrictions: Difficulties in securing adequate fiscal resources—and thus adequate office staffing—was a primary concern for roundtable members. As difficult economic times and funding shortfalls create budget cuts and lay-offs, prosecutors expressed difficulties in directing assistant and deputy prosecutors to work outside the courtroom because of cuts in personnel. Although workload may stay the same or even increase, the number of prosecutors an office has to prosecute criminal activity is down due to these fiscal difficulties. This often puts a strain on offices, which are required to staff the courts in the prosecution of criminal cases, but also want to be involved in crime-reduction efforts.

Unlike some other governmental agencies, prosecutor offices' budgets consist largely of personnel costs. As a result, offices nationwide have been forced to resort to mandatory furlough days or even lay-offs of prosecutors. For example, at the beginning of the last fiscal year, July 1, 2009, the Los Angeles City Attorney's Office inherited a deficit of over \$18 million. The city continues to face daunting financial prospects with a \$484 million projected shortfall for the 2010 fiscal year. In the course of two budget cycles the Los Angeles City Attorney's Office has been asked to take a 28% and an 18% cut. Currently, the office is being asked to cut an additional 10%. Such budget constraints have forced the office of 916 employees to require most of the prosecutorial staff, except executive staff and other specialized positions, to take two furlough days a month.¹⁹ In addition to the limitation of the office's capacity to staff criminal and civil courtrooms, the impact of what these developments will ultimately have on staff recruitment and retention are at this time unknown.

¹⁹ Los Angeles City Attorney's Office, Public Information Office.

Moreover, offices with smaller staffs often find it difficult to cover courtroom assignments and simultaneously engage in activities that are typically associated with community prosecution efforts. Attending community meetings, hosting neighborhood events, attending COMPSTAT or crime analysis meetings, coordinating multi-disciplinary taskforces to respond to targeted criminal activity or geographical locations, and responding to crime scenes are all initiatives that take time and staffing to accomplish. Activities such as hosting community events or responding to crime scenes often must be performed outside the normal workday. In offices with few prosecutors, it is often the elected prosecutor who must take on the role of “community prosecutor.” In those cases, the elected or chief prosecutor is the one attending community meetings, convening meetings with law enforcement representatives, and developing new law enforcement responses.

During these complicated economic times and budgetary challenges, smaller offices must turn to innovative solutions to meet their demands and focus on efficiently and effectively managing operations. Roundtable prosecutors at the most recent discussion expressed concern that the fear of overextending resources or overextending staff is what is making some prosecutors’ offices hesitant about moving beyond the 20th century prosecutorial role.

Since staffing issues and resources vary between prosecutors’ offices, former APA Chairman and Prince George’s County (Maryland) State’s Attorney Glenn Ivey suggested that different prosecutorial models should be used for different offices. “Offices should be able to apply as many of the principles behind community prosecution as they can, depending upon the resources they might have available,” stated Ivey. “We need to create toolkits which offer a menu of items for implementation by different-sized offices. What might work in a large office might not be practical for a medium-sized or small office and vice versa.” The elected roundtable prosecutors supported the notion of developing resource documents that would equip prosecutors with toolkits for the implementation of community prosecution strategies consistent with their needs, priorities, and resources. APA is committed to working with federal, state, local, and tribal prosecutors to develop such materials.

Office and Community Culture: Another challenge recognized by roundtable prosecutors was the difficulty of altering the in-house culture within a prosecutor’s office. District Attorney Morrissey led the group’s discussion regarding the split that seems to occur

within offices between those prosecutors who want to be solely criminal trial prosecutors and those who actively commit to practicing the principles behind community prosecution. Traditional trial prosecutors often see activities that draw their attention outside of the trial courtroom as “not my job.” Those prosecutors engaging in the community prosecution philosophy, on the other hand, identify with problem-solving efforts, crime prevention, and community engagement and see it as critical to the job of the prosecutor’s office. District Attorney Soares made the case that in a high performance prosecutorial office, community prosecution strategies are helpful and beneficial office-wide, and that virtually all prosecutors understand that, even if they do not use the “community prosecution” terminology. “Every prosecutor’s office with special bureaus or vertical prosecution is in some sense practicing the principles of community prosecution. These bureaus have identified an issue and are employing problem-solving techniques often through establishing better partnerships with governmental agencies and engaging the community,” explained Soares. “Every prosecutor in my office is engaged in community prosecution, they may just not know it. My office-wide philosophy has established a ‘tough on crime, smart on prevention’ approach.”

As Dr. Catherine Coles, researcher and fellow at Harvard University’s program on Criminal Justice Policy and Management, identified years ago “in many special units that already exist—such as sexual abuse or domestic violence units—prosecutors are doing considerably more than prosecuting cases. They go out into the community to serve on multi-agency task forces; involve themselves in school activities; attend, sponsor, and organize conferences; engage in public speaking; train police and other law enforcement and justice officials; [and] work with public health and service providers, all the while developing genuine expertise in their substantive areas as well as in law. In the handling of cases, there is a move towards re-instituting vertical prosecution, not just in special units, but across the board.”²⁰

It is a central tenet of community prosecution—that prosecutors transcend their former roles as just case processors and sanction setters—that allows this philosophy to permeate every division, every unit, and even every attorney within a prosecutor’s office. The malleable nature of community prosecution permits prosecutors to develop creative solutions to address whatever crime issue is vexing a community, from livability concerns to homicide rates. It is this

²⁰ Coles, Catherine, J.D., Ph.D., *Community Prosecution: District Attorneys, County Prosecutors and Attorneys General*, Kennedy School of Government Harvard University Working Paper #02-02-07 (April 2002).

malleability that can be community prosecution's greatest strength, but also its utmost weakness. Roundtable participants felt that it was important to educate both elected chiefs and line prosecutors about the ways that 21st century strategies improve the effectiveness of more traditional prosecutorial functions.

The previous roundtable and community prosecution literature have identified some key strategies and tips that will assist elected or chief prosecutors with this issue of internal buy-in that include the following:

- Communicate that crime prevention is not a synonym for being soft on crime and provide examples that stress this point.
- Select appropriate staff to serve as designated community prosecutors. In addition to being strong advocates and communicators, roundtable prosecutors noted that community prosecutors are most effective when they are seasoned employees who are self-motivated team players and can adapt to the ever-changing needs of the community and the criminal justice system.
- Rethink the ways staff performance is evaluated and performance rewarded. Top management must assess more than the number of cases that are processed and convictions that are obtained or other traditional prosecutorial measures. Now they must also look at the number of external office meetings that are attended, the number of crime prevention strategies that are implemented or other proactive measures attempted during the evaluation period.
- Educate all staff, in addition to providing in-house training, about the community prosecution philosophy for all prosecutors will contribute to the overall internal buy-in.

At the most recent roundtable, prosecutors concurred with the conclusion drawn in prior discussions that community prosecution and other 21st century strategies must be promoted continuously. Innovative prosecutors should attend community events, such as community and neighborhood watch meetings, or use print, radio, television, and the web to help promote awareness. These efforts should be directed not only at the citizens directly impacted by crime, but also to the general public and their elected officials. In short, prosecutors need to convey to the citizens that they will take steps not only to prosecute crime after it occurs but are willing to act jointly with their communities to develop responses and programs that prevent crime before it happens and address current community concerns.

Political Impatience: The last challenge identified by roundtable prosecutors was the political impeditive of "getting something done." State and local politics can often pose significant challenges to the implementation of long-term strategies and solutions to improve

public safety. Often state and local elected officials feel pressured to support short-term “quick fixes” for increasingly complex issues such as gangs, gun violence, and drug-related criminal activity. Unfortunately, such short-term approaches may not adequately address problems that call for long-term, strategic initiatives. Changing the organizational framework and strategy of an office, implementing a multi-agency data-sharing system, or developing a new problem-solving court cannot be accomplished overnight. Investing in the measures necessary to accomplish any of these initiatives may not seem viable given the political imperative, no matter how appropriate and desirable such a policy choice may be. APA and its assembled prosecutors committed themselves to a framework of improving public safety through effective community partnerships in furtherance of safer communities.

Where do we go from here?

The High Performance Framework is the beginning of an effort to document a meaningful dialogue regarding a comprehensive blueprint for the future. The framework described above and the discussions of the assembled prosecutors are meant to act as an initial assessment of the state of prosecution in America. The nation’s prosecutors will benefit greatly from continuing efforts to convene multiple roundtables, examining each component of the framework in greater detail, and documenting the resulting dialogues. This document hopefully will encourage a series of further roundtables to define the prosecutor’s role in engaging their communities in public safety, identifying potential opportunities for collaboration among criminal justice partners and the private sector, and addressing the gaps and challenges currently vexing the nation’s justice system. Convening nationally recognized prosecutors and asking them to explore their concerns, challenges, experiences, and vision for the prosecutorial profession has pushed the field forward in the continual process of defining the prosecutor’s expanding role as a community leader, problem solver, policy maker, embracer of innovation, and forensic crime fighter. APA, in partnership with BJA and CCI, is committed to assisting the nation’s prosecutors in their efforts to define prosecution in the 21st century, as well as strengthening the links between the criminal justice system and the community while promoting partnership building and encouraging problem-solving strategies.

Appendix A

Contributing Jurisdictions

Albany County District Attorney's Office (New York)

Boulder City Attorney's Office (Colorado)

Cook County State's Attorney's Office (Illinois)

Dallas City Attorney's Office (Texas)

Denver District Attorney's Office (Colorado)

Fulton County District Attorney's Office (Georgia)

Kings County District Attorney's Office (New York)

Los Angeles City Attorney's Office (California)

Marion County Prosecutor's Office (Indiana)

Milwaukee District Attorney's Office (Wisconsin)

Multnomah County District Attorney's Office (Portland)

New York County District Attorney's Office (New York)

Philadelphia District Attorney's Office (Pennsylvania)

Prince George's County State's Attorney's Office (Maryland)

Rockland County District Attorney's Office (New York)

San Diego City Attorney's Office (California)

U.S. Attorney's Office for the Western District of Virginia