

**COMMUNITY PROSECUTION, PROBLEM SOLVING,  
AND PUBLIC ACCOUNTABILITY:  
THE EVOLVING STRATEGY  
OF THE AMERICAN PROSECUTOR**

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## INTRODUCTION<sup>1</sup>

Public prosecutors and the offices they lead constitute an important part of society's efforts to control crime, enhance security, and assure justice for victims and offenders. During much of the current century, American prosecutors—district attorneys and county prosecutors in particular—have contributed to these goals primarily through efficient and effective felony case processing, governed by twin principles of adhering to a standard of order through treating like cases alike, while at the same time attempting to handle individual cases fairly. They concentrated primarily on “serious” violent felonies and sought, for the most part, maximum penalties supported by the evidence available. Today, both the substance of core functions and a broadened scope of prosecution give evidence of considerable change.

Not long ago an assistant district attorney from Middlesex County, Massachusetts, working as a juvenile prosecutor in the Community Based Justice (CBJ) Program, recounted the following story. Through the CBJ program, he participates in one of a number of roundtables established by the District Attorney's Office in various schools: each roundtable brings together prosecutors, police, probation officials, school personnel, Department of Youth Services (DYS), Department of Social Services (DSS), and other service providers. Working in concert, members of a roundtable identify youth (some court-involved, others not) who are at risk or pose a risk to the local school and residential community, and devise individual strategies to assist these youth. What began as an attempt at early intervention and crime prevention has become a tool to obtain services and mentoring opportunities for youth, with the assistant district attorney playing a leading role in marshaling needed resources in the local community. Even offenders recognize his efforts. In fact, one juvenile he was preparing to prosecute appeared before the juvenile court judge and asked if the assistant district attorney could be “his” (the youth's) lawyer.

In 1997, the chief of Boston's (Suffolk County) district court prosecutions learned from her secretary that some office staff who took the “T” (Boston's mass transit subway system) to work were afraid to get off at a station near a large high school. Hundreds of students were gathering there in the afternoons, playing loud music, and sometimes fights would break out. Sending an assistant district attorney out to seek information, she learned that youths were hanging out in the station because it was safe—police were regularly present, and guns not permitted. If fights broke out, knives might be used but no one would be shot. Soon assistant district attorneys were meeting with school officials, local and mass transit police, probation officers, and others to search for a solution to the problem short of expelling youth from the safety of the station or arresting them once violence broke out.

A few years ago in Austin, Texas, District Attorney Ronald Earle worked with the Mayor's Office to start a juvenile diversion program called Neighborhood Conference Committees: panels of adult volunteers who heard cases diverted from the juvenile court involving nonviolent offenders. The panels set up individual contracts for offenders and their families that included provisions for restitution, community service, counseling, and other activities. Noncompliance resulted in an offender returning to the court itself; but recidivism rates gradually fell. District Attorney Earle reports that it isn't just compliance he is after—but the positive mentoring relationships that grow up between the offender and other adults in the local community, and the supportive relationships that evolve between the offender's family and other community members, that might keep the juvenile from re-offending. Earle and the City of Austin cannot

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<sup>1</sup> This article focuses upon prosecutors at the county level, known in most jurisdictions as district attorneys or county prosecutors, who prosecute in state courts.

form new committees fast enough to satisfy the demands of all the neighborhoods that want them. Many more such examples exist than can be recounted here, and they are occurring nationwide.

Others have recognized these and similar actions taken by prosecutors as important and innovative responses to crime and safety problems (Boland 1998a, b; Forst 1993a; Jacoby 1995). But perhaps they represent even more: taken together these developments suggest that a substantial shift may be underway in the “business” of prosecution. The key components of this transformation include a new concern by prosecutors with crime prevention and low-level crimes, as well as prosecuting violent felonies; the adoption of a problem-solving approach to matters of public safety; close collaboration with other justice and governmental agencies; and a new partnership with citizens in the community. More than any other feature, this partnership affects and shapes the activities of prosecutors, while creating a new sense of accountability to local neighborhoods (Coles and Kelling 1999).

The concept of an organizational strategy provides a useful way to think about the changes taking place in prosecution today. As Professor Mark Moore of Harvard University’s Kennedy School of Government explains, leaders of organizations frequently use the concept of organizational strategy as “a vision of what the leader of the organization would like the organization to achieve or become,” and the strategy is “justified as a whole by explaining why the particular course of action is a beneficial and feasible one in the light of current environmental challenges and opportunities” (1998:331). An organizational strategy refers to an overall mode of operating that generally includes a definition of institutional mission or function; the source of authority; the demand for a 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.<sup>2</sup>

George Kelling and Mark Moore, in a seminal paper, used a similar concept of organizational or corporate strategy to interpret American policing history in terms of three eras—the political era, the reform era, and the community policing era—each dominated by a particular strategy (Kelling and Moore 1988). In each era, they contended,

...there is a certain professional ethos that defines standards of competence, professionalism, and excellence in policing; ...at any given time, one set of concepts is more powerful, more widely shared, and better understood than others; and...this ethos changes over time. Sometimes this professional ethos has been explicitly articulated, and those who have articulated the concepts have been recognized as the leaders of their profession.... Other times, the ethos is implicit—accepted by all as the tacit assumptions that define the business of policing and the proper form for a police department to take. (p. 2)

Kelling and Moore stressed that boundaries between different eras might not be sharply defined, that not every organization adopts or implements the dominant strategy of an era. Nevertheless, these facts diminish neither the existence nor power of the dominant strategy to shape standards and practices. At the time they wrote, Kelling and Moore were particularly concerned with explaining existing dilemmas in policing in terms of the transition from the reform era (which began during the 1920s and 1930s and continued through the 1970s) to the community problem-solving era (arriving during the 1970s and 1980s), and the failure of many to recognize the overall significance of this paradigm change. Although community and problem-oriented

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<sup>2</sup> This idea of strategy and strategic elements is derived from Miles and Snow (1977), Moore (1995), and Andrews (1980). Kelling and Moore (1988) first used the model to analyze changes occurring in policing.

policing have since come to occupy center stage in the field, the idea of a shift in the organizational strategy of policing, in particular characterizing the new strategy as community-oriented policing, provoked heated debate in the police world when Kelling and Moore proposed it (see Hartmann 1988).

Today, the activities and achievements of leading prosecutors in the “community prosecution” movement, as well as substantial resistance to and controversy surrounding such developments among both prosecutors and researchers, suggest parallels with the history of community policing. In fact, while policing moved toward a community-oriented strategy in advance of prosecutors, it is not hard to make the case that prosecution may now be at the point where policing found itself in the mid-to-late 1980s, albeit with the outcome yet to be determined. Changes in scope and functions are showing up in prosecutors’ offices in many major cities, led by innovative and influential district attorneys and county prosecutors. Controversy rages over whether new prosecution practices merely represent the “flavor of the month” and will soon disappear; whether they will persist as “add-ons” to the core felony case processing capacity or be institutionalized and thereby change the basic mission of prosecution; whether they fall legitimately within the purview of prosecutorial discretion, or pose a threat to constitutional safeguards traditionally thought to limit prosecutors’ activities.

It is understandable that recent changes in prosecution might echo earlier ones in policing and appear to be on a course parallel to the transformation from “professional” policing in the reform era to the community-policing era, when a commitment to problem solving and a community orientation became driving forces. Certainly the same set of crime problems presented themselves to both police and prosecutors from the late 1960s on. Although police and prosecutors experienced the problems somewhat differently (police were on the streets, prosecutors were more “invisible”), the lessons police learned, and their responses nationwide, offered powerful examples to prosecutors. And as the experience in policing illustrates, conflict often accompanies a change in the dominant paradigm, particularly as opposition mounts from those with a stake in traditional ways of operating. If the outcome for prosecution is still uncertain—if prosecutors are more insulated from the pressures felt by police daily on the streets and in their dealings with the public, if some practitioners themselves oppose or are oblivious to the new developments—the pressures for change in prosecution are considerable and should not be underestimated. Much has changed since the 1980s: unlike police then, prosecutors today are surrounded by community and problem-oriented innovations throughout the justice system—in the development of community courts, community-based probation efforts, even in the search of corrections officials and public defenders for means by which “community justice” principles can be incorporated into and strengthen their own functioning. Unlike during the 1980s, acceptance now is widespread of the need for crime prevention and problem solving to reduce crime, even when it comes to dealing with repeat violent offenders—the “five percent” responsible for a disproportionately high number of violent crimes.

At the very least, it seems clear that state prosecutors in mid-sized and large communities will need to position themselves to respond to the visible achievements and impetus for change around them—both as leaders of their organizations and in their communities. For positive outcomes of community prosecution (often in combination with community policing) are beginning to show: among these benefits are lowered crime rates in targeted neighborhoods; increased satisfaction and decreased fear among citizens; enhanced working relationships between prosecutors and other justice agencies, particularly the police; more effective coordination and delivery of criminal justice and local government services (including successful prosecutions) to address crime and safety in particular neighborhoods; and the growing acceptance by citizens of responsibility for creating and maintaining safe communities. And district attorneys and county

prosecutors are most often elected officials and political leaders, who can be blamed at the ballot box for a failure of leadership or the appearance of impeding positive change in their communities.

The goal in this paper is to offer a new framework for interpreting current developments in prosecution—that of competing or evolving organizational strategies—that may aid prosecutors in thinking strategically about new steps they are taking, contemplating, or perhaps resisting. The first task is to set out the strategy that has defined American prosecutors’ offices throughout much of this century—referred to here as the felony case processing strategy. The next section involves a consideration of the historical impetus that drove a number of prosecutors into thinking differently about the business of prosecution, especially events taking place in a crucial period from the late 1980s into the mid-1990s. These events, and the responses of prosecutors to them, posed a serious challenge to the dominant felony case processing strategy of prosecution. In the third section, the emergence of a new prosecutorial strategy is explored, with current prosecution practices and prosecutors’ statements from around the country used to construct a model of the strategy. This model is explicitly tentative, for today’s practices may well be transitory as the final shape and form of the strategy develop further. Nevertheless, its core element is evident: the prosecutor’s new partnership with, and growing accountability to, private citizens in local neighborhoods within the community. The final section provides an assessment of how prosecutors are faring in moving into the new organizational strategy, including the organizational challenges that confront them and the record they have achieved to date.

### *Thinking in Terms of Organizational Strategies*

Interpreting current changes in prosecution as the emergence of a new organizational strategy recognizes them as a highly significant transformation, through which the dominant paradigm of one era is replaced by another (Walker 1992:48; Kuhn 1970). Other researchers have contributed much to an understanding of changes in particular aspects of prosecutors’ activities. Brian Forst was one of the first to point out the advantages of, and prospects for, closer alignment of prosecutors with the community—stressing its value for those who seek political support or adopt an ethos of public service (1993a:297). Joan Jacoby has described the emergence of a new prosecutorial leadership style (thereby shedding light on management processes), prosecutors’ interaction with the local environment, and their adoption of crime prevention as a new goal (1995).<sup>3</sup> Barbara Boland documents new problem-solving activities by line prosecutors in response to evolving crime configurations on the streets—activities that represent a change in tactics utilized by prosecutors (1998a; 1999). Nevertheless, each of these analyses is more limited in scope than the broader framework set forth by an organizational strategy, which encompasses administrative and management aspects, tactics, relationship with the environment, and the source of authority—all of the following elements:

- The *mission*, or definition of the business or function of prosecution, including the goals and values that guide the organization.
- The *source of authority* that provides the prosecutor with legal and moral authority, including public support, and the resources and funds necessary to carry out his/her objectives.
- The sources of *demand* for the products or services, as well as the marketing and management of that demand by prosecutors.

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<sup>3</sup> Jacoby uses “strategy” in a sense closer to the way in which “tactics” is used here.

- The *organizational structure and administrative processes*, including the formal structure (the chain of command, number of layers in the organization, type of structure—functional or geographic, special units), and administrative and personnel issues (leadership of the organization, hiring, training, and promotion policies and procedures, performance evaluation, and the culture of the organization).
- *Tactics*, those core capacities, operations and activities by which the organization attempts to achieve its goals—for example, case processing, working closely with the community, and problem solving.
- The *environment*, comprising of the political context and task environment within which the prosecutor and her office operate. Of particular importance is the interaction of the prosecutor with other justice agencies—specifically, the city attorney and police—and with private and public institutions and groups in the community.
- Measurable *outcomes* that are closely related to the mission of the organization. What does it seek to accomplish through its tactics, and the organizational and administrative features that support them: successful prosecution of as many cases as possible? plea agreements reflecting the highest charge possible? or the reduction or prevention of crime?

Why is the recognition of a new organizational strategy, and its constituent elements, important for understanding current change in prosecution? Of particular relevance is the cautionary note raised by George Kelling and Mark Moore (1988), who draw attention to the fact that misconstruing a practice that represents a fundamentally new strategy as merely a *tactic* may doom it to failure. The example they provide is team policing in the 1960s and 1970s:

Despite the popularity of team policing with officers involved in it and with citizens, it generally did not remain in police departments for very long. It was usually planned and implemented with enthusiasm and maintained for several years. Then...it would vanish.... However, a close examination of team policing reveals that it was a strategy that innovators mistakenly approached as a tactic. It had implications for authorization...organizational design...definition of function.... What becomes clear...is that team policing was a competing strategy with different assumptions about every element of police business. It was no wonder that it expired under such circumstances. Team and reform policing were strategically incompatible—one did not fit into the other. (Kelling and Moore 1988:13)

This same struggle over a strategy of prosecution is evident today. In many prosecutors' offices, activities such as those described at the beginning of this article are created as "add-ons" to traditional prosecution functions, compete for scarce resources in an organization whose culture still values felony prosecutions most highly, and operate more or less successfully—then disappear with a new administration. As such they are tactics incompatible in long-range terms with the overall prosecution strategy adopted by that office, and probably will achieve only limited success. In other contexts, they are part of a conscious and comprehensive attempt by the prosecutor to re-orient office functions in line with a new definition of the business of prosecution—a new prosecution strategy.

The appearance of a new organizational strategy, then, with its corresponding individual elements, signals no less than a fundamental alteration in conceiving the function of the prosecutor in the justice system, and the “business” of prosecution. While it is possible to construct a model that represents the strategy of a particular office, deduced from its current values and practices (that is, a model *of an organization*), the goal here is to identify the dominant organizational strategy *for an entire institution* (that is, prosecution). An institutional model is a model *for*, rather than a model *of*, prosecution: it represents a set of ideals, a “professional ethos,” as opposed to strictly describing current practices. In fact, many organizations will not live up to, adopt, or fully implement the entire strategy; nevertheless, it serves as a normative model to guide and inspire organizations.

### ***Organizations and Strategies in Twentieth-Century American Prosecution***

For American prosecutors, the twentieth century ended with two actively competing visions of prosecution—one dominant for the last 50 to 75 years, a second emerging to challenge the first. The outcome is not merely academic: when fundamental changes take place in the role and function of the organization headed by the chief law enforcement officer in the community, as many district attorneys are, the implications are significant for other justice agencies, for justice processes, and for crime control efforts as a whole in local communities.

During the last half century, the position of American prosecutors in the justice system, in crime control, and in local political communities has become extraordinarily powerful. The reasons are many: prosecutorial discretion over the decision to charge, referred to as “the single most important decision made in an individual case” (Remington 1993:98; see also American Bar Association 1970:93, 1980) is crucial. Attempts to limit the discretion of police (for example, through court decisions imposing restraints on police activity, removal of police prosecutors, and placing screening under the control of prosecutors) and the judiciary (through mandatory and determinate sentencing) have added to the discretion exercised by prosecutors. Prosecutors have moved into a position of prominence in juvenile courts, and increasing numbers of states have given them power over the waiver of juvenile offenders into adult criminal courts (Coles and Kelling, forthcoming). In all but a very few states, prosecutors are elected officials, with political bases: in major cities, the prosecutor has emerged frequently as the acknowledged leader in criminal justice.

Yet the accretion of greater power to prosecutors relative to other actors in the justice system did not happen overnight. As researcher William F. McDonald explains,

In the last century prosecutors were used to write indictments and to try felony cases (or dismiss or plead them). The justice process was largely controlled by the police and the judiciary. Prosecutors were absent from the lower courts, often referred to as “police courts,” where the police served as prosecutors. If cases were screened out of the system at all, it was done by the judicial officer at either the initial appearance or the preliminary hearing (or by prosecutors nolo-prossing (dismissing) cases after they were indicted). These arrangements still exist in many jurisdictions or have only recently been changed.... (1985:10)<sup>4</sup>

And even though greater power has accrued to the role of prosecutor relative to other actors in the justice system, prosecutors’ offices as organizations have moved relatively slowly into a central coordinating and policymaking position, with prosecution “the last of the main agencies of the

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<sup>4</sup> See also McDonald 1979b.

justice system to develop into a major organizational force” (McDonald 1985:10). The history of American prosecution offers some clues to explain this course of organizational development. Accounts of prosecutors’ roles since the seventeenth century portray a melding of distinctive European traditions and influences within myriad local New World economic, cultural, and political contexts (Wickersham *Report on Prosecution* 1931:6ff; Kress 1976; Jacoby 1997a,b). Although a system of public prosecution developed throughout the country, diversity persisted in the form of regional variation in prosecutorial structures, functions, and jurisdiction from state to state. For example, in a small number of states (New Jersey, Delaware, Connecticut, and Rhode Island), prosecutors are appointed rather than elected. Some prosecutors lack jurisdiction over misdemeanors, while most handle both felonies and misdemeanors.

One source of such variation lies in differing demographic and urban, rural, or suburban contexts. As researchers have found repeatedly, the policies governing operations in American prosecutors’ offices, as well as organizational structures and processes, are influenced by such environmental features (Jacoby 1980; Eisenstein, Flemming, and Nardulli 1988:262-73; Flemming 1990).<sup>5</sup> In this vein, the predominance of small offices in which prosecutors continued to serve part-time (while also working in private practice) well into the second half of this century is an especially important factor that has impacted organizational development. The most recent *Prosecutors in State Courts, 1996* (Bureau of Justice Statistics 1998) reports that between 1990 and 1996 the percentage of offices employing at least one full-time prosecutor increased from about 50 to 75. Nevertheless, of 2,341 offices surveyed, 613 were classified as part-time only; about 26 percent of offices had a part-time chief prosecutor; and the median staff size for all offices was nine. In many smaller jurisdictions, prosecutors rely on close informal relationships developed and maintained with private citizens and actors in other justice agencies and local government, to work across agency boundaries and address problems. On the other hand, large urban offices are more bureaucratic, have larger numbers of staff, higher caseloads, and face greater challenges in institutionalizing consistent policies governing the use of discretion. They are likely to have more resources available, and their concerns are often influenced by the higher crime rates that characterize cities, especially large ones (Jacoby 1980: ch. 2). Addressing problems jointly with other agencies in this setting may require the creation of formal collaborations.

Many features contributing to the complex course of organizational development in prosecution are evident in the histories of individual offices—such as the first-hand account provided by former district attorney Newman Flanagan of how changes in his Boston office came about, and what they produced.<sup>6</sup> Flanagan served as Suffolk County District Attorney from 1979 to 1992, and before that as an assistant district attorney (1961 to 1978). His predecessor, District Attorney Garrett Byrne (1952 to 1978), was the first full-time district attorney. Flanagan recalls that there were approximately 33 part-time assistant district attorneys, who also worked in private practice, when he served as an assistant in Byrne’s office. Judges, too, were part-time. Local district (police) courts were strongly tied then to neighborhoods: Flanagan recounts that local drunks would be arrested in October and sent to Deer Island, where they would be provided for in jail during the winter (see also Miller 1969:284). During the 1960s, prosecutors from the Suffolk County District Attorney’s Office replaced police prosecutors in the local district (police) courts. Eventually each assistant district attorney had “his” court (the major ones being Dorchester and Roxbury), where half a dozen assistant district attorneys worked together. Other changes were on the way for the office: early in the 1970s the National District Attorneys Association provided funding to initiate a victim-witness program; the Law Enforcement Assistant Administration

<sup>5</sup> See Jacoby 1980, chapters 1, 2, 11.

<sup>6</sup> See Catherine Coles (with George Kelling on police), “Appendix B: Boston (Suffolk County), Massachusetts, Case Study,” prepared in conjunction with Coles and Kelling (1998).

(LEAA) also underwrote the development of a computer system, implementation of a “case management” system, and creation of an organized crime unit. Then, by the late 1970s, legislation aimed at reducing conflicts of interest for prosecutors in private practice mandated that they work full-time: one effect, according to Flanagan, was to remove them from close contact with the community.<sup>7</sup>

The Boston experience illustrates several features that help to explain prosecution’s slow development as an institutional force—among them the relatively late appearance of large organizations with a full-time professional staff, and the comparatively recent assumption by prosecutors of a more central role in justice processes. Along with regional variation and persisting disparities in size and organizational structure of prosecutors’ offices, these elements offer some insight into the delayed organizational ascendancy of prosecutors’ offices, as well as the fact that prosecutors’ sense of professional and organizational self-consciousness developed much later, and perhaps less fully, than that of police.

Nevertheless, for much of the twentieth century a single organizational strategy has dominated in prosecution—traceable from pronouncements in the early twentieth-century crime surveys (Pound and Frankfurter 1922; Illinois Association for Criminal Justice 1929; Missouri Association for Criminal Justice 1926) and Wickersham Commission’s summary report on prosecution (1931); and given formal validation and explicit recognition in the recommendations of the President’s Commission on Law Enforcement and Administration of Justice in 1967.<sup>8</sup> The strategy identified the district attorney as a prosecutor whose “mission” was that of felony case processor. In the last half century, the felony case processor strategy provided the framework for growth and development as prosecutors’ offices increased in size. Standards were developed by professional organizations such as the American Bar Association and National District Attorneys Association to address the expanding scope of prosecutorial power and authority. Mainstream research on prosecution explored, promoted, and refined practices identified as central to the strategy. And as prosecutors faced increasing crime rates (beginning in the late 1960s and growing dramatically through the 1980s and early 1990s), a proliferation of drug-related offenses, and an explosion in the sheer number of cases, the strategy defined the business of prosecution and set out the appropriate tools for “professional” prosecutors to use.

#### THE FELONY CASE PROCESSOR STRATEGY

In essence, the felony case processor strategy was rooted in Progressive Era attempts to professionalize criminal justice practices and remove them from the taint of corrupt political influence. Conclusions and recommendations contained in reports produced by the Wickersham Commission and crime surveys of the 1920s and 1930s would set the stage and provide a foundation. For example, the Wickersham *Report on Prosecution* (1931) identified four primary functions of the prosecutor, all associated with case processing: criminal investigation, carried out along with law enforcement agencies; “determining who shall be prosecuted and who brought to trial and who not”; preparation of cases for trial; and trying cases and arguing appeals (1931:12). The *Report* also emphasized the dangers inherent in the political role of the prosecutor, noting the

<sup>7</sup> Unlike in many cities, however, Boston’s district courts—the lowest level trial courts—continue to operate in local neighborhoods. They are, in fact, the old police courts, absorbed into the state criminal court system. Assistant district attorneys work in these courts.

<sup>8</sup> The American Bar Foundation Survey (1950s) documented actual practices in prosecution and in doing so raised questions about the dominant model (Miller 1969; Remington 1993). It is discussed below.

...close connection between corrupt local political organizations and criminal organization.... Hence it is vital to a combination of corrupt politics and organized crime to control the prosecutor's office, or if that can not be done, to render its activities nugatory. Thus the prosecutor's office, with its enormous power of preventing prosecutions from getting to trial, its lack of organization, its freedom from central control, and its ill-defined responsibility, is a great political prize.... (1931:11)

Virtually all the crime survey reports documented prosecutorial discretion and decision making in case disposal through charging (or declining to charge), plea bargaining, and nol prosequing (McDonald 1979b:32-35; Jacoby 1980:30-33). The focus was on processing of cases reflecting crimes, primarily felonies, in which police arrests had been made; subsequent case attrition; and the supposed failure of the formal justice system to deal with increased caseloads (Remington 1993:85). The ideal was full prosecution under the law: case attrition between arrest and conviction was attributed to "inadequately trained prosecutors, or political interference, or simple lack of prosecutorial will" (Walker 1993a:86). Plea bargaining in particular was assumed to represent failure—a refusal to prosecute, to try cases, and thereby to arrive at punishment for an offender (Walker 1992:53). There was no appreciation for the context in which prosecutorial discretion was exercised, or the potential value that it might offer in terms of other outcomes—if anything, the goal was to minimize, eliminate, or tightly control its use. Implicitly, the measure of organizational performance that emerged in the work of the commissions was successful prosecution of cases; case attrition represented failure. Recommendations set out to remedy these failings focused primarily upon improving efficiency in office organization, working methods, and administrative practices (Wickersham *Report on Prosecution* 1931:180).

The next major study of prosecution—the American Bar Foundation Survey conducted during the 1950s and 1960s and documenting the "law in action" (the actual activities of line prosecutors)—has been described as "discovering" discretion (Walker 1993:6). The real significance of this point is that the Survey reports treated discretion in a different way, and thus represented a departure from the thrust of previous crime surveys. For example, in the major publication on prosecution, *Prosecution: The Decision to Charge a Suspect with a Crime* (1969), Frank Miller explored in systematic fashion aspects of prosecutorial discretion involved in the decision not to charge (or not to charge fully) that were related not directly to evidentiary, but to other considerations such as: achieving objectives more satisfactorily through formal alternatives, administrative procedures, or civil sanctions; weighing potential harm to the victim or undue harm to the suspect; and costs to the system. Yet these findings on prosecution, unlike policing, failed to take center stage at the time. Instead, the felony case processor model for prosecution was reinforced by the work of President Johnson's Commission on Law Enforcement and Administration of Justice, and by subsequent model codes and standards for prosecution released by professional associations.

In 1967, the Commission on Law Enforcement released its report that, although restating many of the American Bar Survey findings on the uses of discretion by prosecutors, nonetheless essentially accepted the role of prosecutor as a case processor—a model akin to that of the "professional" police under the Reform organizational strategy (Kelling and Moore 1988:4-9).<sup>9</sup> In both *The Challenge of Crime in a Free Society* (1967a), and the *Task Force Report: The*

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<sup>9</sup>Although the President's Commission released its reports before publication of all the major works emanating from the American Bar Foundation Survey, the Survey results were made available to the Commission.

*Courts* (1967c), the discussion of prosecution was located within the Commission's consideration of the courts: the prosecutor was a court official, whose "crucial position in the law enforcement system" rested in his discretion to charge and to affect dispositions (1967a:147). The *Task Force Report* identified three functions of prosecutors: "[first]...to determine whether an alleged offender should be charged to obtain convictions through guilty plea negotiations...[second] the prosecutor has the responsibility of presenting government's case in court...[and third]...the prosecutor is often an investigator and instigator of the criminal process" (1967c:72). Virtually all recommendations for prosecution were aimed at improving the professionalism and performance of the prosecutor in case processing.

Not surprisingly, the American Bar Association, National Association of Attorneys General, and National District Attorneys Association all attempted to promote greater professionalization in prosecution: they recommended the hiring of full-time staff, and prepared manuals and guides to promote the standardization of screening and case management procedures, to control the exercise of discretion by line prosecutors, and to increase efficiency in office operations.<sup>10</sup>

### *Elements of the Strategy*

In practice, the felony case processor strategy has been unevenly distributed across the country—in existence primarily in major urban centers, where prosecutors' offices were larger and staffed by full-time associates. Today, many prosecutors' offices continue to operate within the framework defined by the model, or at least to recognize it as the professional standard. The basic elements of the felony case processor strategy are:

*Mission:* The goal of the prosecutor's office is to ensure the efficient and effective prosecution, or disposition, of cases presented to it for prosecution. This is the mission or function of the prosecutor. Effective prosecution of criminal cases means ensuring that cases are justly prosecuted, which involves some resolution of the tension between individualization (each case should result in a fair decision in light of its peculiarities, emphasizing the use of maximum discretion by the prosecutor) and standardization/equity concerns (in general, like cases should be treated alike). Prosecutors are concerned about getting the most out of the evidence presented to them, and generally concentrate attention on "serious" cases, defined primarily in terms of "Part I" crimes (murder, rape, robbery, aggravated assault, burglary, larceny, motor vehicle theft, and arson). The operational goal becomes maximizing the felony conviction rate.

*Source of Authority:* The support and legitimacy of the prosecutor's office is rooted in society's desire to hold offenders accountable for their offenses: it is the prosecutor who is authorized to enforce the law, acting within the boundaries of the law. The prosecutor is most often an elected official, with a public mandate. However, s/he is also a professional, expected to enforce the law in a professionally competent manner. Thus most district attorneys' offices organize themselves and seek to operate as professional felony case processing organizations, with an attendant professional "mystique" attached to the lawyers and their work.

*Demand:* In the felony case processor strategy, the district attorney's office markets itself primarily as a professional organization equipped to hold offenders accountable by obtaining guilty pleas or trial convictions, or in some cases, through diverting cases for treatment. The source of the district attorneys' workload (demand for service) is primarily police—from whom most cases come to the prosecutor. In this respect prosecutors' offices are relatively passive in

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<sup>10</sup> See, e.g., National District Attorneys Association (NDAA) 1977, 1973; National Association of Attorneys General (NAAG) 1974; American Bar Association 1970.

their environment, reacting to cases that come to them rather than pursuing cases proactively. Nevertheless, prosecutors themselves control, for the most part, what cases they accept, and have discretion over how to handle them (Forst 1993a). District attorneys can and do obtain cases in other ways at times, such as through self-initiated investigations pursued by special prosecution units in organized crime and public integrity (fraud and corruption); however, this is not the rule for the majority of cases.

*Organization:* In terms of structure, district attorneys' or county prosecutors' offices have generally been geographically centralized and organized functionally (with special teams or units, such as for general felony prosecutions, misdemeanors, homicides, juveniles, domestic violence, or sex crimes).<sup>11</sup> Although centralized in terms of operations, they tend to be relatively "flat" organizations, at least when compared with police departments. Prosecutors' offices typically have the following distinctive levels: the district attorney, first assistant or deputy, executive staff (usually division or section heads), heads of units or trial teams, and line prosecutors.

Administratively, it is primarily lawyers who staff prosecutors' offices, with few non-lawyers in key management or administrative positions, except for those offices that have substantial investigative units or divisions. During the 1970s and 1980s, victim witness advocates were brought into many of the larger urban offices. Newly appointed assistant district attorneys generally handle "simple" cases, often in juvenile (if the prosecutor has juvenile jurisdiction) or misdemeanor units, and progress with experience and demonstrated competence to units in which they receive more complex cases involving violent felonies, especially homicide. Relations among assistants are largely collegial and consultative, with greater formality present in supervisory relationships. Mentoring of junior by more experienced senior staff is typical. Ideally, decision making by junior assistants in particular is controlled through procedures and oversight mechanisms designed to ensure adherence to office policies governing screening, charging, plea bargaining, and sentencing recommendations. In practice, however, the exercise of discretion varies considerably among offices, as noted in studies such as those documenting processes in nine "court communities" (Eisenstein, Flemming, and Nardulli 1988:89, 151-53; Flemming, Nardulli, and Eisenstein 1992:58-65), and in three criminal court organizations (Eisenstein and Jacob 1977:85-86, 116-17, 151-54).

Traditionally, the line of accountability by assistants has been inward to the organization, although more recently considerable accountability has developed to victims and their families. For example, from 1974 to 1990, the rate at which prosecutors notified police and victims of the outcomes of their cases more than doubled, rising from 44 to 98 percent for police notification, and from 35 to 93 percent for victims (Bureau of Justice Statistics 1992; Forst 1993a:297).

Salaries for assistant district attorneys are generally low when compared to the private sector. Consequently, prosecutors' offices have fairly young staff and relatively high turnover. Because most assistant district attorneys lack civil service protection and are not unionized, the district attorney enjoys considerable discretion over whom s/he can appoint or keep in the organization. Individual prosecutors' effective performance is generally measured by the number of trials (with violent crimes most highly valued), the percentage of convictions (including pleas), and the length of sentence for repeat and violent offenders. As Eisenstein and Jacob describe in their multi-site study, "Although the formal legal duty of the courtroom prosecutor is to represent the state and see that justice is done, his performance is actually judged on the number of convictions.

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<sup>11</sup> Within the United States, the institution of prosecution is often described as decentralized, referring to the division of functions among U.S. Attorney Offices (at the federal level), Attorneys General (at the state level), county prosecutors or district attorneys, and municipal or city attorneys.

Failure to obtain the expected number...jeopardizes the career prospects of the prosecutor (including his re-election) and makes both him and his staff vulnerable to public criticism..."(1977:47).

*Tactics:* In the felony case processor strategy, the most important means, or tactic, used by a prosecutor's office to reach the operational goal of maximizing the felony conviction rate is case preparation, to support success at trial and plea bargaining. Screening and charging are crucial elements: prosecutors may adopt different screening or charging policies such as those identified by Jacoby (legal sufficiency, system efficiency, defendant rehabilitation, or trial sufficiency) that govern decisions for accepting and disposing of cases. Nevertheless, these policies are applied primarily to "weed out" cases not considered strong enough to proceed to trial on legal sufficiency, evidentiary or constitutional grounds, or in which the type of offense and record of the offender make diversion a viable alternative. Jacoby explains policies as corresponding to particular environmental features or resource availability: for example, when local courts are overloaded and resources strained, a system efficiency policy may dictate that weak cases be disposed of as early as possible (Jacoby 1980:ch.7). The existence of these policies does not conflict with the primary goal for prosecutors of seeking to maximize convictions through effective case preparation. The crucial skill of each prosecutor is to obtain a disposition supporting the maximum charge the evidence can reasonably sustain, particularly for violent crimes and repeat offenders.

*Environment:* Within the political and task environment, prosecutors' offices have strong, impermeable boundaries, and operate with relative independence. Many key operations that prosecutors perform are largely hidden from the lay public. Furthermore, since the prosecutor in America is part of the executive branch of government, her policies "are shielded also from judicial and legislative review under the Constitutional principle of separation of powers. Prosecutors may go public with their general philosophies, but they are rarely more specific than that, so as not to tie their own hands" (Forst 1993a:294).

Prosecution also tends "to remain outside...the local government structure," and no real premium is placed on working closely with local government. Prosecutors do not generally "tap into the resources that local governments have."<sup>12</sup> The prestige of the district attorney's office vis-à-vis other agencies in the local community may be as high as the ability of the prosecutor to capture public attention. One district attorney described a dispute with the head of a department of public welfare in his community: when the welfare department head refused to cooperate, a meeting between them ended with the district attorney saying, "All right, I'll call my press conference and you call yours. We'll see who gets any press." The welfare chief proposed another meeting to see if they could resolve the issue.<sup>13</sup> This prestige differential also exists in the relationship between assistant district attorneys and police, and can be the source of considerable conflict.

Research has documented the extent to which population size and demographics (Jacoby 1980:76), as well as the structures of other organizations, affect and shape the structure and day-to-day operations of the prosecutor's office. One example is the creation of prosecution trial teams, which may be linked to specific courts in order to handle cases assigned there. In "court communities," courtroom processes and interactions with judges, defense attorneys, and other courtroom staff require constant adjustment and negotiation on the part of assistant district attorneys as they perform their appointed functions, whether in line with policies handed down by the district attorney or through the exercise of individual discretion (Eisenstein, Flemming, and

<sup>12</sup> Comment by Joan Jacoby, meeting at the Kennedy School of Government, May 2, 1997.

<sup>13</sup> Personal communication from George Kelling.

Nardulli 1988; Eisenstein and Jacob 1977). Nevertheless, the crucial position and functions of the prosecutor in justice processes, and the power of an individual prosecutor able to select her own goals and political “style,” are at least as potent forces in shaping prosecutorial office policies as are constraints present in the task environment (see Flemming 1990:47-48).

*Outcomes:* The primary organizational outcome measures sought as part of the felony case processor strategy have been the number of trials (particularly involving Part I crimes) and convictions, and the length of sentences. Eisenstein and Jacob note that both the media and the public judge the organization on its ability to successfully prosecute cases:

The media judges the state’s attorney’s performance primarily on the basis of past experience. Roughly the same number of defendants must be convicted as in the recent past. The charges on which they are convicted must be about as near to the original charges as is customary.... When public concern about gun crimes rises, the number of convictions for weapons offenses must also increase. Finally, a certain number of “important” cases...involving heinous crimes, large sums of money, or prominent members of the community...must be handled with visible competence. (1977:47)

### ***Summing Up: The Felony Case Processor Strategy***

*Mission:* The prosecutor’s business is to prosecute, or dispose of, cases presented by the police. Highest priority is given to violent crimes (felonies) and repeat and/or violent offenders. The operational goal is maximizing the felony conviction rate, although in some communities efforts at diversion may be expected.

*Base of Authority:* The prosecutor’s authority arises rests upon the law and an electoral mandate. In addition, she is a professional, expected to carry out the duties of the office in accord with professional standards.

*Demand:* Demand comes primarily from police, through cases presented to the prosecutor’s office. The prosecutor markets herself as a felony case processor, professionally equipped to hold offenders accountable by obtaining trial convictions or pleas that result in maximum penalties, particularly for violent, repeat offenders.

*Organization:* Prosecutors’ offices are generally centralized, organized functionally, and relatively “flat” in hierarchical terms. Administratively, most staff are lawyers, with the culture of the office valuing successful litigation (and to some degree appellate) skills. Performance measures for individual prosecutors highlight case processing expertise and trial or plea negotiation outcomes. Accountability is generally inward to the organization.

*Tactics:* The primary tactic is case preparation, for efficient and effective felony case prosecution or plea negotiations.

*Environment:* Prosecutors’ offices operate in relative isolation from other justice agencies.

*Outcomes:* Outcomes are measured in numbers of felony convictions, maximum sentences obtained, and dispositions through plea negotiations.

The origins of current changes in prosecution are in many senses bound up with the experiences of police since the 1960s. These were not easy years in policing: during the 1960s and 1970s, police came under extraordinary pressure and scrutiny from the courts, especially with regard to investigatory practices (including interrogation of offenders) and search and seizure. Many of the 1960s riots were blamed on police actions; and in the years following, as crime began what seemed an inexorable rise, it became increasingly clear that larger numbers of police were failing to produce anticipated crime reductions. More specifically, during the 1970s, rigorous research into core police competencies—preventive patrol, criminal investigation, and rapid response to calls for service—called into question the very ability of police to control or affect serious crime. Police experienced nothing less than a genuine crisis of confidence in their professional integrity and competence. Yet if these “failures” led to self-reflection, they also paved the way for the emergence of the new strategy that Kelling and Moore describe (1988).

By the mid-1980s police began putting together the pieces of this new strategy: their function would be preventing crime and problem solving—not just arresting wrongdoers after the commission of a crime (Goldstein 1979). They rediscovered the public and the specific roles citizens could play in crime prevention: providing support and authority for police; identifying problems; helping establish police priorities. Recognizing that citizens would be their partners in crime control, police returned to tactics and allocation methods that fostered the creation of close linkages with communities, such as foot and bicycle patrol, and permanent beats. Police beats and precincts themselves were redesigned to match neighborhood boundaries. And within police organizations, to enable police to respond more effectively to local priorities, decision-making authority was devolved to lower levels of the organization. All of these changes fell under the label “community policing” (Kelling and Moore 1988; Moore 1998).

Prosecutors had a different experience: when police began moving “out of the box,” prosecutors did not immediately take a similar path. American prosecutors never faced the loss of public confidence in their mission and tactics that police were forced to confront. While policing was a relatively public and accessible institution, the day-to-day work of prosecutors was less visible (Forst 1993a:294), and no one challenged seriously that case processing was, or should be, their core business. Nevertheless, from the mid-1980s into the early 1990s, something was “going on” that caused prosecutors in many of the nation’s largest cities to believe that they were no more immune to blame than were police for the failure of criminal justice agencies to deal with the explosion in violence and disorder on city streets. In spite of prosecutorial innovation that produced increasingly sophisticated and efficient prosecutions, crime remained high, quality of life in cities was eroding, and jails and prisons were filling to over-capacity. And recent changes in policing offered a powerful example of the benefits of problem solving and community-oriented operations and tactics.

### ***Motivating Factors and Prosecutors’ Responses***

Prosecutors who adopted a community-oriented prosecution strategy once in office were motivated by three key factors to think about what they might do differently: ineffectiveness in the justice system to respond effectively to worsening crime and quality-of-life conditions; demands from citizens, followed by increased contact with these citizens; and changes in the approaches of other criminal justice agencies and the justice system.<sup>14</sup>

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<sup>14</sup> Data are presented here from two studies: in the first, “Prosecution in the Community: A Study of Emergent Strategies,” four prosecutors’ offices were studied, along with their local police departments, from late 1995 to early 1997—District Attorney Ralph Martin (Suffolk County, Boston, MA), District

*Salvaging the Justice System's Effectiveness: Addressing Drug-Related Crime and Quality of Life through Problem Solving:* Many prosecutors point to the dramatic increase in drug-related crime, especially crack cocaine, as an important impetus for changing their views of what a prosecutor's mission, or function, should be. In Kansas City (MO), Jackson County Prosecutor Albert Reiderer, in office from 1980 to 1992, recalls a surge in drug-related crime (especially crack cocaine) during the 1980s, when one of every two arrests involved a drug user and 80 percent of all crimes involved illegal drugs (Coles and Kelling 1998, Kansas City Case Study). In Boston, youth gang violence during the late 1980s and early 1990s reached an unprecedented high: in 1990 alone 152 people were killed, 73 of whom were aged 24 and under, and 18 were aged 17 or under. Rival gangs shot up funerals of each others' members: "Boston—or at least its inner-city, the predominantly black and Latino neighborhoods of Roxbury, Dorchester, and Mattapan—seemed well on the way to becoming another casualty to the lethal combination of gangs, guns, and 'crack' cocaine that were ravaging inner-city neighborhoods across the country" (Buntin 1998).

Initially, the response of prosecutors was to "get tough" on perpetrators of drug-related crime. As Barbara Boland and Kerry Healey found,

A 1989 review of arrest dispositions in Los Angeles, Manhattan, San Diego, and Washington, D.C.—cities that were hit early by the explosion in drug cases—showed that prosecutors...responded to the increase in caseloads by "getting tough" on defendants arrested for drug crimes. Arrest disposition data from these cities for 1982 and 1987 show that while the number of felony arrests increased dramatically, the proportion of arrested defendants convicted and sent to prison increased even more rapidly.... The end result was that while felony drug arrests increased by 136 percent from 1982 to 1987, the number of imprisonments increased 317 percent (Boland and Healey 1993:1).

But by the late 1980s, some practitioners began to conclude that prosecuting cases was not enough, and looked instead for a more comprehensive approach to address particularly egregious crime problems. Prosecutors had already made headway against racketeering and organized crime by adopting a broader approach: exploring this area in "The Prosecutor as Problem-Solver" (1992), Ronald Goldstock enumerated the potentially useful nontraditional remedies available to prosecutors, including civil remedies such as forfeiture and injunctions, and stressed the need for strategic planning to address particular crime problems (see also Blakey, Goldstock, and Rogovin 1978). Responding to the surge in drug arrests and accompanying heavier caseloads, other prosecutors sought to apply a similar approach to drug-related crime: Norm Maleng in Seattle, Washington, Michael Schrunck in Portland, Oregon, Robert Macy in Oklahoma County, Oklahoma, and Janet Reno in Miami, Florida, all formulated comprehensive problem-

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Attorney Ronald Earle (Travis County, Austin, TX), County Prosecutor Claire McCaskill (Jackson County, Kansas City, MO), and County Prosecutor Scott Newman (Marion County, Indianapolis, IN). A case study was prepared for each site as part of the study. In addition, two large working group meetings were held at the Kennedy School of Government in 1996 and 1997 to test our findings and obtain input from a number of other prosecutors, researchers, scholars, and government officials. Remarks offered at these meetings are cited in the following pages as WG 1 or WG 2 plus the date. For confidentiality reasons, transcripts from the meetings are not available for distribution. See Coles and Kelling 1998. The second study, "Boston's Safe Neighborhood Initiatives: Defining 'Community Partnership' and Measuring Performance in Community Based Prosecution," began late in 1997 and focused on four prosecutor-initiated collaborations in the Boston area. Data collection has been completed; final reports will be forthcoming. See Coles 1996.

reduction strategies involving proactive, multifaceted attacks on drug abuse within a community—including drug education, deterrence, and treatment, as well as expedited prosecution of offenders (Boland and Healey 1993:2; see also APRI 1993).

The formal use of problem solving by prosecutors to address crime problems began, then, in the 1980s with these efforts. Once adopted, problem solving could be applied to increase the efficiency and effectiveness of case processing, as well as to address the incidence of felony crime and quality-of-life offenses (Boland and Healey 1993). And it produced not only changes in the activities of prosecutors themselves, but also a trend toward greater cooperation and collaboration between prosecutors and police (who were already extending their own use of problem solving), involving to a lesser degree other criminal justice agencies (Jacoby 1995; Boland 1998b).

*Learning from Citizens:* In the accounts of prosecutors concerning how and why they began moving away from the felony case processor strategy of prosecution, the role played by citizens should not be ignored. In particular, victims and victims' rights organizations, and members of minority groups heavily impacted by increases in crime and worsening quality of life—many alienated from justice institutions and political leadership—were becoming increasingly vocal in demanding something more than arrests, prosecution, and incarceration as a response to and remedy for crime problems. For example, in Kansas City (Missouri) during the late 1980s, when the impact of drug-related crime became more pronounced, Jackson County Prosecutor Albert Reiderer saw the federal response as pushing both prosecution and policing into a “drug-fighting” mode, while losing sight of local, community concerns. Local church and community groups responded by attempting to draw attention back to local neighborhoods: they staged public events with politicians, attempting to reintroduce community perspectives into the debate over drug-related problems. They also advanced the view that drugs represented not merely a crime problem, but a public health issue that would require education and prevention efforts. Reiderer was sympathetic to the message. He committed the prosecutor's office to work with leaders and representatives from the African-American community in Kansas City, to close down drug houses and reduce sales by relying on nuisance abatement and forfeiture laws and working with citizens and police to pressure landlords to remove drug dealers. Reiderer continued to receive and be influenced by input from community and civic associations as he moved forward in developing the plans for the countywide anti-drug sales tax that would eventually underwrite Jackson County's current COMBAT program (Mills 1996; Coles and Kelling 1998, Kansas City Case Study).

Travis County (Texas) District Attorney Ronald Earle's tenure in office was especially affected by contact he maintained with increasingly vocal victims and victims' rights associations in the community. During the 1980s, reported incidents of child abuse rose dramatically in the Austin area. When the new child abuse unit that he created in his office produced more and more lawyers “burned out” from heavy caseloads and emotionally draining cases, Earle invested the power of the district attorney in founding the Institute for Community Family Treatment, to treat incest in families. The DA's Office itself administered the Institute for some time. Later, Earle moved on to creating the Children's Advocacy Center (which eventually passed to community leadership and control) and the Child Protection Team, to handle intake and investigate cases of child abuse and neglect (Coles and Kelling 1998, Austin Case Study).

As police who had worked with citizens learned earlier, many citizen concerns that prosecutors heard had to do with quality-of-life issues—prostitution, aggressive panhandling, loud music, youths hanging out in parks and intimidating elderly citizens, drug dealing and use on street corners and in public places, and graffiti (Kelling and Coles 1996). This message came not only

from private citizens, but from the business community, which also began to make its demands felt. In Portland, Oregon, District Attorney Mike Schrunk's office responded initially to a group of business owners, concerned about the consequences of crime for viable economic activity in an inner-city area in the downtown. "People who lived and worked in the Lloyd District, like everyone else wanted robbers and burglars caught and punished and rapid police response to emergencies, but they also wanted...something done about prostitution, public drinking, drug use, vandalism, street fights, littering, garbage, and car prowls" (Boland 1998a). When the Lloyd District public safety committee requested the assignment of a special prosecutor to their district "to address their concern about the lack of consequences in the downtown courts for criminal activity that affected district businesses," and raised the money to support it, this was the genesis of a neighborhood prosecutor program that eventually developed in the District Attorney's Office.

In Indianapolis, where violent crime rates remain high, Marion County Prosecutor Scott Newman prides himself on being "tough on crime." Soon after taking office, however, he realized that listening to citizens and addressing conditions in the local community required something more: "The biggest battle that we fight is witness intimidation.... The time we used to spend polishing our presentation for trial, we now spend...finding witnesses who are hiding from us.... I think part of the solution...is to be present in the community, before the crimes happen, so that we have some credibility and legitimacy. And we're known and we're restoring confidence in the system—the kind of confidence that system-wide allows more witnesses to feel comfortable in participating" (WG 1, April 19, 1996).

*Changes in Other Justice Agencies:* Both in the local context, and as a development around the country that had gained significant national attention, community policing provided a model and in some cases put pressure on prosecutors. The example of community policing "wins," the growing use of problem-solving tactics by police, the popularity of community policing with the public, and the increase in the number of police available, all were apparent at the national level if not in every locality.<sup>15</sup> Prosecutor Scott Newman felt keenly the presence—and pressure—of community policing in Indianapolis: "I felt instinctively that, as community policing was being implemented in Indianapolis...if I didn't change the way I did business...the community would draw closer to the police department. And the community and the police department, together, would come to despise my office...they would be pitted as a team against the brick wall that I represented. And they would, to the extent that they had failures...blame them on me, as the most visible proponent of the criminal justice system" (WG 1, April 19, 1996).

By the early 1990s, it was not only police who engaged in community-oriented initiatives, but increasingly community courts such as the Midtown Community Court in Manhattan (Sviridoff et al. 1997; Anderson 1996) and diversion drug courts nationwide, probation programs such as Operation Nightlight in Boston (Clear and Corbett 1998), and community sanctioning and corrections movements such as those in Vermont (Bazemore 1998)—all becoming increasingly well known. Victim-offender mediation programs started, and private businesses joined with local government and police departments to address safety, security, and quality-of-life concerns in downtown areas of cities. The elements that would comprise "community justice," as it would become known in the 1990s, began to emerge in the domains of many criminal justice agencies: operations focused at the neighborhood level; problem-solving processes in which citizens play

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<sup>15</sup> Forst (1993a:297) suggests that community policing may be a model for prosecutors; Clear and Karp (1998) identify community policing as central to the development of community justice. See the articles in Alpert and Piquero (1998), which explore key issues in the development of community and problem-oriented policing.

an integral role; organizational trends toward decentralization of authority and accountability; and a commitment to citizen-identified priorities replacing extreme reliance on professionalism by criminal justice agencies (Clear and Karp 1998).<sup>16</sup> Prosecution was not left out: during the late 1980s and early 1990s, a few innovative county prosecutors and district attorneys began to create new programs and processes by which deputies in their offices worked more closely with citizens, listened to their concerns, and made changes in the processing of cases to address citizen priorities.

*Personal Motivations:* Apart from the three factors mentioned above, personal considerations also underlay prosecutors' decisions to move toward a new strategy of prosecution. Acknowledging the importance of listening to the community brought issues of injustice and race to the forefront—which many prosecutors took personally. Stephanie Tubbs Jones, former prosecutor in Cuyahoga County (Cleveland, Ohio) and the first African-American prosecutor in the state, emphasized the fact that “There are too many African Americans in this country in jail. And we must be the ones that stand up and talk about the issue...not only the numbers...but why are they in jail” (WG 1, April 19, 1996). Boston's District Attorney Ralph Martin describes an “intangible synergy that goes along with being an African-American male and talking about what the African-American community needs.... So, I thought we had to be tough, but we'd have to exercise leadership. And...if I could convey being tough and thoughtful...over time...the public would buy into it” (WG 1, April 19, 1996).

For District Attorney Ronald Earle, it was not only injustice, but the search for achieving justice that led him to change course: he saw that “tough on crime, tough prosecution policies,” even with high conviction rates, led to more crime, more victims, more pain. Responding to the “attack theme” of “the prosecutor ought to be in the courtroom every day,” Earle says, “I used to do that, but I got tired of waiting for a woman to get raped, or a child to be molested, or somebody's parent to be killed, before I could do anything. So, I thought we ought to figure out a better way to do things....” (WG 1, April 19, 1996).

### *Prosecution in Transition*

From the mid-1980s to mid-1990s, prosecutors responded with new tactics to drug-related crime and deterioration in quality of life in cities, and to the demands of citizens. Insights gained through direct contact with citizens, from the experiences and achievements of community policing, and recognition of changes in other justice agencies all prodded prosecutors into moving “outside the box.” Nevertheless, although the developments noted above were unfolding rapidly in large cities, no critical mass (of innovative prosecutors) had been reached across the country, and a synergy was still lacking to propel leading professional organizations (NDAA, ABA) and the field as a whole into a new strategy. The dominant strategy of prosecution was in a state of transition and flux—a fact not yet recognized by prosecutors themselves.

This unsettled state of prosecution was evident in a series of meetings called the Executive Session for State and Local Prosecutors convened at the Program in Criminal Justice Policy and Management of the Kennedy School of Government, Harvard University, from 1986 to 1990. Discussions focused on the current state of prosecution, including differing conceptions of the role of the prosecutor—the pure jurist, the sanction setter, the problem solver, the strategic investor, and the institution builder were suggested (Tumin 1990). If the first two of these were

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<sup>16</sup> See, for example, papers from the 1997 Plenary Session, Crime and Place, National Institute of Justice Conference on Criminal Justice Research and Evaluation: Bazemore 1998; Boland 1998b; Feinblatt et al. 1998; Stone 1998; Clear and Corbett 1998.

linked to the felony case processor model of prosecution, the remainder departed from it. Two in particular recognized the complexity of prosecutorial functioning: first, *problem solvers* moved beyond the limits of criminal law as their frame of reference, and made use of all available authority and resources in the enforcement and regulatory communities to control crime. Complicated problem-solving activities often involved mounting and leading an organized attack on problems such as rape or child abuse by mobilizing agencies, seeking funding, creating specific programs, as well as using traditional enforcement mechanisms (Tumin 1990:7-10). Second, as *institution builders* within the community, prosecutors would help secure the vitality of basic neighborhood institutions—families, schools, civic and religious institutions—against criminal disruption and disorder, enabling them to become self-sufficient and fully capable of regulating their own affairs. Underlying this strategy was the assumption, based upon social science research, that severe stress and disorder could produce disengagement and withdrawal by citizens in a community, a gradual weakening of social ties, the collapse of supporting institutions, and an influx of increasing disorder and crime (Skogan 1990). As institution builders, prosecutors processed cases, assessing case value by considering case strength, heinousness of the crime, and depravity of the defendant, while also taking into account the value of the institution threatened or damaged by the act, and the potential benefit of prosecutorial action in its favor. Institution builders were problem solvers, and used their position as chief law enforcement officer in the community to bring together and direct all available criminal justice resources in a coherent effort (Tumin 1990:11-15; see also Goldsmith 1990).

Participants in the Executive Session included prosecutors from around the country. In retrospect, some concluded that the discussions motivated them to reconsider their mission and to adopt new tactics. For example, Kansas City Prosecutor Albert Reiderer began to feel that his office should do something more than respond to crimes committed—the community was certainly lobbying for more—but lack of money always seemed an obstacle. Drawing on his background in tax law, Reiderer conceived the idea of supporting a broad-based approach to crime and other problems related to the sale and use of drugs with a sales tax. He then helped to shape legislation and pass a ¼ cent addition to a general purpose county-wide tax that would raise approximately \$14 million. The funds would be used to establish prosecution, policing, juvenile and circuit court, corrections, crime prevention, and rehabilitation programs. Community members would also assume active roles—health and social service providers would provide treatment options, citizens would join in neighborhood oriented problem solving and crime prevention initiatives, others would later serve on the COMBAT Commission (Coles and Kelling 1998, Kansas City Case Study).

But if individual prosecutors contributed to discussions about possibilities in prosecution and were motivated to think creatively about what might yet develop, and to innovate in their local jurisdictions, the time was not yet ripe for a mass movement. The Executive Session produced no conclusive statement to suggest that a coherent new strategy might be emerging in prosecution, and no discernible impact on discourse about prosecutors' roles in criminal justice, or with respect to crime control.

#### THE COMMUNITY PROSECUTION STRATEGY

Only a few years later, trends toward problem solving and a community-oriented approach had not only matured in community policing, but had taken hold in the activities and approaches of growing numbers of prosecutors' offices in large cities. A new strategy of prosecution was gaining ground. At first, prosecutors themselves attempted to develop greater capacities for addressing crime problems having a grave impact on public safety and the quality of life—crack

cocaine, and by this time meth-amphetamine; organized crime; and gang-related violence. As part of this process, they found that increased collaboration with police and other justice agencies in a joint problem-oriented approach enhanced their efforts. At the same time, the newly developing “community justice” movement increased the pressure on criminal justice agencies to question their “professional” mode of operation, and to develop greater responsiveness and accountability to citizens. Prosecutors responded by offering the community a more direct role in affecting prosecution priorities and processes.

The convergence of these trends was obvious in the activities of a growing number of prosecutors around the country during the early 1990s. Marion County (Indianapolis, IN) Prosecutor Jeff Modisett created a community prosecution program in 1993-94 that placed deputy prosecutors out in police district stations where they worked closely with police and citizens (Coles and Kelling 1998, Indianapolis Case Study). Andrew Sonner, State’s Attorney in Montgomery County, Maryland, in 1991 reorganized his office into five teams assigned to handle cases from specific police department districts and geographical areas, and to work on problem solving with police and community organizations in order to reduce crime (Jacoby 1995; McLanus 1991).<sup>17</sup> That same year, District Attorney Charles Hynes (Kings County, New York) created felony “community prosecution” teams to work with police and become familiar with the local community and its crime problems in five zones. Hynes also assigned assistant district attorneys to teach in the Legal Lives program for fifth grade students at schools in their zones (Hynes 1993; Jacoby 1995). Hynes’s projects were observed and replicated by prosecutors all over the country. By 1989, District Attorney Ronald Earle, in office for nearly 20 years, had written and secured passage of state legislation providing for the creation of Community Justice Councils at the county level to oversee planning for public safety. During the 1990s, he set up a structure of councils and task forces in which citizens and elected and appointed criminal justice professionals came together to plan for the future development and administration of local justice processes in Travis County. Today Earle is recognized nationally for his leadership in community and restorative justice (Coles and Kelling 1998, Austin (TX) Case Study).

But it is not only changing practices that were critical in the emergence of a new strategy of prosecution: a national dialogue began reshaping the frame of reference for prosecutors. New leaders—many mentioned above—advanced goals substantively different from those accepted a generation earlier. Changes in practice and thinking clearly were not universal, and at times new programs did not succeed and were withdrawn.<sup>18</sup> Nevertheless, as the decade progressed, the community prosecution model clearly gained ground. In 1996, former prosecutor and then law professor Ronald Goldstock summed up how objectives and operational methods in prosecutors’ offices were being transformed:

...[T]raditionally and generally...prosecutors act as a “case processor”; that is, the police, or some investigative body, develop evidence, which the prosecutor presents to a court and to a jury. The prosecutors that are perceived as really good are those that have become more efficient at producing convictions...through increased technology, through training, through grants from NIJ.... [T]here are a much smaller number of prosecutors who tend to be innovative and non-traditional: that is, they think not in terms of just processing

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<sup>17</sup> Mr. Sonner no longer heads the State’s Attorney’s Office. Participating in the Working Group Meetings at the Kennedy School of Government in 1996-97, he reported that the many problems encountered in attempting to implement the community-based prosecution program, some detailed in Jacoby 1995, had caused him to retrench and abandon many of the decentralization efforts.

<sup>18</sup> See note 17, above.

cases, but in terms of reducing crime. They might think...of not just taking cases that the police bring in, but identifying particular dangerous offenders, recidivists, and going after them, seeking longer prison terms. They might also think of community outreach programs, drug-prevention programs, adopt a school. The goal is to...try to stop people from committing crimes in the first place.... They might divide their office in ways which complement police initiatives.... But then, I think there is another...subset: those prosecutors who recognize that it's not just process and reducing crime, but that crime can't always be reduced by investigation, prosecution, conviction and sanction. And that if the job is, in fact, to reduce crime, it's got to be through the use of other means.... [I]n some cases, prosecution may have very little effect on crime.... But other approaches may...civil relief, suits, injunctions, eviction, the use of eminent domain, forfeiture and disruption...reports, hearings, instructional, institutional training...there are an enormous number of things that prosecutors can do. (WG 1, April 19, 1996)

Goldstock pointed out elsewhere (1992) that prosecutors were uniquely positioned to lead in crime control efforts because of their power, authority, strategic position between police and courts, linkages to those in the executive and legislative branches, the discretion they exercise, and their role as elected officials. Practice in the field has since confirmed his observations: directing this extraordinary capacity toward the goals of community prosecution has propelled many prosecutors into even more powerful leadership roles in the justice system and local community than they held before; furthermore, it has contributed to reductions in crime and improvements in the quality of life that citizens recognize and appreciate.

### *Elements of the Strategy*

The new community prosecution strategy is still in its infancy: current practices in prosecutors' offices, and explicit statements by prosecutors about what they are attempting to do and working toward, provide the basis for a conceptual outline of the new strategy. Above all it is the working partnership with citizens that is producing the greatest impact in developing the strategy, for once prosecutors begin to let citizen priorities in the door, they push for changes in old tactics and demand new ones, suggest new outcome goals, and even provide an impetus for change in the organization of the prosecutor's office.

*Mission:* The overriding priority for all prosecutors is to make communities safer—to restore, preserve, and maintain public safety—for citizens. Although community prosecution leaders retain effective felony case processing as their core capacity, “doing justice” brings with it several new goals as part of the prosecutor's mission: (1) concern with reducing crime; (2) concern with preventing crime; (3) concern with disorder and misdemeanor offenses as well as felony crime; (4) strengthening bonds with citizens, other governmental and law enforcement agencies, and civic groups to establish and secure a community capacity for enhancing security and promoting justice. In other words, the goal of prosecutors involves not just case processing, nor even effective crime control and fear reduction alone, but using case processing and working partnerships to establish community justice. Much of the commitment to quality-of-life issues and low-level crimes stems from direct contact with citizens and police: through both of these channels, prosecutors continually meet up with the idea that disorder and quality-of-life offenses are as important to citizens in neighborhoods as violent crime. Even where the district attorney's office lacks jurisdiction over the prosecution of misdemeanors and ordinance violations, or else cedes that power to county or city prosecutors, these remain an important focus of problem-solving efforts in which prosecutors participate.

Examples of the new priorities are legion. In Boston's Grove Hall Safe Neighborhood Initiative, as part of ongoing crime reduction and prevention efforts, prosecutors appeared with citizens at a Liquor Licensing Board hearing to ask for a rolling back of closing hours for a late-night establishment. Crowds of drinking youth and young adults were congregating well into the early morning hours, disturbing local residents, disrupting traffic, and raising the specter of potential violence. The citizens and prosecutors were successful—after several businesses closed voluntarily, the last one was ordered to do so (Coles, Carney, and Johnson 2000).

*Source of Authority:* In the new strategy, prosecutors are still authorized to enforce the law, and to do so in a professionally competent manner. They maintain their status as elected officials, along with a professional status as attorneys. Whereas their elected status in the felony case processor model was based on a plurality in a jurisdiction, however, prosecutors in the community prosecution strategy derive an additional source of authority through relationships with specific neighborhoods and communities. This increased authority emerges from the legitimacy that they gain by responding not in the abstract to “the crime problem,” but in response to *particular problems in particular locations that affect particular individuals and groups*. When programs are targeted at specific neighborhoods and groups in the community, such as the Safe Neighborhood Initiatives in Boston, or the Paseo Corridor Partnership in Kansas City, prosecutors begin to draw support directly from these local areas, from community leaders and ordinary citizens in them. This also gives citizens a direct line to the prosecutor's office. Assistant district attorneys as well as the district attorney herself gain added authority and credibility as a result of their neighborhood relationships. As they respond to citizen priorities and have the opportunity to share their thinking directly with citizens—often about what they cannot do about problems and/or cases as well as what they can—their credibility is enhanced. In a sense, they can demonstrate their expertise, rather than merely have it attributed to them on the basis of their roles as lawyers and prosecutors, especially as they devise new ways to solve problems.

Further authority accrues to the prosecutor through her ability to leverage discretionary resources for solving problems. Whether these sources are federal funds or local tax initiatives, they not only further the prosecutor's capacity for solving problems, but enhance the authority and prestige of the prosecutor as well. As a result of their closer links with the community, many prosecutors have been able to appeal directly to their constituents to fund new programs. For example, in Kansas City, MO, citizens have supported the county-wide sales tax, COMBAT, that raises nearly \$17 million a year for drug-related crime prevention, treatment, and law enforcement. Without the support of citizens who continue to vote in favor of the tax, the program would not exist.

*Demand:* In the community prosecution strategy, demand arises from the police, but also directly from citizens with whom prosecutors are in contact. Demand continues to come from police in the form of cases presented for processing. But where police have moved into community policing, and where prosecutors have direct contact with citizens, this demand increasingly takes the form of requests for prosecutors to handle not just felonies, but also offenses such as prostitution, low-level drug dealing, aggressive panhandling, intimidation of elderly residents by juveniles, and other quality-of-life crimes that affect local neighborhoods. Furthermore, demand is felt through requests from citizens and police for prosecutors' assistance in solving problems. In the community prosecution strategy, the prosecutor not only markets the office's capacity for prosecuting cases, but also for leading, or at minimum joining, efforts to solve local public safety problems.

*Organization:* Implementing a community prosecution strategy necessarily effects changes in both the structure and administrative/personnel aspects of prosecutors' offices. These changes derive primarily from a commitment to community concerns, and to problem solving as a new tactic.

Working closely with citizens who view their problems locally, by neighborhood, puts pressure on prosecutors to decentralize their operations. Many prosecutors are exploring how this can be achieved, even in the realm of screening and prosecuting cases. Increasing numbers of prosecutors are attempting to assign some deputy prosecutors to work with police in district or precinct stations, in neighborhood offices, or to focus upon specific geographical areas. Some are experimenting with the idea of bureaus or teams that carry out vertical prosecution and handle all cases from a specific neighborhood or geographical area (Coles and Kelling 1998, Austin Case Study; Indianapolis Case Study). Community prosecution sections and units are being created in many prosecutors' offices; in others, specific roles, projects, and programs identified as part of an overall community-oriented prosecution effort or agenda exist, apart from special units or attached to pre-existing units. Assistant prosecutors heading community prosecution programs or units frequently are considered executive staff.

Boston and Indianapolis provide two examples: in 1997, Boston's District Attorney Ralph Martin merged the positions of Community Prosecution Coordinator and Chief of the District Courts, thereby bringing community prosecution to the executive staff level. The office's community prosecution efforts included a number of programs. Safe Neighborhood Initiatives (SNIs, collaboratives involving assistant district attorneys, police, probation, district courts, city agencies, and citizens, in several areas of the city) were created beginning in 1994 to implement problem solving at the neighborhood level. SNI prosecutors and Prosecutors in Police Stations (PIPS, involving two prosecutors) are linked directly to district court (the lowest level trial court) prosecution activities, although superior court staff are also involved. A Community Based Juvenile Justice Program designed to identify and assist youth at risk (including both court-involved and non-court-involved youth) is attached to the juvenile unit in the office: roundtables bring together prosecutors, school and school district officials, police, the Department of Youth Services, youth workers, and probation officers in several middle and secondary schools throughout the county. Finally, the office administered the Franklin Hill Anti-Gang Project, a comprehensive community prosecution and crime reduction/prevention effort targeting a city housing project. Perhaps the most frequently replicated community prosecution initiative nationally is Indianapolis's Street Level Advocacy Program. Part of the office's felony trial division, it includes five deputy prosecutors and two paralegals assigned to work out of police district stations and the sheriff's department. An investigator who coordinates a nuisance abatement/narcotics eviction program is a close partner. The focus is on specific neighborhoods, working with officers and citizens to identify and address local crime problems.

In addition to creating community prosecution positions or units, many prosecutors are re-defining existing assistant prosecutor roles to include new tasks and responsibilities. Increasingly executive staff, unit heads, and line attorneys are expected to work out in the community—attending neighborhood association or crime watch meetings, speaking in schools or at functions concerning public safety issues—in addition to carrying out their traditional supervisory and litigation-related duties. While the district attorney has long had such a political role in the local community, this is a new set of responsibilities and expectations for most assistants. Assistant prosecutors assigned to special domestic violence, sex crimes, and juvenile units offer community education programs, hold outreach activities, cooperate with hospitals, schools, and social service agencies, serve on local task forces, and assist in developing prevention strategies. While not designated "community prosecutors," they consider work in the community to be part of their

jobs. Furthermore, they frequently are assigned to work with designated community prosecutors, targeting problems in particular neighborhoods. In the District Attorney's Office in Boston, for example, gang-unit attorneys share information not only with the Youth Violence Strike Force (Boston Police Department's anti-gang unit), the U.S. Attorney's Office, and the Bureau of Alcohol, Tobacco and Firearms, but with Safe Neighborhood Initiative attorneys who are working in specific neighborhoods. Although the unit is heavily oriented toward investigation and prosecution, its chief has been considering the potential benefits of reaching out more directly to the community in order to enhance violence prevention efforts (Coles and Kelling 1998, Boston Case Study).

Transforming the culture of the prosecutor's office is fundamental to implementing the community prosecution strategy—moving away from the dominant culture in which felony crime prosecution is the most valued role to one in which working in a juvenile unit, on domestic violence or child abuse, in lower misdemeanor courts with community members, or as a prosecutor in a police station is highly valued; in which sensitivity to victims and receptivity to community concerns and priorities are seen as part of the job, even for those not in community prosecution units. The task is difficult because, in a sense, prosecutors are fighting an image of prosecution and prosecutors that is present not just in their own offices but in law schools, in the mind of the public, and even among judges and others in criminal justice—the image of prosecutors as “lawyers slugging felons,” as University of Wisconsin law professor Michael Smith calls it (WG 2, May 3, 1997). Education is one tool being used; presentation of the accomplishments of community prosecutors to staff not directly involved in the new initiatives is another; hiring professionals from other fields and new attorneys with different approaches to the work of prosecution is a third; and sending as many different staff as possible to visit other offices or attend conferences where they will see or hear about community prosecution is a fourth. But above all, the prosecutor has to show attorneys in the office that s/he “means it.”

Administratively, prosecutors are looking for new attorney employees with experience and/or interest in working closely with citizens. Standards for recruitment are changing to include not only litigation skills, but commitment to community service and interest in problem solving. Strong litigation “specialists,” are still needed, but “generalists” who bring other skills and interests to the new tasks that the district attorney or prosecutor is asking them to take on are increasingly sought. In addition, prosecutors are hiring greater numbers of non-lawyers, especially those trained in public health, media and public relations, and social services – and even former police officers – and elevating some to executive staff positions.

One dilemma not yet resolved is how to measure the performance of prosecutors in the new tasks they are being asked to undertake. Evaluation measures now in place for assistant district attorneys and deputy prosecutors in most offices still include assessments of case preparation and trial skills, but also rate prosecutors' relationships and the quality of their work with police, victims, witnesses, and outside agencies and individuals, and attempt to measure leadership in these areas. But prosecutors who have begun to implement community prosecution generally recognize existing measures as woefully inadequate. Furthermore, current measures often fail to capture the labor-intensive aspects of prosecutors' work with citizens and in the community sufficiently to justify the need for adequate funding.

*Tactics:* The community prosecution strategy uses a greatly expanded “tool kit” when compared with the felony case processing strategy. Case processing remains a potent tactic, at the core; yet it is but one of several tactics, and in some senses is subject to greater influence from the public than was true previously.

Case Processing: Prosecutors adopting the community prosecution strategy seek greater citizen input into case processing and set new priorities in prosecuting cases that reflect determinations by citizens themselves as to which offenses are of greatest significance to the local community. Prosecutors soon learn that citizens are as concerned about low-level offenses that we associate with quality of life in their neighborhoods—graffiti, aggressive begging, street prostitution, loud music, juvenile gang members hanging out on street corners, boom boxes playing loud music—as they are with violent crime (Kelling and Coles 1996). In practice this means that quality-of-life offenses such as prostitution or public drinking are frequently elevated in importance: prosecutors do not forego, or discard, felony case prosecution, but add low-level crimes and misdemeanors to their case processing agendas. Prosecutors also bring citizens more directly into court processes through the use of community impact statements, court watch organizations, and regular reporting on the progress of cases of significance to local citizens—not as immediate victims but as members of a local community that perceives itself as “victimized” by crime.

Developing Partnerships: Two types of partnerships are fundamental to the community prosecution strategy. Working in partnership with the community is at once an element in the mission of community prosecution, a key tactic, and a factor that shapes the development of other new tactics, organizational modes, and outcome goals. The establishment of partnerships with other justice agencies, government bodies, and public and private organizations changes the fundamental nature of the prosecutor’s relationships in the environment. Both are crucial to the success of the prosecutor’s new strategy, success that will rest at least in part on the public’s acceptance, support, and grant of legitimacy and authority (see Wilkins 1984).

Prosecutors have always worked with police, citizens as victims, and other criminal justice actors in case processing and as part of their role within court organizations (Eisenstein and Jacob 1977; Jacob 1983). However, today’s broad-based problem-solving efforts—whether part of a single project, or ongoing collaborations such as the Safe Neighborhood Initiatives in Boston—involve larger numbers of criminal justice and governmental agency players coming to the table on a regular basis, in a different setting (often out in neighborhoods), and for different purposes. Furthermore, citizen actors include not only victims, but representatives of different constituencies in the community: neighborhood associations and crime watch groups, tenant associations, the Chamber of Commerce and local foundations, senior citizens, ethnic and religious organizations, health and service providers.

Different sets of issues face prosecutors in developing partnerships with government and law enforcement agencies, and with citizens and the community (see Liddle and Gelsthorpe 1994a,b,c). To establish effective working relationships among criminal justice and governmental agencies, decisions must be made about which agencies should be present; turf issues must be resolved; representatives who come together must have the authority (designated by their agency) to *act*, and not simply to be a conduit of information back to the agency; and there must be a basic agreement about what the problems are, and what means are appropriate or desirable for addressing them. In working with citizens, prosecutors must be prepared to decide who will be permitted to represent the community and how those representatives will be chosen; a common agenda must be worked out to the satisfaction of both citizens and criminal justice representatives, including a definition of what crime and safety problems are highest priority; and appropriate roles for citizens must be defined—for example, will they be involved not only in identifying local problems but in devising plans to address them, or will this responsibility rest only with criminal justice agencies? Will citizens ultimately be expected to assume leadership of the problem-solving effort, or will it continue to be led by prosecutors, police, and other criminal justice agencies? Prosecutors who are working with citizens in community-based initiatives are

answering these questions in different ways. COMBAT staff in former Prosecutor Claire McCaskill's office in Kansas City articulated their approach in a 1997 concept paper proposing the creation of a new community prosecution program:

...active participation by neighborhood organizations and residents lies at the heart of the community prosecution initiative. Residents will be invited to make decisions, not rubber-stamp those made by others. They will be treated as the experts on specific neighborhood conditions, not as "clients in need of services." Residents will also be expected to assume tangible responsibility for local improvement initiatives that support overall project goals and to communicate project status to friends and neighbors.<sup>19</sup>

Problem Solving to Prevent and Reduce Crime: Using problem solving as a tactic for addressing crime prevention and reduction, assistant district attorneys and deputy prosecutors work closely with police and citizens to address public safety issues in particular neighborhoods—closing down drug houses or noisy late-night bars through the use of nuisance abatement or code enforcement; assisting in strengthening the role played by citizen watch groups or neighborhood associations; conducting training for landlords in screening tenants and maintaining safer properties; establishing and working in day report centers for offenders diverted from prosecution for drug-related crimes; and prosecuting gang members or particularly troublesome offenders in an area. Problems can be small and require only short-term efforts, or broader in scope and in need of ongoing attention for months or even years. All problem-solving activities reflect citizen priorities, input, and cooperation.

*Environment:* From the perspective of the prosecutor with a mission that includes preventing and reducing crime as well as implementing changes in processing cases, new relationships are needed with judges, courts, police, other justice agencies, as well as with governmental actors, business and citizen groups, and social service providers. Communication needs to flow to all of them about initiatives undertaken by prosecutors both inside and outside the courtroom. And working coalitions must be established so that prosecution program operations will be enhanced through collaboration with these actors, and not thwarted by a lack of congruence in the strategy and performance of other agencies.

In the community prosecution strategy, the prosecutor assumes a leadership role in working closely with citizen groups, business and social service providers, local government, and other criminal justice agencies in the community. Organizational boundaries demarcating the prosecutor's office from other justice, public/governmental and private agencies are increasingly permeated as they become partners: police, probation, and corrections departments; the courts; welfare departments; social service agencies; corporation counsel, city attorneys, and the U.S. Attorney's Office; fire departments, zoning and code enforcement departments; schools; and even churches and private business groups become potential partners and collaborators. Furthermore, the relationship between prosecutors and citizens is fundamentally changed: prosecutorial decision making about how particular types of cases should be treated, and how the prosecutor should use his or her discretion in various ways, is more directly accessible to citizens. The accountability to victims that prosecutors developed earlier is broadened to the community, which also can be victimized by chronic problems.

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<sup>19</sup> Jackson County Prosecutor's Office, "Strategies to Enhance Law Enforcement and Prosecution Coordination: A Concept Paper by Jackson County, Missouri." 1997.

The demands arising out of inter-agency relationships and the changing boundaries can and do place strains on the organizations involved. For example, in Kansas City, where the rehabilitation and treatment portion of the anti-drug sales tax program, COMBAT, relies heavily on (and funds) local social service providers, bringing treatment into the realm of criminal justice processes poses interesting questions about confidentiality and outcome measurements for service agencies: clients now are offenders, whose participation in treatment must satisfy court-ordered diversion or sentencing requirements. Providers are being asked to be accountable to the community as a whole and to shoulder responsibility for public safety in that community. Prosecutors, too, feel strains: working closely with offenders in a treatment setting, they can easily be exposed to information that could be used against an offender in a subsequent prosecution, causing them to think about how such information should be treated and whether they should place themselves in these situations. In many locations across the country, collaborative initiatives among prosecutors, police, and citizens in neighborhoods are turning to city departments for help in closing down drug houses and cleaning up their communities. Many prosecutors report having to push city departments and agencies hard to get them to “do their job” or do it better—especially with respect to code enforcement for health and safety violations, and liquor control and licensing boards. Where specific agencies or actors are unresponsive, or refuse to collaborate with others, the temptation is to set them up as targets for the media, portraying them as not meeting their responsibility, “dragging their feet,” or becoming part of the problem rather than the solution—charges levied most frequently at the courts and city service departments. Each of these strains is visible in concrete situations, and they have not all been resolved.

*Outcomes:* Among all the issues facing prosecutors moving into a community prosecution strategy, developing indicators for measuring the new outcomes sought poses one of the most urgent challenges. In the community prosecution strategy, desired outcomes change and broaden, targeting improved quality of neighborhood life, crime prevention, management of problems, reduced levels of fear, and citizen empowerment, confidence, and satisfaction. Former outcomes—such as guilty verdicts in trials—become means to obtain improved neighborhood safety and crime prevention rather than ends in themselves. Common indicators that prosecutors have begun to use for measuring these broadened outcomes include: lowered rates of crime and victimization; perceptions of increased personal safety by citizens in their own local neighborhoods; more frequent use of public spaces by citizens (as an indication of their perceptions of safety); greater involvement of citizens in crime prevention and reduction activities; stronger relationships between citizens and police, and other criminal justice agencies; and improved working relationships between prosecutors and police.

As individual prosecutors grapple with the need for new measures, they are becoming increasingly creative in developing specific indicators to match their goals and objectives, tactics, and activities. For example, in thinking about measures that might be appropriate for gauging the effectiveness of a new community prosecution program with problem solving as its key tactic, former Kansas City Prosecutor Claire McCaskill’s COMBAT staff decided to focus on

...the degree to which identified neighborhood social and physical problems... [are] abated through arrest and conviction, civil sanctions, or negotiated agreements in lieu of prosecution. [Yet] while crime and its precursors are the clear focus of this initiative, the Prosecutor’s Office recognizes that many problems can be eliminated without arrest by making individuals and organizations “an offer that they can’t refuse.” This problem-solving benchmark will be measured in three ways: the success rate for resolution of neighborhood-identified issues, reduction in the crime rate (or selected crimes) in target

neighborhoods, and resident reports of changes in the neighborhood environment.<sup>20</sup>

Community prosecution carries a commitment to developing partnerships with the community that will strengthen its capacity to ensure and maintain safety in neighborhoods: prosecutors themselves speak of “empowering citizens” by building a new problem-solving capacity into neighborhoods. But how does one measure such development? Boston District Attorney Ralph Martin describes how the Safe Neighborhood Initiatives (SNIs) have contributed to empowerment:

...in the SNIs, particularly in Dorchester and East Boston, we’ve seen dramatic reductions in reported crime, both part one and misdemeanor crime. We’ve seen dramatic reductions in 911 calls. We’ve seen—and this is something that’s very hard to quantify—more confidence in the ability of the residents and merchants to control their surroundings, in part because they are participants in the process that helps prioritize how governmental resources are going to be used...the resources of the prosecutor...the police department...of municipal services by the City and others. (WG 2, May 2, 1997)

As part of the partnership with citizens, both Martin and Austin (Texas) District Attorney Ronald Earle stress the need to increase citizen involvement (including that of victims) in crime prevention and reduction activities. This theme emerges clearly in the goals and outcome indicators developed by staff in District Attorney Martin’s office for use early on (1996-97) in the East Boston Safe Neighborhood Initiative (SNI; see Coles and Kelling 1998, Boston Case Study). These measures also reflect the fact that Martin’s goals in the SNI are not only to work with citizens, but to engage city agencies and improve relationships between prosecutors and police, and police and the community:

#### **East Boston Safe Neighborhood Initiative: July 1996-June 1997**

<u>Goals</u>	<u>Outcome Indicators</u>
a) Reduce crime and the perception of crime.	1) Decrease in Part One crimes for the calendar year 1996.
b) Provide the opportunity for community input into law enforcement activities.	2) Community recognition of the SNI and its efforts.
c) Create an alternative dispute resolution program to ease burden in court.	3) Multiple activities in collaboration and partnership with a wide range of city service agencies and community groups.
d) Targeted prosecution with prompt resolution of cases.	4) Positive police response to case management and inter-departmental cooperation.
e) Establish youth worker program to provide outlet for area teens.	5) Strengthening police-community ties.
f) Co-ordinate law enforcement efforts.	

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<sup>20</sup> Jackson County Prosecutor’s Office, “Strategies to Enhance Law Enforcement and Prosecution Coordination: A Concept Paper by Jackson County, Missouri.” 1997.

District Attorney Earle proposed similar recommendations for community assessment outcomes to the Community Action Network (CAN), a partnership of social service providers, city and county officials, and health and human service departments, funders, and business and community groups in which he also has been an active member. The CAN plans and allocates funding for the provision of local health services in areas such as mental health, substance abuse, and victim services. Earle's suggested outcomes included not only a decrease in the incidence of juvenile delinquency and adult crime, but increases in: the percentage of residents reporting an improved perception of personal safety; the number of mentoring relationships for juveniles developed as a result of referrals; the percentage of juveniles participating in after-school programs and family-strengthening activities as a result of referral; the number of adults participating in neighborhood accountability boards, such as the Neighborhood Conference Committee, and neighborhood protection activities, such as Citizens on Patrol and Neighborhood Watch; the percentage of victims involved in community and neighborhood problem-solving activities; and the number and participation of volunteers, including Neighborhood Associations, in child abuse/neglect prevention and treatment activities, as well as domestic violence prevention, detection, intervention, and accountability.

One indicator that stands out in community prosecution measurement efforts is perceptions of improved safety by citizens. As UCLA public policy professor Mark Kleiman explains, if the prosecutor's job is crime control, then "the outcome measure is safety." Safety can be assessed at both subjective and objective levels: by looking at whether people feel safe to do various things, as evidenced by what they actually do; and objectively, by measuring not completed crime, but "crime per exposed person hour. You want to know how many hours somebody can walk down a street before getting mugged, or how many days a car can sit on that street before its radio disappears. Now those are potentially measurable things—measurable with error, but it is probably better to measure things with error than to measure the wrong things precisely" (WG 1, April 19, 1996).

Developing specific measures – both devising them and finding straightforward and convincing ways to present them, especially on a neighborhood basis—is complicated for prosecutors, as it is for leaders of other justice agencies. One difficulty lies in the fact that the same indicator may have different meanings in different neighborhoods, even within the same city. In the tough Indianapolis neighborhood of Haughville, "neighborhood leader Olgen Williams says, you can tell [the neighborhood is coming back] by all the prostitutes walking the streets. 'I know it sounds crazy, but when people were getting killed here all the time, no john would ever come to Haughville.... I'm not saying hookers are a good thing, but it proves we've made this place a lot safer'" (Grunwald 1998:26). Formulating indicators to measure outcomes at the neighborhood level will require substantial input from citizens with intimate knowledge of local conditions. Another dilemma arises from the specific goals that citizens themselves (and other partners) bring to the partnership with the prosecutor. When questioned about their goals and asked to participate in a discussion of outcome measures and indicators for Boston's Safe Neighborhood Initiatives in 1999, citizens emphasized that they wanted prosecutors to develop a personal stake in their community; to "do business" in a different way, by working to coordinate the delivery of services locally; and to address priorities relating to crime and safety that citizens brought to them (Coles, Carney, and Johnson, forthcoming). Crafting indicators that are meaningful to citizens and other partners, as well as consistent with prosecutorial priorities, presents a new challenge to prosecutors—albeit one congruent with the strategy of community prosecution.

### ***Summing Up: The Community Prosecution Strategy***

The community prosecution strategy rests upon a new set of principles and values that provide a

basis for redefining the mission of the prosecutor. Elements of the strategy are restated briefly below. Although some elements are similar to portions of the felony case processing strategy, note that they are reformulated and reordered in the community prosecution strategy.

*Mission:* Prevent, reduce, and manage crime and quality-of-life offenses. Prosecute felonies and low-level crimes and misdemeanors corresponding to citizen priorities. Create a partnership with the community.

*Base of Authority:* Law, professional status, electoral support from specific local areas and the entire community are all operative bases of authority.

*Demand:* Demand comes from all partners, including the community, and accountability develops outward to them. The prosecutor markets her office's ability to prevent crime and solve problems, as well as prosecute crimes committed.

*Organization:* Decentralization is the goal, with a focus on working in local neighborhoods. Non-lawyer specialists are hired. Recruitment stresses the ability to problem solve and a community orientation, as well as litigation skills. New career track and performance measures are developed for community prosecution.

*Tactics:* Criminal law and prosecution are at the core, but civil remedies, code enforcement, and other tactics are added. Problem solving is key.

*Environment:* A close working relationship is sought with other justice agencies, local government, private citizens, health/service providers, and the business and faith communities.

*Outcomes:* Quantitative measures reflect cases screened, pled, tried, and dispositions; in addition, qualitative and quantitative indicators are needed to measure crime prevention/reduction, fear reduction, and improved quality of life.

#### THE COMMUNITY PROSECUTION STRATEGY: PROGRESS AND PROSPECTS

Although the basic principles and ideals of community prosecution appear to be gaining ground, attempts to gauge the extent of community prosecution practices today are tenuous at best. At a meeting convened in 1996 at the Kennedy School of Government for the "Prosecution in the Community" study, participating prosecutors, who had been selected for the study because of their expressed interest in community prosecution and who all led large urban offices, estimated that approximately 20-25 percent of their resources and/or staff were allocated to nontraditional, community-oriented operations.<sup>21</sup> Anecdotal evidence from cities large and small also suggests that elements of the new strategy are being implemented individually, or in clusters, in increasing numbers of offices, and that prosecutors are thinking more and more about preventing and reducing crime, working more closely with citizens in the community, and engaging in problem solving along with police and other criminal justice actors. These data do not offer a

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<sup>21</sup> Answers ranged widely: from 50 percent of the budget and 30 out of 250 total staff in Kansas City, plus most of then-Prosecutor McCaskill's own time; to about one quarter of the resources (excluding 28 lawyers paid for by the state who prosecute public integrity crimes) in Austin, and including 95 percent of District Attorney Earle's time; to 20 percent of total staff in Ralph Martin's Office in Boston; and about ten percent in Portland, Oregon. Other than McCaskill, all prosecutors could imagine these percentages increasing for nontraditional operations (Working Group 1, April 19, 1996).

comprehensive picture nationwide; however, the American Prosecutors Research Institute (affiliated with the National District Attorneys Association) recently conducted a survey of prosecutors' offices that will provide representative figures from across the country. Results should be available by fall 2000.<sup>22</sup>

Nevertheless, federal support for the development and study of community prosecution, as for community justice generally, has grown steadily within the past five years. In the Justice Department, Deputy Attorney General Eric Holder came to his position from the District of Columbia's U.S. Attorney's Office, where earlier he created one of the first community prosecution programs in the country. The Bureau of Justice Assistance is now offering technical assistance grants to offices seeking to plan, implement, and enhance community prosecution practices, while the National Institute of Justice recently released a request for proposals, formally soliciting applications for further studies of community prosecution.<sup>23</sup> A small number of conferences and symposia have brought selected prosecutors together to explore trends and common problems in community prosecution, but these have not reached many prosecutors, especially those in small to mid-sized cities. It seems fair to say that prosecutors themselves are leading the way in breaking new ground, with enthusiasm and positive conviction, but relatively little guidance and few models.

### ***Costs and Benefits in the Move to a Community Prosecution Strategy***

Prosecutors who have adopted community prosecution are amassing a record of positive achievements. Yet they continue to face resistance, challenges from within their own organizations as well as outside, and questions from their peers and others concerning the appropriateness of prosecution moving in this direction.

*Opportunity and Opposition within the Prosecutor's Office:* Because the culture of most prosecutors' offices continues to value successful plea bargaining and litigation of violent crimes most highly, community prosecution efforts may be met with scorn and derision inside the organization. Prosecutors unfamiliar with the achievements of community prosecution—and there are many—may see it as “social work,” and view prevention activities as potentially interfering with ongoing investigations, threatening successful prosecutions, or diverting them from “serious” cases. For prosecutors facing a flood of incoming cases, reallocating resources and personnel from case processing to other types of work can be highly unpopular.

Segregation may also develop between case processors and other attorneys who are working on special community or problem-oriented initiatives. The resulting tension—played out in the “two-track” dilemma in which new community prosecution and problem-solving units are separate from, and function independently of, case processing—can contribute to community prosecution roles remaining low status within the office, perceived by most attorneys as subordinate to case processing and expendable. The “community prosecutor” role may lack the visibility and definitiveness of a successfully prosecuted case. Prosecutors in these roles may

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<sup>22</sup> This survey is being conducted for inclusion in an upcoming publication on community-oriented lawyering, edited by Roger Conner, in the *Issues and Practices* series published by the National Institute of Justice.

<sup>23</sup> For the most recent announcements, see “Awards for Planning and Implementing Strategies in Community Prosecution,” Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice, SL 000406; “Research on Community Prosecution,” National Institute of Justice Solicitation, SL000426, National Institute of Justice, Office of Justice Programs, U.S. Department of Justice. NIJ previously funded several studies of community prosecution, from 1995 through 1999. For previously conducted research, see Coles and Kelling 1998; Coles 1996; Boland 1998a & b, 1999.

flounder if conscious steps are not taken by the district attorney or county prosecutor to manage the tension. Often this involves the head of the organization waging a campaign within the office to highlight the concrete achievements of community prosecution, establishing clearly that assistants are expected to be active participants in carrying out the new mission and tactics, and demonstrating that community prosecution offers a secure career path. If the message does not reach prosecutors at all levels, old ways of operating will not only die hard, but may not die at all.

On the other hand, the opportunity to “do things differently” is attracting young prosecutors just leaving law school, and keeping senior prosecutors with valuable experience and varied skills in the office. Some excel at litigation, but have grown tired and cynical about what they are actually accomplishing; others are committed to working more closely with the community, or to a problem-solving orientation, and are excited at having found an opportunity to engage in such work while remaining a prosecutor. Capitalizing on and redirecting the skills and enthusiasm of these assistant prosecutors into community prosecution allows the prosecutor to make use of valuable resources within the organization.

*Doing Business Differently in the Local Environment:* More than one police official has stated definitively that “community prosecution is what makes community policing work.” Both prosecutors and police report that policing benefits from closer prosecutorial collaboration; prosecutors say that ultimately, prosecution benefits as well. Through this collaboration, police take advantage of more accessible legal consultation to improve their street activities and investigations; as prosecutors gain a better sense of what police face on the streets, their respect for police often rises; as prosecutors learn more about how particular offenders and criminal activity impact a local neighborhood, they become more creative in generating specific tactics to address particular problems. In fact, police and prosecutors are proving extraordinarily effective teams in working with local citizens. Prosecutors often perform an educative role—for example, explaining to citizens why police cannot legally undertake certain actions, why an offender was released on bail, or why a decision was made not to prosecute. They can also suggest what police and citizens can do to assist in a prosecution; or use their influence to make a call requesting attention from city services. Finally, police chiefs say that a commitment to community prosecution by the local district attorney or prosecutor buttresses the efforts of police to overcome the challenges they face in gaining political support for and fully implementing community policing.

Working with other justice agencies brings added benefits, but also challenges. Once prosecutors begin working in local neighborhoods, they often feel pressure to decentralize and reorganize by geographical area rather than functionally, both for case processing and problem solving. Such reorganization poses many difficulties within the prosecutor’s office itself. Although decentralization does tend to line up with police operations relatively well, where police share similar goals as part of community policing, coordination is not always so smooth with other agencies. For example, the city attorney or corporation counsel typically has jurisdiction over ordinance violations (and sometimes misdemeanors) that are prosecuted in municipal, city, or county courts. Some prosecutors have overcome this difficulty through formal collaboration with city attorney offices, including establishing complementary policies for dealing with offenders and particular offenses, and channels for communicating regularly between city attorneys and county prosecutors (see Coles and Kelling 1998, Kansas City Case Study). Court organization poses a more formidable problem. Within the prosecutor’s office, aligning trial teams to match specific neighborhoods may conflict with the organization and procedures followed by trial courts that assign cases randomly rather than by area. In this realm, prosecutors have worked with judges and court systems to establish neighborhood-based community courts, as well as other special courts that may or may not target a particular area—drug courts, expedited courts, and

even deferred conferencing programs for youthful offenders (see Coles and Kelling 1998, Austin Case Study). And judges have also joined prosecutors and other officials in problem-solving initiatives targeted at specific areas within the community, such as Kansas City's Paseo Corridor Project, which won a HUD award in 1998 (Coles and Kelling 1998, Kansas City Case Study).

*Connecting with Citizens:* Prosecutors who adopt the community prosecution strategy recognize that the public must fully understand the shift occurring in the prosecutor's mission and tactics: not only is the community's stamp of approval required to legitimize the prosecutor's actions, but the community must embrace a new role as co-participant in crime control and ensuring public safety. Forming the community partnership can be a particularly difficult undertaking in high crime areas and impoverished minority communities, where citizens have withdrawn from the streets in fear, residents may feel resentment for law enforcement officials, and neighborhood associations and crime watch groups do not function. The careful preparation and planning time necessary to establish effective collaborations are often considerable. In the Grove Hall Safe Neighborhood Initiative in Boston, it took more than a year of meetings among citizens, police, and prosecutors before each trusted the others enough to agree on priorities and procedures for collaborating, and to get down to work (Coles and Kelling 1998, Boston Case Study; Coles and Kelling 1999). At the same time, in many of these communities, prosecutors and police meet with a positive reception and citizen requests for greater law enforcement presence in their immediate neighborhood.

Prosecutors who succeed in building partnerships with local citizens as part of a community prosecution strategy generally report that it is well worth the effort. Citizen satisfaction and cooperation increase dramatically, with a substantial impact felt in many areas. Once trust is established, citizens offer prosecutors information about offenders and events in the community that prosecutors previously never had, unless it came from the police. With this information, prosecutors are able to prosecute cases that otherwise would not have been possible, with the additional benefits of improved witness cooperation and community impact statements, prepared by citizens for use by prosecutors in court. But this information is also useful in collaborative efforts to address local crime and safety problems through other means. Citizen satisfaction continues to grow as residents see concrete evidence—serious offenders removed from the local community through joint law enforcement and prosecution actions, physical improvements, closed drug houses, youths deterred from offending and intimidating the elderly. Finally, citizen accountability for maintaining neighborhood safety shows itself in the form of greater organization and initiative.

*Contributing to Reduced Crime and Greater Safety in Neighborhoods:* Evidence documenting the impact of community prosecution in helping to reduce and prevent crime, improve neighborhood quality of life, and increase local safety is accumulating slowly. Anecdotal evidence supports prosecutors' positive impact with regard to specific programs and activities, but systematic evaluations are rare. Where evidence does exist, not surprisingly, it comes primarily from cities in which prosecutors and police have each committed to work together and to implement a community-oriented strategy that focuses on problem solving rather than processing cases reactively. Boston's Operation Cease Fire reduced and for a time nearly stopped violence by youth gangs (Kennedy 1997). Local Safe Neighborhood Initiatives helped to change a tense, hostile relationship between police and prosecutors and citizens into a productive working relationship; produce crime rates lower than those in the city overall; and spur economic revitalization (Coles and Kelling 1998; Coles, Carney, and Johnson, forthcoming). Parsing out what is attributable to the discrete acts of prosecutors in such collaborations remains problematic, as a recent evaluation of the Kansas City anti-drug COMBAT program finds (see Finn and Abt Associates, 1999). One clearly evident outcome is the commitment by citizens who have

experienced community prosecution to see that it is maintained—through personal involvement in working with prosecutors (and police) in their local communities; through lobbying state legislators and funders for ongoing financial backing; and through supporting political candidates (including prosecutors) who support the continuance of such programs.

While citizens react positively to prosecutors' presence in their neighborhoods, some prosecutors and public defenders are beginning to ask about the risks of early intervention by prosecutors—in some cases even before offenders are court-involved, as part of prevention and crime reduction efforts. Admittedly, greater involvement by prosecutors in the community is inherently intrusive, in the same way that community policing is. Will more knowledgeable prosecutors misuse their discretion, with dangerous consequences for offenders? Are appropriate safeguards in place and being observed? These and other related concerns raise serious policy issues that deserve full consideration and public debate within the context of the new community prosecution strategy's mission and tactics.

### ***Community Prosecution and the Shift to Community-Oriented Approach in Criminal Justice***

The change in strategy described here for prosecutors corresponds to similar changes taking place in policing and in other justice agencies. Such changes are intimately connected. For example, the shift to community policing had important ramifications for prosecution: order maintenance, long an important but largely “unofficial” police activity, was increasingly recognized and sanctioned as part of police work. But if they were to be carried out legally, and taken seriously by other criminal justice agencies, police order maintenance activities required a substantial switch in prosecutorial priorities. Previously, prosecutorial priorities emphasized “serious” crime and largely ignored or perfunctorily processed minor offenses. In the name of community prosecution (as well as crime prevention and problem solving) prosecutors today are changing their stance toward minor offenses. Similar accounts can be given about community courts that focus on quality-of-life offenses and require the same new commitment from prosecutors; and about community-oriented probation and parole efforts that focus on violating those who commit minor offenses in order to prevent further crime and victimization.

Community prosecution has grown up within the context of recent developments in community justice. Its mission reflects principles and values about the role of justice agencies commonly accepted in community justice. The felony case processing strategy exerts considerable pressure on prosecutors to continue along the same path as they have for decades—in part because problem solving can be adapted and used so successfully to improve case processing itself, and because research has refined case processing to make it more efficient and equitable. Yet pressure in favor of adopting a community prosecution strategy emanates not only from leading prosecutors who are capitalizing on it, but from the community justice movement as a whole.

The power of this movement is understandable: proponents see community justice as the positive replacement for a failed system, through which justice agencies can re-establish their authority in the community. District Attorney Mike Schrunk of Portland, Oregon, explains how the new strategy of prosecution, with its emphasis on developing closer relationships with citizens, may facilitate this restructuring:

[G]overnment, right now, is not very well connected.... And we forget who is the government. And I think community prosecution, community courts, community government—these all empower, they bring people back.... [When] I try and describe good governance or prosecution, I often tell people the criminal justice system and government is too...important to be left solely to the

professionals. And that's where I think we're going, we're coming back, we're working in partnership, all of us, the professionals and the community.... (WG 1, April 19, 1996)

With the community prosecution strategy, prosecutors are carving out a distinctive role for their own organizations in the justice system, while assuming positions of leadership in new collaborative and crime control efforts.

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